



NEVADA REAL ESTATE BROKER MANAGEMENT COURSE

45-Hour Broker and Broker-Salesperson Pre-licensing Course

First Edition

| JOSEPH R. FITZPATRICK |

REALTYSCHOOL.COM NEVADA REAL ESTATE BROKER MANAGEMENT COURSE

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Introduction



OBTAINING A NEVADA REAL ESTATE BROKER OR BROKER-SALESPERSON LICENSE

You may be to the point in your real estate career where you are ready to open your own real estate brokerage firm. Or perhaps, you have aspirations to get into management and become the supervisor of a real estate office. In either scenario, the state of Nevada requires the owner of a brokerage firm, or the branch manager of an office, to hold an active Nevada real estate broker or broker-salesperson's license. Some real estate salespersons simply choose to pursue a broker's license for the general knowledge and self-gratification of having achieved the higher level license.

The Nevada Real Estate Commission adopted regulations NAC 645.101 and NAC 645.102 in defining the requirements of applicants for licensure as real estate broker-salespersons and brokers. The regulations reference NRS 645.343 which addresses the education requirements of 64 semester units (changed in 1986 from 45 credits to 64) or the equivalent in quarter units of college level courses which *include*:

- Three semester units or an equivalent number of quarter units in real estate law, including at least 18 classroom hours of the real estate law of Nevada and another course of equal length in the principles of real estate;
- Nine semester units or the equivalent in quarter units of college level courses in real estate appraisal and business or economics;
- Nine semester units or the equivalent in quarter units of college level courses in real estate, business or economics; and
- Three semester units or an equivalent number of quarter units in broker management.

The RealtySchool.com 45-hour Nevada Real Estate Broker Management Course satisfies the requirement of three semester units in broker management. The remaining 40 college credits can be from any courses offered by any accredited college or university or by any other institution which meet the standards of education established by the Commission.

Any real estate licensee of any state or territory of the United States, or the District of Columbia, may substitute two (2) years of active experience during the last ten (10) years as the equivalent of 16 semester units of college level courses. This may be done for up to eight (8) years of active experience or a total of 64 credits. This credit may *not* be applied against the requirement for broker management or 18 hours of Nevada law.

NAC 645.102 further requires applicants for licensure as a real estate broker to obtain approval of his or her financial condition from the Division pursuant to NAC 645.120. The applicant must provide to the Division:

- current employer and the employer's address;
- checking accounts with amounts;

- savings accounts with amounts; and
- any other information concerning the person's finances as the Division deems pertinent.

The Division wants to know that a broker applicant has liquid assets sufficient to maintain a brokerage office for at least 180 days. Should the Division determine that an applicant is not financially responsible, it may require that the applicant be licensed as a broker-salesperson until meeting the requirements of financial responsibility. The Division may also require an applicant to submit a credit report.

Additionally, subsection 4 of NRS 645.330 requires broker applicants to demonstrate experience requirements. Specifically, the experience requirements are to have been actively engaged as a full-time licensee in any state or the District of Columbia for at least two (2) of the last four (4) years. The Division will require a verified statement from the applicant's employing broker indicating experience and must be reported on a Division form which asks for:

- the period of association with the broker
- the average number of hours worked per week for the broker
- any other information concerning the activities of the licensee which should be considered as contributing towards the licensee's experience while associated with the broker.

The remaining requirements to be licensed as a broker or broker-salesperson include that the applicant:

- has a good reputation for honesty, trustworthiness and integrity;
- has not made any false statements of material fact on the application;
- is competent to transact the business of a licensee in a manner which will safeguard the interests of the public;
- has passed the examination;
- has submitted all information required to complete the application.

Regarding the exam, NRS 645.332 addresses applicants licensed in another jurisdiction and provides for an exemption from certain examination requirements. An applicant for a Nevada license is not required to pass the national portion of the real estate examination if the applicant holds a license in good standing with another state or territory of the United States, or the District of Columbia, and if the requirements for licensure in that state are substantially equivalent to Nevada requirements. The applicant must have passed the examination in that state.

The broker's exam is administered by the PSI testing service. We highly recommend visiting www.psiexams.com and locating the information for the Nevada broker's test. In so doing, you will see you will be allowed 60 minutes for the 40-question state portion of the exam and 120 minutes for the 80-question national section. The exam fee is presently \$100.00. There is a link to the *Candidate Information Bulletin* which is an absolute must read. The bulletin explains:

- how to register for the exam;

- how the computer-based test operates;
- the scoring and that a 75% on each section is required;
- tips for preparing for the exam;
- information on taking a practice exam;
- the content including the number of test questions in each category.

Reciprocity – The Division may issue a license as a real estate broker or broker-salesperson to a person who holds a license as a real estate broker or broker-salesperson issued by another state if that state has entered into a reciprocal agreement with the Nevada Commission. That person must demonstrate he or she holds an active license and that the license is in good standing.

OPENING A BROKERAGE AND SUPERVISION OF OFFICES

NAC 645.175 requires the responsible party, typically the owner, of a brokerage firm in Nevada to hold an active broker's license. A branch manager must be a broker or a broker-salesperson who, within the preceding four (4) years has had two (2) years of active experience as a real estate licensee. A supervising broker-salesperson has all the duties of, and is subject to the penalties applicable to, a broker. Further, a supervisor of a branch office may not manage more than one branch office. A real estate broker-salesperson who is acting as manager of a principal or branch office must notify the Division that he or she is acting in that capacity.

THE BROKER MANAGEMENT COURSE

This RealtySchool.com *Nevada Real Estate Broker Management Course* meets the NAC 645.437 standards for the 45-hour broker management course. Specifically, our course consists of:

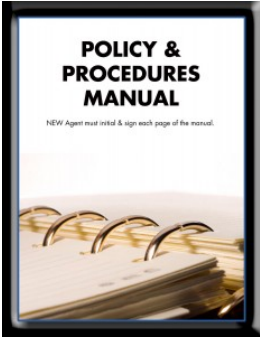
Introduction	1 Hour
Office Policy and Procedures, Risk Management, Errors and Omissions, Controlled Business Arrangements, Compensation, Employee-Employer relationships and Status of Independent Contractors	7 Hours
Creating Business Plans	3 Hours
Forms Used by Real Estate Brokerages	4 Hours
Financing Real Estate Transactions Terminology, Closing Costs, Transaction Costs, and Net Sheets	6 Hours
State or Local Law Governing Real Estate Transactions	8 Hours
Federal Laws Governing Real Estate Transactions	3 Hours
Professional Relationships Between Agents and Their Clients	3.5 Hours
Valuation of Real Estate & General Principles of Economics	5.5 Hours
Emerging Trends and Practices	2 Hours
Final Exam	2 Hours
TOTAL	45 Hours

The number of hours dedicated to each topic above may be more or less than what is identified in NAC 645.637 and is acceptable to the Commission.

Upon your completion of the course, please contact a representative of RealtySchool.com to arrange for your school final exam. The exam consists of 100 multiple-choice questions and passing score of 75% or better is required to be eligible for a certificate of completion.

Chapter 1

Office Policies and Procedures,
Risk Management,
Errors and Omissions Insurance,
Controlled Business Arrangements,
Compensation, and
Employee vs. Independent Contractor Status



OFFICE POLICIES AND PROCEDURES

Interestingly, NAC 645.600 states “The broker shall supervise the activities of those licensees, the activities of his or her employees, and the operation of his or her business. The supervision described... includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage...” So, it is clear that Nevada regulations require real estate firms to have company policies and procedures manuals in place, and brokers who utilize them find their brokerages operate much more smoothly. It is important to establish the “rules” of the organization and to make those rules readily available in writing for distribution to newly affiliated licensees. Just like any other successful business, a real estate brokerage firm must have *policies* to maintain order and a professional working environment for all. A firm must have *procedures* in place to define how the daily operations and processes are to be conducted.

Many real estate companies who skip this important step in the creation of a brokerage firm discover themselves managing by word of mouth and unwritten rules. Many individual salespeople find working under this type of leadership inconsistent, unprofessional, and may become resentful toward the firm’s leadership. By having a written document representing the policies and procedures, misunderstandings and inconsistent decisions are more likely to be avoided as it presumably governs the behaviors of all.

The brokerage’s ownership and management should determine the company’s philosophies, standards, ethics, and thus develop the policies and procedures. For assistance in creating a manual, leadership can turn to reference books and the internet for guidelines in drafting one. Although it might be helpful to see another firm’s manual, the broker should not just stamp the company logo over the other firm’s manual and use that one. The broker should take the time necessary to reflect on policies and procedures that will truly create and maintain the culture desired in the office.

Legal counsel might also be sought to review the final draft. The firm wants to be sure the systems do not violate any laws or even potentially become the source of litigation. Further, the firm will want to know that the policies and procedures are legally ironclad for protective purposes in the event of a lawsuit. As an example, brokers are responsible for the acts of all associated licensees and can be disciplined even without the knowledge of an act that led to a licensee’s sanction. When the broker can point to a policies and procedures manual that was distributed to, and signed for receipt of, by the licensee, the broker has a much better defense in demonstrating communication and supervision.

Below are some recommended items to be addressed in a real estate brokerage firm’s policies and procedures manual:

Company Philosophy: Sharing your company philosophy and beliefs is important to new people joining your firm. They want to know what you’re all about and if their own values are consistent with yours. Knowing that clients and customers come first, as an example, says a lot about your philosophy of doing business and the procedures used in carrying out your policies. Perhaps, you may wish to share that there are times when matters are determined by management decision, guided by the philosophies of

fairness, integrity and good communication. Or, that no other single attribute of a person or of a business can have a greater impact on success or failure than integrity, and that the brokerage expects honesty and integrity from every employee and member of the sales team. These are important messages to communicate to new affiliates and ask that they share in those philosophies.

Problem Resolution: What processes do you want your licensees to follow when a transaction problem arises? Who should they contact? When? How much of the resolution do you want them to handle on their own versus seeking management’s participation?

Perhaps your manual might say, “In the event that the sales associate determines the need for management assistance and input prior to proceeding with a client on any particular issue of concern, assistance is always available. It is incumbent upon the agent to contact management and seek management’s assistance at the onset of any transactional problem to insure that proper care is given to all company clients and customers.”

Participation in Sales Meetings and Training Sessions: We won’t get into the age-old debate as to whether the broker can “require” licensees to attend sales meetings and training because of the independent contractor status, however having policies and procedures in place regarding attendance comes highly recommended.

Your manual might want to read, “Sales meetings are educational in nature. Because it is the company’s responsibility per NRS 645 to supervise and educate affiliated licensees, we expect regular attendance and participation.” This reference from NAC 645 might be helpful:

NAC 645.600 Responsibilities of broker regarding associated licensees, employees and operation of business; agreement to retain licensee as independent contractor. ([NRS 645.050](#), [645.190](#))

1. Every real estate broker shall teach the licensees associated with him or her the fundamentals of real estate or time-share practice, or both, and the ethics of the profession. The broker shall supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.
2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:
 - (a) The real estate transactions performed by a licensee who is associated with the real estate broker;
 - (b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;
 - (c) The filing, storage and maintenance of such documents;
 - (d) The handling of money received on behalf of a real estate broker;
 - (e) The advertising of any service for which a real estate license is required; and
 - (f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.
3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker, the number of employees employed by the real estate broker and the number and location of branch offices operated by the real estate broker.
4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesperson to assist in administering the provisions of this section so long as the real estate broker does not relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:

- (a) Be signed and dated by the real estate broker and the licensee; and
- (b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

[Real Estate Adv. Comm'n, § VII subsec. 1, eff. 10-31-75]—(NAC A by Real Estate Comm'n, 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004)

Brokerage Fees and Commissions: In this section, you will wish to address what commissions and fees the licensees are authorized to charge clients on the firm's behalf. You may want to acknowledge that agency contracts are between the client and the broker, and not with the licensee. Therefore, the commissions belong to the broker. You should address that the licensee may not sue a client for the non-payment of commissions which can only be done by the broker. Additionally, the manual should contain language that the licensee may only be compensated by the employing broker as well as the licensee cannot receive referral fees or kickbacks with proper disclosures and without going through the broker. Licensees may not pay non-licensed individuals referral fees or commissions. May the licensee accept advanced fees?

Provisions from NRS 645 and NAC 645 which will govern some of the policies and procedures pertaining to fees and commission include:

NRS 645.280 Association with or compensation of unlicensed broker, broker-salesperson or salesperson unlawful; payment of commission other than through broker or owner-developer unlawful.

1. It is unlawful for any licensed real estate broker, or broker-salesperson or salesperson to offer, promise, allow, give or pay, directly or indirectly, any part or share of his or her commission, compensation or finder's fee arising or accruing from any real estate transaction to any person who is not a licensed real estate broker, broker-salesperson or salesperson, in consideration of services performed or to be performed by the unlicensed person. A licensed real estate broker may pay a commission to a licensed broker of another state.

2. A real estate broker-salesperson or salesperson shall not be associated with or accept compensation from any person other than the broker or owner-developer under whom he or she is licensed at the time of the real estate transaction.

3. It is unlawful for any licensed real estate broker-salesperson or salesperson to pay a commission to any person except through the broker or owner-developer under whom he or she is licensed at the time of the real estate transaction.

NRS 645.630 subsection 1 Grounds for Disciplinary Action

(c) Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this chapter or [chapter 119](#) or [119A](#) of NRS from any person except the licensed real estate broker with whom he or she is associated or the owner-developer by whom he or she is employed.

NRS 645.633 subsection 1 Grounds for Disciplinary Action

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesperson or salesperson who has not secured a license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his or her state of residence.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

NAC 645.675 Agreements for advance fees. ([NRS 645.050](#), [645.190](#), [645.324](#))

1. Each agreement for an advance fee used in Nevada must:

- (a) Be in writing;
- (b) Contain a definite and complete description of the services to be rendered;
- (c) Specify the total amount of the fee involved and clearly state when the fee is due;
- (d) Not imply or purport to guarantee that the real property involved will be purchased, sold, rented, leased or exchanged as a result of the services rendered;
- (e) Specify the date of full performance of the services contracted for;
- (f) Not imply or purport to represent to purchasers and prospective purchasers of the advertising or promotional services offered that a buyer for the property is immediately or soon available; and
- (g) Provide that a full refund will be made to the customer if the services for which the advance fee is being received are not substantially or materially provided to the customer.

2. Any oral representation or promise made to a purchaser or a prospective purchaser of the advertising and promotional services offered pursuant to an agreement for an advance fee to induce the purchaser or prospective purchaser of the services to sign the agreement is incorporated into the agreement. The agreement must not relieve or exempt the vendor of the services from any oral representation or promise incorporated into the agreement.

[Real Estate Adv. Comm'n, § IX subsecs. 1 & 2, eff. 10-31-75]—(NAC A by Real Estate Comm'n by R031-04, 11-30-2004)

NAC 645.678 Duties of broker operating agency which lists rentals for advance fee. ([NRS 645.050](#), [645.190](#)) A broker operating an agency which lists rentals for an advance fee shall:

- 1. Not publish, advertise or distribute information concerning a rental without first receiving approval from the owner of the rental.
- 2. Provide for full refunds to customers if the services for which payment was received was substantially or materially not received by the customer.
- 3. Inform each customer in writing of the term for which the rental service is to be provided.
- 4. Make no additional charge for services rendered during the period for which the services were initially purchased.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A by R031-04, 11-30-2004)

Antitrust law might also be reviewed in adopting policies regarding brokerage commissions.

AGENCY: Setting forth policy regarding the delivery of the required *Duties Owed* form as per Nevada law and obtaining the confirmation of agency relationship would certainly be wise. In addition to your manual addressing your firm's policies regarding agency relationships, it could also identify the procedures, instructing licensees how and when these matters are to be handled.

Confidentiality to the client might be addressed in this section.

What is the firm's position on dual agency? Designated agency? Address the implementation of the *Consent to Act* form. Again, we recommend your policies and procedures be consistent with NRS and NAC:

NRS 645.252 Duties of licensee acting as agent in real estate transaction. A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:
 - (a) Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.
 - (b) Each source from which the licensee will receive compensation as a result of the transaction.
 - (c) That the licensee is a principal to the transaction or has an interest in a principal to the transaction.
 - (d) Except as otherwise provided in [NRS 645.253](#), that the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her capacity as an agent. The written consent must include:
 - (1) A description of the real estate transaction.
 - (2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.
 - (3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he or she is required to do so by a court of competent jurisdiction or is given written permission to do so by that party.
 - (4) A statement that a party is not required to consent to the licensee acting on behalf of the party.
 - (5) A statement that the party is giving consent without coercion and understands the terms of the consent given.
 - (e) Any changes in the licensee's relationship to a party to the transaction.
2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.
3. Shall provide the appropriate form prepared by the Division pursuant to [NRS 645.193](#) to:
 - (a) Each party for whom the licensee is acting as an agent in the real estate transaction; and
 - (b) Each unrepresented party to the real estate transaction, if any.
4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to [chapter 645D](#) of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

(Added to NRS by [1995, 2072](#); A [2001, 2892](#); [2005, 649](#); [2007, 1788](#))

NRS 645.253 Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. If a real estate broker assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction, the licensees are not required to obtain the written consent required pursuant to paragraph (d) of subsection 1 of [NRS 645.252](#). Each licensee shall not disclose, except to the real estate broker, confidential information relating to a client in violation of [NRS 645.254](#).

(Added to NRS by [1995, 2073](#))

NRS 645.254 Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction. A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his or her duties pursuant to the terms of the brokerage agreement;

2. Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he or she is required to do so pursuant to an order of a court of competent jurisdiction or is given written permission to do so by the client;

3. Shall seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;

4. Shall present all offers made to or by the client as soon as is practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;

5. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction;

6. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and

7. Shall account for all money and property the licensee receives in which the client may have an interest as soon as is practicable.

(Added to NRS by [1995, 2073](#); A [2007, 1788](#))

Requirements of Listings: What do you, as the broker, authorize the licensee to charge for commissions? Do you have a minimum term? Are you going to create policies regarding what requirements a listing and the listed property must have in order to be acceptable to you? What documents will you require in a listing transaction file? Will you allow “pocket listings” and if so, under what conditions?

Requirements of Purchase Agreements: Similarly, what transaction documents will you require? Think about procedures you want your licensees to handle regarding the presentation of offers, the handling of counter-offers, and rejections. Should you address the handling of earnest money deposits? Consider the following statutes:

NRS 645.630 subsection 1 Grounds for Disciplinary Action

(e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.

(f) Failing, within a reasonable time, to account for or to remit any money which comes into his or her possession and which belongs to others.

(g) If he or she is required to maintain a trust account:

(1) Failing to balance the trust account at least monthly; and

(2) Failing to submit to the Division an annual accounting of the trust account as required in [NRS 645.310](#).

(h) Commingling the money or other property of his or her clients with his or her own or converting the money of others to his or her own use.

(i) In the case of a broker-salesperson or salesperson, failing to place in the custody of his or her licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker.

(j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his or her acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.

(k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.

(l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

NRS 645.633 subsection 1 Grounds for Disciplinary Action

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

NRS 645.635 subsection 1 Grounds for Disciplinary Action

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of [NRS 645.254](#).

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his or her possession or under his or her control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of [NRS 645.254](#).

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of [NRS 645.254](#).

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

Other Policies and Procedures Topics to Consider:

- Smoking
- Drugs and Alcohol
- Dress Code
- Housekeeping Matters
- Sexual Harassment
- Confidentiality and Fiduciary
- Advertising restrictions, especially internet and email
- Do Not Call and Anti-Spam legislation
- Office supplies
- Postage
- Yard Signs
- Advertising
- Internet Marketing
- Membership with NAR
- Payment of Dues and Office Bill
- Personal Transactions
- Keeping License Current
- Compliance with Federal, State, and Local Laws
- Termination from the Company
- Company Generated Business
- Fair Housing

It is highly recommended that the person who creates the policies and procedures manual reviews NRS and NAC 645 while drafting the document in a similar fashion we have above. By referencing the law, important issues to address will “pop out” and become apparent for inclusion in the manual. Although the entire manual will not contain purely legal issues, it is necessary these matters be addressed for risk management protection.

Remember, the purpose of the document is to inform licensees of the way your brokerage chooses to do business. It will inform those who join your organization and it will also serve as a point of reference for how matters are to be handled both by the licensees and management. If you have managed before, think about all the times your salespeople have said, “I didn’t know that” or “no one ever told me.” This document is a communication vehicle. And as we have stated, brokers often need to demonstrate in a legal suit that there are systems and procedures in place. A well written policies and procedures manual will certainly help support that case.

RISK MANAGEMENT

Risk management involves the identification of future, potential risks to the real estate brokerage as well as all associated individuals. It includes a coordinated effort to minimize or eliminate the possibility of undesired events such as litigation in particular. Common areas where real estate practitioners find themselves at legal risk include:

- Agency
- Disclosures or Lack Thereof
- Misrepresentation and Fraud
- Unauthorized Practice of Law
- Violation of Federal Laws
- Violations of State Real Estate Licensing Laws and Regulations



Recommendations for Risk Reduction

Broker-owners should develop a plan to address risk management and continue to implement such a plan. Components of a sound risk management plan include:

- Documentation
- Policies and procedures
- Education via training classes and sales meetings
- Errors and omissions insurance
- Transaction management

Documentation – By the time an aggrieved consumer files a complaint with the Division, the Division investigates the matter, a hearing is held or possibly the case goes to court, many months may have passed and the licensee’s memory and recollection of the facts could easily be foggy. Having excellent notes, copies of all paperwork and correspondence and emails, a phone log, and other documentation as applicable will prove to be life-saving.

Policies and procedures – We described in the previous section regarding policies and procedures, brokers who utilize a well-written manual are actually communicating to all licensees the company’s stance on legal matters and are providing instructions on how to operate legally, ethically, and professionally. Licensees should be required to report to management any indicators of a potential formal complaint immediately. It then becomes incumbent upon management to act swiftly and document everything.

Education via training classes and sales meetings – Referring back to NAC645.600, “Every real estate broker shall teach the licensees associated with him or her fundamentals of real estate or time-share practice, or both, and the ethics of the profession. The broker shall supervise the activities of those licensees, the activities of his or her employees and the operation of his or her business.” Brokers who

continually train and update their licensees on these potentially risky subject areas are, in actuality, implementing a component of a risk management plan. As you glance at the list of common risk areas, you may be reminded why our Commission adopted regulations requiring core continuing education courses in these areas. Maintaining excellent records of what education you provided and when will certainly prove to be helpful in demonstrating you have fulfilled *your* obligations of “teaching” and “supervision.” Keep a file of all training calendars, course outlines, sales meeting dates, and sales meeting agendas. Ongoing education is imperative as a risk reduction strategy.

Errors and Omissions Insurance – Errors and omissions insurance is designed to protect your brokerage in the event of a substantial lawsuit can be purchased from any number of providers. As you shop for policies, read and compare them carefully as there can be huge differences in coverages. Staying with the same insurer for repeated years and maintaining a track record of no filed claims will more than likely lead to pricing advantages. Evaluate the benefits of a larger deductible. You will also want to examine what acts are excluded such as misrepresentation, fraud, or a licensee’s personal transactions.

Transaction management – The broker, manager, or an individual employed by the firm who is qualified should be reviewing all transactions performed by licensees. Some firms check office files while others use transaction management software. There should be established policies and procedures pertaining to transaction management including who reviewed the file, when, and how often. What are the required documents for each listing, buyer brokerage agreement, sale, and rental? What is the procedure when a required document is missing or incomplete? Were the appropriate disclosures tendered in a timely manner? Did clients receive copies immediately upon signing or within a reasonable time thereafter? Again, if the firm can demonstrate a transaction management system is in place, that will become essential in the firm’s defense in the event of litigation. The goal for such a system is to avoid such litigation altogether.

Common areas of risk:

Agency – NRS 645.252-257 constitutes much of Nevada’s agency law. As you read through the statutes on the following pages, it is easy to see the acts that commonly lead to disciplinary actions:

- did not disclose to all parties as soon as practicable
- did not disclose material facts known or that should have been known
- did not disclose each source of the licensee’s compensation
- did not disclose license status when acting as a principal in the transaction
- did not obtain informed consent when a dual agency: Consent to Act
- did not exercise reasonable skill and care
- did not maintain obligations of confidentiality
- did not present all offers as soon as practicable
- did not advise the client to obtain advice from an expert when matters are beyond the licensee’s expertise
- did not account for all money and property

NRS 645.252 Duties of licensee acting as agent in real estate transaction. A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:

(a) Any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.

(b) Each source from which the licensee will receive compensation as a result of the transaction.

(c) That the licensee is a principal to the transaction or has an interest in a principal to the transaction.

(d) Except as otherwise provided in [NRS 645.253](#), that the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her capacity as an agent. The written consent must include:

(1) A description of the real estate transaction.

(2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he or she is required to do so by a court of competent jurisdiction or is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on behalf of the party.

(5) A statement that the party is giving consent without coercion and understands the terms of the consent given.

(e) Any changes in the licensee's relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide the appropriate form prepared by the Division pursuant to [NRS 645.193](#) to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to [chapter 645D](#) of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

(Added to NRS by [1995, 2072](#); A [2001, 2892](#); [2005, 649](#); [2007, 1788](#))

NRS 645.253 Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. If a real estate broker assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction, the licensees are not required to obtain the written consent required pursuant to paragraph (d) of subsection 1 of [NRS 645.252](#). Each licensee shall not disclose, except to the real estate broker, confidential information relating to a client in violation of [NRS 645.254](#).

(Added to NRS by [1995, 2073](#))

NRS 645.254 Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction. A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his or her duties pursuant to the terms of the brokerage agreement;
2. Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he or she is required to do so pursuant to an order of a court of competent jurisdiction or is given written permission to do so by the client;
3. Shall seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;
4. Shall present all offers made to or by the client as soon as is practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;
5. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction;
6. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and
7. Shall account for all money and property the licensee receives in which the client may have an interest as soon as is practicable.

(Added to NRS by [1995, 2073](#); A [2007, 1788](#))

NRS 645.255 Waiver of duties of licensee prohibited. Except as otherwise provided in subsection 4 of [NRS 645.254](#), no duty of a licensee set forth in [NRS 645.252](#) or [645.254](#) may be waived.

(Added to NRS by [2007, 1787](#))

NRS 645.256 Broker who provides asset management services to client required to provide Real Estate Division with certain information annually; disciplinary action by Division.

1. A broker who enters into an agreement to provide asset management services to a client shall:
 - (a) Disclose annually to the Division any such agreements to provide asset management services to a client; and
 - (b) Provide proof satisfactory to the Division on an annual basis that the broker has complied with the requirements of [NRS 645H.490](#).
2. In addition to any other remedy or penalty, the Division may take administrative action, including, without limitation, the suspension of a license or permit or the imposition of an administrative fine, against a broker who fails to comply with this section.
3. As used in this section:
 - (a) "Asset management" has the meaning ascribed to it in [NRS 645H.030](#).
 - (b) "Client" has the meaning ascribed to it in [NRS 645H.060](#).

(Added to NRS by [2011, 2831](#))

NRS 645.257 Action to recover damages suffered as result of licensee's failure to perform certain duties; standard of care.

1. A person who has suffered damages as the proximate result of a licensee's failure to perform any duties required by [NRS 645.252](#), [645.253](#) or [645.254](#) or the regulations adopted to carry out those sections may bring an action against the licensee for the recovery of the person's actual damages.

2. In such an action, any knowledge of the client of the licensee of material facts, data or information relating to the real property which is the subject of the real estate transaction may not be imputed to the licensee.

3. In an action brought by a person against a licensee pursuant to subsection 1, the standard of care owed by a licensee is the degree of care that a reasonably prudent real estate licensee would exercise and is measured by the degree of knowledge required to be obtained by a real estate licensee pursuant to [NRS 645.343](#) and [645.345](#).

(Added to NRS by [1995, 2073](#); A [2001, 2893](#))

The Commission may sanction the licensee as well as the supervising broker with an administrative fine of up to \$10,000 for each violation and/or suspend, revoke, deny the renewal of, or place conditions upon the license if found guilty.

Disclosures or Lack Thereof – Referring again to NRS 645.252, “A licensee who acts as an agent in a real estate transaction shall disclose to each party to the real estate transaction as soon as is practicable any material and relevant facts, data or information which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.” There has been increasing litigation regarding a licensee’s obligations as part of the duty of due care to disclose material and relevant facts to a buyer, in particular, pertaining to the subject property. Note that the Nevada statute includes the verbiage “or which by the exercise of reasonable care and diligence should have known.” Although Nevada licensees are not expected to investigate the property with the degree of diligence and expertise of that of a home inspector or builder, we are required to notice visible signs of potential and existing problems and fulfill a duty of further inquiry. When representing the seller in a transaction, we must disclose to the buyer or the buyer’s agent material facts even if such a disclosure would work against the seller’s best interests. We cannot remain silent on such issues and we are not breaching any duty to the seller by making the appropriate disclosure. Failure to disclose is an act for which licensees may be disciplined by the Commission.

Misrepresentation and Fraud – The primary distinction between misrepresentation and fraud is *intent*. Both acts equate to the communication by the licensee to a party in the transaction of inaccurate information. Misrepresentation is the misstatement of information without knowing any better, perhaps even believing the information being communicated is accurate. This is often called ***negligent misrepresentation***. As an example, where the seller discloses on the Seller’s Real Property Disclosure Statement that there are no problems with the roof (when in fact the roof leaks), which the licensee then communicates to the buyer in saying, “the roof is in good shape”, is negligent misrepresentation. The fact the licensee was just relaying information provided by the seller does not excuse the licensee’s liability in making the misrepresentation. The fact that the licensee *thought* the information was correct will not be an adequate defense either. Courts have found that the licensee has to put forth a reasonable effort to confirm or refute the information provided by the seller before communicating that same information to the buyer. In some cases, the licensee has been vindicated of misrepresentation charges if there was additional evidence supporting the seller’s claims.

In a Kansas lawsuit, Johnson v. Greer Real Estate Company, the listing agent indicated in the MLS™ that the property was connected to a sewer system when in fact, it utilized a septic tank. The purchasers had specifically informed their agent they wanted nothing to do with a home that was on a septic system. The case went to the Supreme Court of Kansas which held that regardless of whether the sellers knew it was connected to a septic system or not, a knowledgeable real estate licensee *should have known* the correct facts and disclosed them. The general public has the right to rely on the statements made by their real estate professional who holds himself out to have specialized knowledge regarding real estate. A licensee can be sanctioned for making a misrepresentation even if the misstatement was innocently made.

Fraud involves the intentional misstatement of information or the intentional concealment of the same. **Active fraud** is a situation where the licensee affirmatively said the incorrect thing, while **passive fraud** is where the licensee remained silent such as the failure to disclose a material fact. Regardless of whether the fraud was active or passive, the licensee may still be disciplined with an administrative fine of up to \$10,000 for each violation and/or suspend, revoke, deny the renewal of, or place conditions upon the license if found guilty.

Unauthorized Practice of Law – It is common in each real estate transaction for the client to ask the licensee’s advice on certain matters. However, when such advice crosses the line of offering legal advice, many states consider such an action to be the unauthorized practice of law which can lead to disciplinary actions. Licensees have the duty to recommend the client seek competent legal advice when the situation warrants it. There have been cases pertaining to this act that involved licensees creating real estate contracts (creating them, not filling in the blanks), giving legal advice, and offering tax advice.

Violation of Federal Laws – The more prominent federal laws by which real estate licensees must abide include:

- Civil Rights Act of 1866
- Fair Housing Act of 1968
- the Americans with Disabilities Act
- Consumer Credit Protection Act, Truth-In-Lending Act, Regulation “Z”
- Equal Credit Opportunity Act (ECOA)
- Real Estate Settlement Procedures Act (RESPA)

The Civil Rights Act of 1866 provided that all persons born in the United States are declared to be citizens, regardless of race or color, and shall have the right to enter into contracts, to sue, inherit, acquire and dispose of property, and shall equally benefit from the law as do white citizens. Classes protected by this law were race and color.

The Fair Housing Act of 1968 protected four classes or classifications of Americans. Race and color from 1866 and in 1968 covered religion and national origin. Gender was added in 1974 and family status and disability were added in 1988.

- Race (1866)
- Color (1866)
- Religion (1968)
- National Origin (1968)
- Sex/Gender (1974)
- Familial Status (1988), families with children 18 and under and pregnant women
- Disability (1988), mental or physical impairments

These seven, protected classes formed the basis of a new effort to assure the American dream of housing to all citizens.

Americans with Disabilities Act (The ADA) – This anti-discrimination law deals with physical workplace accommodations for disabled persons. While the ADA is not usually related to housing units and properties, real estate agents are advised to have some knowledge of the law and its requirements. The ADA prohibits discrimination in employment practices against persons with disabilities. Before this law went into effect, many employers had facilities which were not “handicap accessible.” They were able to claim inability to hire the handicapped because of work place limitations. The ADA banned discrimination based on the status of a person’s handicap, and also addressed the issue of accessibility for “public buildings” or “buildings open to the public.”

The types of disabilities protected are:

- vision impaired
- limited mobility
- confinement to wheelchair or similar devices
- hearing impaired
- alcoholism – if the person is enrolled in a recognized treatment program
- drug Addiction – if the person is enrolled in a recognized treatment program
- HIV positive or AIDS

Consumer Credit Protection Act, Truth-In-Lending Act, Regulation “Z” – The potential for the abuse of a borrower by a lender, together with actual abuses which were occurring in the market, brought about a series of federal laws designed to protect consumers with credit matters. The principal purpose of these laws is to provide the consumer with complete and understandable credit information so the consumer can make informed credit decisions. The disclosures and components required by these laws are:

- Finance charges
- Annual Percentage Rate
- Advertising Restrictions
- Three (3) business day right of rescission

Equal Credit Opportunity Act (ECOA) – In the attempt to open the opportunity of home ownership to all Americans, Congress determined that equal access to financing needed to be provided and discrimination in lending practices were essentially the same as discrimination in housing availability. The ECOA prohibits discrimination in lending based upon:

1. race
2. color
3. gender
4. age (provided the party is of lawful age to contract)
5. religion
6. national origin
7. marital status
8. source of income

Real Estate Settlement Procedures Act (RESPA) – Administered by HUD, the primary purpose of RESPA is to inform the parties to a covered real estate transaction what the closing costs and charges are, and which costs they pay for. The primary motive behind RESPA is to expose any *kickbacks* which may be occurring. All payments to and from the parties to the transaction, together with the real estate professionals, the title and escrow companies, and the casualty insurance companies must be disclosed.

Violations of State Real Estate Licensing Laws and Regulations – As was outlined previously, the Nevada Real Estate Commission has the authority to impose disciplinary actions against any license determined to have violated any of Nevada’s real estate licensing laws or regulations. The Commission may sanction the guilty licensee as well as the supervising broker with an administrative fine of up to \$10,000 for each violation and/or suspend, revoke, deny the renewal of, or place conditions upon the license if found guilty.

E&O
REAL ESTATE
PROFESSIONAL
LIABILITY INSURANCE



ERRORS AND OMISSIONS INSURANCE

The ever-rising degree of litigation pertaining to real estate transactions has caused a great need for errors and omissions (E&O) insurance designed to reduce the financial risk to licensees against potential lawsuits. The insurance is intended to cover just what its name says, “errors” and “omissions.” It does not cover misrepresentation, fraud, fair housing violations, and other deliberate illegal acts. The medical equivalent is malpractice insurance.

Errors and omissions insurance is designed to protect your brokerage in the event of a substantial lawsuit and can be purchased from any number of providers. As you shop for policies, read and compare them carefully as there can be huge differences in coverages. Staying with the same insurer for repeated years and maintaining a track record of no filed claims will more than likely lead to pricing advantages. Evaluate the benefits of a larger deductible. You will also want to examine what acts are excluded such as misrepresentation, fraud, or a licensee’s personal transactions.

An article published in REALTOR®Mag, the official magazine of the National Association of REALTORS®, offers these “5 Tips for Selecting the Right E&O Carrier:”

Benefit from these lessons learned by one real estate broker on a quest for E&O coverage:

TIP: Although it’s not widely available, it is possible to get insurance coverage for fair housing claims.

1. Find a specialized agent. To quote E&O insurance coverage effectively, an agent needs specialized knowledge. Be sure your insurance company has expertise in both real estate and malpractice insurance.

2. Make sure all your services are covered. If the insurer can't cover all of the services your company offers—residential, commercial, property management—it's probably not the right company for you.

3. Look carefully at prior-acts coverage. Most E&O policies provide coverage on a claims-made basis rather than an occurrence-basis one. That means they cover only claims made during the life of the policy, regardless of when the alleged injury occurred.

Some claims-made policies exclude all prior acts from coverage; some cover acts that occurred within a specified time before the policy was created; and others provide full coverage for prior acts. When changing carriers, be aware of when one policy expires and a new one takes effect to avoid gaps in prior-acts coverage.

4. Consider “tail” protection. If you are changing carriers and full prior-acts coverage is unavailable under the new policy, consider purchasing extended reporting period coverage, or tail protection, from your previous carrier.

5. Be sure your policy offers innocent party protection. If a listing salesperson deliberately fails to disclose important property information without the brokerage's knowledge, the company would be an innocent party. It would want coverage for such a claim.

As the broker-owner of the firm, you should determine whether to extend coverage to your firm’s employees or to your sales associates that work as independent contractors and their personal assistants. These individuals would have to be named as additional insureds in the policy or coverage would not be extended to them.

Exclusions – It is essential you be aware of your policy’s exclusions. E&O policies cover liability for professional services, but the exclusions are often extensive. Common exclusions are:

- fraudulent or criminal acts
- discrimination
- failure to identify mold and other environmental issues
- commingling and conversion of funds

- related business services such as mortgage brokerage, title insurance, property and casualty insurance
- personnel related matters
- licensees' personal transactions
- bodily injury claims
- pollutants, mold, fungi or microbes

Some of these exclusions may become included under the policy, commonly done with mold, with the additional payment of premium.

Costs – Be prepared. The costs associated with E&O coverage are staggering. Costs can be reduced by increasing your policy's deductible. Costs can further be lessened by using industry-standard or state approved forms and disclosure documents. Some agencies reduce the cost by requiring the licensees to participate in the premium on either a monthly basis or on a per transaction basis. As described in the risk management section of this chapter, we shared that brokers can also reduce their premiums by developing a risk management plan of action which will include policies and procedures designed to avoid potential legal conflicts. Your E&O costs will also be a reflection of your firm's loss history, so having a clean track record may get you the best available rate. Finally, staying with the same insurer will likely lead to annual discounts.

Perhaps the best advice we can offer pertaining to obtaining an E&O policy is to shop around. In so doing, you will undoubtedly see vastly different rates, however, compare the coverages and the exclusions carefully. Premiums will be quoted with both a per incident maximum benefit as well as an aggregate limit. The amount of coverage should be determined by the size of the firm and the number of transactions produced.

Your policy may include the following statement: "NOTICE TO POLICYHOLDERS: The Errors and Omissions Liability coverage afforded by this policy is on a Claims Made basis." E&O policies are *Claims Made* in nature, meaning that the policy will cover a claim made during the term the policy is in effect. Even if the act took place a year or so prior, the claim is covered as long as it is made within the policy period. E&O providers will require you to disclose possible pending claims before issuing a new policy. A "tail coverage" policy can be purchased by a company about to close its operations to continue E&O coverage on prior acts.

Prior Acts – The prior acts date represents the date, back in time, to which an act may have occurred that could result in a claim made under the policy. That is to say that if the act occurred prior to this date, the policy will not cover it. The prior acts date is typically the date of the first policy purchased. Some providers offer "full prior acts" meaning there is no specific date in the past that acts are limited by. The prior acts date is carried forward each year when renewing the policy provided there is no lapse in coverage.

Changes to your business – Your policy will likely require you to provide prior notice to the insurer in case of the following events:

- material or significant changes to the type or volume of the professional real estate services reported in your application.
- acquisition of your firm by another entity;
- merger with another entity;
- acquisition of all or substantially all of your assets by another entity; or
- the acquisition of all or substantially all of the assets of another entity by you

In that event, the insurer may have the right to adjust the premium to reflect the added exposure or deem the policy to have ceased and coverage will only apply with respect to acts and omissions committed prior to the time and date of any such events.

Right to inspect your books and records – The insurer may examine, audit, and make copies of your books and records at any time during the policy period and up to a certain time afterward.

Extended Reporting Periods – This is the period of time after the end of the policy period for reporting claims that are made against the insured by reason of an act or omission that occurred prior to the end of the policy period and is covered by the policy. If the policy is canceled or non-renewed by either you or the insured, the insurer will provide an automatic, non-cancelable "extended reporting period" starting at the termination of the policy period if you have not obtained another policy within a specified number of days (commonly 60) of the termination of the policy. This automatic extended reporting period will terminate after a certain number of days (commonly 60).

An "optional extended reporting period" may also be available for purchase.

In the event of death of you as the insured, your estate must notify the insurer with written proof of the date of death. If an insured becomes totally and permanently disabled, the insured or legal guardian must notify the insurer with written proof including the date the disability commenced.

CONTROLLED BUSINESS ARRANGEMENTS

A controlled business arrangement (CBA) recognized under the Real Estate Settlement and Procedures Act (RESPA), allows a real estate brokerage firm to provide financing, title insurance, and hazard insurance through subsidiary companies that operate within the brokerage. In order to offer such ancillary services, a written disclosure of the affiliation is required to be made to consumers. Further, the disclosure must also estimate charges for the services and must disclose that consumers are free to obtain these services elsewhere. Referral fees among the various subsidiary companies may not be paid.



(This information was obtained from an article written by Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.) In November 1992, HUD issued its first regulation covering controlled business arrangements. That rule provided that a controlled business arrangement was not a

violation of Section 8 of RESPA and allowed referrals of business to an affiliated settlement service provider as long as:

(1) The consumer receives a written disclosure of the nature of the relationship and an estimate of the affiliate's charges; (2) the consumer is not required to use the controlled entity; and (3) the only thing of value received from the arrangement, other than payments for services rendered, is a return on ownership interest. This statement must be provided on a separate piece of paper. The referring party must give the statement to the consumer no later than the time of the referral.

Since issuing the 1992 RESPA rule, HUD has received numerous complaints that some CBAs are being established to circumvent RESPA's prohibitions and are actually "sham" arrangements using "shell" companies. At least two parties are involved in such a sham arrangement: a referrer of settlement service business (such as a real estate licensee) and a recipient of referrals of business (such as a mortgage broker, title agent or insurance company).

An example may be a lender and a real estate broker create a new business entity that purports to be a mortgage broker but has no staff, does no work (outsources to another lender), receives all of the mortgage business by referral from the real estate brokerage, and pays profits to both the real estate brokerage and outsourced lender. In short, these arrangements are disguised referral fee arrangements and a violation of RESPA.

The Mortgage Bankers Association of America (MBA) suggests that such entities should have their own employees, perform substantive functions in the mortgage process, and share in the risks and rewards of any viable business in the market.

In RESPA enforcement cases involving a controlled business arrangement, HUD will consider whether the entity receiving referrals of business is a bona fide provider of settlement services or is merely a sham arrangement used as a conduit for referral fee payments. HUD balances a number of factors in determining whether a violation exists and whether an enforcement action under Section 8 is appropriate. Responses to the following questions will be considered although a response to any one question by itself may not be determinative of a sham controlled business arrangement.

(1) Does the new entity have sufficient initial capital and net worth, typical in the industry, to conduct the settlement service business for which it was created? Or is it undercapitalized to do the work it purports to provide?

(2) Is the new entity staffed with its own employees to perform the services it provides? Or has the new entity have "loaned" employees of one of the parent providers?

(3) Does the new entity manage its own business affairs? Or is an entity that helped create the new entity running the new entity for the parent provider making the referrals?

(4) Does the new entity have an office for business which is separate from one of the parent providers? If the new entity is located at the same business address as one of the parent providers, does the new entity pay a general market value rent for the facilities actually furnished?

(5) Is the new entity providing substantial services, i.e., the essential functions of the real estate settlement service, for which the entity receives a fee? Does it incur the risks and receive the rewards of any comparable enterprise operating in the marketplace?

(6) Does the new entity perform all of the substantial services itself? Or does it contract out part of the work? If so, how much of the work is contracted out?

(7) If the new entity contracts out some of its essential functions, does it contract services from an independent third party? Or are the services contracted from a parent, affiliated provider or an entity that helped create the controlled entity? If the new entity contracts out work to a parent, affiliated provider or an entity that helped create it, does the new entity provide any functions that are of value to the settlement process?

(8) If the new entity contracts out work to another party, is the party performing any contracted services receiving a payment for services or facilities provided that bears a reasonable relationship to the value of the services or goods received? Or is the contractor providing services or goods at a charge such that the new entity is receiving a "thing of value" for referring settlement service business to the party performing the service?

(9) Is the new entity actively competing in the market place for business? Does the new entity receive or attempt to obtain business from settlement service providers other than one of the settlement service providers that created the new entity?

(10) Is the new entity sending business exclusively to one of the settlement service providers that created it (such as the title application for a title policy to a title insurance underwriter or a loan package to a lender)? Or does the new entity send business to a number of entities, which may include one of the providers that created it?

When assessing whether a payment is a return on ownership interest or a payment for referrals of settlement service business, HUD will consider the following questions:

(1) Has each owner or participant in the new entity made an investment of its own capital, as compared to a "loan" from an entity that receives the benefits of referrals?

(2) Have the owners or participants of the new entity received an ownership or participant's interest based on a fair value contribution? Or is it based on the expected referrals to be provided by the referring owner or participant to a particular cell or division within the entity?

(3) Are the dividends, partnership distributions, or other payments made in proportion to the ownership interest (proportional to the investment in the entity as a whole)? Or does the payment vary to reflect the amount of business referred to the new entity or a unit of the new entity?

(4) Are the ownership interests in the new entity free from tie-ins to referrals of business? Or have there been any adjustments to the ownership interests in the new entity based on the amount of business referred?

Responses to these questions may be determinative of whether an entity meets the conditions of the CBA exception. If an entity does not meet the conditions of the CBA exception, then any payments given or accepted in the arrangement may be subject to further analysis under Section 8.

The following are examples of how HUD will use these factors in its analysis.

1. An existing real estate broker and an existing title insurance company form a joint venture title agency. Each participant in the joint venture contributes \$1,000 towards the creation of the joint venture title agency, which will be an exclusive agent for the title insurance company. The title insurance company enters a service agreement with the joint venture to provide title search, examination and title commitment preparation work at a charge lower than its cost. It also provides the management for the joint venture. The joint venture is located in the title insurance company's office space. One employee of the title insurance company is "leased" to the joint venture to handle closings and prepare policies. That employee continues to do the same work she did for the title insurance company. The real estate broker participant is the joint venture's sole source of business referrals. Profits of the joint venture are divided equally between the real estate broker and title insurance company.

HUD Analysis: After reviewing all of the factors, HUD would consider this an example of an entity which is not a bona fide provider of settlement service business. As such, the payments flowing through the arrangement are not exempt under Section 8 and would be subject to further analysis. In looking at the amount of capitalization used to create the settlement service business, it appears that the entity is undercapitalized to perform the work of a full service title agency. In this example, although there is an equal contribution of capital, the title insurance company is providing much of the title insurance work, office space, and management oversight for the venture to operate. Although the venture has an employee, the employee is leased from, and continues to be supervised by, the title insurance company. This new entity receives all the referrals of business from the real estate broker participant and does not compete for business in the marketplace. The venture provides a few of the essential functions of a title agent, but it contracts many of the core title agent functions to the title insurance company. In addition, the title insurance company provides the search, examination and title commitment work at less than its cost, so it may be seen as providing a "thing of value" to the referring title agent, which is passed on to the real estate broker participant in a return on ownership.

2. A title insurance company solicits a real estate broker to create a company wholly owned by the broker to act as its title agent. The title insurance company sets up the new company for the real estate broker. It also manages the new company, which is staffed by its former employees that continue to do

their former work. As in the previous example, the new company also contracts back certain of the core title agent services from the title insurance company that created it, including the examination and determination of insurability of title, and preparation of the title insurance commitment. The title insurance company charges the new company less than its costs for these services. The new company's employees conduct the closings and issue only policies of title insurance on behalf of the title insurance company that created it.

HUD Analysis: As was the case in the first example, HUD would not consider the new entity to be a bona fide settlement service provider. The legal structure of the new entity is irrelevant. The new company does little real work and contracts back a substantial part of the core work to the title insurance company that set it up. Further, the employees of the new company continue to do the work they previously did for the title insurance company which also continues to manage the employees. The new entity is not competing for business in the marketplace. All of the referrals of business to the new entity come from the real estate broker owner. The creating title insurance company provides the bulk of the title work. HUD would consider these factors and find that the new entity is not a bona fide title agent, and the payments flowing through the arrangement are not exempt under Section 8 and would be subject to further analysis.

3. A lender and a real estate broker form a joint venture mortgage broker. The real estate broker participant in the joint venture does not require its prospective home buyers to use the new entity and it provides the required CBA disclosures at the time of the referral. The real estate broker participant is the sole source of the joint venture's business. The lender and real estate broker each contribute an equal amount of capital towards the joint venture, which represents a sufficient initial capital investment and which is typical in the industry. The new entity, using its own employees, prepares loan applications, and performs all other functions of a mortgage broker. On a few occasions, to accommodate surges in business, the new entity contracts out some of the loan processing work to third party providers, including the lender participant in the joint venture. In these cases, the new entity pays all third party providers a similar fee, which is reasonably related to the processing work performed. The new entity manages its own business affairs. It rents space in the real estate participant's office at the general market rate. The new entity submits loan applications to numerous lenders and only a small percent goes to the lender participant in the joint venture.

HUD Analysis: After reviewing all of the factors, HUD would consider this an example of an entity which is a bona fide provider of settlement service business rather than a sham arrangement. The new entity would appear to have sufficient capital to perform the services of a mortgage broker. The participant's interests appear to be based on a fair value contribution and free from tie-ins to referrals of business. The new entity has its own staff and manages its own business. While it shares a business address with the real estate broker participant, it pays a fair market rent for that space. It provides substantial mortgage brokerage services. Even though the joint venture may contract out some processing overflow to its lender participant, this work does not represent a substantial portion of the mortgage brokerage services provided by the joint venture. Moreover, the joint venture pays all third party providers a similar fee for similar processing services.

While the real estate broker participant is the sole source of referrals to the venture, the venture only sends a small percent of its loan business to the lender participant. The joint venture mortgage broker is thus actively referring loan business to lenders other than its lender participant. Since the real estate broker provides the CBA disclosure and does not require the use of the mortgage broker and the only return to the participants is based on the profits of the venture and not reflective of referrals made to the venture, it meets the CBA exemption requirements. HUD would consider this a bona fide controlled business arrangement.

4. A real estate brokerage company decides that it wishes to expand its operations into the title insurance business. Based on a fair value contribution, it purchases from a title insurance company a 50 percent ownership interest in an existing full service title agency that does business in its area. The title agency is liable for the core title services it provides, which includes conducting the title searches, evaluating the title search to determine the insurability of title, clearing underwriting objections, preparing title commitments, conducting the closing, and issuing the title policy. The agent is an exclusive title agent for its title insurance company owner. Under the new ownership, the real estate brokerage company does not require its prospective home buyers to use its title agency. The brokerage has its real estate agents provide the required CBA disclosures when the home buyer is referred to the affiliated title insurance agency. The real estate brokerage company is not the sole source of the title agency's business. The real estate brokerage company receives a return on ownership in proportion to its 50% ownership interest and unrelated to referrals of business.

HUD Analysis: A review of the factors reflects an arrangement involving a bona fide provider of settlement services. In this example, the real estate brokerage company is not the sole source of referrals to the title agency. However, the title agency continues its exclusive agency arrangement with the title insurance company owner. While this last factor initially may raise a question as to why other title insurance companies are not used for title insurance policies, upon review there appears to be nothing impermissible about these referrals of title business from the title agency to the title insurance company.

This example involves the purchase of stock in an existing full service provider. In such a situation, HUD would carefully examine the investment made by the real estate brokerage company. In this example, the real estate brokerage company pays a fair value contribution for its ownership share and receives a return on its investment that is not based on referrals of business. Since the real estate brokerage provides the CBA disclosure, does not require the use of the title agency and the only return to the brokerage is based on the profits of the agency and not reflective of referrals made, the arrangement meets the CBA exemption requirements. HUD would consider this a bona fide controlled business arrangement.

5. A mortgage banker sets up a limited liability mortgage brokerage company. The mortgage banker sells shares in divisions of the limited liability company to real estate brokers and real estate agents. For \$500 each, the real estate brokers and agents may purchase separate "divisions" within the limited liability mortgage brokerage company to which they refer customers for loans. In later years, ownership may vary by the amount of referrals made by a real estate broker or agent in the previous year. Under this structure, the ownership distributions are based on the business each real estate broker or real

estate agent refers to his/her division and not on the basis of their capital contribution to the entity as a whole. The limited liability mortgage brokerage company provides all the substantial services of a mortgage broker. It does not contract out any processing to its mortgage banker owner. It sends loan packages to its mortgage banker owner as well as other lenders.

HUD analysis: Although HUD would consider the mortgage brokerage company to be a bona fide provider of mortgage brokerage services, this example illustrates an arrangement that fails to meet the third condition of the CBA exception. Here, the capitalization, ownership and payment structure with ownership in separate “divisions” is a method in which ownership returns or ownership shares vary based on referrals made and not on the amount contributed to the capitalization of the company. In cases where the percent of ownership interest or the amount of payment varies by the amount of business the real estate agent or broker refers, such payments are not bona fide returns on ownership interest, but instead, are an indirect method of paying a kickback based on the amount of business referred.

Remember that RESPA requirements apply to transactions that involve a loan on residential real estate and that RESPA generally prohibits payment of referral fees, unearned fees or kickbacks, as well as the splitting or sharing of fees or charges made or received for providing “real estate settlement services.” Settlement services include:

any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans), and the handling of the processing, and closing or settlement.

HUD has made available the following sample format for owners of CBAs to utilize in making the required disclosures:

To:
From:
Property:
Date:

This is to give you notice that [referring party] has a business relationship with [settlement services providers(s)]. [Describe the nature of the relationship between the referring party and the providers(s), including percentage of ownership interest, if applicable.] Because of this relationship, this referral may provide [referring party] a financial or other benefit.

[A.] Set forth below is the estimated charge or range of charges for the settlement services listed. You are NOT required to use the listed provider(s) as a condition for [settlement of your loan on] [or] [purchase, sale, or refinance of] the subject property. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

[provider and settlement service] [charge or range of charges]

[B.] Set forth below is the estimated charge or range of charges for the settlement services of an attorney, credit reporting agency, or real estate appraiser that we, as your lender, will require you to use, as a condition of your loan on this property, to represent our interests in the transaction.

[provider and settlement service][charge or range of charges]

ACKNOWLEDGMENT

I/we have read this disclosure form, and understand that [referring party] is referring me/us to purchase the above-described settlement service(s) and may receive a financial or other benefit as the result of this referral.

.....[signature]

In an article written by Todd Ewing, founder of Federal Title & Escrow Company, he writes:

A wake-up call from CFPB regarding Marketing Service Agreements

If you are an agent, broker, or mortgage lender who has been solicited by a title company to enter into a Marketing Service Agreement (MSA), you would probably be best served to avoid the temptation.

The Consumer Protection Financial Bureau (CFPB) has made it clear that they are actively probing and investigating such arrangements as one of their top priorities. Most recently, an MSA between a top Maryland real estate team and their “partner” title company resulted in a massive class-action lawsuit and, potentially, an enforcement action by the CFPB.

A federal district court’s decision to certify a class-action suit against one of the highest-volume Realtor teams in the country should set off alarms for brokerage firms that have marketing agreements between themselves and settlement service providers, say RESPA legal experts.

Not only is the class-action certification ominous in its own right, but it comes on top of indications that the Consumer Financial Protection Bureau is actively probing marketing agreements and other forms of affiliated business dealings, and is preparing at least several, as yet unannounced, enforcement actions involving realty firms.

At the end of last month, a U.S. District Court in Maryland certified a major class-action suit against the Creig Northrop Team P.C., which is affiliated with Long & Foster Real Estate Inc. The Northrop Team was ranked No. 2 in the U.S. last year and No. 1 the year before in transaction volume by the Wall Street Journal and REAL Trends Inc.

The class certified by the court is potentially large — all purchasers from Jan. 1, 2008, up to the present who have engaged the Creig Northrop Team and a defendant title insurance agency in connection with their transactions.

The case (Patrick Baehr et al. v. The Creig Northrop Team P.C. et al.) was filed last year and alleged that the Northrop group received more than \$500,000 in kickbacks in violation of RESPA from Lakeview Title Co. Inc. over a period of years.

RESPA prohibits payments between realty service providers in exchange for referrals of business. The suit claimed that Northrop engaged in two illegal schemes — “a sham employment agreement and a sham marketing agreement to generate unearned fees and kickbacks.”

In a Texas enforcement action by the CFPB, the arrangements involved two mortgage origination companies created by a Texas homebuilder who owned one company together with a bank and the other company together with a mortgage company. The CFPB found that the homebuilder received

unlawful referral fees for mortgage loans that he or his homebuilding company referred to the bank or mortgage company.

Referral fees in the **affiliated business arrangement (ABA)** with the bank were passed back to the homebuilder through profit distributions and determined the ABA was a sham as described in HUD's Statement of Policy regarding Sham Controlled Business Arrangements. The referral fees in the ABA with the mortgage company were in the form of payments made to the homebuilding company by the mortgage company pursuant to a service agreement.

The CFPB prevented the homebuilder, his homebuilding company, and another affiliated company from engaging in any real estate settlement service business (other than the sale of homes) or owning an interest in any entity providing such services for five years. The homebuilder was ordered to pay disgorgement (forced giving up of profits obtained by illegal or unethical acts) in the amount of \$118,194.20, which represented the full amount of money the builder received from the allegedly unlawful arrangements.

Disgorgement is one of the forms of relief the CFPB is specifically authorized to seek in enforcement actions it brings under a federal consumer financial law.

The CFPB's enforcement action should serve as a reminder to companies involved in ABAs to periodically review their arrangements with counsel for Section 8 compliance.

COMPENSATION

Commission splits – Determining the firm's commission split schedule can be a daunting task. Of course sales associates want the highest commission split possible and at the same time, associates want the most support and services possible from the firm too. Who wouldn't like to be on a 100% split and receive all the services and support possible? That math does not pencil out for the broker.



Obviously, real estate companies have to be profitable or they do not last very long. The company side of the commission split (*company dollar*) has to pay the expenses of the brokerage and have enough left over to become profit to the ownership. Look at some of these expenses of operating a real estate firm:

- rent
- utilities
- employee salaries and benefits
- errors and omissions insurance
- telephone and internet service
- awards and prizes
- office and kitchen supplies
- cleaning services
- company advertising
- signage
- memberships and dues
- technology equipment and leases

This list is just the tip of the iceberg and many licensees would be overwhelmed to see what the monthly cost of these combined items turns out to be. How can a real estate company who pays the sales team 100% of the commission have the funds available to pay these expenses and still have enough profit to remain in business?

What many discover is there is a delicate balance between commission splits paid to associates and company dollar. The greater the company dollar, the more services brokers usually provide. Conversely, the smaller the company dollar, the fewer services the brokerage can provide.

So, one of the decisions you will have to make as the broker is what services, and to what extent, will you provide? Are you going to operate a 100% shop and charge a monthly desk rent or are you going to offer training, tools, and support with a greater company dollar? Perhaps you will have both options or a hybrid plan. What is your competition doing? Will you have a graduated plan where the compensation increases according to production? Will there be a roll-back where the associates return to the entry level rate every year or anniversary?

Keep in mind that some sales associates think that “they” are the sole contributing factor in their sales volume and success and will rarely credit the company for the efforts and contributions made by the firm. Also, sales associates talk. If one salesperson learns of another’s split at a competing firm, you may lose that associate to the competitor. Commission splits are often viewed as barometers of a sales associate’s worth. If a sales associate feels he is worth more, you may find yourself negotiating to keep him or lose him altogether.

In response to demands of salespeople, commission splits have been increasing in recent years and gone is the day of the 50/50 split for most firms. Some firms have resorted to deducting numerous fees per closing in order to effectively increase the company dollar.

Here are some items to consider in determining your firms commission policies:

What is the competition doing? Recruiting and retention are impacted by the commission schedules at competing firms. Even if *you* think your commission plan is fair, being competitive in the marketplace is far more important than your personal opinion.

What is the financial position of your company? The company must be profitable or there is no further discussion required pertaining to commission splits! Over the last 30 years, overall net profits for real estate firms have hovered around the 4-5% mark.

Who are your top producers? Top producers are required in every firm for steady, regular income, but they come at a higher cost. Having top producers associated with your firm who are well known in the market is good for recruiting and retention. How high are you willing to go to keep these folks?

In a survey conducted in 2012, middle income sales associates reported:

- 31% were on a 70/30 split (70% to the agent, 30% to the broker)
- 15.5% were on an 80/20 split
- 12.4% were on a 100 percent split

In the same survey, the top producers (those earning \$100,000 or more) reported:

- 26.5% were on a 100 percent commission split

In another survey, only 15% of the offices surveyed were utilizing fixed commission splits. The survey found that most offices were using a graduated schedule or a 100 percent plan. With the average net profit being only 4-5%, the challenge is to offer a plan that won't force you to close your doors.

To Negotiate or Not to Negotiate – another decision for you to make pertains to your willingness to deviate from your commission schedule and policies and negotiate a “special deal” in an attempt to retain a valued associate. Some brokers argue that it is best to never deviate from the schedule because when word gets out (and word will get out!) that you “cut a special deal with Charlie.” Others will be knocking on your door to get the same deal rendering your published commission schedule meaningless. Other brokers will argue that to *not* deviate from the schedule is impossible and impractical. However, one should note that secrecy and favoritism can lead to a negative environment where management is deemed untrustworthy.

Salaries – Salaried employees require a respectable salary in order to earn a decent living. And, when you find a quality staff person you wish to retain for as long as possible, salary is going to factor into his or her retention. Your salespeople can be paid salaries as well. Although not commonly done, some brokers who have adopted this structure have found it to be mutually beneficial.

Bonuses – Bonuses based on sales associate contributions to profitability is another means of compensation to retain associates.

Your firm's market share can also influence your commission schedule. There is an independent brokerage firm along the east coast who has over 50% market share as well as more than 50% of the licensed associates in the market. This firm is successful and offering a 50/50 split to its associates regardless of prior sales volume or experience.

Independent Contractor vs. Employee

Although some firms have been successful with salaried sales associates, most salespeople are employed as independent contractors. This is somewhat of a tax status. The Internal Revenue Service (IRS) has agreed to allow real estate professionals to elect independent contractor status for tax purposes, even though they may technically be employees. In order to qualify for this treatment, agents must have a written employment agreement with the firm which states an agent will be treated as an independent contractor for tax purposes.

As an independent contractor, agents are able to deduct those reasonable and necessary business expenses. This tax treatment often offers greater deductibility of operating expenses than if taxed as an employee.

Issue	Employee	Independent Contractor
Operate within all license law	Yes	Yes
Same obligations to the client as does the firm	Yes	Yes
Written agreement between the firm and licensee required	Yes	Yes
Broker's control of licensee's work such as work schedule and procedures for doing business	More	Less
firm withholds state and federal income taxes, pays Social Security for the employee, and provides unemployment and worker's compensation insurance	Yes	No. Agent is responsible.
Required to attend training	Yes	Yes

In some states, by statute and regulation, associates are employees. This is the relationship that transfers the obligation to train and supervise agents to the firm. It also is the relationship that gives the designated broker the authority to direct the activities of the associates.

In an article written by Hanon W. Russell associated with the CCIM Institute, he writes:

A recent Connecticut Supreme Court case, *Tianti v. William Raveis Real Estate, Inc.*, (231 Conn. 690 [1995]), directly addressed this issue. The case concerned two people who worked for one of Connecticut's largest real estate firms, William Raveis Real Estate, Inc. Gluck was a real estate salesperson for the defendant from January 1982 until March 1988. From 1986 to 1988, Lyren was the sales manager for the defendant's Greenwich office and later for the defendant's Trumbull office. Because the claims of both were similar, they were tried together.

After a full trial on the merits, the trial court found that both claimants were employees; the defendant then appealed. Although the court decided several matters, the only relevant issue here was whether the trial court was correct in finding that the claimants were employees. The Connecticut Supreme Court concluded that the trial court correctly determined the claimants' employment status.

Let us examine the reasoning used by the court. In determining whether an employment relationship exists, the court looked to the actual status in which the parties were placed. In other words, it looked to substance, not form. The court stated that the determination of the status of a worker is often difficult. From a purely legal point of view, it was well established that the fundamental distinction between an employee and an independent contractor depended upon the existence of the right to control the means and methods of work.

The test is not whether actual interference with the control occurs, but whether the owner of the agency has the right to interfere. This is the difference between an independent contractor and a servant or agent. The court went on to point out that an independent contractor has been defined as "one who, exercising an independent employment, contracts to do a piece of work according to his own methods and without being subject to the control of his employer, except as to the result of his work."

Furthermore, when examining the working relationship, the paramount factor is the right to control not only the results of work but also the methods of work. This control test is by nature a balancing test. The court did realize that the determination of general control is not always a simple problem; many factors are ordinarily present for consideration, not one of which is by itself necessarily conclusive.

As far as the defendant's real estate company was concerned, the trial court found that Raveis retained the right to control-and actually exerted a great deal of control over-the real estate salespersons and sales managers affiliated with it. Salespeople and managers were required to attend mandatory office meetings; both did business under the Raveis name; both used the company letterhead, business cards, and supplies; both were required to attend training sessions; and both were threatened with discharge if they did not comply with these requirements.

The court noted that "the right to terminate [an employment] relationship without liability is not consistent with the concept of an independent contract." Additionally, the managers were assigned specific reading material, and in particular, Gluck was required to put in specified hours of floor time while Lyren was required to work 40 hours per week plus put in an office appearance on weekends.

The defendant had countered that both claimants were independent contractors because they received 1099 forms rather than W-2 forms for income tax purposes and they did not receive medical benefits. Though these factors did weigh in the defendant's favor, they were insufficient to persuade the Connecticut Supreme Court that the claimants were not employees.

Clearly the court felt that the right of the defendant to control its employees far outweighed the factors that indicated an independent-contractor relationship. It is not obvious that the Raveis offices were operated that much differently from the way that most real estate offices across the country run. What does this mean for the real estate industry?

The first issue an owner of an agency must consider is whether or not the office is able to run adequately without the typical controls. Will an agency be run effectively and profitably without meetings for salespeople? How many agencies could be run professionally without the salespeople using company stationary, business cards, and other industry accessories?

While some real estate offices are able to run well without mandatory meetings, floor time, and the like, they are exceptions. The office with no structure, requirements, direction, or regulation is not usually an office that is able to compete well in the open market that is the lifeblood of the real estate industry. That may lead to the inevitable conclusion that the industry just may have to get used to treating salespeople as employees.

A Member Profile survey conducted by the National Association of REALTORS® in 2012 found the following relationships between salespeople and their firms:

- Independent contractor: 81%
- Employee: 6%
- Other: 13%

The survey did not detail the 13% that fell into the “other” category.

Chapter 2

Creating Business Plans

CREATING BUSINESS PLANS

If you were the manager of small business loans at the local bank, what would you think of an applicant for a new business loan who had no plan, in writing, to operate his new business? What kind of a business person launches a new business without doing market research, an evaluation of the competition, a marketing plan with sales projections, or a financial plan? As the manager, would you grant the loan to this individual?



Take the time to develop a business plan for yourself that forces you to commit, in writing, detailed thought about matters such as:

- business overview / mission statement
- business environment
- market research
- competition
- description of your services
- your company's selling points
- benefits your firm brings to your clients
- differentiation
- marketing plan which includes:
 - sales goals
 - advertising and promotion
 - marketing materials
 - distribution
 - marketing calendar
- financial plan that includes
 - income projections
 - budget for operating expenses
- equipment and technology to purchase
- system for recordkeeping

It seems every HR interviewer asks the question, "Where do you see yourself in five years?" That is a question you will now need a definite answer for. Your business plan should be a road map to where you and your firm will be in five years. Five years consistently seems to be a good span of time to cover in authoring a business plan.

CHOOSE YOUR MARKET

Who are your potential clients? What services do they require? How will you deliver these services and how will you separate yourself from your competitors? You should consider how you will compete against your competition and capture market share. Research emerging market trends and strategies that have led to the success of other firms. Survey your past clients and seek their

feedback on the services your firm provides.

In terms of a geographical market, what areas will your firm service? Utilize your MLS™ data to determine what areas are desirable for buyers and where sellers are listing. Consider broadening your geographical service area. With new technologies, real estate agencies are now able to cover wider ranges than before.

Will your firm primarily offer residential real estate services? Will you allow your licensees to participate in commercial and business opportunity transactions? Will you engage in property management? As the broker, you have the duty of training and supervision. Does your skill set allow you to oversee your agents' transactions in these other areas? Because of the associated risk, many brokers stick to what they know best.

Some firms choose to be “boutique” in nature specializing in a select, niche market. Other firms do their best to be all things to all people. Some elect to only work with buyers. Others decide to focus on luxury properties over a certain price point. Is there a segment of the population whose demand is not being served?

How is your market changing? As an example, the baby boom population is now coming to the age of retirement. Presumably, a large number of this senior group will be downsizing and have new demand for senior lifestyles which might equate to increased demand for condominium or golf course properties.

Think about the types of agency relationships you wish to have with your clients. Will you provide the traditional, full-service services that historically have gone along with fiduciary duties? Or will you elect to have non-agency relationships such as transactional brokerage services.

Research your demographics. Use your MLS™ data to examine average sale prices in different areas as well as the number of transactions. Investigate ages, school data, incomes, employment opportunities, growing areas, etc. Your firm must adapt to the changes in the population or it will become stagnant. You want to be sure you are truly servicing the needs of the consumers in the market.

Consider all of these issues in defining your market within your business plan.

SCRUTINIZE YOUR COMPETITION

Which firms have the largest market share? What do they do differently to hold that position? What strategies that have led to their success are strategies you should adopt? What mistakes did they make that you should avoid? Why are sales associates affiliating with those firms?

Analyzing your competition thoroughly will be necessary for you to develop a plan to compete against them. How could you compete if you don't know what they are doing? Don't assume all real estate brokerages are the same. Perhaps they offer tools and technology that are cutting edge

and desirable to agents. Maybe they have unique programs and systems in place that are attractive to clientele.

Should you franchise? Do you have the need for additional name recognition that franchising offers? Is there a franchise noticeably absent from your market? What are the trends for that franchise? Is it a dying name or an emerging presence? Remember you are not only trying to capture buyer and seller clients, but are also in the business of recruiting agents. What is attractive to licensees?



This step in your business plan is not one that you complete once and you're done. Evaluating the competition is an ongoing process to remain successfully competitive.

INSPECT YOUR OWN AGENCY

In the textbook *Real Estate Brokerage, A Management Guide*, the authors encourage you to ask yourself the following questions which evaluating your own firm:

- How do my services compare with the competition?
- Which services generate profits for me and which do not?
- What services should I consider adding or eliminating?
- Is my current organization structure appropriate?
- Are there staff services that should be added or eliminated?
- Are there divisions or departments that should be added or eliminated?
- Are there internal procedures that need to be revised that can be less burdensome or will make my organization more efficient?
- What is the physical condition of my office and equipment?
- Are there improvements that will increase the efficiency of my operation or enhance its image?
- How do my salespeople perform?
- What are their strengths and weaknesses?
- What should I be doing to enhance their performance?
- What is my "head count"?
- Have I gained or lost salespeople?
- How are my recruiting efforts working?
- What changes are needed to attract the salespeople I want?
- Why do salespeople leave?
- Have I met my previously stated objectives?
- Have I met my production forecasts?
- What is my market share and am I on target with my projections?
- Have I gained or lost ground?
- What situations contributed to or inhibited my meeting objectives?

These critical questions may be difficult for you to answer honestly and objectively. This author is a fan of the TV shows *Bar Rescue* and *Restaurant Nightmares*. One of the issues that becomes glaringly obvious is that the owner operators are commonly resistant to making the necessary changes as suggested by Jon Taffer and Chef Ramsey. It is vividly clear in watching these shows that it is the *owner* and the *owner's reluctance to adapt* that is the problem. Please don't fall prey to the same mistakes. Keep an open mind and answer these questions as truthfully as possible. The purpose of the exercise is to indeed identify where you need to make changes to your organization and then proceed with making those changes.

How would your sales associates answer the very same questions? There is a very good chance their answers would be different from your own.

Identifying your market, scrutinizing your competition, and inspecting your own firm will permit you to develop a business plan that is credible and predictive. This is often called a **situation analysis** as it describes things the way they exist now. As the stock brokers say, *past performance does not guarantee future performance*, but by researching the past, you can make reasonable forecasts for your future.



Writing your agency's business plan is no different from using your GPS to get to your desired destination. By committing your plan to writing and addressing the items discussed in this chapter thus far, you are laying the route to take your business along to the desired outcomes. The plan identifies what you wish to accomplish and how you intend to do it. As Cyr, Sobek, and McAdams write, "*Planning turns aspirations into concrete expectations.*"

It would be a real shame if you went through the exercise of developing a business plan and filed it in the back of your desk drawer in a manila file folder only to never look at it again. "There. I'm done!" No. Your business plan is a living document that needs to be followed, worked, and modified as you go along. Some of your plans will likely change or even be eliminated. As you accomplish some of your goals, you will want to set new ones.

ELEMENTS OF A BUSINESS PLAN

The primary elements of a business plan are:

- Mission Statement
- Goals
- Objectives

Most authors writing about the methods to develop a business plan include the subject of writing a **mission statement**. The mission statement consists of a few sentences that capsulize your entire plan. It defines what you want your company to be and where you want to go. It should describe

your purpose for existing. Here are a few sample mission statements from some well-known organizations:

Starbucks Coffee: “Our mission: to inspire and nurture the human spirit – one person, one cup and one neighborhood at a time.”

Apple Computers: "Apple is committed to bringing the best personal computing experience to students, educators, creative professionals and consumers around the world through its innovative hardware, software and Internet offerings."

Southwest Airlines: “The mission of Southwest Airlines is dedication to the highest quality of Customer Service delivered with a sense of warmth, friendliness, individual pride, and Company Spirit. We are committed to provide our Employees a stable work environment with equal opportunity for learning and personal growth.”

Albertsons: “Guided by relentless focus on our five imperatives, we will constantly strive to implement the critical initiatives required to achieve our vision. In doing this, we will deliver operational excellence in every corner of the Company and meet or exceed our commitments to the many constituencies we serve. All of our long-term strategies and short-term actions will be molded by a set of core values that are shared by each and every associate.”

Barnes and Noble: “Our mission is to operate the best specialty retail business in America, regardless of the product we sell. Because the product we sell is books, our aspirations must be consistent with the promise and the ideals of the volumes which line our shelves. To say that our mission exists independent of the product we sell is to demean the importance and the distinction of being booksellers. As booksellers we are determined to be the very best in our business, regardless of the size, pedigree or inclinations of our competitors. We will continue to bring our industry nuances of style and approaches to bookselling which are consistent with our evolving aspirations. Above all, we expect to be a credit to the communities we serve, a valuable resource to our customers, and a place where our dedicated booksellers can grow and prosper. Toward this end we will not only listen to our customers and booksellers but embrace the idea that the Company is at their service.”

The Good and the Bad	
A Good Statement...	A Bad Statement...
Uses language your constituents use.	Uses jargon, doesn't understand your audience.
Is emotionally stirring.	Is logical and cold.
Communicates the "why."	Communicates only the "what" or "how."
Is concise.	Is really long.
Is a single, powerful sentence.	Is a rambling paragraph.
Sounds good spoken out loud.	Is full of clauses and hard to say.
Is memorable.	Is forgettable.
Surprises.	Is dull.
Is actionable.	Can't be quantified.
Is specific.	Is vague.

Our Cause
Who? What? Where?

Our Actions
What we do

Our Impact
Changes for the better

Chevron: “At the heart of The Chevron Way is our Vision to be the global energy company most admired for its people, partnership and performance.”

FedEx: “FedEx will produce superior financial returns for shareowners by providing high value-added supply chain, transportation, business and related information services through focused operating companies. Customer requirements will be met in the highest quality manner appropriate to each market segment served. FedEx will strive to develop mutually rewarding relationships with its employees, partners and suppliers. Safety will be the first consideration in all operations. Corporate activities will be conducted to the highest ethical and professional standards.”



Goals – Goals tell you where you want to be and how you plan to get there. Perhaps you want to increase your market share by 5% by December 31, 2017 or improve your customer service to a 90% satisfaction rating at year end on the company satisfaction surveys your company utilizes. Goals should be specific, quantitative, and have a deadline. Goals should be measurable.

The following goals serve as an example:

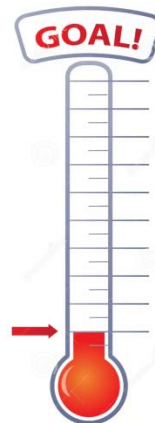
The primary goals of our organization are to:

- become a profitable organization by December 31, 2017 with a 5% profit margin.
- recruit and hire 12 self-motivated, success-oriented, and hardworking sales agents by January 1, 2015.
- maintain an office of at least 45 sales agents.
- develop a solid, corporate identity in our specified targeted market area.
- establish good working relationships and begin working as a team, promoting communication and suggestions from all participants.
- become one of the top five brokerage firms in operation in the Las Vegas area by our third year of operation, or before.

Objectives – Next you will want to develop two to four general objectives which identify what specifically you will have to do to reach your goals. By looking at the illustration “Goals and Objectives Flowchart” (*Business Plans Kit For Dummies*), you can see how the goal to improve

customer service is to be accomplished by hiring two new employees by 7-15 and installing new job-tracking software by 9-15.

It is also highly recommended that your goals and objectives include contingency plans or, “what if?” plans. As an example, if the new job-tracking software proves to be ineffective, your contingency plans might read, “We will consider utilizing ‘Career Tracker’ software in the event ‘HR Assistant’ proves ineffective.”



WORKING YOUR PLAN

We have all seen the hand-drawn thermometers posted on the wall where someone has been designated to color in the red as we progress toward reaching our goal. Your business plan should be reviewed continuously to monitor your progress in reaching your firm’s goals. As your goals will undoubtedly be both short-term and long-term in nature, you can see if you are on track for your short-term goals and evaluate the necessity to adjust your long-term goals. You may even discover that your original plan no longer serves your needs and a new one should be developed.

Do not allow the development of a business plan to be a long, onerous project. Doing so may prevent you from completing or even starting the process. This is the “doing your homework” portion of operating your real estate brokerage. It involves really examining your market, researching your competition, and taking an introspective look at your own organization. The plan becomes your set of instructions – your marching orders so to speak – on where you want to go and how you are going to get there, rather than taking a “buckshot” approach at being successful. Continuing to review your business plan and adjusting your course will prove to be highly valuable in growing your business to where you want it to be five years from now.

SAMPLE PLAN

The following is a sample business plan for an actual real estate company in Tucson, Arizona. The information has been changed to protect their privacy. Although the plan is not perfect, and is at times repetitive, it serves as a good example of the concepts taught within this chapter.

Real Estate Business Plan Executive Summary

Introduction

Tucson Ridge Real Estate, LLC (TRRE) is a start-up company in the Tucson area. It is the mission of TRRE to provide real estate services in the newly established Tucson Ridge Retirement Community, located to the Northwest of scenic Tucson, Arizona. TRRE is a full service real estate, mortgage, and title company.

The Company

TRRE will be a limited liability partnership registered in the state of Delaware for tax purposes. Its founder is Mrs. Elizabeth Stone, a former agent for RE/MAX real estate company, where she worked for 23 years.

The company plans to be leveraged through private investment and a limited number of loans. The company expects to begin offering its services in June. The company's main clients will be retirement age couples looking for a community that can offer significant services for their age group and income levels. Since Mrs. Stone is within this demographic group and knows and understands this market's needs, she believes that she can appeal to such clients far more than most other competitors.

The Services

TRRE offers comprehensive real estate, mortgage and title services to our diverse clients. With Landmark Homes, Inc. as our sponsor in the newly finished Tucson Ridge Retirement Community, we will have a premier position as the dominant seller of these new homes, condos, and retirement apartments. In addition we will offer a full range of services to facilitate the purchasing and selling of real estate including the following:

- Home search database.
- Moving consulting, quotes, planning, etc.
- Mortgage consulting and loan preapproval.
- Community information.
- Title transfer.
- Obtaining a comparative market analysis for potential sellers.
- Appraising.
- Property preparation.

The Market

The retirement industry has been steadily growing over the past twenty years. The percentage of the U.S. population over the age of 55 is at an all-time high of 21% and is growing at an average rate of 3% each year. In certain parts of the country like the American Southwest, which has a high concentration of retirement communities, the growth rate is about 8%. This percentage is also expected to grow as the first of the "baby boomer" generation begins to reach retirement age in the next decade. It is estimated by the U.S. Census Bureau that the retirement industry, that includes homes, medical facilities, specialty equipment, retirement entertainment services, etc., accounts for 4.8 billion dollars each year.

Financial Considerations

Start-up expenses and funding required are modest. They include expenses and the rest in cash needed to support operations until revenues reach an acceptable level. Most of the company's liabilities will come from outside private investors and management investment, however, we have current borrowing from Bank of America Commercial Investments, the principal to be paid off in two years. A long-term loan through Valley National Bank will be paid off in ten years.

The company expects to reach profitability in the first year and does not anticipate any serious cash flow problems. We conservatively believe that during the first three years, average profitability per month per segment will be adequate. We expect that about one sale per month will guarantee a break-even point.

1.1 Mission

It is the mission of TRRE to provide real estate services in the newly established Tucson Ridge retirement community, located to the Northwest of scenic Tucson, Arizona. TRRE is a full service real estate, mortgage, and title company.

1.2 Keys to Success

TRRE's keys to long-term survivability and profitability are as follows:

- Establish and maintain close contacts with residential real estate listing services, and all other service organizations that TRRE uses, such as Abco mortgage service company.
- Keeping close contact with clients and establishing a well-functioning long-term relationship with them to generate repeat business and obtain a top notch reputation.
- Establish a comprehensive service experience for our clients that includes consultation, appraisal, sale preparation, community information, moving consultation, etc.

1.3 Objectives

The three year goals for Tucson Ridge Real Estate (TRRE) are the following:

- Achieve break-even by year two.
- Finalize and then expand our contract with Landmark Homes, Inc. to broker real estate property in the Tucson Ridge area.
- Establish minimum 95% customer satisfaction rate to establish long-term relationships with our clients and create word-of-mouth marketing.

Company Summary

TRRE will be a limited liability partnership registered in the state of Delaware for tax purposes. Its founder is Mrs. Elizabeth Stone, a former agent for RE/MAX real estate company, where she worked for 23 years. The company plans to be leveraged through private investment and a limited number of loans. Mrs. Stone is establishing this firm as a "lifestyle" oriented endeavor in order to supplement her retirement. The company has its main offices in Tucson, AZ. The facilities include a conference room and office spaces. The company expects to begin offering its services in June of 2003. The company's main clients will be retirement age couples looking for a community that can offer significant services for their age group and income levels. Since Mrs. Stone is within this demographic group and knows and understands this market's needs, she believes that she can appeal to such clients far more than most other competitors.

2.1 Company Ownership

The company will be jointly owned by Mrs. Elizabeth Stone and her husband Frederick, who will be putting up equal amounts of equity. All other financing will come from loans.

2.2 Start-up Summary

This includes expenses and the rest in cash needed to support operations until revenues reach an acceptable level. Most of the company's liabilities will come from outside private investors and management investment, however, we have obtained current borrowing from Bank of America Commercial Investments, the principal to be paid off in two years. A long-term loan through Valley National Bank will be paid off in ten years.

Services

TRRE offers comprehensive real estate, mortgage, and title services to our diverse clients. With Landmark Homes, Inc. as our sponsor in the newly finished Tucson Ridge Retirement Community, we will have a premier position as the dominant seller of these new homes, condos, and retirement apartments. In addition we will offer a full range of services to facilitate the purchasing and selling of real estate including the following:

- Home search database.
- Moving consulting, quotes, planning, etc.
- Mortgage consulting and loan preapproval.
- Community information.
- Title transfer.
- Obtaining a comparative market analysis for potential sellers.
- Appraising.
- Property preparation.

Much of the company's services will be outsourced. This includes title transfer, loan approval, appraising and market analysis services. Title transfer will be handled by NTA Legal Services, loan approval by GMC Credit Co. and appraising and market analysis by Arizona Real Estate Services.

Each of these companies encourage independent agents to use their services and all have a proven track record in terms of affordability and service. These companies have also been selected because they charge a flat monthly rate. Management includes this rate in the profit and loss statement under other expenses. Our first priority is to help the seller set a realistic price on their property. But like most of us who have invested untold hours of time and energy into our property it may be difficult to remain objective when it's time to price it and put it up for resale.

There's a good reason for this. Usually property owners have much more than dollars and cents tied up in a home – an individual commitment that makes it a highly valued personal statement. But value becomes a reflection of the buyer's perspective as well when that property is put up for sale...and pride of ownership may not translate to market value. When house hunting, the buyer will shop the market, compare available homes, and try to find the very best value.

Consequently, when the seller is ready to list their home, they need to step back and sharpen their focus. Look at the home objectively and price it competitively. This is where a real estate broker such as Tucson Ridge Real Estate can help. Listing property at 5% above current market value gives it a sales

advantage that is ten times greater than if priced at 15-20% above. That's a statistic that can't be overlooked.

An overpriced home will suffer from lack of exposure, and the longer it remains on the market the more difficult it will be to sell. And it will remain so, even after price reductions are taken to attract buyers. That is why it is very important to determine an accurate and objective market value for your property. We'll work with the buyers and sellers closely to achieve that, and to maximize their opportunities to sell their home at the best possible price within acceptable time frames.

Market Analysis Summary

TRRE will be concentrating on only one market segment. This will be the retirement market consisting of those individuals and couples seeking to retire to the Tucson area. As a retiree, herself, Mrs. Stone deals with the very issues that her clients do, thus providing insight and opportunities to better assist her clients.

The retirement industry has been steadily growing over the past twenty years. The percentage of the U.S. population over the age of 55 is at an all-time high of 21% and is growing at an average rate of 3% each year. It is estimated by the U.S. Census Bureau that the retirement industry, that includes homes, medical facilities, specialty equipment, retirement entertainment services, etc., accounts for 4.8 billion dollars each year.

The retirement home industry consists of thousands of small housing communities. These communities range from those owned by major name-brand firms to tens of thousands of small, one-location firms. TRRE believes that the greatest threat at the moment is in new entrants to the market who will want to capitalize on this high growth industry. The most likely entrants will be new, small real estate companies with fewer than ten employees. However, the one major advantage TRRE has is its exclusive rights to act as the agent for Tucson Ridge Retirement Community. However, due to the high number of competitors and the overall low profitability of each firm, competition is quite intense.

Our most serious competitors are Biden Realty and RE/MAX. These companies affect us most because of their higher capitalization or geographical proximity.

4.1 Market Segmentation

TRRE will be concentrating exclusively on the retirement market segment. This means the company will be focused on buying and selling real estate to those seeking to retire in the Tucson area. This market segment has special needs and is almost always looking to find homes in specially constructed communities that serve those special needs such as medical, dining, entertainment, shopping, and other such facilities. Being the dominant broker for the new Landmark Homes retirement community of Tucson Ridge will allow TRRE to fulfill those needs.

4.2 Service Business Analysis

The retirement industry has been steadily growing over the past twenty years. The percentage of the U.S. population over the age of 55 is at an all-time high of 21% and is growing at an average rate of 3% each year. In certain parts of the country like the American Southwest, which has a high concentration

of retirement communities, the growth rate is about 8%. This percentage is also expected to grow as the first of the “baby boomer” generation begins to reach retirement age in the next decade. It is estimated by the U.S. Census Bureau that the retirement industry, which includes homes, medical facilities, specialty equipment, retirement entertainment services, etc., accounts for 4.8 billion dollars each year. The retirement home industry consists of thousands of small housing communities. These communities range from those owned by major name-brand firms to tens of thousands of small, one-location firms. TRRE believes that the greatest threat at the moment is in new entrants to the market who will want to capitalize on this high growth industry. The most likely entrants will be new, small real estate companies with fewer than ten employees. However, the one major advantage TRRE has is its exclusive rights to act as the agent for Tucson Ridge Retirement Community. However, due to the high number of competitors and the overall low profitability of each firm, competition is quite intense.

The power of potential clients is very great in this industry because most clients are very concentrated in our geographical area. Furthermore, clients tend to “shop around” for the best package of services and cost.

4.2.1 Competition and Buying Patterns

Competition

The real estate industry is highly fragmented, with a large number of potential rivals. Our most serious competitors are Biden Realty and RE/MAX. Biden is an established company that has been in operation for the past ten years, with a fine track record of quality service. It currently employs twelve agents and has long-term contracts with various home building companies. This company is slightly larger than TRRE in size and market capitalization.

RE/MAX is one of the largest and best known real estate firms in the country. It has hundreds of agents and very deep pockets that can be used to counter any sort of competitive move.

Buying patterns and needs

Clients usually deal with real estate companies based on their reputation of professionalism and quality of services rendered in the past. This reputation is difficult to obtain by new firms unless its personnel bring it with them from previous companies, such as ours. Price and scope are also important reasons for acceptance, especially if the company is small.

ACTIVITY

Write a mission statement for your real estate brokerage. Obviously, this does not have to be the final mission statement you ultimately decide upon for your business plan. Be sure to reference the information in this chapter to do so.

Mission Statement for: _____

Next, write four (4) separate goals for your firm and list three (3) objectives to accomplish each goal.

Goal #1: _____

Goal #2: _____

Goal #3: _____

Goal #4: _____

Chapter 3

Forms Used by Real Estate Brokerages

FORMS USED BY NEVADA BROKERAGES

This chapter is basically a library of forms used by Nevada real estate brokerage firms. Although many firms have elected to adopt some of their own forms for internal use, this unit only contains those documents used by most all Nevada brokerages. Because Las Vegas is the largest real estate community within the state, we have opted to include common forms made available through the Greater Las Vegas Association of REALTORS®.

In a live, classroom setting, the instructor will review these forms in detail with all students. For those individuals taking this course online or through correspondence study, it is the student's responsibility to read through the forms to remain current with their use. These students are free to contact an instructor at support@realtyschool.com. An instructor will reply to student questions via email as quickly as possible but no later than within 1 business day.

These forms include:

Addendum to Purchase Agreement.....	63	Hold Harmless Agreement.....	97
Addendum to Listing Agreement – Short Sale.....	64	Interpreter/Translator Agreement	98
Addendum to Listing Agreement – Seller Opt Outs.....	66	Protect Your Family from Lead in Your Home	100
Authorization to Negotiate Directly With Seller	67	Disclosure of Information on Lead-Based Paint and/or Hazards	108
Buyer Brokerage Agreement	68	Lender Short Sale Approval Addendum	109
Buyers Acknowledgement and Release	70	MLS Change Order.....	110
Buyers Response to Home Inspection and Request for Repairs	71	Used Manufactured/Mobile Home Disclosure.....	111
HUD-1 Settlement Statement.....	73	Mechanical Keybox Authorization.....	112
Condominium Conversion Disclosure	75	Mold Notice & Waiver	113
Confirmation Regarding Real Estate Agent Relationship.	76	Seller's Multiple Counter Offer.....	114
Consent to Act	77	Division Informational Bulletin #001	116
Construction Defect Disclosure and Waiver	78	Notice of Broker Compensation and Invoice.....	117
Counter Offer.....	79	Pest Notice.....	118
Purchaser's Receipt of Common Interest Community "Resale Package"	80	Referral Fee Agreement	119
CIC Resale Package.....	81	Rental Application	121
Before You Purchase in a Common Interest Community – Did You Know.....	82	Residential Lease Agreement	125
Did You Know – You're Buying an REO?	84	Residential Property Management Agreement.....	134
Duties Owed by a Nevada Real Estate Licensee	86	Residential Purchase Agreement.....	144
Exclusive Authorization and Right to Sell, Exchange, or Lease Brokerage Listing Agreement	87	Residential Purchase Timeline and Checklist.....	155
Instruction to Exclude Photo from the MLS.....	93	Residential Disclosure Guide	156
Instruction to Exclude Listing from the MLS	94	Short Sale Addendum to Purchase Agreement	171
For Your Protection: Get a Home Inspection	95	Seller's Real Property Disclosure Form.....	174
Receipt of "For Your Protection" Notice.....	96	Vacant Land Disclosure.....	178
		Vacant Land Purchase Agreement.....	183
		Walk-Through Inspection and Release	193
		MLS Withdrawal/Termination Order.....	195
		Waiver Form	196

**ADDENDUM NO. _____
TO PURCHASE AGREEMENT**



In reference to the Purchase Agreement executed by _____
_____ as Buyer(s) and _____
_____ as Seller(s), dated _____
covering the real property at _____
_____, the Buyer Seller hereby proposes that the Purchase
Agreement be amended as follows:

ADDITIONAL PAGE(S) ATTACHED. This Addendum is not complete without the additional terms on the attached _____ page(s).

When executed by both parties, this Addendum is made an integral part of the aforementioned Purchase Agreement.

WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, YOU SHOULD SEEK COMPETENT LEGAL COUNSEL BEFORE SIGNING.

 Buyer Seller _____ Date

 Buyer Seller _____ Time

Acceptance:

 Buyer Seller _____ Date

 Buyer Seller _____ Time

Prepared by: _____
Agent's Printed Name _____ Phone _____

**ADDENDUM TO LISTING
AGREEMENT—SHORT SALE**



This Addendum is hereby made a part of the Listing Agreement between _____ as Seller and _____ as Broker, dated _____ regarding the real property at _____ ("the Property").

1. Acknowledgement of Short Sale. Seller acknowledges that Broker has informed Seller that the current fair market value of the Property may be less than the amount of Seller's loan(s) and other debts against the property due and owing to one or more lender(s), lienholder(s) and/or others with a financial interest in the Property (collectively, "Lender"). This situation is called a "short sale." Lender may be willing to accept an amount less than what is owed on the Property. Seller understands that any sale of the Property will be contingent upon Lender approval, and the terms of such approval may not be known until Close of Escrow. Furthermore, such terms may or may not be favorable to the Seller. Seller acknowledges that Lender is not required or obligated to accept a short sale. **Broker has no control over Lender approval, or any act, omission or decision by any lender in the short sale process. Seller understands that Lender's approval may take several weeks or months to obtain, and Broker cannot guarantee the timeliness of Lender's review, approval or rejection.** Seller Initials [_____] [_____]

2. Seller Options. Seller understands that there may be disadvantages to a short sale. Seller is advised to explore other options with Lender (and other appropriate professionals, such as attorneys, accountants, and qualified housing and credit counselors) such as loan modification or revised repayment plan; refinancing with Lender or another lender; bankruptcy; or voluntary deed-in-lieu of foreclosure. These options may have adverse consequences and the Seller must decide what option is best for his/her individual situation. If Seller decides to pursue another option, Seller agrees to immediately inform Broker. **Seller Initials** [_____] [_____]

3. Consequences of Short Sale. A short sale may have legal, tax and credit consequences. A short sale may be reported to credit reporting agencies and may adversely affect Seller's credit score. Even if Lender agrees to a short sale, Lender may not agree to forgive the entire debt. Seller may be required to pay the difference as a personal obligation (judgment). Where a portion of a debt is forgiven, the relief of debt may be considered as taxable income. Lender may issue a 1099 form to Seller and provide that information to the Internal Revenue Service. Seller acknowledges that Broker cannot provide legal, tax or credit advice. **Therefore, Seller agrees to seek advice from an attorney, a certified public accountant or other professional regarding the credit, legal and tax consequences of a short sale.** Seller Initials [_____] [_____]

4. Amount Owed. Seller agrees to cooperate with Broker, escrow and title companies and Lender to determine the amount of debt against the Property including, but not limited to, purchase money loans, home equity loans, homeowner association fees and/or fines, property taxes and other liens. Seller Initials [_____] [_____]

5. Foreclosure. Seller understands that failure to make loan payments may result in foreclosure of the Property by Lender. Seller represents that a Notice of Default and Election to Sell **has not -OR-** **has (date: _____)** been recorded against the Property. **If a Notice of Default has not been recorded against the Property as of the date of this Addendum, Seller agrees to notify Broker**

within five (5) business days of receipt of such a notice. Seller understands that the recording of a Notice of Default begins a statutory foreclosure period, which lasts a minimum of three (3) months and twenty (20) days. Seller understands that if the Property is not sold to a buyer before a foreclosure sale of the Property, Seller will lose all rights and interest in the Property. Seller understands that Broker cannot stop a foreclosure.

Seller Initials [_____] [_____]

6. Seller's Duties. Seller shall reasonably cooperate with Broker and Lender in the short sale process by providing documentation as may be required by Lender to review and approve the short sale request. Such documents may include (but are not limited to): current appraisal, tax returns, pay stubs, bank statements, financial statements, broker/agent authorization, medical records or other evidence of a financial hardship. Seller authorizes Broker to communicate with Lender regarding the details of Seller's loan and the approval of the short sale. Seller agrees to respond to Broker timely, completely and accurately. **Broker shall not verify any information provided by Seller and Seller agrees to defend, indemnify and hold Broker harmless for same.** **Seller Initials** [_____] [_____]

7. Disclosure of Short Sale. Seller acknowledges that Broker is required by the rules and policies of the Multiple Listing Service to identify the Property listing as a short sale. Seller authorizes Broker to further disclose to prospective buyers and their agent(s) that the transaction is likely to be a short sale and the terms of the sale may be subject to Lender approval. Broker shall have no liability for any loss, damage or harm to the Seller from any such communication. **Seller Initials** [_____] [_____]

8. Additional Terms. _____

All other terms of the Listing Agreement not modified by this Addendum shall remain the same. To the extent that any terms of this Addendum are in conflict with the Listing Agreement, this Addendum will control. **WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, SEEK COMPETENT LEGAL AND TAX COUNSEL BEFORE SIGNING.**

SELLER:

Seller's Signature _____ Seller's Signature _____

Printed Name: _____ Printed Name: _____

Date: _____ Time: _____ Date: _____ Time: _____

BROKER:

Designated Licensee Signature _____ Date: _____

Printed Name: _____

Broker's Signature _____ Date: _____

Printed Name: _____

ADDENDUM TO LISTING AGREEMENT – SELLER OPT OUTS



This Addendum is hereby made a part of the Listing Agreement between _____
_____ as Seller and _____
_____ as Broker, dated _____ regarding the real property at _____
_____ ("the Property").

1. Seller understands and acknowledges that Broker will submit the Property's listing information to the Multiple Listing Service (MLS) in which Broker participates, unless Seller instructs Broker to exclude the listing.
2. Seller further understands and acknowledges that MLS will disseminate the Property's listing information to those MLS brokers and agents (and/or their web vendors) who operate Internet sites, as well as online providers such as realtor.com and lasvegasrealtor.com, and that such sites are generally available to the public. Some, but not all, of these websites may include a commentary section where consumers may include reviews and comments about the Property in immediate conjunction with the listing (blogging), or provide a link to the comments. In addition, some, but not all, of these websites may display an automated estimate of the market value of the Property in immediate conjunction with the listing, or provide a link to the estimate.
3. Seller may opt-out of any of the following by initialing the appropriate space(s) below:
 - a. _____ I/we have advised the Broker or sales agent that I/we **DO NOT** want the listed Property to be **displayed on the Internet** (the listing will not appear on any Internet site).
 - b. _____ I/we have advised the Broker or sales agent that I/we **DO NOT** want the **address** of the listed Property to be displayed on the Internet (listing information will be disseminated via Internet, but the Property address will not appear in conjunction with the listing).
 - c. _____ I/we have advised the Broker or sales agent that I/we **DO NOT** want a **commentary section** displayed or linked to the listed Property (the site operator may indicate that the feature was disabled at the request of the seller).
 - d. _____ I/we have advised the Broker or sales agent that I/we **DO NOT** want an **automated estimate of value** displayed or linked to the listed Property (the site operator may indicate that the feature was disabled at the request of the seller).

—OR—

_____ Seller does **NOT** opt out of any of the above.

4. Seller understands and acknowledges that if option (a) above is selected, consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their search.

SELLER:

Seller's Signature _____
Printed Name: _____
Date: _____ Time: _____

Seller's Signature _____
Printed Name: _____
Date: _____ Time: _____

BROKER:

Designated Licensee Signature _____
Printed Name: _____

Date: _____

Broker's Signature _____
Printed Name: _____

Date: _____

Reminder to Broker/Agent: If Seller has selected either (a) or (b), a copy of this form **MUST** be provided to the MLS within 48 hours per MLS Rule 21.25. Fax to (702) 732-3154.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

788 Fairview Drive, Suite 200 * Carson City, NV 89701-5453 * (775) 687-4280
2501 East Sahara Avenue, Suite 102 * Las Vegas, NV 89104-4137 * (702) 486-4033
Email: realest@red.state.nv.us <http://www.red.state.nv.us>

AUTHORIZATION TO NEGOTIATE DIRECTLY WITH SELLER

Nevada law permits a real estate licensee to negotiate a sale or lease directly with the seller or lessor with written permission from the listing broker. This form grants that permission with respect to the below-named Seller(s) and the listed property.

- Seller agrees, and the Seller's broker authorizes, that a Buyer's agent or broker may present offers (including subsequent counteroffers) and negotiate directly with the Seller.
- "Negotiate" means (a) delivering or communicating an offer, counteroffer, or proposal; (b) discussing or reviewing the terms of any offer, counteroffer, or proposal; and/or (c) facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed.
- Seller understands and agrees that, after accepting an offer, additional contact from the Buyer's agent may be required to obtain disclosures and other documents related to the transaction.
- Seller acknowledges and agrees that Buyer's agent does not represent the Seller, and negotiations pursuant to this authorization do not create or imply an agency relationship between the Buyer's agent and the Seller. Seller understands that he/she should seek advice from Seller's broker and/or financial advisers or legal counsel.
- Seller acknowledges that Seller's broker will provide a copy of this authorization to the Buyer's agent or broker upon request, prior to presenting an offer.

Seller's Name(s): _____

Seller's Signature(s): _____ / _____
Date Time

Property Address: _____

City: _____ Zip: _____ Contract Listing Date: _____

Company Name: _____

Seller's Agent Name: _____ Signature: _____
Date Time

Seller's Broker Name: _____ Signature: _____
Date Time

BUYER BROKERAGE AGREEMENT



1 I/We, _____ ("Buyer") hereby employs and grants
2 _____ ("Broker") the exclusive and irrevocable right, commencing on _____,
3 _____ (Company Name),
4 _____, and expiring at midnight on _____, _____, to locate property and negotiate terms and
5 conditions acceptable to Buyer for purchase, exchange, option, or lease as follows:
6

7 **1. General Nature of Property:** Buyer represents that he intends to acquire an interest in one or more properties
8 meeting the following general description:

9 Type: _____ Residential _____ Land _____ Commercial _____ Other: _____
10

11 **2. Broker Compensation:** Broker's compensation shall be paid at the time of and as a condition of closing as follows:

12 a. Buyer agrees to pay Broker _____ % of the gross selling price of the Property or the set amount of
13 \$ _____. Buyer authorizes Broker to accept compensation offered by seller or seller's broker, which
14 compensation shall be credited against any compensation owed by Buyer to Broker.

15 b. **In addition to** the compensation in 2(a), Buyer agrees to pay Broker \$ _____ as and for the flat fee
16 portion of Broker's total compensation. This flat fee portion is assessed by Broker to its clients and customers in
17 exchange for real estate services provided and actually performed, and is not required by any state or federal
18 government to ensure that real estate transactions comply with federal or state laws and regulations.

19 c. Buyer agrees to compensate Broker if the Buyer or any other person acting on the Buyer's behalf enters
20 into an agreement to purchase, exchange, option, or lease any property of the general nature described herein.

21 d. If completion of any transaction is prevented by Buyer's Default or with the consent of Buyer, the total
22 compensation due under this Agreement shall be immediately due and payable by Buyer.

23 e. Buyer agrees to pay such compensation if Buyer within _____ calendar days after the termination of this
24 Agreement enters into an agreement to purchase, exchange, option or lease any property shown to or negotiated on
25 behalf of the Buyer by Broker during the term of this Agreement, unless Buyer enters into a subsequent agreement
26 with another Broker.

27 f. Commissions payable for the purchase, exchange, option or lease of property are not set by any Board or
28 Association of REALTORS® or Multiple Listing Service or in any manner other than as negotiated between Broker
29 and Buyer.
30

31 **3. Retainer Fee:** Buyer agrees to pay and Broker acknowledges receipt of a non-refundable retainer fee in the amount
32 of \$ _____ payable to Broker for initial counseling, consultation and research, which retainer fee ____ shall -OR-
33 _____ shall not be credited against any other compensation owed by Buyer to Broker as provided above.
34

35 **4. New Home/Lot Sales:** Buyer acknowledges that some sellers (particularly new home subdivisions, open houses and
36 for-sale-by-owner) will compensate Broker only if Broker accompanies Buyer on the first home/lot visit. Buyer agrees that if
37 Buyer makes a first visit without Broker, resulting in a seller's refusal to compensate Broker, that Buyer will compensate
38 Broker as provided above.
39

40 **5. Buyer's Duties:** Buyer agrees to work exclusively with Broker and to provide to Broker or lender, upon request,
41 information necessary to assure Buyer's ability to acquire property described above. Buyer further agrees to view or consider
42 property of the general type set forth in this Agreement, and to negotiate in good faith to acquire such property.
43

44 **6. Equal Housing Opportunity:** It is the policy of the Broker to abide by all local, state, and federal laws prohibiting
45 discrimination against any individual or group of individuals. The Broker has no duty to disclose the racial, ethnic, or
46 religious composition of any neighborhood, community, or building, nor whether persons with disabilities are housed in any
47 home or facility, except that the agent may identify housing facilities meeting the needs of a disabled buyer.
48

49 **7. Other Potential Buyers:** Buyer consents and acknowledges that other potential buyers represented by Broker may
50 consider, make offers on, or acquire an interest in the same or similar properties as Buyer is seeking.
51

52 **8. Mediation/Arbitration:** The Broker and Buyer hereby agree that any dispute concerning the terms and conditions
53 of this contract shall be resolved through mediation and arbitration proceedings at the GLVAR in accordance with local rules
54 of procedure and the standards of practice of the National Association of REALTORS®. If a lawsuit is filed by either party,
55 that lawsuit shall be stayed until the dispute is resolved or terminated in accordance with this paragraph.

Buyer Brokerage Agreement Rev. 03/12
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1 **9. Attorneys Fees:** In the event suit is brought by either party to enforce this Agreement, the prevailing party is
2 entitled to court costs and reasonable attorneys fees.

3
4 **10. Nevada Law Applies:** This Agreement is executed and intended to be performed in the State of Nevada, and the
5 laws of Nevada shall govern its interpretation and effect. The parties agree that the State of Nevada, and the county in
6 which the Property is located, is the appropriate judicial forum for any litigation, arbitration or mediation related to this
7 Agreement.

8
9 **11. Capacity:** Buyer warrants that Buyer has the legal capacity, full power and authority to enter into this Agreement
10 and consummate the transaction contemplated hereby on Buyer's own behalf or on behalf of the party Buyer represents.

11
12 **12. Entire Contract:** All prior negotiations and agreements between the parties are incorporated in this Agreement,
13 which constitutes the entire contract. Its terms are intended by the parties as a final, complete, and exclusive expression of
14 their agreement with respect to its subject matter and may not be contradicted by evidence of any prior agreement or
15 contemporaneous oral agreement. This Agreement and any supplement, addendum, or modification, including any photocopy
16 or facsimile, may be executed manually or digitally, and may be executed in two or more counterparts, all of which shall
17 constitute one and the same writing. The terms of this Agreement may not be amended, modified or altered except through a
18 written agreement signed by all of the parties hereto.

19
20 **13. Partial Invalidity:** In the event that any provision of this Agreement shall be held to be invalid or unenforceable
21 such ruling shall not affect the validity or enforceability of the remainder of the Agreement in any respect whatsoever.

22
23 **14. Buyer Declaration:** Buyer acknowledges and warrants by signature(s) below that s/he is not already in any
24 exclusive buyer representation agreement with any other broker in the state of Nevada.

25
26 **15. Acceptance:** Buyer hereby agrees to all of the terms and conditions herein and acknowledges receipt of a copy of
27 this Agreement.

28
29 **16. Additional Terms:** _____
30 _____
31 _____
32 _____
33 _____

34
35 **THE PRE-PRINTED PORTION OF THIS AGREEMENT HAS BEEN APPROVED BY THE GREATER LAS**
36 **VEGAS ASSOCIATION OF REALTORS®. NO REPRESENTATION IS MADE AS THE LEGAL VALIDITY OF**
37 **ADEQUACY OF ANY PROVISION OR THE TAX CONSEQUENCES THEREOF. FOR LEGAL OR TAX**
38 **ADVICE, CONSULT YOUR ATTORNEY OR TAX ADVISOR.**

39
40 **BUYER:**
41
42 Buyer Signature: _____ Date: _____
43
44 Buyer Signature: _____ Time: _____
45
46 Address: _____ City _____ State _____ Zip _____
47
48 Telephone: _____ Fax: _____ Email: _____
49

50 **BROKER:**
51
52 Broker Signature: _____ Date: _____
53
54 Company: _____ Designated Licensee: _____
55
56 Address: _____ City _____ State _____ Zip _____
57
58 Telephone: _____ Fax: _____ Email: _____

Buyer Brokerage Agreement Rev. 03/12
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**BUYER'S ACKNOWLEDGEMENT AND RELEASE
(No SRPD or Incomplete SRPD)**



(Property Address)

I/we, _____, ("Buyer")
as the Buyer in a purchase transaction of the above-entitled Property, hereby acknowledge and agree to the following:

1. Nevada law (NRS 113.130) requires the Seller of the above-entitled Property, unless exempt, to provide Buyer with a completed form ("Seller's Real Property Disclosure" or "SRPD") disclosing any defects in the Property of which the Seller is aware at least 10 days prior to conveyance.

2. A Seller is prohibited from requesting or requiring the Buyer to waive the form and other rights under NRS 113.130(1); and, a Buyer is prohibited from waiving the form and other rights under NRS 113.130(1). The language of the law as revised can be found on the SRPD.

3. There may be transactions where the Seller, in violation of the law, fails to provide or fully complete the SRPD. If the Seller of this Property does not provide you with the SRPD, or does not disclose a defect, NRS 113.150 provides certain remedies:

(1) You have the right to rescind (cancel) the purchase agreement without penalty;

(2) And, if there is a defect which was not disclosed, you may have the right to recover treble (triple) damages, (NRS 113.150(4)).

If a Seller requests that you waive any of your rights or legal remedies under NRS 113.150 or otherwise, you should contact an attorney so you understand the consequences. Your agent cannot explain the legal consequences of waiving your legal remedies.

4. If the Seller does inform you through the SRPD or another written notice, of a defect in the Property, according to NRS 113.150(2) you may:

(1) Rescind the purchase agreement within 4 business days of receiving the SRPD at any time before the conveyance of the Property; or

(2) Close escrow and accept the Property with the defect as revealed by the Seller or his agent without further recourse.

5. With full knowledge of the nature of the SRPD requirements, and the remedies available under the law, **BUYER IS CHOOSING TO MOVE FORWARD WITH THE TRANSACTION.**

Buyer Initials [____][____]

6. The Buyer makes the decision to purchase independent of the real estate broker(s) involved in the transaction, and hereby agrees to hold the Buyer's Broker and Agent in this transaction harmless and to defend and indemnify them from any claim, demand, action or proceeding as a result of the presence of disclosed or undisclosed defects in or around the Property.

Buyer

Date

Buyer

Time

**BUYER'S RESPONSE TO HOME INSPECTION
AND REQUEST FOR REPAIRS**



In reference to the Purchase Agreement executed by _____ as Buyer(s)
and _____ as Seller(s), dated _____ covering
the real property at _____,
the Buyer hereby informs the Seller that a home inspection was conducted upon the Property on
_____ by _____. Based upon the Home Inspection
Report, the Buyer hereby notifies the Seller of the following response and request for repairs:

1. BUYER'S NOTICE: (Check one)

- Buyer has reviewed and **approves** the Home Inspection Report and removes the home inspection contingency.

- Buyer has reviewed and **disapproves** the Home Inspection Report for the Property and requests that the Seller perform the following repairs before COE. Copies of the relevant pages from the Home Inspection Report identifying these items are attached. All repairs (except general home maintenance) are to be done by a licensed Nevada contractor. Buyer reserves the right to approve the repairs at Walk Through Inspection as set forth in the Purchase Agreement. **(Note: this Request is only effective if the repairs are specifically set forth below and the relevant pages from the inspection report are attached.)**

<hr/>	Date	<hr/>	Date
-------	-------------	-------	-------------

2. SELLER'S RESPONSE: Seller acknowledges receipt of the Buyer's response to the home inspection report and request for repairs and responds as follows: (Check one; additional choices on page 2)

- Seller **agrees to correct all** of the conditions listed in Section 1 of this Request to which Buyer has objected.

- Seller **declines to correct any** of the conditions/repairs listed in Section 1 of this Request to which Buyer has objected.

Seller agrees to correct **ONLY** the following conditions: _____

Seller proposes the following remedies which may include repairs and/or other remedies:

Seller **Date** **Seller** **Date**

3. BUYER'S REPLY TO SELLER'S RESPONSE: (Check one)

Buyer **accepts** Seller's response as noted in Section 2 of this Request and removes the home inspection contingency.

Buyer **rejects** Seller's response as noted in Section 2 of this Request, **disapproves** of the Home Inspection Report and **rescinds** the Purchase Agreement. Buyer's earnest money deposit shall be returned to the Buyer as agreed to in the Purchase Agreement.

Buyer **rejects** Seller's response as noted in Section 2 of this Request, **elects** to offer the Seller a revised request as attached and Buyer hereby requests a three (3) calendar day extension of the Due Diligence Period. **SELLER'S INITIALS BELOW AUTHORIZE A THREE (3) CALENDAR DAY EXTENSION OF THE DUE DILIGENCE PERIOD.**

Buyer **Date** **Buyer** **Date**

SELLER: INITIAL AND DATE HERE TO APPROVE THE THREE (3) DAY EXTENSION:

[_____] [_____]

D. HUD-1 Settlement Statement

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SETTLEMENT STATEMENT		
B. TYPE OF LOAN	6. File Number	7. Loan Number
	8. Mortgage Insurance Case Number	
1. FHA 2. FmHA 3. CONV. UNINS. 4. VA 5. CONV. INS.		
<i>C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.</i>		
D. NAME AND ADDRESS OF BORROWER:	E. NAME AND ADDRESS OF SELLER:	F. NAME AND ADDRESS OF LENDER:
G. PROPERTY LOCATION:	H. SETTLEMENT AGENT: NAME, AND ADDRESS	
	PLACE OF SETTLEMENT:	I. SETTLEMENT DATE:

J. SUMMARY OF BORROWER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
120. GROSS AMOUNT DUE FROM BORROWER	

K. SUMMARY OF SELLER'S TRANSACTION	
400. GROSS AMOUNT DUE TO SELLER:	
401. Contract sales price	
402. Personal property	
403.	
404.	
405.	
<i>Adjustments for items paid by seller in advance</i>	
406. City/town taxes to	
407. County taxes to	
408. Assessments to	
409.	
410.	
411.	
412.	
420. GROSS AMOUNT DUE TO SELLER	

200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:	
201. Deposit of earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. TOTAL PAID BY/FOR BORROWER	

500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
<i>Adjustments for items unpaid by seller</i>	
510. City/town taxes to	
511. County taxes to	
512. Assessments to	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. TOTAL REDUCTION AMOUNT DUE SELLER	

300. CASH AT SETTLEMENT FROM/TO BORROWER	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	
303. CASH (FROM) (TO) BORROWER	

600. CASH AT SETTLEMENT TO/FROM SELLER	
601. Gross amount due to seller (line 420)	
602. Less reductions in amount due seller (line 520)	
603. CASH (TO) (FROM) SELLER	

L. SETTLEMENT CHARGES

	@	% =	PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$				
<i>Division of Commission (line 700) as follows:</i>				
701. \$		to		
702. \$		to		
703. Commission paid at Settlement				
704.				
800. ITEMS PAYABLE IN CONNECTION WITH LOAN				
801. Loan Origination Fee		%		
802. Loan Discount		%		
803. Appraisal Fee		to		
804. Credit Report		to		
805. Lender's Inspection Fee				
806. Mortgage Insurance Application Fee to				
807. Assumption Fee				
808.				
809.				
810.				
811.				
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901. Interest from	to	@ \$	/day	
902. Mortgage Insurance Premium for		months	to	
903. Hazard Insurance Premium for		years	to	
904.		years	to	
905.				
1000. RESERVES DEPOSITED WITH LENDER				
1001. Hazard Insurance		months @ \$	per month	
1002. Mortgage insurance		months @ \$	per month	
1003. City property taxes		months @ \$	per month	
1004. County property taxes		months @ \$	per month	
1005. Annual assessments		months @ \$	per month	
1006.		months @ \$	per month	
1007.		months @ \$	per month	
1008. Aggregate Adjustment		months @ \$	per month	
1100. TITLE CHARGES				
1101. Settlement or closing fee		to		
1102. Abstract or title search		to		
1103. Title examination		to		
1104. Title insurance binder		to		
1105. Document preparation		to		
1106. Notary fees		to		
1107. Attorney's fees		to		
		<i>(includes above items numbers;)</i>		
1108. Title Insurance		to		
		<i>(includes above items numbers;)</i>		
1109. Lender's coverage		\$		
1110. Owner's coverage		\$		
1111.				
1112.				
1113.				
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201. Recording fees: Deed \$; Mortgage \$; Releases \$	
1202. City/county tax/stamps:		Deed \$; Mortgage \$	
1203. State tax/stamps:		Deed \$; Mortgage \$	
1204.				
1205.				
1300. ADDITIONAL SETTLEMENT CHARGES				
1301. Survey		to		
1302. Pest inspection		to		
1303.				
1304.				
1305.				
1400. TOTAL SETTLEMENT CHARGES <i>(enter on lines 103, Section J and 502, Section K)</i>				



CONDOMINIUM CONVERSION DISCLOSURE

Property Address ("Property"):

The condominium ("condo") you are buying is a conversion. That means it was an apartment prior to being "converted" to a condominium.

A homeowners association or common interest community ("CIC") association typically governs a condo community. The association, comprised of all of the condo unit owners, sets out certain guidelines relative to the obligations of the unit owners as they relate to the ownership of their unit and to their participation within the condo community.

The local government typically treats the condo conversion as a new sale. As a result, certain disclosures regarding the current condition of the property normally required in a resale may not be required. The Buyer is therefore encouraged to obtain a thorough independent property inspection prior to purchasing the condo.

Any concerns in regard to the condo conversion, the values associated therewith, the structural or other building issues, square footage, location and or effect of the proposed plans on the surrounding property should be thoroughly investigated by the Buyer.

The Buyer hereby acknowledges that neither the real estate Brokers, nor their representatives, agents or employees, have made any representations concerning any aspect of the proposed and/or completed condo conversion and hereby releases Brokers and their representatives, agents or employees from any and all claims, present or future, regarding any aspect of the condo or the sale/purchase thereof. Buyer is solely responsible for any concerns Buyer may have regarding the possible current or future effects that the proposed and/or completed condo conversion may have as to the condo.

Buyer _____ Date _____

Buyer _____ Date _____

Rev. 5/9/05

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CONFIRMATION REGARDING REAL ESTATE AGENT RELATIONSHIP

This form does not constitute a contract for services

Property Address

In the event any party to the real estate transaction is also represented by another licensee who is affiliated with the same Company, the Broker may assign a licensee to act for each party, respectively. As set forth within the *Duties Owed* form, no confidential information will be disclosed. **This is is not such a transaction.**

**I/We confirm the duties of a real estate licensee of which has been presented and explained to me/us.
My/Our representative's relationship is:**

_____ is the AGENT of <input type="checkbox"/> Seller/Landlord Exclusively ② <input type="checkbox"/> Buyer/Tenant Exclusively ③ <input type="checkbox"/> Both Buyer/Tenant & Seller/Landlord ①	_____ is the AGENT of <input type="checkbox"/> Buyer/Tenant Exclusively ③ <input type="checkbox"/> Seller/Landlord Exclusively ② <input type="checkbox"/> Both Buyer/Tenant & Seller/Landlord ①
---	---

- ① IF LICENSEE IS ACTING FOR MORE THAN ONE PARTY IN THIS TRANSACTION, you will be provided a **Consent to Act form for your review, consideration and approval or rejection. A licensee can legally represent both the Seller/Landlord and Buyer/Tenant in a transaction, but ONLY with the knowledge and written consent of BOTH the Seller/Landlord and Buyer/Tenant.**
- ② A licensee who is acting for the Seller/Landlord exclusively, is not representing the Buyer/Tenant and has no duty to advocate or negotiate for the Buyer/Tenant.
- ③ A licensee who is acting for the Buyer/Tenant exclusively, is not representing the Seller/Landlord and has no duty to advocate or negotiate for the Seller/Landlord.

_____ <i>Seller's/Landlord's Company</i> by _____ <i>Licensed Real Estate Agent</i> _____ _____ <i>Date</i> <i>Time</i>	_____ <i>Buyer's/Tenant's Company</i> by _____ <i>Licensed Real Estate Agent</i> _____ _____ <i>Date</i> <i>Time</i>
---	--

Seller/Landlord _____ Date _____ Time _____

Buyer/Tenant _____ Date _____ Time _____

Seller/Landlord _____ Date _____ Time _____

Buyer/Tenant _____ Date _____ Time _____

Approved Nevada Real Estate Division
Replaces all previous editions

560
Revised 4/1/99

CONSENT TO ACT

This form does not constitute a contract for services nor an agreement to pay compensation.

DESCRIPTION OF TRANSACTION: The real estate transaction is the sale and purchase *or* lease of
Property Address: _____

In Nevada, a real estate licensee may act for more than one party in a real estate transaction; however, before the licensee does so, he or she must obtain the written consent of each party. This form is that consent. Before you consent to having a licensee represent both yourself and the other party, you should read this form and understand it.

Licensee: The licensee in this real estate transaction is _____ ("Licensee") whose license number is _____ and who is affiliated with _____ ("Brokerage").

Seller/Landlord _____
Print Name

Buyer/Tenant _____
Print Name

CONFLICT OF INTEREST: A licensee in a real estate transaction may legally act for two or more parties who have interests adverse to each other. In acting for these parties, the licensee has a conflict of interest.

DISCLOSURE OF CONFIDENTIAL INFORMATION: Licensee will not disclose any confidential information for one year after the revocation or termination of any brokerage agreement entered into with a party to this transaction, unless Licensee is required to do so by a court of competent jurisdiction or is given written permission to do so by that party. Confidential information includes, but is not limited to, the client's motivation to purchase, trade or sell, which if disclosed, could harm one party's bargaining position or benefit the other.

DUTIES OF LICENSEE: Licensee shall provide you with a "Duties Owed by a Nevada Real Estate Licensee" disclosure form which lists the duties a licensee owes to all parties of a real estate transaction, and those owed to the licensee's client. When representing both parties, the licensee owes the same duties to both seller and buyer. Licensee shall disclose to both Seller and Buyer all known defects in the property, any matter that must be disclosed by law, and any information the licensee believes may be material or might affect Seller's/Landlord's or Buyer's/Tenant's decisions with respect to this transaction.

NO REQUIREMENT TO CONSENT: You are not required to consent to this licensee acting on your behalf. You may

- Reject this consent and obtain your own agent,
- Represent yourself,
- Request that the licensee's broker assign you your own licensee.

CONFIRMATION OF DISCLOSURE AND INFORMATION CONSENT

BY MY SIGNATURE BELOW, I UNDERSTAND AND CONSENT: I am giving my consent to have the above identified licensee act for both the other party and me. By signing below, I acknowledge that I understand the ramifications of this consent, and that I acknowledge that I am giving this consent without coercion.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.					
_____ <i>Seller/Landlord</i>		_____ <i>Date</i>	_____ <i>Time</i>	_____ <i>Buyer/Tenant</i>	
_____ <i>Seller/Landlord</i>		_____ <i>Date</i>	_____ <i>Time</i>	_____ <i>Buyer/Tenant</i>	



CONSTRUCTION DEFECT DISCLOSURE AND WAIVER

Property Address

Name of Seller(s)

CONSTRUCTION DEFECT DISCLOSURE: In a real property resale transaction in the State of Nevada, a Seller whose property is or has been involved in a claim concerning construction defect(s), whether litigated or not, must disclose certain information. As a Seller, I declare that the Property described above has been a subject of a claim governed by NRS 40.600 to 40.695 inclusive, Actions Resulting from Constructional Defect. Seller hereby provides Buyer with the following items:

- All notices given by the claimant to the contractor pursuant to NRS 40.600 to 40.695 inclusive that are related to the Property;
- All opinions that claimant has obtained from experts regarding the constructional defect that is has been the subject of the claim;
- The terms of the settlement, order or judgment relating to the claim; and
- A detailed report of the repairs made to the Property by or on behalf of the claimant as a result of a construction defect that is or has been the subject of the claim.

If any of the above is unavailable, explain here: _____

SELLER

DATE

SELLER

DATE

ACKNOWLEDGEMENT OF RECEIPT: Buyer acknowledges receipt of the above-referenced documents.

BUYER

DATE

BUYER

DATE

CONSTRUCTION DEFECT WAIVER: Based on the disclosures made by the Seller(s) set forth above, the Buyer(s) elects to:

_____ cancel the purchase agreement (if within Due Diligence Period set forth in the purchase agreement)

- or -

_____ proceed with the close of escrow

If electing to purchase, Buyer(s) releases Seller(s) from any liability in conjunction with the disclosed construction defects. Buyer(s) also release Broker(s) and Licensees in this transaction from any liability relative to construction defects in or about the Property. The Buyer(s) signs this construction defect waiver with the understanding that Buyer(s) may consult with appropriate professionals.

BUYER

DATE

BUYER

DATE



COUNTER OFFER NO. _____

ATTENTION: _____ COMPANY: _____ (Agent) (Name)

The [] Offer [] Counter Offer made by: [] Seller [] Buyer _____ (Name)

to [] Buy [] Sell the real property commonly known as: _____ dated: _____ is not accepted in its present form, but the following Counter Offer is hereby submitted:

[] ADDITIONAL PAGE(S) ATTACHED. This Counter Offer is not complete without the additional additional terms on the attached _____ page(s).

OTHER TERMS: All other terms to remain the same as original Residential Purchase Agreement plus terms agreed to in Counter Offer(s) No. _____.

EXPIRATION: [] Buyer [] Seller must respond by: _____ [] AM [] PM on (month) _____, (day) _____, (year) _____. Unless this Counter Offer is accepted by execution below and delivered to the [] Buyer's [] Seller's Broker before the above date and time, this Counter Offer shall lapse and be of no further force and effect.

Date: _____ [] Buyer [] Seller _____ Signature

Time: _____ [] Buyer [] Seller _____ Signature

The undersigned [] Buyer [] Seller hereby: _____ accepts the Counter Offer; _____ accepts the terms of this Counter Offer subject to the attached Counter Offer No. _____; or _____ rejects the Counter Offer.

Date: _____ [] Buyer [] Seller _____ Signature

Time: _____ [] Buyer [] Seller _____ Signature

PURCHASER'S RECEIPT OF THE COMMON INTEREST COMMUNITY "RESALE PACKAGE"



PROPERTY ADDRESS

Nevada law (NRS 116.4109 and 116.41095) require certain documents and a certificate (collectively, the "resale package") to be provided to prospective purchasers of property within a Common Interest Community (the "Association"). Buyer is entitled to a five-day cancellation period required by NRS 116.4109 as more fully described in the purchase agreement.

Record of Delivery: On _____ (date), I _____, as the Seller or his authorized agent, delivered the resale package for _____
Name of CIC

to: _____ as agent for _____
Name of Buyer's Agent Buyer's Name

Delivered by: _____
Signature

Delivery Accepted by: _____
Signature

Printed Name: _____

Purchaser's Receipt: On _____ (date), I/we the undersigned Buyer received the following documents in
 hard copy -OR- electronic format (which Buyer agrees to accept):

BUYER RECEIVED
(Please Initial)

YES NO

- | | | |
|---|---|--|
| <ul style="list-style-type: none"> ◆ Declaration of Restrictions (CC&Rs) ◆ Association Bylaws ◆ Rules and Regulations of the Association ◆ Information Statement ("Did You Know?") per NRS 116.41095 ◆ Statement of monthly assessments for common expenses and any unpaid assessments
<i>(Included in the certificate prepared by the Association)</i> ◆ Current operating budget ◆ Current financial statement of the Association, including a summary of the reserves study ◆ Statement of any unsatisfied judgments and the status of any pending legal action against the Association or relating to the Common Interest Community of which the Seller has actual knowledge
<i>(Included in the certificate prepared by the Association)</i> ◆ Statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit
<i>(Included in the certificate prepared by the Association)</i> ◆ Statement describing all current and expected fees or charges for each unit, including, without limitation, late charges or penalties, interest rates on delinquent assessments, additional collection costs, etc. | <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> | <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
|---|---|--|

Buyer agrees that should the parties fail to close for any reason, Buyer shall return all the above-stated documents at the time of cancellation of escrow or reimburse Seller the cost of replacement of those documents.

BUYER _____ DATE BUYER _____ DATE

CIC RESALE PACKAGE



PROPERTY ADDRESS

TO: _____ Association.

Dear Association: I am in the process of selling my property at the above-noted address. Nevada law requires an owner or his authorized agent—at the owner’s expense—to provide certain documents and a certificate (collectively, the “resale package”) to prospective purchasers of property within a Common Interest Community (“the Association”). This requirement cannot be waived or varied by agreement in a residential transaction. The Association or its managers must provide these documents upon request by a property owner or his authorized agent..

Per NRS 116.4109 and 116.41095, please provide all of the documents listed below. I understand that I may be charged a reasonable fee for the production of copies. I am requesting the documents as of the date of your receipt of this request. I understand that the law allows you up to ten (10) days to deliver the documents to me. Please call me with any questions.

- ◆ Declaration of Restrictions (CC&Rs)
- ◆ Association Bylaws
- ◆ Rules and Regulations of the Association
- ◆ Information Statement (“Did You Know?”) per NRS 116.41095
- ◆ Statement of monthly assessments for common expenses and any unpaid assessments (*Included in the certificate prepared by the Association*)
- ◆ Current operating budget
- ◆ Current financial statement of the Association, including a summary of the reserves study
- ◆ Statement of any unsatisfied judgments and the status of any pending legal action against the Association or relating to the Common Interest Community of which the Seller has actual knowledge (*Included in the certificate prepared by the Association*)
- ◆ Statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit (*Included in the certificate prepared by the Association*)
- ◆ Statement describing all current and expected fees or charges for each unit, including, without limitation, late charges or penalties, interest rates on delinquent assessments, additional collection costs, etc. (*Included in the certificate prepared by the Association*)

Both Association and Seller are required to provide a separate disclosure of any known defects as may be required under NRS 40 relating to construction defects.

Seller Signature

Date

Phone No.

Please deliver the documents to: _____ (Name)
at: _____ (Address)



**BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW ...**

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller, within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address <http://www.leg.state.nv.us/nrs/>.

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities. Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote,

some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities, the Nevada Real Estate Division and the Commission for Common Interest Communities. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116:4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

- Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:
- (a) To be notified of all meetings of the association and its executive board, except in cases of emergency.
 - (b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.
 - (c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.
 - (d) To inspect, examine, photocopy and audit financial and other records of the association.
 - (e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities, Nevada Real Estate Division, at:

OR

2501 E. Sahara Ave, Suite 202
 Las Vegas, NV 89104-4137
 Voice: (702) 486-4480
 or toll free at (877) 829-9907
 Fax: (702) 486-4520

788 Fairview Dr, Ste 200
 Carson City, NV 89701
 Voice: (775) 687-4280

I/We acknowledge that I/we have received the above-information.	
Purchaser	Date
Purchaser	Date



DID YOU KNOW ... YOU'RE BUYING AN REO?

THIS NOTICE PROVIDES GENERAL INFORMATION ON WHAT A BUYER MAY EXPECT WHEN PURCHASING AN REO (REAL ESTATE OWNED) PROPERTY. IT ASSISTS IN ANSWERING SOME, BUT NOT ALL, QUESTIONS A BUYER MAY HAVE ABOUT REO PROPERTIES. IT DOES NOT PROVIDE THE POLICIES FOR EACH AND EVERY REO PROPERTY AS EACH ASSET MANAGER/SELLER HAS ITS OWN SET OF RULES OR PROCESSES FOR SUBMITTING AND CONSIDERING OFFERS AND PROCESSING TRANSACTIONS. SUCH INFORMATION MAY ONLY BE OBTAINED FROM THE LISTING AGENT.

What is an REO? REO means "real estate owned" and is a term used by the financial industry to describe properties (assets) that a financial institution has repossessed by foreclosure, a deed-in-lieu of foreclosure, or other means. REO properties are also called "bank owned" or "corporate owned" because the owner of record is an institution instead of a natural person.

Is an REO property a "better" deal than other properties on the market? Only a willing buyer and seller determine the purchase price of a property. Just like other resale homes, REO properties have different amenities and are in various stages of age and repair. All of these factors influence the price that a buyer and seller are willing to agree on.

What kind of financing is available for an REO property? It is a sad truth that some properties have been vandalized. Certain loan products (for example, FHA loans) are not available for properties that do not have certain appliances, floor coverings or utilities. Check with your loan provider for complete and up-to-date details about your loan requirements.

What happens after my offer is written? Your agent will submit the offer to the listing agent for presentation to the seller. Many REO sellers use Internet-based programs, and your agent or the listing agent will enter the material terms of the offer into the program for the seller's review. Your agent may ask the listing agent about the seller's review policies and timeframes, for example, whether offers are reviewed on a specific day of the month or after the property has been on the market a certain length of time.

How long will it take to receive an answer? The response time varies according to the seller and its internal procedures, and whether there are investors involved on the seller's side. Often, the response will be provided to the listing agent verbally or via an email. The agents will then work together to reduce the agreement to "hard copy" and obtain signatures. If you have a specific deadline or timeframe for purchasing a home, you should discuss that with your agent.

How will I know if I'm competing against other potential buyers? Listing agents may or may not have authority from the seller to disclose multiple offers. The REALTOR® Code of Ethics requires a listing agent to have the seller's approval before disclosing the existence of other unaccepted offers on the property. A seller may respond to numerous offers with a "multiple counteroffer." This document alerts two or more buyers that they are in a competitive situation. If you receive such a counteroffer (or any counteroffer), carefully review it with your agent.

Can I choose the title company? Typically, the banks and lenders who have foreclosed on these homes have established business relationships with title companies, who often act as the escrow holder. Even before a home is put on the market, the title company may have opened a file and started its research on the title. Under federal law, a seller cannot require a buyer to purchase title insurance from a particular company, but if the seller is paying for the buyer's title policy then the seller may choose the title company. If you have already written out a check for earnest money, you may have to issue a new check to a different title company. For a consumer's guide to title insurance, go to www.doi.state.nv.us.

What kind of disclosures will I receive from the seller? Federal and state laws require a seller to make certain disclosures to a prospective purchaser. The "Residential Disclosure Guide" provided by your agent outlines these disclosures. If you close escrow without receiving a required disclosure, your right to sue for such a failure may be affected. If you have any concerns, consult with legal counsel prior to closing escrow.

Will the seller pay for repairs? A typical REO is sold "as is," meaning that the seller will not do repairs on the property or provide funds at closing for repairs. However, buyer's agents may still ask for repairs and attempt to negotiate that point. As the adage goes, "you won't know unless you ask." You may not receive multiple keys or garage openers.

Should I have a home inspection? Although an REO seller may not provide a property disclosure or make repairs, the buyer is still entitled to have an inspector review the home. Buyers should consult whatever qualified professionals (such as home inspectors, mold inspectors, pest/termite inspectors) they desire to determine the state of the property and whether the property meets their needs. Check with your agent about the applicable time period (due diligence) for having such inspections completed.

THIS NOTICE PROVIDES GENERAL INFORMATION AND IS NOT INTENDED TO PROVIDE INFORMATION OR ADVICE ON ANY SPECIFIC TRANSACTION. PARTIES TO ANY REAL ESTATE TRANSACTION SHOULD SEEK COMPETENT LEGAL AND/OR TAX COUNSEL TO DETERMINE THE LEGAL, CREDIT AND TAX CONSEQUENCES OF BUYING OR SELLING A HOME.

I/We hereby acknowledge receipt of this notice:

Buyer Date Time

Buyer Date Time

DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE
This form does not constitute a contract for services nor an agreement to pay compensation.

In Nevada, a real estate licensee is required to provide a form setting forth the duties owed by the licensee to:

- a) Each party for whom the licensee is acting as an agent in the real estate transaction, and
- b) Each unrepresented party to the real estate transaction, if any.

<p>Licensee: The licensee in the real estate transaction is _____ whose license number is _____. The licensee is acting for [client's name(s)] _____ _____ who is/are the <input type="checkbox"/> Seller/Landlord; <input type="checkbox"/> Buyer/Tenant.</p> <p>Broker: The broker is _____, whose company is _____.</p>

Licensee's Duties Owed to All Parties:

A Nevada real estate licensee shall:

- 1. Not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.
- 2. Exercise reasonable skill and care with respect to all parties to the real estate transaction.
- 3. Disclose to each party to the real estate transaction as soon as practicable:
 - a. Any material and relevant facts, data or information which licensee knows, or with reasonable care and diligence the licensee should know, about the property.
 - b. Each source from which licensee will receive compensation.
- 4. Abide by all other duties, responsibilities and obligations required of the licensee in law or regulations.

Licensee's Duties Owed to the Client:

A Nevada real estate licensee shall:

- 1. Exercise reasonable skill and care to carry out the terms of the brokerage agreement and the licensee's duties in the brokerage agreement;
- 2. Not disclose, except to the licensee's broker, confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless licensee is required to do so by court order or the client gives written permission;
- 3. Seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;
- 4. Present all offers made to, or by the client as soon as practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;
- 5. Disclose to the client material facts of which the licensee has knowledge concerning the real estate transaction;
- 6. Advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and
- 7. Account to the client for all money and property the licensee receives in which the client may have an interest.

Duties Owed By a broker who assigns different licensees affiliated with the brokerage to separate parties.

Each licensee shall not disclose, except to the real estate broker, confidential information relating to client.

Licensee Acting for Both Parties: You understand that the licensee _____ (Client Init) may *or* _____ (Client Init) may not, in the future act for two or more parties who have interests adverse to each other. In acting for these parties, the licensee has a conflict of interest. Before a licensee may act for two or more parties, the licensee must give you a "Consent to Act" form to sign.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.					
_____ <i>Seller/Landlord</i>	_____ <i>Date</i>	_____ <i>Time</i>	_____ <i>Buyer/Tenant</i>	_____ <i>Date</i>	_____ <i>Time</i>
_____ <i>Seller/Landlord</i>	_____ <i>Date</i>	_____ <i>Time</i>	_____ <i>Buyer/Tenant</i>	_____ <i>Date</i>	_____ <i>Time</i>



**EXCLUSIVE AUTHORIZATION AND RIGHT TO SELL,
EXCHANGE OR LEASE BROKERAGE LISTING AGREEMENT (ER)**

1 **1. EXCLUSIVE RIGHT TO SELL:** I/We, _____ ("Seller")
2 hereby employs and grants _____ ("Broker") the exclusive and irrevocable
3 _____ (Company Name)
4 right, commencing on _____, and expiring on _____, to sell, lease or exchange the Real
5 Property located in the City of _____, County of _____, Nevada, APN
6 #: _____ commonly known as: _____
7 _____ ("the Property").
8

9 **2. TERMS OF SALE:** The listing price shall be \$ _____, terms available:
10 Cash _____ CONV _____ FHA _____ Lease _____ VA _____ Lease Option _____
11 Owner Will Carry _____ Other _____
12 (Note: If the Property is offered for lease, then the term "Seller" used in this Agreement includes
13 "Landlord" as applicable.)
14

15 **3. PROPERTY OFFERED FOR SALE:** The listing price noted above includes the Property and all
16 improvements and fixtures permanently affixed and installed.
17 a. The following items of Personal Property are **included** in the above price and shall be conveyed
18 unencumbered in escrow by a valid bill of sale: _____
19 _____
20 _____
21 _____
22 b. The following items of Personal Property are **excluded** from the above price and not included in the
23 sale: _____
24 _____
25 _____
26

27 **4. TITLE INSURANCE:** Seller agrees to provide Buyer with a policy of title insurance in the amount of the
28 selling price.
29

30 **5. COMPENSATION TO BROKER:** Compensation is solely a matter of negotiation between Broker and Seller
31 and is not fixed, suggested, controlled or recommended by GLVAR, MLS or any other person not a party to this
32 Agreement. Seller agrees to pay Broker as compensation for services:
33

34 **IF A SALE:** _____ % of the gross selling price of the Property
35 AND / OR \$ _____ (flat fee amount). Seller acknowledges that Broker will offer _____ %
36 or \$ _____ to the cooperating broker who is the procuring cause of the sale. Seller acknowledges that offers of
37 cooperative compensation are between brokers and are not negotiable between the Seller and Buyer.
38

39 **IF A LEASE:** _____ % of the total rental agreed to be paid by lessee
40 AND / OR \$ _____ (flat fee amount). If leased, Broker agrees to pay _____ % or \$ _____
41 to the cooperating broker who is the procuring cause of the lease. Seller acknowledges that offers of cooperative
42 compensation are between brokers and are not negotiable between the Seller and Buyer.
43

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.
SELLER(S) INITIALS: _____ / _____

44 **Compensation shall be due:**

45 a. if the Property is sold or leased by Broker, or through any other person including Seller, on the above
46 terms or any other price and terms acceptable to Seller during the above time period or any extension of said time
47 period;

48 b. if the Property is transferred, conveyed, leased, rented, or made unmarketable by a voluntary act of
49 Seller without the consent of Broker, during the time period or any extension of said time period;

50 c. if within _____ calendar days of the final termination, including extensions, of this Agreement,
51 the Property is sold, conveyed, or otherwise transferred to anyone with whom the Broker has had negotiations or
52 to whom the Property was shown prior to the final termination. This section (c) shall not apply if Seller enters
53 into a valid Brokerage Listing Agreement with another licensed real estate Broker after the final termination of
54 this Exclusive Brokerage Listing Agreement.

55 In the event of an exchange, permission is hereby given to the Broker to represent such parties as Broker may
56 deem appropriate and collect compensation from them provided that there is full disclosure to all parties. If
57 completion of sale is prevented by default of Seller, or the refusal of Seller to accept an offer in accordance with
58 the price and terms of this Agreement, then upon event, Broker is authorized to take any action reasonably
59 necessary to collect said commission. If completion of sale is prevented by a party to the transaction other than
60 Seller, Broker may collect its commission only if and when Seller collects damages by suit or otherwise, and then
61 in an amount not less than one-half of the damages recovered, but not to exceed the above compensation after first
62 deducting title expenses, escrow expenses and the expenses of collections if any. Broker is authorized to
63 cooperate and divide with other brokers the above compensation in any manner acceptable to Broker. Seller
64 hereby irrevocably assigns to Broker the funds and proceeds of Seller in escrow equal to the above compensation.
65 In the event any sum of money due under this Agreement remains unpaid for a period of thirty (30) days, such
66 sum shall bear interest at the rate of (_____) percent per annum from the due date until paid.

67
68 **6. DEPOSIT:** Broker is authorized to accept on Seller's behalf a deposit to be applied toward purchase price or
69 lease.

70
71 **7. AGENCY RELATIONSHIP:**

72 a. Broker warrants that he holds a current, valid Nevada real estate license. Broker shall act as the agent of
73 the Seller and may also assign or designate a licensee of the Broker who shall act as the representative of the
74 seller in any resulting transaction.

75 b. Depending upon the circumstances, it may be necessary or appropriate for the designated licensee to
76 act as agent for both Seller and Buyer, exchange parties, or one or more additional parties. If applicable, Broker
77 and the designated licensee shall disclose to Seller any election to act as an agent representing more than one
78 party and obtain the written Consent To Act Form signed by all parties to the transaction.

79 c. Broker may also have licensees in its company who are agents of the Buyer who may show and
80 negotiate an offer to purchase Seller's Property. In this event the licensees that represent the Buyer will only
81 represent the Buyer in the transaction with all duties owed to the Buyer and not the Seller. This, therefore, does
82 not require a Consent To Act Form.

83
84 **8. REQUIRED DISCLOSURES:**

85 a. Unless exempt under NRS chapter 113, Seller shall truthfully complete and sign a Seller's Real
86 Property Disclosure Statement concerning the condition of the Property. Seller shall update the Seller's Real
87 Property Disclosure as necessary.

88 b. If the Property is or has been the subject of a construction defect claim, whether litigated or not, Seller
89 shall provide the disclosure required by NRS 40.688.

90 c. If the Property was built prior to 1978, Seller shall complete the Disclosure of Information on Lead-
91 Based Paint Hazards in accordance with Federal Regulations.

92 d. Seller acknowledges receipt of the Residential Disclosure Guide: **Seller Initials** [____] [____]

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.

SELLER(S) INITIALS: _____ / _____

93 **9. SELLER'S INDEMNIFICATION:** Seller agrees to save, defend, and hold Broker harmless from all claims,
94 disputes, litigation, and/or judgments arising from any incorrect information supplied by Seller or from any
95 material facts which Seller fails to disclose.

96
97 **10. FAIR HOUSING:** Broker shall offer the Property for sale or lease without regard to race, color, sex, creed,
98 religion, national origin, handicap, or familial status in compliance with federal, state, and local anti-
99 discrimination laws.

100
101 **11. COMMON INTEREST COMMUNITY:** The Property _____ is -OR- _____ is not located within a
102 Common Interest Community (CIC). If yes, please complete the following:

103 Name of CIC(s): _____

104 Telephone: _____ Dues: _____ payable ___ monthly -OR- ___ quarterly

105 Seller _____ is -OR- _____ is not current on all dues and assessments.

106 Name of CIC(s): _____

107 Telephone: _____ Dues: _____ payable ___ monthly -OR- ___ quarterly

108 Seller _____ is -OR- _____ is not current on all dues and assessments.

109 If the Property is located within a CIC, Seller acknowledges and agrees to obtain (at Seller's own expense) and/or
110 provide the information required by NRS 116.4109 and 116.41095 to Broker for delivery to Buyer.

111
112 **12. SPECIAL ASSESSMENTS:** The Property _____ is -OR- _____ is not subject to special government
113 assessments, such as SID and LID. (For information, please go to www.accessclarkcounty.com/treasurer.)

114 If yes, please complete the following:

115 Balance remaining: _____

116 Payment amount: _____

117
118 **13. SIGN:** Seller authorizes Broker to install a FOR SALE/LEASE sign on the Property.

119
120 **14. KEYBOX:** Seller ___ does -OR- ___ does not authorize Broker to install a keybox (___ electronic -OR-
121 ___ mechanical) in connection with the showing of the Property. A mechanical keybox requires an additional
122 authorization form. Seller acknowledges that they have been advised that:

123 a. The purpose and function of the keybox is to permit access to the interior of the Property by all
124 members of GLVAR's MLS, including certified/licensed appraisers;

125 b. Seller should safeguard Personal Property and valuables located within the Property;

126 c. It is not a requirement of the GLVAR's MLS for a Seller to allow the use of a keybox;

127 d. Where a tenant occupies the Property, the tenant's consent is also required, which shall be obtained by
128 the Seller or his Property Manager;

129 e. Neither the listing nor selling Broker nor the GLVAR is an insurer against the loss of Personal
130 Property. Seller hereby releases Broker and the GLVAR from any responsibility relating to the keybox.

131
132 **15. RENT/LEASE:** The Property _____ is -OR- _____ is not currently occupied by a Tenant. The Property is
133 subject to a management agreement with: (name of Property Manager and phone
134 number): _____ . If the Property is a single

135 family unit, Seller agrees to not rent or lease the Property during the term of this Agreement without fourteen (14)
136 days prior written notice to Broker.

137
138 **16. TAX WITHHOLDING:** Seller agrees to perform any act reasonably necessary to carry out the provisions of
139 the Foreign Investment in Real Property Tax Act (FIRPTA) (Internal Revenue Code Section 1445).

140

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.

SELLER(S) INITIALS: _____ / _____

141 **17. MEDIATION/ARBITRATION:** The Broker and Seller hereby agree that any dispute concerning the terms
142 and conditions of this contract shall be resolved through mediation and/or arbitration proceedings at the GLVAR
143 in accordance with the standards of practice of the National Association of REALTORS® and GLVAR's rules of
144 procedure. If a lawsuit is filed by either party, that lawsuit shall be stayed until the dispute is resolved or
145 terminated in accordance with this paragraph.

146

147 **18. MULTIPLE LISTING SERVICE (MLS):** Broker is a participant of THE GREATER LAS VEGAS
148 ASSOCIATION OF REALTORS® (GLVAR) Multiple Listing Service, and the listing information will be
149 provided to the MLS to be published and disseminated to its Participants and Subscribers in accordance with its
150 Rules and Regulations and Sections 20 and 21 herein, unless Seller signs Instructions to Exclude. Broker is
151 authorized to cooperate with other real estate Brokers, and to report the sale, its price, terms and financing for the
152 publication, dissemination information and use by authorized Association members, MLS Participants and
153 Subscribers.

154

155 **19. ADVERTISING:** Seller acknowledges that, unless Seller signs a photo exclusion, a photo of the Property
156 may be taken for publication in the MLS computer system. Subject to Section 20, Seller agrees that the Property
157 may be advertised in all forms of media including but not limited to electronic and print advertising.

158

159 **20. SELLER OPT OUTS:** Seller further understands and acknowledges that MLS will disseminate the
160 Property's listing information to those MLS brokers and agents (and/or their web vendors) who operate Internet
161 sites, as well as online providers such as realtor.com and lasvegasrealtor.com, and that such sites are generally
162 available to the public. Some, but not all, of these websites may include a commentary section where consumers
163 may include reviews and comments about the Property in immediate conjunction with the listing (blogging), or
164 provide a link to the comments. In addition, some, but not all, of these websites may display an automated
165 estimate of the market value of the Property in immediate conjunction with the listing, or provide a link to the
166 estimate. Seller may opt-out of any of the following by initialing the appropriate space(s) below:

167

168 a. _____ I/we have advised the Broker that I/we **DO NOT** want the listed Property
169 to be **displayed on the Internet** (the listing will not appear on any Internet site). In selecting this option,
170 Seller understands that consumers who conduct searches for listings on the Internet will not see
171 information about the listed property in response to their search.

172

173 b. _____ I/we have advised the Broker that I/we **DO NOT** want the **address** of the
174 listed Property to be displayed on the Internet (listing information will be disseminated via Internet, but
175 the Property address will not appear in conjunction with the listing).

176

177 c. _____ I/we have advised the Broker that I/we **DO NOT** want a **commentary section**
178 displayed or linked to the listed Property (the site operator may indicate that the feature was disabled at
179 the request of the seller).

180

181 d. _____ I/we have advised the Broker that I/we **DO NOT** want an **automated**
182 **estimate of value** displayed or linked to the listed Property (the site operator may indicate that the
183 feature was disabled at the request of the seller).

184

185 **-OR-**

186 _____ Seller does **NOT** opt out of any of the above.

187

188 **21. USE OF LISTING CONTENT:** Seller acknowledges and agrees that all photographs, images, graphics,
189 video recordings, virtual tours, drawings, written descriptions, remarks, narratives, pricing information, and other

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.

SELLER(S) INITIALS: _____ / _____

190 copyrightable elements relating to the Property provided by Seller to Broker or Broker's agent (the "Seller Listing
191 Content") and any changes thereto, may be filed with MLS, included in compilations of listings, and otherwise
192 distributed, publicly displayed and reproduced in any medium. Seller hereby grants to Broker a non-exclusive,
193 irrevocable, worldwide, royalty-free license to use, sublicense through multiple tiers, publish, display, and
194 reproduce the Seller Listing Content, to prepare derivative works of the Seller Listing Content, and to distribute
195 the Seller Listing Content or any derivative works thereof in any medium. This non-exclusive license shall
196 survive the termination of this Agreement for any reason whatever. Seller represents and warrants to Broker that
197 the Seller Listing Content, and the license granted to Broker for the Seller Listing Content, do not violate or
198 infringe upon the rights, including any copyright rights, of any person or entity.

199
200 **22. NEVADA LAW:** This Agreement is executed and intended to be performed in the State of Nevada, and the
201 laws of Nevada shall govern its interpretation and effect. The parties agree that the State of Nevada, and the
202 county in which the Property is located, is the appropriate judicial forum for any litigation, arbitration or
203 mediation related to this Agreement.

204
205 **23. ENTIRE CONTRACT:** All prior negotiations and agreements between the parties are incorporated in this
206 Agreement, which constitutes the entire contract. Its terms are intended by the parties as a final, complete, and
207 exclusive expression of their agreement with respect to its subject matter and may not be contradicted by evidence
208 of any prior agreement or contemporaneous oral agreement. This Agreement and any supplement, addendum, or
209 modification, including any photocopy or facsimile, may be executed in two or more counterparts, all of which
210 shall constitute one and the same writing. The terms of this Agreement may not be amended, modified or altered
211 except through a written agreement signed by all of the parties hereto. **The parties agree that an MLS Change
212 Order signed by Broker and Seller shall act as a valid written addendum to this Agreement.**

213
214 **24. PARTIAL INVALIDITY:** In the event that any provision of this Agreement shall be held to be invalid or
215 unenforceable, such ruling shall not affect the validity or enforceability of the remainder of the Agreement in any
216 respect whatsoever.

217
218 **25. ATTORNEY'S FEES:** In the event suit is brought by either party to enforce this Agreement, the prevailing
219 party is entitled to court costs and reasonable attorney's fees.

220
221 **26. WARRANTY OF OWNERSHIP:** Seller warrants that Seller is the sole Owner of the Property or has the
222 authority to execute this Agreement. By signing below Seller acknowledges that Seller has read and understands
223 this Agreement, agrees to the terms thereof, and has received a copy.

224
225 **27. FORECLOSURE:** Seller understands that failure to make loan payments may result in foreclosure of the
226 Property by a mortgage holder and/or lien holder. Information regarding the foreclosure or litigation status of a
227 property is available from the County Recorder where the Property is located. Seller represents that at the time of
228 this listing (complete parts a and b):

229 a. A Notice of Default (Breach) and Election to Sell has not -OR- has (date: _____)
230 been recorded against the Property. **If a Notice of Default has not been recorded against the Property as of the
231 date of this Agreement, Seller agrees to notify Broker within five (5) business days of receipt of such a
232 notice.** Seller understands that the recording of a Notice of Default begins a statutory foreclosure period, which
233 lasts a minimum of three (3) months and twenty (20) days. At the end of the foreclosure period, the Property
234 typically will be sold at a Trustee's Sale (foreclosure sale) and Seller will lose all rights and interest in the
235 Property.

236 b. Seller has not -OR- has (date: _____) been served with a Summons and Complaint
237 from Lender seeking to foreclose the property in court. The Parties understand that the filing and service of a
238 Summons and Complaint begins a judicial foreclosure process which varies in duration, and which may result in a

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.

SELLER(S) INITIALS: _____ / _____

239 judgment against Seller. The judgment will typically be enforced through a foreclosure sale conducted by the
240 Sheriff for the county where the Property is located and Seller will lose all rights and interest in the Property.

241 c. Seller understands that if the Property is not sold to a buyer before a foreclosure sale of the Property,
242 Seller will lose all rights and interest in the Property. Seller understands that Broker cannot stop a foreclosure.

243 Seller Initials [] []
244

245 **28. SIGNATURES:** This Agreement may be signed by the parties manually or electronically (digitally) and on
246 more than one copy, which, when taken together, each signed copy shall be read as one complete form. Facsimile
247 signatures may be accepted as original.

248
249 **29. ADDITIONAL TERMS:** _____
250 _____
251 _____
252 _____
253 _____
254 _____
255 _____
256 _____
257 _____
258 _____
259 _____

260 **THE PRE-PRINTED PORTION OF THIS AGREEMENT HAS BEEN APPROVED BY THE GREATER**
261 **LAS VEGAS ASSOCIATION OF REALTORS®. NO REPRESENTATION IS MADE AS TO THE LEGAL**
262 **VALIDITY OR ADEQUACY OF ANY PROVISION OR THE TAX CONSEQUENCES THEREOF. FOR**
263 **LEGAL OR TAX ADVICE, CONSULT YOUR ATTORNEY OR TAX ADVISOR.**
264

265 **By signing below, Seller consents to receive transmissions sent from Broker to the fax number(s)**
266 **and/or e-mail address(es) set forth. Seller agrees to keep Broker advised of his/her address and**
267 **telephone number (or a number where they may be reached within 24 hours) at all times during**
268 **the term of this Agreement.**

269
270 **SELLER:**
271
272 Date _____, Telephone _____ FAX _____ E-Mail _____
273 Seller's Signature _____ Seller's Signature _____
274 Printed Name: _____ Printed Name: _____
275 Address _____ City _____ State ____ Zip _____
276

277 **BROKER:**
278
279 Company _____
280 Address _____ City _____ State ____ Zip _____
281 Telephone _____ FAX _____ E-Mail _____
282 Designated Licensee Signature _____ License No. _____
283 Printed Name: _____ Licensee's Telephone: _____
284 Broker's Signature _____ Date: _____
285 Printed Name: _____ License No. _____
286

287 **AN EXCLUSIVE BROKERAGE AGREEMENT MUST BE SIGNED BY THE BROKER TO BE VALID**

Seller acknowledges that he/she has read, understood, and agreed to each and every provision of this page.
SELLER(S) INITIALS: _____ / _____

Instruction to Exclude Photo from the MLS

GLVAR maintains a multiple listing service (MLS) which is available to its broker and appraiser participants and their associates who agree to abide by the Rules and Regulations of the MLS. Such MLS Rules require the participants to submit to the service all of their listings with at least one (1) Photo within seven (7) business days after Participant inputs the listing into the system. These listings are distributed to more than 15,000 agents. Such listing information may also be displayed on other approved websites by MLS participants.

The Rules and Regulations require that if a seller refuses to permit a photo of the property to be uploaded into the MLS system, the listing broker shall submit either by mail or fax (702-732-3154) to the MLS within seven (7) business days this certification, signed by the seller, indicating that the seller does not authorize to have a Photo of the listing uploaded on the MLS.

Certification

I understand the GLVAR multiple listing service provides a valuable service to sellers but at this time the Seller(s) elect not to have a Photo of their property displayed on the MLS.

Address	City	Zip
---------	------	-----

Contract Listing Date	Contract Expiration Date
-----------------------	--------------------------

Seller (s) Signature	Date
----------------------	------

Company Name	Office Code
--------------	-------------

Agent Name	Signature	Date
------------	-----------	------

Broker Name	Signature	Date
-------------	-----------	------

Copyright by:
GREATER LAS VEGAS ASSOCIATION OF REALTORS®
Authorization to Exclude Listing from the MLS

06/06

GLVAR

Instruction to Exclude Listing from the MLS

GLVAR requires that Brokers participating in the MLS service submit their listings to the MLS for cooperation and compensation within two (2) business days of obtaining all necessary signatures of the seller(s). If the SELLER(S) refuses to permit the listing to be disseminated by the MLS, the listing broker shall submit within two (2) business days of obtaining all necessary signatures, this certification signed by the seller and notarized. Please either FAX or email the executed form to the MLS Department at 702.732.3154 or mls@glvar.org.

Certification

I understand that GLVAR's MLS provides a valuable service by disseminating listing information to over 11,000 MLS participants.

Seller(s) Initials

I understand that by possibly reducing the number or prospective buyers, the reduction in exposure of the listing may lower the number of offers made on the property and may adversely impact the overall terms and price.

Seller(s) Initials

I understand that real estate agents and brokers from other real estate offices, and their buyer clients, who have access to the MLS may not be aware seller's property is for sale.

Seller(s) Initials

I understand that my property will not be included in the MLS download to various real estate internet sites that are widely used by the public looking to purchase homes in the Southern Nevada region.

Seller(s) Initials

My agent has not induced me to withhold my property from the MLS.

Seller(s) Initials

I hereby certify that I do not want my listed property to be submitted to GLVAR's multiple listing service for the following period and for the following reason(s).

From: _____ To: _____

Reason(s): _____

Address: _____ City: _____ Zip: _____

Contract listing date: _____ Contract expiration date: _____

Company Name: _____

Agent Name: _____ Signature: _____ Date _____

Broker Name: _____ Signature: _____ Date _____

Seller(s) Notarized Signature: _____ Date _____

Seller(s) Notarized Signature: _____ Date _____

SUBSCRIBED AND SWORN TO me
this _____ day of _____, _____

Notary Public

Copyright by:
GREATER LAS VEGAS ASSOCIATION OF REALTORS®

CAUTION

U.S. Department of Housing
and Urban Development
Federal Housing Administration (FHA)



OMB Approval No: 2502-0538
(exp. 07/31/2009)

For Your Protection: Get a Home Inspection

Why a Buyer Needs a Home Inspection

A home inspection gives the buyer more detailed information about the overall condition of the home prior to purchase. In a home inspection, a qualified inspector takes an in-depth, unbiased look at your potential new home to:

- ✓ Evaluate the physical condition: structure, construction, and mechanical systems;
- ✓ Identify items that need to be repaired or replaced; and
- ✓ Estimate the remaining useful life of the major systems, equipment, structure, and finishes.

Appraisals are Different from Home Inspections

An appraisal is different from a home inspection. Appraisals are for lenders; home inspections are for buyers. An appraisal is required to:

- ✓ Estimate the market value of a house;
- ✓ Make sure that the house meets FHA minimum property standards/requirements; and
- ✓ Make sure that the property is marketable.

FHA Does Not Guarantee the Value or Condition of your Potential New Home

If you find problems with your new home after closing, FHA can not give or lend you money for repairs, and FHA can not buy the home back from you. That is why it is so important for you, the buyer, to get an independent home inspection. Ask a qualified home inspector to inspect your potential new home and give you the information you need to make a wise decision.

Radon Gas Testing

The United States Environmental Protection Agency and the Surgeon General of the United States have recommended that all houses should be tested for radon. For more information on radon testing, call the toll-free National Radon Information Line at 1-800-SOS-Radon or 1-800-767-7236. As with a home inspection, if you decide to test for radon, you may do so before signing your contract, or you may do so after signing the contract as long as your contract states the sale of the home depends on your satisfaction with the results of the radon test.

Be an Informed Buyer

It is your responsibility to be an informed buyer. Be sure that what you buy is satisfactory in every respect. You have the right to carefully examine your potential new home with a qualified home inspector. You may arrange to do so before signing your contract, or may do so after signing the contract as long as your contract states that the sale of the home depends on the inspection.



HUD-92564-CN (6/06)



CAUTION



RECEIPT OF “FOR YOUR PROTECTION” NOTICE

Property Address

Name of Buyer(s)

I/we understand the importance of getting an independent home inspection. I/we have considered this before signing a contract with the seller for a home. Furthermore, I/we have carefully read the attached “For Your Protection: Get a Home Inspection” notice and fully understand that FHA will not perform a home inspection or guarantee the price or condition of the property.

_____ **I/we choose to have a home inspection performed.**

_____ **I/we choose not to have a home inspection performed.**

Buyer

Date

Buyer

Date

**HOLD HARMLESS AGREEMENT
(PROPERTY SIGHT UNSEEN)**



Property Address

I/We, _____ as Buyer/Tenant of the above-entitled property ("Property") hereby understand, acknowledge and agree as follows:

1. Buyer/Tenant has never personally visited the Property.
2. Despite never having visited the Property, Buyer/Tenant desires to purchase/lease the Property.
3. Buyer/Tenant is represented in the transaction by _____ ("Agent"), an agent of _____ ("Broker").
4. Buyer/Tenant is not relying on any statements or representations made by Broker or Agent in making the decision to purchase/lease.
5. Buyer/Tenant assumes full responsibility for and agrees to conduct such tests, walk-throughs, inspections and research as Buyer/Tenant deems necessary, or to arrange for such matters to be handled by a third party.
6. Buyer/Tenant is advised to seek advice from professionals of Buyer/Tenant's choice, including but not limited to legal counsel and inspectors prior to purchasing/leasing the Property and signing this Agreement.
7. Buyer/Tenant agrees to hold Broker, Agent, and any employee, officer or other agent of Broker who may be involved in the transaction ("Indemnitees"), harmless for any and all liability as to the location, physical and aesthetic condition, use, value and conditions affecting the property, and to release Indemnitees from liability for same. Buyer/Tenant further agrees to hold Indemnitees harmless for the cost of any defense which may result from the transaction.
8. Buyer/Tenant understands the nature of this Agreement is a hold harmless agreement and release of liability.

 Buyer Tenant Date

 Buyer Tenant Date

State of Nevada
County of _____

This instrument was acknowledged before me on _____ by

Notary Public in and for said County and State

INTERPRETER/TRANSLATOR AGREEMENT



1. IDENTIFICATION OF PARTIES AND PROPERTY:

I, _____ (“Interpreter”), declare that I have been appointed by _____ (“Principal”) for the purpose of providing interpretation and translation services relating to Principal’s real estate activity described below.

Principal is a buyer seller landlord tenant other: _____ .
If Principal is a seller or a landlord, the real property to be sold or leased is located at _____ .

The real estate broker representing Principal is _____ (“Broker”) through his/her agent _____ (“Agent”).

2. INTERPRETER/TRANSLATOR REPRESENTATIONS:

Interpreter fluently speaks, reads and writes English. Interpreter fluently speaks, reads and writes _____ (“Language 2”). Interpreter is informed by Principal that

(i) Principal is fluent in Language 2, but not fluent in English and (ii) Principal prefers information related to the real estate transaction to be interpreted/translated from English to Language 2.

Interpreter is at least 18 years old. (If not, Interpreter is _____ years old).

Interpreter is –OR– is not being paid for this service. If paid for service, by whom _____ .

Interpreter is (if applicable) certified registered, as an Interpreter/Translator by the State of Nevada or other government entity: _____ . If certified or registered, Interpreter has the following certification or registration number _____ .

Interpreter is –OR– is not related by blood or marriage to Principal. Describe how, if at all, Interpreter knows Principal: _____ .

3. INTERPRETER RESPONSIBILITY:

This agreement: (Check one)

Applies to the entirety of the transaction. Interpreter will interpret/translate all events and documents related to the real estate transaction by and among Principal, Broker and any other broker, other party, and others involved in the real estate transaction including, but not limited to, lenders, inspectors, and title and escrow personnel. Items that may require translation include, but are not limited to, discussions, contracts, disclosure documents, title reports, loan documents, letters and addenda.

–OR–

Is limited to the following documents: _____

4. BROKER AND PRINCIPAL REPRESENTATIONS:

A. Broker is entitled to and shall rely solely on the interpretation/translation of Interpreter with regard to all communication involving Principal. Broker shall not rely on the verbal or written statements by Principal that have not been interpreted/translated. Principal releases Broker and Agent from any liability relating to Principal's inability to understand English or for inaccurate translations by the Interpreter.

B. Principal shall rely solely on the interpretation/translation of Interpreter with regard to all communication involving Broker. Principal shall not rely on the verbal or written statements by Broker that have not been interpreted/translated.

5. ACKNOWLEDGEMENT:

Interpreter has interpreted/translated this agreement for Principal. By signing below, Interpreter, Principal and Broker acknowledge that they each understand and accept this agreement and have received a copy.

Date _____ Interpreter _____ Phone _____

Address _____ City _____ State _____ Zip _____

Interpreter driver's license or identification number _____

Date _____ Principal _____

Date _____ Broker _____

By (Agent's Printed Name) _____

Are You Planning To Buy or Rent a Home Built Before 1978?

Did you know that many homes built before 1978 have lead-based paint? Lead from paint, chips, and dust can pose serious health hazards.

Read this entire brochure to learn:




- How lead gets into the body
- About health effects of lead
- What you can do to protect your family
- Where to go for more information

Before renting or buying a pre-1978 home or apartment, federal law requires:

- Sellers must disclose known information on lead-based paint or lead-based paint hazards before selling a house.
- Real estate sales contracts must include a specific warning statement about lead-based paint. Buyers have up to 10 days to check for lead.
- Landlords must disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a specific warning statement about lead-based paint.

if undertaking renovations, repairs, or painting (RRP) projects in your pre-1978 home or apartment:

- Read EPA's pamphlet, *The Lead-Safe Certified Guide to Renovate Right*, to learn about the lead-safe work practices that contractors are required to follow when working in your home (see page 12).



Protect Your Family From Lead in Your Home

EPA United States Environmental Protection Agency

United States Consumer Product Safety Commission

United States Department of Housing and Urban Development

December 2012

Simple Steps to Protect Your Family from Lead Hazards

If you think your home has lead-based paint:

- Don't try to remove lead-based paint yourself.
- Always keep painted surfaces in good condition to minimize deterioration.
- Get your home checked for lead hazards. Find a certified inspector or risk assessor at epa.gov/lead.
- Talk to your landlord about fixing surfaces with peeling or chipping paint.
- Regularly clean floors, window sills, and other surfaces.
- Take precautions to avoid exposure to lead dust when remodeling.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe certified renovation firms.
- Before buying, renting, or renovating your home, have it checked for lead-based paint.
- Consult your health care provider about testing your children for lead. Your pediatrician can check for lead with a simple blood test.
- Wash children's hands, bottles, pacifiers, and toys often.
- Make sure children eat healthy, low-fat foods high in iron, calcium, and vitamin C.
- Remove shoes or wipe soil off shoes before entering your house.

1

Lead Gets into the Body in Many Ways

Adults and children can get lead into their bodies if they:

- Breathe in lead dust (especially during activities such as renovations, repairs, or painting that disturb painted surfaces).
- Swallow lead dust that has settled on food, food preparation surfaces, and other places.
- Eat paint chips or soil that contains lead.

Lead is especially dangerous to children under the age of 6.

- At this age, children's brains and nervous systems are more sensitive to the damaging effects of lead.
- Children's growing bodies absorb more lead.
- Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.



Women of childbearing age should know that lead is dangerous to a developing fetus.

- Women with a high lead level in their system before or during pregnancy risk exposing the fetus to lead through the placenta during fetal development.

2

Health Effects of Lead

Lead affects the body in many ways. It is important to know that even exposure to low levels of lead can severely harm children.

In children, exposure to lead can cause:

- Nervous system and kidney damage
- Learning disabilities, attention deficit disorder, and decreased intelligence
- Speech, language, and behavior problems
- Poor muscle coordination
- Decreased muscle and bone growth
- Hearing damage

While low-lead exposure is most common, exposure to high amounts of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults, too.

In adults, exposure to lead can cause:

- Harm to a developing fetus
- Increased chance of high blood pressure during pregnancy
- Fertility problems (in men and women)
- High blood pressure
- Digestive problems
- Nerve disorders
- Memory and concentration problems
- Muscle and joint pain

3

Check Your Family for Lead

Get your children and home tested if you think your home has lead.

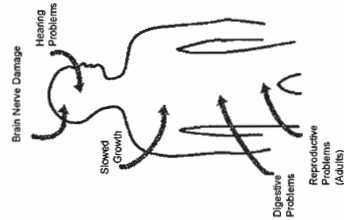
Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect lead. Blood lead tests are usually recommended for:

- Children at ages 1 and 2
- Children or other family members who have been exposed to high levels of lead
- Children who should be tested under your state or local health screening plan

Your doctor can explain what the test results mean and if more testing will be needed.

4



Where Lead-Based Paint Is Found

In general, the older your home or childcare facility, the more likely it has lead-based paint.¹

Many homes, including private, federally-assisted, federally-owned housing, and childcare facilities built before 1978 have lead-based paint. In 1978, the federal government banned consumer uses of lead-containing paint.²

Learn how to determine if paint is lead-based paint on page 7.

Lead can be found:

- In homes and childcare facilities in the city, country, or suburbs,
- In private and public single-family homes and apartments,
- On surfaces inside and outside of the house, and
- In soil around a home. (Soil can pick up lead from exterior paint or other sources, such as past use of leaded gas in cars.)

Learn more about where lead is found at epa.gov/lead.

¹ "Lead-based paint" is currently defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter (mg/cm), or more than 0.5% by weight.

² "Lead-containing paint" is currently defined by the federal government as lead in new dried paint in excess of 90 parts per million (ppm) by weight.

Identifying Lead-Based Paint and Lead-Based Paint Hazards

Deteriorating lead-based paint (peeling, chipping, cracking, or damaged paint) is a hazard and needs immediate attention. Lead-based paint may also be a hazard when found on surfaces that children can chew or that get a lot of wear and tear, such as:

- On windows and window sills
- Doors and door frames
- Stairs, railings, banisters, and porches

Lead-based paint is usually not a hazard if it is in good condition and it is not on an impact or friction surface like a window.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Lead dust also forms when painted surfaces containing lead bump or rub together. Lead paint chips and dust can get on surfaces and objects that people touch. Settled lead dust can reenter the air when the home is vacuumed or swept, or when people walk through it. EPA currently defines the following levels of lead in dust as hazardous:

- 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) and higher for floors, including carpeted floors
- 250 $\mu\text{g}/\text{ft}^2$ and higher for interior window sills

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. EPA currently defines the following levels of lead in soil as hazardous:

- 400 parts per million (ppm) and higher in play areas of bare soil
- 1,200 ppm (average) and higher in bare soil in the remainder of the yard

Remember, lead from paint chips—which you can see—and lead dust—which you may not be able to see—both can be hazards.

The only way to find out if paint, dust, or soil lead hazards exist is to test for them. The next page describes how to do this.

Checking Your Home for Lead

You can get your home tested for lead in several different ways:

- A **lead-based paint inspection** tells you if your home has lead-based paint and where it is located. It won't tell you whether your home currently has lead hazards. A trained and certified testing professional, called a lead-based paint inspector, will conduct a paint inspection using methods, such as:
 - Portable x-ray fluorescence (XRF) machine
 - Lab tests of paint samples
- A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards. A trained and certified testing professional, called a risk assessor, will:
 - Sample paint that is deteriorated on doors, windows, floors, stairs, and walls
 - Sample dust near painted surfaces and sample bare soil in the yard
 - Get lab tests of paint, dust, and soil samples
- A combination inspection and risk assessment tells you if your home has any lead-based paint and if your home has any lead hazards, and where both are located.

Be sure to read the report provided to you after your inspection or risk assessment is completed, and ask questions about anything you do not understand.



Checking Your Home for Lead, continued

In preparing for renovation, repair, or painting work in a pre-1978 home, Lead-Safe Certified renovators (see page 12) may:

- Take paint chip samples to determine if lead-based paint is present in the area planned for renovation and send them to an EPA-recognized lead lab for analysis. In housing receiving federal assistance, the person collecting these samples must be a certified lead-based paint inspector or risk assessor
- Use EPA-recognized tests kits to determine if lead-based paint is absent (but not in housing receiving federal assistance)
- Presume that lead-based paint is present and use lead-safe work practices

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency for more information, visit epa.gov/lead, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.³

³ Hearing- or speech-challenged individuals may access this number through TTY by calling the Federal Relay Service at 1-800-877-8339.

What You Can Do Now to Protect Your Family

If you suspect that your house has lead-based paint hazards, you can take some immediate steps to reduce your family's risk:

- If you rent, notify your landlord of peeling or chipping paint.
- Keep painted surfaces clean and free of dust. Clean floors, window frames, window sills, and other surfaces weekly. Use a mop or sponge with warm water and a general all-purpose cleaner. (Remember: never mix ammonia and bleach products together because they can form a dangerous gas.)
- Carefully clean up paint chips immediately without creating dust.
- Thoroughly rinse sponges and mop heads often during cleaning of dirty or dusty areas, and again afterward.
- Wash your hands and your children's hands often, especially before they eat and before nap time and bed time.
- Keep play areas clean. Wash bottles, pacifiers, toys, and stuffed animals regularly.
- Keep children from chewing window sills or other painted surfaces, or eating soil.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe Certified renovation firms (see page 12).
- Clean or remove shoes before entering your home to avoid tracking in lead from soil.
- Make sure children eat nutritious, low-fat meals high in iron, and calcium, such as spinach and dairy products. Children with good diets absorb less lead.

Reducing Lead Hazards

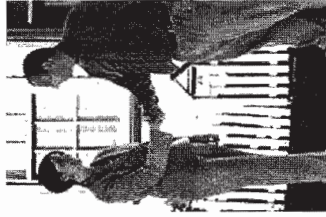
Disturbing lead-based paint or removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

- In addition to day-to-day cleaning and good nutrition, you can temporarily reduce lead-based paint hazards by taking actions, such as repairing damaged painted surfaces and planting grass to cover lead-contaminated soil. These actions are not permanent solutions and will need ongoing attention.
- You can minimize exposure to lead when renovating, repairing, or painting by hiring an EPA- or state-certified renovator who is trained in the use of lead-safe work practices. If you are a do-it-yourselfer, learn how to use lead-safe work practices in your home.
- To remove lead hazards permanently, you should hire a certified lead abatement contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent control.

Always use a certified contractor who is trained to address lead hazards safely.

- Hire a Lead-Safe Certified firm (see page 12) to perform renovation, repair, or painting (RRP) projects that disturb painted surfaces.
- To correct lead hazards permanently, hire a certified lead abatement professional. This will ensure your contractor knows how to work safely and has the proper equipment to clean up thoroughly.

Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.



Reducing Lead Hazards, continued

If your home has had lead abatement work done or if the housing is receiving federal assistance, once the work is completed, dust cleanup activities must be conducted until clearance testing indicates that lead dust levels are below the following levels:

- 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for floors, including carpeted floors
- 250 $\mu\text{g}/\text{ft}^2$ for interior window sills
- 400 $\mu\text{g}/\text{ft}^2$ for window troughs

For help in locating certified lead abatement professionals in your area, call your state or local agency (see pages 14 and 15), or visit epa.gov/lead, or call 1-800-424-LEAD.

Renovating, Remodeling, or Repairing (RRP) a Home with Lead-Based Paint

If you hire a contractor to conduct renovation, repair, or painting (RRP) projects in your pre-1978 home or childcare facility (such as pre-school and kindergarten), your contractor must:

- Be a Lead-Safe Certified firm approved by EPA or an EPA-authorized state program
- Use qualified trained individuals (Lead-Safe Certified renovators) who follow specific lead-safe work practices to prevent lead contamination
- Provide a copy of EPA's lead hazard information document, *The Lead-Safe Certified Guide to Renovate Right*



RRP contractors working in pre-1978 homes and childcare facilities must follow lead-safe work practices that:

- **Contain the work area.** The area must be contained so that dust and debris do not escape from the work area. Warning signs must be put up, and plastic or other impermeable material and tape must be used.
- **Avoid renovation methods that generate large amounts of lead-contaminated dust.** Some methods generate so much lead-contaminated dust that their use is prohibited. They are:
 - Open-flame burning or torching
 - Sanding, grinding, planing, needle gunning, or blasting with power tools and equipment not equipped with a shroud and HEPA vacuum attachment and
 - Using a heat gun at temperatures greater than 1100°F
- **Clean up thoroughly.** The work area should be cleaned up daily. When all the work is done, the area must be cleaned up using special cleaning methods.
- **Dispose of waste properly.** Collect and seal waste in a heavy duty bag or sheeting. When transported, ensure that waste is contained to prevent release of dust and debris.

To learn more about EPA's requirements for RRP projects visit epa.gov/getleadSAFE, or read *The Lead-Safe Certified Guide to Renovate Right*.

Other Sources of Lead

While paint, dust, and soil are the most common sources of lead, other lead sources also exist:

- **Drinking water.** Your home might have plumbing with lead or lead solder. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might contain lead:²
 - Use only cold water for drinking and cooking.
 - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.Call your local health department or water supplier to find out about testing your water, or visit epa.gov/lead for EPA's lead in drinking water information.
- **Lead smelters** or other industries that release lead into the air.
- **Your job.** If you work with lead, you could bring it home on your body or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture. Call your local health department for information about hobbies that may use lead.
- **Old toys and furniture** may have been painted with lead-containing paint. Older toys and other children's products may have parts that contain lead.⁴
- **Food and liquids** cooked or stored in **lead crystal or lead-glazed pottery or porcelain** may contain lead.
- Folk remedies, such as "**greta**" and "**azarcon**," used to treat an upset stomach.

⁴ In 1978, the federal government banned toys, other children's products, and furniture with lead-containing paint (16 CFR 1303). In 2008, the federal government banned lead in most children's products. The federal government currently bans lead in excess of 100 ppm by weight in most children's products (76 FR 44463).

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For More Information

The National Lead Information Center

Learn how to protect children from lead poisoning and get other information about lead hazards on the Web at epa.gov/lead and hud.gov/lead, or call **1-800-424-LEAD (5323)**.

EPA's Safe Drinking Water Hotline

For information about lead in drinking water, call **1-800-426-4791**, or visit epa.gov/lead for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline

For information on lead in toys and other consumer products, or to report an unsafe consumer product or a product-related injury, call **1-800-638-2772**, or visit CPSC's website at cpsc.gov or saferproducts.gov.

State and Local Health and Environmental Agencies

Some states, tribes, and cities have their own rules related to lead-based paint. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your state or local contacts on the Web at epa.gov/lead, or contact the National Lead Information Center at **1-800-424-LEAD**.

Hearing- or speech-challenged individuals may access any of the phone numbers in this brochure through TTY by calling the toll-free Federal Relay Service at **1-800-877-8339**.

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Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser or any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
 - (i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

 - (ii) _____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the seller (check (i) or (ii) below):
 - (i) _____ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

 - (ii) _____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

- (c) _____ Purchaser has received copies of all information listed above.
- (d) _____ Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.
- (e) Purchaser has (check (i) or (ii) below):
 - (i) _____ received a 10 day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.
 - (ii) _____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

- (f) _____ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller	Date	Seller	Date
Purchaser	Date	Purchaser	Date
Agent	Date	Agent	Date



LENDER SHORT SALE APPROVAL ADDENDUM (and Joint Escrow Instructions)

In reference to the Purchase Agreement ("Agreement") executed by _____
_____ as Seller(s) and _____
_____ as Buyer(s), dated _____
covering the real property at _____

_____, which is contingent upon approval from Seller's mortgage lender(s), lienholder(s) and/or others with a financial interest in the Property ("Lender Approval"), the Seller hereby provides the Buyer with a copy of the Lender Approval from _____, attached hereto. **(Note: This Addendum is only effective if the Lender Approval is attached.)** If Seller or Buyer do not understand the terms of the Lender Approval, he/she should seek independent legal advice.

1. SELLER'S RESPONSE: Seller has reviewed and understands the attached Lender Approval and responds as follows:

Seller **removes the contingency** in the Agreement as to the above-named Lender only and requests the Buyer's Response within three (3) days of the date of this Addendum. Seller reserves the right to cancel the Agreement if the Buyer fails to timely respond.

-OR-

Seller **declines the terms of the Lender Approval** and hereby cancels the Agreement and escrow transaction. Escrow Holder is hereby authorized to release Earnest Money Deposit (EMD) to the party from whom they were received, without further written instruction. In compliance therewith, Escrow Holder and Title Company are hereby discharged and forever released and relieved of any and all responsibility, liability, costs and/or litigation for the return of the EMD.

Seller Date

Seller Time

2. BUYER'S RESPONSE: Buyer acknowledges receipt of the Lender Approval, has reviewed the terms of the Lender Approval and responds as follows:

Buyer **agrees to proceed** with the transaction.

-OR-

Buyer **rejects the new requirements and/or changed terms** in the Lender Approval and hereby cancels the Agreement and escrow transaction. Escrow Holder is hereby authorized to release Earnest Money Deposit (EMD) to the party from whom they were received, without further written instruction. In compliance therewith, Escrow Holder and Title Company are hereby discharged and forever released and relieved of any and all responsibility, liability, costs and/or litigation for the return of the EMD.

Buyer Date

Buyer Time



GREATER LAS VEGAS ASSOCIATION OF REALTORS®

Multiple Listing Service
CHANGE ORDER

ADDRESS/DESCRIPTION _____ MLS# _____

MLS AREA _____ PROPERTY TYPE _____ CURRENT PRICE \$ _____

TO: _____ COMPANY

The undersigned, being the owner(s) of property described above, hereby authorizes the following changes which are to be made a part of the original listing contract:

- (1) Listing contract renewed. Extend the Expiration date from _____, _____, terminating at midnight, _____, _____.
(2) Change the price from \$ _____ to \$ _____.
(3) Change the terms and/or conditions to make the following corrections: _____

(4) Back on market.

The receipt of a copy of this authorization is hereby acknowledged.

Broker _____ Owner

Listing Agent _____ Owner

Date _____ Date _____

THIS FORM DOES NOT CONSTITUTE A VALID CHANGE ORDER UNLESS SIGNED BY THE BROKER OF THE LISTING OFFICE.

USED MANUFACTURED/MOBILE HOME DISCLOSURE

Personal Property Taxes and Required Documents

Pursuant to Section 6, AB 114 (2005), a Real Estate Licensee is required to provide to the purchaser of a Used Manufactured or Used Mobile Home that has NOT been converted to real property the following information:

MANUFACTURER: _____	YEAR: _____
SERIAL #: _____	SIZE: _____

NOTICE: The used manufactured/used mobile home you are purchasing is PERSONAL PROPERTY and is subject to personal property taxes. Personal property taxes are paid through your county assessor's office.

Personal property taxes on used manufactured/used mobile homes are required by law to be paid in full before title (certificate of ownership) is transferred and an Assessor's endorsement must be placed on the face of the title verifying the payment. Title to the manufactured/mobile home will not transfer until the assessor's endorsement is received (NRS 489.531). You may contact the county assessor to verify if the taxes on this manufactured/mobile home have been paid in full.

In this transaction, you are purchasing both personal property (the used manufactured/used mobile home) and real property (the land the used manufactured/used mobile home is located on). **As a result, you will be paying both real property taxes and personal property taxes.**

REQUIREMENT TO SUBMIT DOCUMENTS (NRS 489.521): Within 45 days after the sale of the used manufactured/used mobile home is completed, you must submit the following documents to the Manufactured Housing Division and a copy to the County Assessor of the county in which the used manufactured/used mobile home is located:

- A properly endorsed Certificate of Ownership (if the certificate of ownership has been issued in this state) or
- A properly endorsed certificate of title or other document of title issued by another state (if the certificate of ownership has not been issued in this state) and a statement with the following information (if it is not contained on the certificate or document of title):
 - the description of the used manufactured/used mobile home;
 - the names and addresses of the buyer and seller;
 - the name and address of any person who takes or retains a purchase money security interest.

THE STATEMENT MUST BE SIGNED AND ACKNOWLEDGED BY THE BUYER AND SELLER.

If a used manufactured/used mobile home is sold pursuant to an installment contract or other agreement whereby the certificate of title or certificate of ownership does not pass immediately to the buyer upon the sale, the seller, buyer or both shall submit to the Manufactured Housing Division any information required by the regulations adopted pursuant to NRS 489.272.

NOTICE PURSUANT TO NRS 489.531: The Manufactured Housing Division shall not issue a certificate of ownership on a used manufactured/used mobile home unless the county assessor of the county in which the used manufactured/used mobile home was situated at the time of the sale has endorsed on the certificate that all personal property taxes for the fiscal year have been paid. Additionally, the certificate of ownership must contain a warning, printed or stamped on its face, to the effect that the title does not pass until the county assessor endorses on the certificate of title that all personal property taxes have been paid.

RESPONSIBILITY OF BROKER: A real estate broker who represents a client in this transaction shall take such actions as necessary to ensure that the client complies with the requirements of NRS 489.521 and NRS 489.531.

The disclosures provided above do not constitute a warranty as to title or condition of the used manufactured/mobile home information.					
Purchaser	Date	Time	Real Estate Broker	Date	Time
Purchaser	Date	Time	Real Estate Licensee	Date	Time

Mechanical Keybox Authorization

GLVAR maintains a Multiple Listing Service (MLS) which is available to its broker and appraiser participants and their associates who agree to abide by the Rules and Regulations and Policies of the MLS. The Seller/Owner of a listed property decides whether a keybox may be installed on a listed property, to facilitate showing the property. Two options are generally available: an electronic ("Supra®") lock box or a mechanical, combination-type box. Supra® keyboxes are accessible only by those GLVAR members who have an electronic key used to open the keybox. Mechanical lock boxes may be opened by anyone who has access to the combination/code.

The MLS Policies require that if a Seller/Owner elects to have a mechanical keybox installed, the listing broker shall submit to the MLS within two (2) business days this certification, signed by the Seller/Owner, indicating that the seller/owner authorizes the listing broker to use a mechanical keybox.

CERTIFICATION

SELLER/OWNER ACKNOWLEDGES THAT HE/SHE HAS BEEN ADVISED:

- That per the terms of the Listing Agreement (or Property Management Agreement, if a rental), the Seller/Owner has authorized Broker to install a keybox (also known as a lock box) in connection with the showing of the Property (subject to tenant approval, if a rental).
- That the MLS Policies allow the Broker, at the Seller/Owner's direction, to install either an electronic keybox (Supra® box) or a mechanical, combination-type keybox on the Property.
- That there are benefits of an electronic keybox over a mechanical keybox, including the ability of Broker to identify the agents and brokers who have accessed the keybox for the purpose of showing the property to assist with marketing and follow-up to obtain an offer on the Property.
- That the MLS requires that a valid, working code for a mechanical keybox be included in the listing for ease of showing. The code is a confidential field that is not intended to be available to the public. **Broker, Broker's agents, and/or GLVAR will not be responsible or liable to Seller/Owner for the unauthorized access or use of the mechanical keybox code, and Seller/Owner hereby releases those parties from any responsibility.**

BY SIGNING BELOW, SELLER/OWNER AGREES AND DIRECTS THAT BROKER MAY INSTALL A MECHANICAL KEYBOX ON THE PROPERTY.

MLS# _____ Address: _____ City: _____ Zip _____

Contract listing date: _____ Contract expiration date: _____

Seller/Owner(s) Signature: _____ Date _____

Company Name: _____

Agent Name: _____ Signature: _____ Date _____

Broker Name: _____ Signature: _____ Date _____

Reminder to Broker/Agent: If Seller/Owner has selected a mechanical lock box, a copy of this form MUST be provided to the MLS within 48 hours. Fax to (702) 732-3154.

MOLD NOTICE & WAIVER



Printed Name(s) of Seller(s): _____

Printed Name(s) of Buyer(s): _____

Property Address: _____
(“The Property”)

1. **NOTICE.** Fungal contaminants (molds) may exist in the Property of which the Seller is unaware. These contaminants generally grow in places where there is excessive moisture, such as where leakage may have occurred in roofs, pipes, walls, plant pots, or where there has been flooding. A professional home inspection may or may not disclose fungal contaminants.
2. **SELLER DISCLOSURE.** Seller has disclosed the existence (if any) of current or previous water damage and/or mold on the Seller's Real Property Disclosure Form pursuant to NRS 113.130.
3. **BUYER'S DUTY TO INSPECT.** Buyer hereby assumes responsibility to conduct whatever inspections Buyer deems necessary to inspect the Property for mold contamination. Companies able to perform such inspections can be found in the yellow pages under "Environmental and Ecological Services."
4. **RELEASE OF LIABILITY.** Buyer agrees to rely solely on inspections conducted by Buyer and professionals retained by Buyer. Buyer hereby releases and discharges all agents and brokers involved in this transaction from any liability in conjunction with mold contamination of the Property. Furthermore, except for any express misrepresentations by Seller in paragraph 2 herein, Buyer hereby releases and discharges Seller from any liability in conjunction with mold contamination of the Property. The Buyer makes the decision to purchase, independent of the real estate broker(s) involved in the transaction, and hereby agrees to hold Seller, and any brokers or licensees in this transaction harmless and to defend and indemnify them from any claim, demand, action or proceeding as a result of the presence or infestations of molds in or around the property.
5. **PROFESSIONAL ADVICE.** Seller and Buyer execute this Notice & Waiver with the understanding that they should consult with a professional of their choice regarding any questions or concerns before its execution.

Seller: _____

Date: _____

Seller: _____

Date: _____

Buyer: _____

Date: _____

Buyer: _____

Date: _____

SELLER'S MULTIPLE COUNTER OFFER



No. _____

ATTENTION: _____ COMPANY: _____
(Agent) (Name)

The Offer made by Buyer _____
(Name)

to buy the real property commonly known as: _____ dated:
_____ is not accepted in its present form, but the following Counter Offer is hereby submitted:

NOTICE TO BUYER: Seller has received multiple offers and is countering two or more. Therefore, Buyer's acceptance of this Counter Offer will not be effective unless and until Seller executes the Final Acceptance set forth below and the Final Accepted document is delivered to Buyer's Agent.

ENTIRE AGREEMENT: This Counter Offer supersedes any and all prior oral or written negotiations. Any and all verbal communications between or among the Buyer and Seller or any agent or broker do not constitute or create an obligation on the part of the Seller to sell a property to anyone under any terms.

OTHER OFFERS: Seller reserves the right to accept any other Offer(s) prior to Seller's Final Acceptance of this Counter Offer and delivery of same to Buyer's agent.

OTHER TERMS: All other terms of the Purchase Agreement, including all prior counter offers and addenda not modified by this Counter Offer shall remain the same.

[This space left intentionally blank. Go to page 2.]

Buyer Initials [_____]

Seller Initials [_____]

EXPIRATION: This Counter Offer shall expire unless a copy hereof with Buyer's written acceptance is delivered to Seller or his agent by: Date _____ Time: _____ .

Date: _____

Seller's Signature

Time: _____

Seller's Signature

BUYER'S RESPONSE: The undersigned Buyer hereby:

_____ accepts the Counter Offer;

_____ accepts the terms of this Counter Offer subject to the attached Counter Offer No. _____ ; or

_____ rejects the Counter Offer.

Date: _____

Buyer's Signature

Time: _____

Buyer's Signature

FINAL ACCEPTANCE: The undersigned Seller hereby:

_____ accepts the Counter Offer; or

_____ rejects the Counter Offer.

Date: _____

Seller's Signature

Time: _____

Seller's Signature

(Note: Pursuant to NAC 645.632, the acceptance or rejection must be in writing, regardless of whether the Counter Offer has expired, and it must be signed by the principal.)

Buyer Initials [_____]

Seller Initials [_____]

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

realest@red.state.nv.us

www.red.state.nv.us

MULTIPLE OFFERS GUIDELINES FOR LICENSEES

When Taking the Listing

- ❖ Explain to the client that competing offers may be received.
- ❖ Discuss with the client options for handling multiple offers.
- ❖ The client decides how they want to handle multiple offers.
- ❖ Advise the client that they may wish to seek legal counsel if they do receive multiple offers.

Sellers Make the Decisions – Examples of Options

- ❖ Accept one offer in writing, and reject all other offers in writing.
- ❖ Reject all offers in writing and encourage higher offers.
- ❖ Counter one offer, reject other offers in writing.
- ❖ Delay the decision waiting for another offer informing all parties. Educate the seller that with this option the buyers may withdraw their offer.
- ❖ Alert one or more buyers that they are in a competing offer situation and need to submit their best offer. Reject other offers.
- ❖ Alert all buyers that they are in a competing offer situation.
- ❖ Counter all offers in writing.

Agent Communication

- ❖ Agents should make reasonable efforts to keep cooperating licensees informed of the decision of the client's instructions.

Presenting Offers

- ❖ The representative of the cooperating broker has the right to be present when the offer is presented unless the seller gives written instruction to the contrary.

Confidentiality

- ❖ The cooperating licensee does not have the right to be present at any subsequent discussion or evaluation of the offer by the seller and the listing broker.

NRS 645.253: Each licensee shall not disclose, except to the real estate broker, confidential information relating to a client in violation of NRS 645.254.

NRS 645.254, paragraph 2: A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction ... Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he is required to do so pursuant to an order of a court of competent jurisdiction or he is given written permission to do so by the client.

Revised: 3/24/04



NOTICE OF BROKER COMPENSATION AND INVOICE
(and Instructions to Escrow)

(Property Address)

To: Name(s) ("Client/Customer") who is/are the

Buyer -OR- Seller of the above-referenced property:

As a client or customer of Brokerage Name ("Broker")

please be advised that Broker charges clients and customers a flat fee of \$ as compensation in addition to any percentage commission or other compensation that may be negotiated and paid between Broker and Client/Customer in a listing agreement or buyer's brokerage agreement, and/or cooperative compensation that may be offered by another broker.

This fee is not required by any state or federal government to ensure that real estate transactions comply with federal or state laws and regulations. This flat fee portion of Broker's compensation is assessed by Broker to its clients and customers in exchange for real estate services provided and actually performed.

Instructions to Escrow

Escrow/Title Company: Escrow No.:

Escrow/Title Company Address:

Escrow/Title Officer: Phone:

Please refer to the above-referenced flat fee portion of the Broker's commission, which is to be paid to Broker in addition to any other percentage brokerage commission at close of escrow on the above mentioned property, and include said amount on the HUD-1 Settlement Statement.

Buyer Seller Signature Date

Buyer Seller Signature Time

Agent's Name:



PEST NOTICE

Property Address

Name of Seller(s)

This Notice serves to inform Buyers of property in Southern Nevada that various pest, rodent and insect species (collectively, "pests") exist in Southern Nevada. Pests may include, but are not limited to, scorpions (approximately 23 species, including bark scorpions), spiders (including black widow and brown recluse), bees, snakes, ants, termites, rats, mice and pigeons. The existence of pests may vary by season and location.

Buyers are encouraged to obtain a pest inspection report to determine the presence and/or infestation of pests. Pests may inhabit any property in Southern Nevada regardless of statements in the Real Property Disclosure form or information contained in a pest report. If a Buyer is allergic to certain pests, or if there is any other concern, you should seek the advice of an appropriate professional.

The cost and quality of a pest report may vary. The names and numbers of pest control providers are in the yellow pages under "PEST." For more information on pests and pest control providers, you may contact the State of Nevada Division of Agriculture at www.agri.nv.gov.

Buyer

Date

Buyer

Date

REFERRAL FEE AGREEMENT

PERSONS AND ENTITIES. The parties to this Referral Fee Agreement are:

REFERRING BROKER: _____ (Brokerage Firm Name)
REFERRING AGENT: _____ (Agent/Licensee)
Address _____
Phone _____ Fax _____ E-mail _____

RECIPIENT BROKER: _____ (Brokerage Firm Name)
RECIPIENT AGENT: _____ (Agent/Licensee)
Address _____
Phone _____ Fax _____ E-mail _____

This is a LISTING REFERRAL —OR— BUYER REFERRAL —OR— LEASE REFERRAL

PRINCIPAL: _____ (Client or Customer Name)
Address _____
Phone _____ Fax _____ E-mail _____

If a Buyer Referral, complete any that apply: Will lease first

Reason for move: _____

Contingent on Sale of Property (Property is —OR— is not in Escrow)

Additional Remarks: _____

FEE. In consideration of the referral of the above-named Principal, Recipient Broker hereby agrees to pay to the Referring Broker in the amount of (*select and complete one*) :

- \$ _____.
- _____ % of the commission received by Recipient Broker on the referred side of any real estate transaction.
- Other: _____

Recipient Broker shall pay the referral fee to Referring Broker within _____ business days of Recipient Broker's receipt of commission on the transaction involving Principal and bank clearance of said funds.

RELATIONSHIP. The relationship between the Parties is and shall remain at all times that of an independent contractor. Nothing in this Agreement shall be deemed to create any form of partnership, principal-agent or employer-employee relationship or joint venture agreement between Referring Broker and Recipient Broker. As an independent contractor, Referring Broker has no decision-making authority on behalf of Recipient Broker or any client, employee or associate of Recipient Broker, and unless authorized in advance by Recipient Broker, any representations or other characterizations made by Referring Broker to any third party are not binding on Recipient Broker.

EXPIRATION. This Agreement will expire on _____ (specified date of expiration).

REFERRING BROKER:

RECIPIENT BROKER:

(Broker name)

(Broker name)

License No. _____ State: ____ Exp: _____

License No. _____ State: ____ Exp: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Referring Broker
Tax ID # _____

REFERRING AGENT:

RECIPIENT AGENT:

Name: _____

Name: _____

License No. _____ State: ____ Exp: _____

License No. _____ State: ____ Exp: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

THIS REFERRAL AGREEMENT IS NOT VALID UNLESS IT IS SIGNED BY THE BROKERS.

Commissions payable for the sale, purchase, exchange, option or lease of property are not set, fixed, controlled, suggested, maintained or recommended by any Board or Association of REALTORS®, Commercial Information Exchange or Multiple Listing Service or in any manner other than as negotiated between brokers.

THIS FORM HAS BEEN APPROVED BY THE GREATER LAS VEGAS ASSOCIATION OF REALTORS® (GLVAR). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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RENTAL APPLICATION



Application is not complete until page 4 is signed. Unless this application is initialed on each page it will not be processed. (If more than two persons are applying, use additional applications.)

REQUIRED TO SUBMIT:

(Cash, MO, CC)

Application (Non-Refundable)

Fee \$ _____

Deposit to Hold \$ _____

Amt. Received \$ _____

PROPERTY ADDRESS _____

CITY, STATE, ZIP _____

MOVE-IN DATE _____

(NON-REFUNDABLE) APPLICATION FEE \$ _____ RENT \$ _____ SECURITY DEPOSIT

\$ _____ PET DEPOSIT \$ _____ (NON-REFUNDABLE) PROCESSING FEE \$ _____

KEY DEPOSIT \$ _____ CLEANING FEE \$ _____ OTHER \$ _____

EVIDENCE BY: CASH _____ CHECK _____ CASHIER'S CHECK _____ MONEY ORDER _____

XX

APPLICANT: _____

HOME PHONE # _____ OTHER PHONE _____

EMAIL _____ SSN# _____

DL# _____ STATE _____ BIRTH DATE _____

CURRENT ADDRESS: _____

CITY, STATE, ZIP _____

LANDLORD NAME / MORTGAGE HOLDER: _____ PAYMENT: _____

PHONE # _____ HOW LONG? _____ (PLEASE CHECK ONE) OWNED OR RENT

REASON FOR LEAVING _____

PRIOR STREET ADDRESS: _____

CITY, STATE, ZIP _____

LANDLORD NAME / MORTGAGE HOLDER: _____

PHONE # _____ HOW LONG? _____ (PLEASE CHECK ONE) OWNED OR RENT

REASON FOR LEAVING _____

CURRENT EMPLOYER: _____

HOW LONG? _____ EMPLOYED AS _____

ADDRESS: _____

CITY, STATE, ZIP _____

PHONE # _____ FAX# _____

SALARY: \$ _____ PER/MO SUPERVISOR: _____

OTHER INCOME: SOURCE _____ AMOUNT: \$ _____

PRIOR EMPLOYER (IF LESS THAN 3 YEARS): _____ PHONE # _____

HOW LONG? _____ EMPLOYED AS _____

SALARY: \$ _____ PER/MO SUPERVISOR: _____

CREDIT REFERENCES: BANK _____ ACCT.# _____

ADDRESS _____

XX

CO-APPLICANT: _____

SSN # _____ DL# _____ STATE _____ BIRTH DATE _____

PHONE # _____ EMAIL _____

CURRENT ADDRESS: _____

CITY, STATE, ZIP _____

LANDLORD NAME / MORTGAGE HOLDER: _____ PAYMENT: _____

PHONE # _____ HOW LONG? _____ (PLEASE CHECK ONE) OWNED OR RENT

PRIOR STREET ADDRESS: _____

CITY, STATE, ZIP _____

LANDLORD NAME / MORTGAGE HOLDER: _____

PHONE # _____ HOW LONG? _____ (PLEASE CHECK ONE) OWNED OR RENT

REASON FOR LEAVING _____

CURRENT EMPLOYER: _____

HOW LONG? _____ EMPLOYED AS _____

ADDRESS: _____

CITY, STATE, ZIP _____

PHONE # _____ FAX# _____

SALARY: \$ _____ PER/MO SUPERVISOR: _____

OTHER INCOME: SOURCE _____

AMOUNT: \$ _____

PRIOR EMPLOYER (IF LESS THAN 3 YEARS): _____ PHONE # _____

HOW LONG? _____ EMPLOYED AS _____

SALARY: \$ _____ PER/MO SUPERVISOR: _____

CREDIT REFERENCES: BANK _____ ACCT.# _____
 ADDRESS _____

XX

AUTOMOBILES:

MAKE _____ MODEL _____ LIC# _____ STATE ____ YR ____ COLOR _____
 MAKE _____ MODEL _____ LIC# _____ STATE ____ YR ____ COLOR _____
 MAKE _____ MODEL _____ LIC# _____ STATE ____ YR ____ COLOR _____

XX

IN ADDITION TO APPLICANT(S), OTHER PERSONS TO BE AT PREMISES:

NAME	RELATIONSHIP	AGE	OCCUPATION

PETS? (Y/N) _____ HOW MANY? Cats _____ Dogs _____ Other _____

Name	Cat or Dog?	Breed	Weight	Spayed or Neutered?

If Other, please explain: _____

HAS ANY APPLICANT EVER FILED BANKRUPTCY? _____ GIVE DETAILS _____

HAS ANY APPLICANT EVER BEEN EVICTED? _____ EXPLAIN _____

HAS ANY APPLICANT EVER WILLFULLY REFUSED TO PAY RENT WHEN DUE? _____ EXPLAIN _____

HAS ANY APPLICANT OR OCCUPANT EVER BEEN CONVICTED OF A GROSS MISDEMEANOR OR FELONY?
 YES OR NO IF YES PLEASE EXPLAIN _____

HOW LONG DOES APPLICANT PLAN TO LIVE HERE? _____ DOES APPLICANT PLAN TO USE LIQUID FILLED FURNITURE? _____ TYPE _____

DOES ANYONE IN THE HOUSEHOLD SMOKE? Y/N _____

APPLICANT IN CASE OF EMERGENCY, PERSON TO NOTIFY: _____

RELATIONSHIP: _____ PHONE # _____

CO-APPLICANT IN CASE OF EMERGENCY, PERSON TO NOTIFY: _____

RELATIONSHIP: _____ PHONE # _____

XX

DISCLOSURE
PLEASE READ CAREFULLY BEFORE SIGNING

1. APPLICANT UNDERSTANDS THAT _____ IS THE LEASING AGENT AND REPRESENTATIVE FOR THE LANDLORD OF THE PREMISES LOCATED AT _____ AT A MONTHLY RENT OF \$ _____.
2. APPLICANT DECLARES THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT, AND APPLICANT AUTHORIZES AN EMPLOYMENT CHECK, CRIMINAL RECORDS CHECK, CREDIT CHECK, VERIFICATION OF REFERENCES AND CURRENT AND PREVIOUS LANDLORDS.
3. APPLICANT HEREBY PAYS \$ _____ AS A NON-REFUNDABLE APPLICATION FEE AND \$ _____ AS HOLDING DEPOSIT. IF APPLICANT IS DECLINED, HOLDING DEPOSIT SHALL BE REFUNDED WITHIN _____ BUSINESS DAYS. IF, AFTER APPROVAL, APPLICANT DECIDES NOT TO FULFILL THIS AGREEMENT BY COMPLETING LEASE AND PAYING FIRST MONTHS RENT AND REMAINING SECURITY DEPOSIT, HOLDING DEPOSIT SHALL BE RETAINED BY LANDLORD TO COVER ADMINISTRATIVE EXPENSES.
4. APPLICANT AGREES TO EXECUTE A RENTAL AGREEMENT BEFORE POSSESSION IS GIVEN AND TO PAY THE RENT AND SECURITY DEPOSIT WITHIN _____ BUSINESS DAYS AFTER BEING NOTIFIED OF ACCEPTANCE OF THIS APPLICANT.
5. LANDLORD AND AGENT WILL NOT BE BOUND BY ANY REPRESENTATIONS, AGREEMENTS OR PROMISES, WRITTEN OR ORAL, MADE BY LANDLORD OR AGENT UNLESS CONTAINED IN THE RENTAL AGREEMENT SIGNED BY LANDLORD OR LANDLORD'S AGENT.
6. APPLICANT DOES HEREBY RELEASE LANDLORD, AGENT AND THIS COMPANY FROM ANY AND ALL DAMAGES OR LIABILITIES WHICH MIGHT RESULT FROM THE ABOVE INFORMATION. APPLICANT RELEASES PRESENT LANDLORD AND ALL PREVIOUS LANDLORDS FROM ANY AND ALL LIABILITY FOR ANY DAMAGE OR INJURY WHATSOEVER CAUSED BY PROVIDING INFORMATION TO LANDLORD OR AGENT REGARDING APPLICANT.
7. APPLICANT UNDERSTANDS AND ACKNOWLEDGES THAT A FALSE STATEMENT MADE HEREIN IS GROUNDS FOR DENIAL OF RENTAL TO APPLICANT. ANY STATEMENT HEREIN MAY BE CONSTRUED AS A CONDITION PRECEDENT TO ANY BINDING RENTAL AGREEMENT OR CONTRACT BETWEEN APPLICANT AND LANDLORD.
8. APPROVAL FOR RESIDENCY IS MADE WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, OR HANDICAP.
9. APPLICANT UNDERSTANDS THAT APPLICANT ACQUIRES NO RIGHTS TO PREMISES UNTIL EXECUTION OF A RENTAL AGREEMENT IN THE FORM SUBMITTED AND DEPOSIT OF RENT AND SECURITY DESCRIBED ABOVE.

SIGNATURE OF APPLICANT _____ DATE _____ TIME _____

SIGNATURE OF CO-APPLICANT _____ DATE _____ TIME _____

XX

OFFICE USE ONLY:

REFERRAL COMPANY _____ MLS # _____ DATE PAID _____

AGENT: _____ P.I.D. # _____ LICENSE # _____

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Rental Application Rev. 11/09

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Applicants Initials: [_____]

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Untitled

RESIDENTIAL LEASE AGREEMENT

for



(Property Address)

1 1. This AGREEMENT is entered into this _____ day of _____, _____ between
2 _____, ("LANDLORD") legal owner of the property through the Owner's
3 BROKER, _____, ("BROKER") and

4 Tenant's Name: _____ Tenant's Name: _____

5 Tenant's Name: _____ Tenant's Name: _____

6 (collectively, "TENANT"), which parties hereby agree to as follows:

7 2. SUMMARY: The initial rents, charges and deposits are as follows:

Table with 4 columns: Description, Total Amount, Received, Balance Due Prior to Occupancy. Rows include Rent, Security Deposit, Key Deposit, Admin Fee, Pet Deposit, Cleaning Deposit, Last Month's Rent Security, CIC Registration, Utility Proration, Sewer/Trash Proration, and Other.

8 (Any balance due prior to occupancy to be paid in CERTIFIED FUNDS)

9 3. ADDITIONAL MONIES DUE: _____

10 4. PREMISES: Landlord hereby leases to TENANT and TENANT hereby leases from Landlord, subject to the terms
11 and conditions of the lease, the Premises known and designated as _____
12 _____ consisting of _____ ("the Premises").

13 5. TERM: The term hereof shall commence on _____ and continue until
14 _____, for a total rent of \$ _____, then on a month-to-month basis
15 thereafter, until either party shall terminate the same by giving the other party thirty (30) days written notice
16 delivered by certified mail (all calculation based on 30 day month).

17 6. RENT: TENANT shall pay rent at the monthly rate of \$ _____, in advance, on the _____ day
18 of every month beginning the _____ day of _____, _____ and delinquent after
19 _____ . There is no grace period. If rent is delinquent, it must be paid in the form of certified funds.

20 Residential Lease Agreement Rev. 05/12 Landlord _____ Tenant _____ Tenant _____
21 Page 1 of 9 Tenant _____
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1 7. PLACE OF PAYMENTS: TENANT shall make all payments payable to _____
2 and shall mail such payments to: _____
3 _____ -or- _____ hand deliver such payments to
4 _____ during normal business hours.
5

6 8. ADDITIONAL FEES:

7
8 A. LATE FEES: In the event TENANT fails to pay rent when due, TENANT shall pay a late fee of
9 \$ _____ plus \$ _____ per day for each day after _____ days that the sum was due.
10

11 B. DISHONORED CHECKS: A charge of \$ _____ shall be imposed for each dishonored
12 check made by TENANT to LANDLORD. TENANT agrees to pay all rents, all late fees, all notice fees and all
13 costs to honor a returned check with certified funds. After TENANT has tendered a check which is dishonored,
14 TENANT hereby agrees to pay all remaining payments including rent due under this Agreement by certified funds.
15 Any payments tendered to LANDLORD thereafter, which are not in the form of certified funds, shall be treated as if
16 TENANT failed to make said payment until certified funds are received. LANDLORD presumes that TENANT is
17 aware of the criminal sanctions and penalties for issuance of a check which TENANT knows is drawn upon
18 insufficient funds and which is tendered for the purpose of committing a fraud upon a creditor.
19

20 C. ADDITIONAL RENT: All late fees and dishonored check charges shall be due when incurred and shall
21 become additional rent. Payments will be applied to charges which become rent in the order accumulated. All
22 unpaid charges or any fees owed by TENANT, including but not limited to notice fees, attorney's fees, repair bills,
23 utility bills, landscape/pool repair and maintenance bills and CIC fines will become additional rent at the beginning
24 of the month after TENANT is billed. TENANT'S failure to pay the full amount for a period may result in the
25 initiation of eviction proceedings. LANDLORD'S acceptance of any late fee or dishonored check fee shall not act as
26 a waiver of any default of TENANT, nor as an extension of the date on which rent is due. LANDLORD reserves the
27 right to exercise any other rights and remedies under this Agreement or as provided by law.
28

29 9. SECURITY DEPOSITS: Upon execution of this Agreement, TENANT shall deposit with LANDLORD as a
30 Security Deposit the sum stated in paragraph 2. TENANT shall not apply the Security Deposit to, or in lieu of,
31 rent. At any time during the term of this Agreement and upon termination of the tenancy by either party for any
32 reason, the LANDLORD may claim, from the Security Deposit, such amounts due Landlord under this Agreement.
33 Any termination prior to the initial term set forth in paragraph 5, or failure of TENANT to provide proper notice of
34 termination, is a default in the payment of rent for the remainder of the lease term, which may be offset by the
35 Security Deposit. Pursuant to NRS 118A.242, LANDLORD shall provide TENANT with a written, itemized
36 accounting of the disposition of the Security Deposit within thirty (30) days of termination. TENANT agrees, upon
37 termination of the tenancy, to provide LANDLORD with a forwarding address to prevent a delay in receiving the
38 accounting and any refund.
39

40 10. TRUST ACCOUNTS: BROKER shall retain all interest earned, if any, on security deposits to offset
41 administration and bookkeeping fees.
42

43 11. EVICTION COSTS: TENANT shall be charged an administrative fee of \$ _____ per eviction
44 attempt to offset the costs of eviction notices and proceedings. TENANT may be charged for service of legal
45 notices and all related fees according to actual costs incurred.
46

47 12. CARDS AND KEYS: Upon execution of the Agreement, TENANT shall receive the following:
48 _____ Door key(s) _____ Garage Transmitter(s) _____ Other(s) _____
49 _____ Mailbox key(s) _____ Gate Card(s) _____ Other(s) _____
50 _____ Laundry Room key(s) _____ Gate Transmitter(s) _____ Other(s) _____
51 Tenant shall make a key deposit (if any) in the amount set forth in paragraph 2 upon execution of this Agreement.
52 The key deposit shall be refunded within 30 days of Tenant's return of all cards and/or keys to Landlord or
53 Landlord's BROKER.
54

Residential Lease Agreement Rev. 05/12 Landlord _____ Tenant _____ Tenant _____
Page 2 of 9 Tenant _____
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1 **13. CONVEYANCES AND USES:** TENANT shall not assign, sublet or transfer TENANT'S interest, nor any part
2 thereof, without prior written consent of LANDLORD. TENANT shall use the Premises for residential purposes
3 only and not for any commercial enterprise or for any purpose which is illegal. TENANT shall not commit waste,
4 cause excessive noise, create a nuisance or disturb others.
5

6 **14. OCCUPANTS:** Occupants of the Premises shall be limited to _____ persons and shall be used solely for
7 housing accommodations and for no other purpose. TENANT represents that the following person(s) will live in the
8 Premises: _____
9 _____
10

11 **15. GUESTS:** The TENANT agrees to pay the sum of \$ _____ per day for each guest remaining on
12 the Premises more than _____ days. Notwithstanding the foregoing, in no event shall any guest remain on the
13 Premises for more than _____ days.
14

15 **16. UTILITIES:** LESSEE shall immediately connect all utilities and services of premises upon commencement of
16 lease. LESSEE is to pay when due all utilities and other charges in connection with LESSEE's individual rented
17 premises. Responsibility is described as (T) for Tenant and (O) for Owner:

18 Electricity _____ Trash _____ Phone _____ Other _____
19 Gas _____ Sewer _____ Cable _____ Other _____
20 Water _____ Septic _____ Association Fees _____
21

- 22 a. TENANT is responsible to connect the following utilities in TENANT'S name: _____
- 23 _____
- 24 b. LANDLORD will maintain the connection of the following utilities in LANDLORD's name and bill
25 TENANT for connection fees and use accordingly: _____
26 _____
- 27 c. No additional phone or cable lines or outlets shall be obtained for the Premises without the
28 LANDLORD's written consent. In the event of LANDLORD's consent, TENANT shall be responsible for all
29 costs associated with the additional lines or outlets.
- 30 d. If an alarm system exists on the Premises, TENANT shall obtain the services of an alarm services
31 company and shall pay all costs associated therewith.
- 32 e. Other: _____
33 _____
34

35 **17. PEST NOTICE:** TENANT understands that various pest, rodent and insect species (collectively, "pests") exist in
36 Southern Nevada. Pests may include, but are not limited to, scorpions (approximately 23 species, including bark
37 scorpions), spiders (including black widow and brown recluse), bees, snakes, ants, termites, rats, mice and pigeons.
38 The existence of pests may vary by season and location. Within thirty (30) days of occupancy, if the Premises has
39 pests, LANDLORD, at TENANT's request, will arrange for and pay for the initial pest control spraying. TENANT
40 agrees to pay for the monthly pest control spraying fees. The names and numbers of pest control providers are in the
41 yellow pages under "PEST." For more information on pests and pest control providers, TENANT should contact the
42 State of Nevada Division of Agriculture at www.agri.nv.gov.
43

44 **18. PETS:** No pet shall be on or about the Premises at any time without written permission of LANDLORD. In the
45 event TENANT wishes to have a pet, TENANT will complete an Application for Pet Approval. Should written
46 permission be granted for occupancy of the designated pet, an additional security deposit in the amount of \$ _____
47 will be required and paid by TENANT in advance subject to deposit terms and conditions aforementioned. In the
48 event written permission shall be granted, TENANT shall be required to procure and provide to Landlord written
49 evidence that TENANT has obtained such insurance as may be available against property damage to the Premises and
50 liability to third party injury. Each such policy shall name LANDLORD and LANDLORD'S AGENT as additional
51 insureds. A copy of each such policy shall be provided to Landlord or Landlord's BROKER prior to any pets being
52 allowed within the Premises. If TENANT obtains a pet without written permission of LANDLORD, TENANT agrees
53 to pay an immediate fine of \$500. TENANT agrees to indemnify LANDLORD for any and all liability, loss and

Residential Lease Agreement Rev. 05/12 Landlord _____ Tenant _____ Tenant _____
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1 damages which LANDLORD may suffer as a result of any animal in the Premises, whether or not written
2 permission was granted.

3
4 **19. RESTRICTIONS:** TENANT shall not keep or permit to be kept in, on, or about the Premises: waterbeds, boats,
5 campers, trailers, mobile homes, recreational or commercial vehicles or any non-operative vehicles except as
6 follows: _____

7 **TENANT shall not conduct nor permit any work on vehicles on the premises.**

8
9 **20. ALTERATIONS:** TENANT shall make no alterations to the Premises without LANDLORD's written consent. All
10 alterations or improvements made to the Premises, shall, unless otherwise provided by written agreement between
11 parties hereto, become the property of LANDLORD and shall remain upon the Premises and shall constitute a
12 fixture permanently affixed to the Premises. In the event of any alterations, TENANT shall be responsible for
13 restoring the Premises to its original condition if requested by LANDLORD or LANDLORD's BROKER.

14
15 **21. DEFAULT:** Failure by TENANT to pay rent, perform any obligation under this Agreement, or comply with any
16 Association Governing Documents (if any), or TENANT's engagement in activity prohibited by this Agreement, or
17 TENANT's failure to comply with any and all applicable laws, shall be considered a default hereunder. Upon
18 default, LANDLORD may, at its option, terminate this tenancy upon giving proper notice. Upon default,
19 LANDLORD shall issue a proper itemized statement to TENANT noting the amount owed by TENANT.
20 LANDLORD may pursue any and all legal and equitable remedies available.

21
22 **22. ENFORCEMENT:** Any failure by LANDLORD to enforce the terms of this Agreement shall not constitute a
23 waiver of said terms by LANDLORD. Acceptance of rent due by LANDLORD after any default shall not be
24 construed to waive any right of LANDLORD or affect any notice of termination or eviction.

25
26 **23. NOTICE OF INTENT TO VACATE:** TENANT shall provide notice of TENANT's intention to vacate the
27 Premises at the expiration of this Agreement. **Such notice shall be in writing and shall be provided to**
28 **LANDLORD prior to the first day of the last month of the lease term set forth in section 5 of this Agreement.**
29 **In no event shall notice be less than 30 days prior to the expiration of the term of this Agreement.** In the event
30 TENANT fails to provide such notice, TENANT shall be deemed to be holding-over on a month-to-month basis
31 until 30 days after such notice. During a holdover not authorized by LANDLORD, rent shall increase by
32 _____ %.

33
34 **24. TERMINATION:** Upon termination of the tenancy, TENANT shall surrender and vacate the Premises and shall
35 remove any and all of TENANT'S property. TENANT shall return keys, personal property and Premises to the
36 LANDLORD in good, clean and sanitary condition, normal wear excepted. TENANT will allow LANDLORD to
37 inspect the Premises in the TENANT's presence to verify the condition of the Premises.

38
39 **25. EMERGENCIES:** The name, address and phone number of the party who will handle maintenance or essential
40 services emergencies on behalf of the LANDLORD is as follows: _____

41
42
43 **26. MAINTENANCE:** TENANT shall keep the Premises in a clean and good condition. TENANT shall immediately
44 report to the LANDLORD any defect or problem pertaining to plumbing, wiring or workmanship on the Premises.
45 TENANT agrees to notify LANDLORD of any water leakage and/or damage within 24 hours of the occurrence.
46 TENANT understands that TENANT may be held responsible for any water and/or mold damage, including the
47 costs of remediation of such damage. TENANT shall be responsible for any **MINOR** repairs necessary to the
48 Premises up to and including the cost of \$ _____. TENANT agrees to pay for all repairs,
49 replacements and maintenance required by TENANT's misconduct or negligence or that of TENANT's family, pets,
50 licensees and guests, including but not limited to any damage done by wind or rain caused by leaving windows
51 open and/or by overflow of water, or stoppage of waste pipes, or any other damage to appliances, carpeting or the
52 building in general. At LANDLORD's option, such charges shall be paid immediately or be regarded as additional
53 rent to be paid no later than the next monthly payment date following such repairs.

54
Residential Lease Agreement Rev. 05/12 Landlord _____ Tenant _____ Tenant _____
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1 a. TENANT shall change filters in the heating and air conditioning systems at least once every month, at
2 TENANT's own expense. LANDLORD shall maintain the heating and air conditioning systems and provide for
3 major repairs. However, any repairs to the heating or cooling system caused by dirty filters due to TENANT
4 neglect will be the responsibility of TENANT.
5

6 b. TENANT shall replace all broken glass, regardless of cause of damage, at TENANT's expense.
7

8 c. In the case of landscaping and/or a swimming pool being maintained by a contractor, TENANT agrees to
9 cooperate with the landscape and/or pool contractor in a satisfactory manner. LANDLORD provided landscaping
10 maintenance is not to be construed as a waiver of any responsibility of the TENANT to keep and maintain the
11 landscaping and/or shrubs, trees and sprinkler system in good condition. In the event the landscaping is not being
12 maintained by a Contractor, TENANT shall maintain lawns, shrubs and trees. TENANT shall water all lawns,
13 shrubs and trees, mow the lawns on a regular basis, trim the trees and fertilize lawns, shrubs and trees. If
14 TENANT fails to maintain the landscaping in a satisfactory manner, LANDLORD may have the landscaping
15 maintained by a landscaping contractor and charge TENANT with the actual cost. Said costs shall immediately
16 become additional rent.
17

18 d. LANDLORD shall be responsible for all major electrical problems that are not caused by TENANT.
19

20 e. TENANT ___ shall -OR- ___ shall not have carpets professionally cleaned upon move out. If cleaned,
21 TENANT shall present LANDLORD or LANDLORD's BROKER with a receipt from a reputable carpet cleaning
22 company.
23

24 f. There ___ is -OR- ___ is not a pool contractor whose name and phone number are as follows: _____
25

26 If there is no such contractor, TENANT agrees to maintain the pool, if any. TENANT agrees to maintain the
27 water level, sweep, clean and keep in good condition. If TENANT fails to maintain the pool in a satisfactory
28 manner, LANDLORD may have the pool maintained by a licensed pool service and charge TENANT with the
29 actual cost. Said costs shall become additional rent.
30

31 **27. ACCESS:** TENANT agrees to grant LANDLORD the right to enter the Premises at all reasonable times and for all
32 reasonable purposes including showing to prospective lessees, buyers, appraisers or insurance agents or other
33 business therein as requested by LANDLORD, and for BROKER's periodic maintenance reviews. If TENANT fails
34 to keep scheduled appointments with vendors to make necessary/required repairs, TENANT shall pay for any
35 additional charges incurred which will then become part of the next month's rent and be considered additional rent.
36 TENANT shall not deny LANDLORD his/her rights of reasonable entry to the Premises. LANDLORD shall have
37 the right to enter in case of emergency and other situations as specifically allowed by law. LANDLORD agrees to
38 give TENANT twenty-four (24) hours notification for entry, except in case of emergency.
39

40 **28. INVENTORY:** It is agreed that the following inventory is now on said premises. (Check if present; cross out if
41 absent.)
42

___ Refrigerator	___ Intercom System	___ Spa Equipment	_____
___ Stove	___ Alarm System	___ Auto Sprinklers	_____
___ Microwave	___ Trash Compactor	___ Auto Garage Openers	_____
___ Disposal	___ Ceiling Fans	___ BBQ	_____
___ Dishwasher	___ Water Conditioner Equip.	___ Solar Screens	_____
___ Washer	___ Floor Coverings	___ Pool Equipment	_____
___ Dryer	___ Window Coverings	___ Other	_____

51 TENANT assumes responsibility for the care and maintenance thereof.
52
53

1 29. ASSOCIATIONS: Should the Premises described herein be a part of a common interest community, homeowners
2 association planned unit development, condominium development ("the Association") or such, TENANT hereby
3 agrees to abide by the Governing Documents (INCLUDING Declarations, Bylaws, Articles, Rules and Regulations)
4 of such project and further agrees to be responsible for any fines or penalties levied as a result of failure to do so by
5 himself, his family, licensees or guests. Noncompliance with the Governing Documents shall constitute a violation
6 of this Agreement. Unless billed directly to TENANT by the Association, such fines shall be considered as an
7 addition to rent and shall be due along with the next monthly payment of rent. By initialing this paragraph,
8 TENANT acknowledges receipt of a copy of the applicable Governing Documents. LANDLORD, at LANDLORD's
9 expense, shall provide TENANT with any additions to such Governing Documents as they become available.
10 LANDLORD may, at its option, with 30 days notice to TENANT, adopt additional reasonable rules and regulations
11 governing use of the Premises and of the common areas (if any). [] [] [] []
12

13 30. INSURANCE: TENANT is -OR- is not required to purchase renter's insurance. LANDLORD and BROKER
14 shall be named as additional interests on any such policy. LANDLORD shall not be liable for any damage or
15 injury to TENANT, or any other person, to any property occurring on the Premises or any part thereof, or in
16 common areas thereof. TENANT agrees to indemnify, defend and hold LANDLORD harmless from any claims for
17 damages. TENANT understands that LANDLORD's insurance does not cover TENANT's personal property. Even
18 if it is not a requirement of this Agreement, TENANT understands that LANDLORD highly recommends that
19 TENANT purchase renter's insurance.
20

21 31. ILLEGAL ACTIVITIES PROHIBITED: TENANT is aware of the following: It is a misdemeanor to commit or
22 maintain a public nuisance as defined in NRS 202.450 or to allow any building or boat to be used for a public
23 nuisance. Any person, who willfully refuses to remove such a nuisance when there is a legal duty to do so, is guilty
24 of a misdemeanor. A public nuisance may be reported to the local sheriff's department. A violation of building,
25 health or safety codes or regulations may be reported to the government entity in our local area such as the code
26 enforcement division of the county/city government or the local health or building departments.
27

28 32. ADDITIONAL RESPONSIBILITIES:
29

30 a. TENANT may install or replace screens at TENANT's own expense. Solar screen installation requires written
31 permission from LANDLORD. LANDLORD is not responsible for maintaining screens.
32

33 b. With the exception of electric cooking devices, outdoor cooking with portable barbecuing equipment is
34 prohibited within ten (10) feet of any overhang, balcony or opening, unless the Premises is a detached single
35 family home. The storage and/or use of any barbecuing equipment is prohibited indoors, above the first floor and
36 within five (5) feet of any exterior building wall. Adult supervision is required at all times the barbecue
37 equipment is generating heat.
38

39 c. The Premises have -OR- have not been freshly painted. If not freshly painted, the Premises
40 have -OR- have not been touched up. TENANT will be responsible for the costs for any holes or
41 excessive dirt or smudges that will require repainting.
42

43 d. TENANT agrees to coordinate transfer of utilities to LANDLORD or BROKER no less than _____
44 business days of vacating the Premises.
45

46 e. Locks may be replaced or re-keyed at the TENANT'S expense provided TENANT informs LANDLORD and
47 provides LANDLORD with a workable key for each new or changed lock.
48

49 f. TENANT may conduct a risk assessment or inspection of the Premise for the presence of lead-based paint
50 and/or lead-based paint hazards at the TENANT's expense for a period of ten days after execution of this
51 agreement. Such assessment or inspection shall be conducted by a certified lead-based paint professional. If
52 TENANT for any reason fails to conduct such an assessment or inspection, then TENANT shall be deemed to
53 have elected to lease the Premises "as is" and to have waived this contingency. If TENANT conducts such an
54 assessment or inspection and determines that lead-based paint deficiencies and/or hazards exist, TENANT will

1 notify LANDLORD in writing and provide a copy of the assessment/inspection report. LANDLORD will then
2 have ten days to elect to correct such deficiencies and/or hazards or to terminate this agreement. In the event of
3 termination under this paragraph, the security deposit will be refunded to TENANT. (If the property was
4 constructed prior to 1978, refer to the attached Lead-Based Paint Disclosure.)
5

6 g. TENANT may display the flag of the United States, made of cloth, fabric or paper, from a pole, staff or in a
7 window, and in accordance with 4 USC Chapter 1. LANDLORD may, at its option, with 30 days notice to
8 TENANT, adopt additional reasonable rules and regulations governing the display of the flag of the United States.
9

10 h. TENANT may display political signs subject to any applicable provisions of law governing the posting of
11 political signs, and, if the Premises are located within a CIC, the provisions of NRS 116 and any governing
12 documents related to the posting of political signs. All political signs exhibited must not be larger than 24 inches
13 by 36 inches. LANDLORD may not exhibit any political sign on the Premises unless the tenant consents, in
14 writing, to the exhibition of the political sign. TENANT may exhibit as many political signs as desired, but may
15 not exhibit more than one political sign for each candidate, political party or ballot question.
16

17 **33. CHANGES MUST BE IN WRITING:** No changes, modifications or amendment of this Agreement shall be valid
18 or binding unless such changes, modifications or amendment are in writing and signed by each party. Such changes
19 shall take effect after thirty days notice to TENANT.
20

21 **34. CONFLICTS BETWEEN LEASE AND ADDENDUM:** In case of conflict between the provisions of an
22 addendum and any other provisions of this Agreement, the provisions of the addendum shall govern.
23

24 **35. ATTORNEY'S FEES:** In the event of any court action, the prevailing party shall be entitled to be awarded against
25 the losing party all costs and expenses incurred thereby, including, but not limited to, reasonable attorney's fees and
26 costs.
27

28 **36. NEVADA LAW GOVERNS:** This Agreement is executed and intended to be performed in the State of Nevada in
29 the county where the Premises are located and the laws of the State of Nevada shall govern its interpretation and
30 effect.
31

32 **37. WAIVER:** Nothing contained in this Agreement shall be construed as waiving any of the LANDLORD's or
33 TENANT's rights under the laws of the State of Nevada.
34

35 **38. PARTIAL INVALIDITY:** In the event that any provision of this Agreement shall be held invalid or
36 unenforceable, such ruling shall not affect in any respect whatsoever the validity or enforceability of the remainder
37 of this Agreement.
38

39 **39. VIOLATIONS OF PROVISIONS:** A single violation by TENANT of any of the provisions of this Agreement
40 shall be deemed a material breach and shall be cause for termination of this Agreement. Unless otherwise provided
41 by the law, proof of any violation of this Agreement shall not require criminal conviction but shall be by a
42 preponderance of the evidence.
43

44 **40. SIGNATURES:** The Agreement is accepted and agreed to jointly and severally. The undersigned have read this
45 Agreement and understand and agree to all provisions thereof and further acknowledge that they have received a
46 copy of this Agreement.
47

48 **41. LICENSEE DISCLOSURE OF INTEREST:** Pursuant to NAC 645.640, _____
49 is a licensed real estate agent in the State(s) of _____, and has the following interest, direct
50 or indirect, in this transaction: Principal (LANDLORD or TENANT) -OR- family relationship or business
51 interest: _____ .
52
53

Residential Lease Agreement Rev. 05/12 Landlord _____ Tenant _____ Tenant _____
Page 7 of 9 Tenant _____
© 2012 Greater Las Vegas Association of REALTORS® Property: _____

1 **42. CONFIRMATION OF REPRESENTATION:** The Agents in this transaction are:
 2
 3 Tenant's Broker: _____ Agent's Name: _____
 4 Address: _____
 5 Phone: _____ Fax: _____ Email: _____
 6 License # _____
 7
 8 Landlord's Broker: _____ Agent's Name: _____
 9 Address: _____
 10 Phone: _____ Fax: _____ Email: _____
 11 License # _____
 12

13 **43. NOTICES:** Unless otherwise required by law, any notice to be given or served upon any party hereto in connection
 14 with this Agreement must be in writing and mailed by certificate of mailing to the following addresses:
 15

16 **BROKER:** _____
 17 Address: _____
 18 Phone: _____ Fax: _____ Email: _____
 19
 20 **TENANT:** _____
 21 Address: _____
 22 Phone: _____ Fax: _____ Email: _____
 23

24 **44. ADDENDA ATTACHED:** Incorporated into this Agreement are the following addenda, exhibits and other
 25 information:

- 26 A. Lease Addendum for Drug Free Housing
- 27 B. Smoke Detector Agreement
- 28 C. Other: _____
- 29 D. Other: _____
- 30 E. Other: _____

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38 **[This space is intentionally blank.]**
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1 **45. ADDITIONAL TERMS AND CONDITIONS:** _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____

21 _____
 22 **LANDLORD/OWNER OF RECORD NAME** _____ **TENANT'S SIGNATURE** _____ **DATE** _____
 23 **Print Name:** _____
 24 **Phone:** _____
 25 _____
 26 _____

27 **MANAGEMENT COMPANY (BROKER) NAME** _____ **TENANT'S SIGNATURE** _____ **DATE** _____
 28 **Print Name:** _____
 29 **Phone:** _____
 30 _____

31 **By** _____
 32 **Authorized AGENT for BROKER SIGNATURE** _____ **DATE** _____ **TENANT'S SIGNATURE** _____ **DATE** _____
 33 **Print Name:** _____
 34 **REALTOR®** _____ **Phone:** _____
 35 _____

36 _____
 37 **TENANT'S SIGNATURE** _____ **DATE** _____
 38 **Print Name:** _____
 39 **Phone:** _____
 40 _____



RESIDENTIAL PROPERTY MANAGEMENT AGREEMENT
for

(Property Address)

This PROPERTY MANAGEMENT AGREEMENT ("Agreement"), entered into this ___ day of ___, by and between ___ ("Owner") of the property described below ("Property") and ___ ("Broker"), by and through its authorized agent ___ ("Agent") who is duly licensed to manage the Property. In consideration of the mutual terms of this Agreement the parties agree as follows:

1. NOTICES. Any notices, demands, consents and reports necessary or provided for under this Agreement shall be in writing and shall be addressed as follows:

TO OWNER: TO BROKER:
Name: Company Name:
Address: Address:
Phone: Phone:
Fax: Fax:
Email: Email:

All notices shall be faxed or emailed and sent by regular mail. Notices shall be effective as of the date the notice is faxed and mailed (whichever is later).

2. EMPLOYMENT OF MANAGING BROKER

(A) Employment and Acceptance. Owner employs Broker as the sole exclusive Agent of Owner to lease and manage the Property (which includes listing the Property for lease and securing a tenant), upon the terms and conditions provided herein. Broker accepts the employment and shall furnish the services of the organization for the management of the Property. Owner shall pay all of the expenses in connection with this service described herein. Owner understands and agrees that Broker's services will be performed through one or more authorized agents, and any reference to Broker in this Agreement includes such authorized agents.

(B) Relationship of Broker to Owner. The relationship of the parties to this Agreement shall be that of principal and agent, and all duties to be performed by Broker under this Agreement shall be on behalf of Owner, in Owner's name and for Owner's account. In taking any action under this Agreement, Broker shall be acting only as agent for Owner, and nothing in this Agreement shall be construed as creating a partnership, joint venture or any other relationship between the parties or as requiring Broker to bear any portion of losses arising out of or connected with the ownership or operation of the Property. Broker shall not at any time during the period of this Agreement be considered a direct employee of Owner. Neither party shall have the power to bind or obligate the other except as expressly set forth in this Agreement, except that Broker is authorized to act with such additional power as may be necessary to carry out the spirit and intent of this Agreement. Broker, under this Agreement, shall not be responsible for delays in the performance of any obligation unless there is an intentional delay caused by Broker or its agents and employees.

(C) Description of the Property. The Property to be managed under this Agreement is commonly known as ___, APN ___, as more fully described on Exhibit 1 attached hereto.

Property Address:
Residential Property Management Agreement Rev. 11/11
Page 1 of 10
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Authorized Agent for Broker ___ Owner
REALTORS®
her ___

1 (D) **Term.** The term of this Agreement shall be for an initial period of _____ years (the "initial term")
2 beginning on _____, _____ and ending _____, _____. Unless earlier
3 terminated as provided in Section 20 herein, the Agreement will renew annually for successive periods of one (1)
4 year each, unless either party gives the other 30 days written notice of non-renewal.
5

6 **3. BROKER COMPENSATION AND EXPENSES.** As compensation for the services rendered by Broker under
7 this Agreement (and exclusive of reimbursement of the expenses to which Broker is entitled hereunder), Owner shall
8 pay Broker as follows:
9

10 (A) **Management Services.** Broker shall be paid the greater of \$ _____ per month or
11 _____% of the monthly gross collected rents. Payments due Broker for periods of less than the scheduled
12 rental periods shall be prorated.
13

14 (B) **Leasing Fee.** For the procurement of a Tenant(s) for whom a lease is signed, Broker shall be paid a leasing
15 fee as follows: \$ _____ - OR - _____% of the first month's rent -OR- _____% of the
16 annual rent.
17

18 (C) **Set-Up Fee.** For entering the Property into Broker's property management system, Broker shall be paid a
19 one time, non-refundable fee of \$ _____.
20

21 (D) **Referral Commission.** Owner also authorizes payment of an MLS referral commission to the referring
22 broker not to exceed \$ _____. Owner understands and agrees that such commission will be paid
23 to any real estate Broker (including Broker's leasing staff) who brings a qualified tenant that results in a signed lease.
24

25 (E) **Lease Renewals.** For Lease renewals, Broker shall be paid a leasing fee of \$ _____ - OR -
26 _____% of the monthly rent - OR - _____% of the annual scheduled rent.
27

28 (F) **Advertising.** Owner agrees to pay in advance for any and all advertisements placed on Owner's behalf.
29 Unless specified by Owner, Owner agrees that advertising (including choice of media) is in the Broker's discretion.
30

31 (G) **Selling Commission.** If, within the term of this Agreement (including any renewals) or within 180 days
32 after termination, a tenant shall enter into a purchase agreement or lease/option to purchase the Property, Broker shall
33 be deemed the procuring cause of the sale, and Owner shall pay Broker a fee of _____% of the selling price.
34 If, within the term of this Agreement (including any renewals), Owner shall decide to sell the Property on the market,
35 (Select one):

36 _____ Owner may list the Property with a Broker of his/her choosing;

37 - OR -

38 _____ Owner shall list the Property with Broker for a fee of _____%, subject to a separate listing agreement.
39 Owner Initials [_____] [_____]
40

41 (H) **Interest on Unpaid Sums.** Any sums due Broker under the terms of this Agreement, and not paid within
42 30 days after such sums have become due, shall bear interest at the rate of 12% per annum.
43

44 (I) **Extraordinary Services.** An hourly fee of \$ _____ per hour shall be paid to Broker for all
45 necessary or requested tasks not considered normal management duties.
46

47 (J) **Termination Fees.** Additional fees may be due upon Termination of this Agreement pursuant to Section 20
48 herein.
49

50 (K) **Collection Fees.** In the event that Broker institutes any action for the collection of amounts due and
51 payable hereunder, Owner shall pay, in addition to the amounts due and payable under this Agreement, all reasonable
52 costs and attorney's fees incurred by Broker in connection with collecting under this Agreement.

Property Address: _____
Residential Property Management Agreement Rev. 11/11 ©2011 Greater Las Vegas As REALTORS®
Page 2 of 10 Authorized Agent for Broker _____ Owner _____

1 **4. BANK ACCOUNTS**

2

3 (A) **Trust Accounts.** Broker shall establish a separate Trust Account, apart from any company or corporate
4 account, for the deposit of collected receipts in an institution whose deposits are insured by the federal government.
5 Such depository shall be selected by Broker. Designated funds relating to the Property in the Trust Account remain
6 the property of Owner subject to disbursement of expenses by Broker as described in this Agreement. Any interest
7 accrued on this account will be retained by Broker. Broker shall notify Owner if a new reserve amount is required.

8

9 (B) **Initial Deposit and Reserve.** Immediately upon commencement of this Agreement, Owner shall remit to
10 Broker the sum of \$ _____ as a reserve. Owner shall maintain the reserve stated above at all times
11 in the Trust Account to enable Broker to pay the obligations of Owner under this Agreement as they become due.
12 Broker shall notify Owner if additional funds are required.

13

14 (C) **Security Deposit Trust Account.** Broker shall maintain a separate Security Deposit Trust Account for
15 security deposits, cleaning, pet, and key and other deposits.

16

17 **5. COLLECTION OF RENTS AND OTHER RECEIPTS**

18

19 (A) **Broker's Authority.** Broker shall collect all rents, charges and other amounts receivable on Owner's
20 account in connection with the management and operation of the Property. Such receipts shall be deposited in the
21 Trust Account maintained by Broker for the Property.

22

23 (B) **Special Charges.** If permitted by applicable law, Broker may collect from the tenants and retain any and or
24 all, but not limited to the following: an administrative charge for late payment of rent, a charge for returned or
25 non-negotiated checks, interest and a rental application fee.

26

27 (C) **Security Deposit Trust Account.** Broker shall collect a security deposit and deposit it into the Trust
28 Account and disburse it in accordance with NRS Chapter 118A. Any interest earned on tenant security deposits shall
29 be retained by Broker.

30

31 **6. DISBURSEMENTS OF RENTS AND OTHER RECEIPTS**

32

33 (A) **Operating Expenses.** From the Trust Account, Broker is hereby authorized to pay or reimburse itself
34 for all expenses and costs of operating the Property and for all other sums due Broker under this Agreement,
35 including Broker's compensation.

36

37 (B) **Debt Service.** Owner shall give Broker advance written notice of at least 30 days to make any additional
38 monthly or recurring payments (such as mortgage indebtedness, general taxes, special assessments or insurance
39 premiums) out of Owner's proceeds from the Property. If Owner notifies Broker to make such payments after the
40 beginning of the term of this Agreement, Broker shall have the authority to name a new contingency reserve amount,
41 and Owner shall maintain this new contingency reserve amount at all time in the Trust Account.

42

43 (C) **Net Proceeds.** To the extent that funds are available and after maintaining the cash contingency reserve
44 amount as specified in Section 3(b), Broker shall transmit the cash balances to Owner monthly.

45

46 **7. BROKER IS NOT REQUIRED TO ADVANCE FUNDS.** If the balance of the Trust Account is at any time
47 insufficient to pay disbursements due and payable, Owner shall, not later than 10 days after notice, remit to Broker
48 sufficient funds to cover the deficiency and replenish the contingency reserve. In no event shall Broker be required to
49 use its own funds to pay such disbursements, nor shall Broker be required to advance any monies to Owner or to the
50 Trust Account. If Broker advances any monies in connection with the Property to pay any Owner expense, Owner
51 shall reimburse Broker, including interest at a rate of 12% per annum, and Broker may deduct such amounts from any
52 monies due Owner.

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Residential Property Management Agreement Rev. 11/11 ©2011 Greater Las Vegas Association of REALTORS®
Page 3 of 10 Authorized Agent for Broker _____ Owner _____

1 **8. FINANCIAL AND OTHER REPORTS**

2

3 (A) **Owner/IRS Relationship.** Owner is required to file all required Internal Revenue Service (IRS) forms and
4 meet all IRS requirements. Owner agrees to provide Broker with appropriate IRS forms (e.g., W-9) before any funds
5 are disbursed to Owner.

6

7 (B) **Reports.** Broker shall furnish Owner with a statement of cash receipts and disbursements from the
8 operation of the Property monthly. In addition, Broker shall, on a mutually acceptable schedule, prepare and submit
9 to Owner such other reports as are agreed on by both parties. Broker shall submit as required by the IRS at the
10 conclusion of each calendar year a Form 1099 indicating the total income received from the Property.

11

12 **9. LEASING AND RENTING**

13

14 (A) **Authority.** Broker is authorized to negotiate, prepare and sign all leases, including all renewals and
15 extensions of leases and to cancel and modify existing leases for Owner. All costs of leasing shall be paid out of the
16 Property Trust Account. Leases are to be written on Broker's standard lease form.

17

18 (B) **Enforcement of the Leases.** Broker is authorized to institute, in Owner's name, all legal actions or
19 proceedings for the enforcement of any lease term, for the collection of rent or other income from the Property, or for
20 the eviction or dispossession of the tenants or other persons from the Property. Broker is authorized to sign and serve
21 such notices as Broker deems necessary for lease enforcement, including the collection of rent or other income. If
22 Broker deems it necessary, Broker may retain an attorney of Broker's choice (unless Owner supplies Broker with the
23 name of Owner's attorney). Owner shall pay all attorneys fees and court costs.

24

25 (C) **Management/Maintenance Review.** Broker shall make management/maintenance reviews of the Property
26 at the time of occupancy, when the tenant vacates and at such other times as Broker feels necessary or advisable and
27 report matters concerning the condition of the Property to Owner. In the event of vacancy, Broker will take
28 reasonable precautions to secure the Property.

29

30 (D) **Keybox.** Owner [____] (does) -OR- [____] (does not) authorize Broker to install a keybox in connection
31 with the showing of the Property when necessary. Owner acknowledges that they have been advised that:

32 a. The purpose and function of the keybox is to permit access to the interior of the Property by all members of the
33 Multiple Listing Service (MLS) of the Greater Las Vegas Association of REALTORS®, including certified
34 appraisers;

35 b. Owner should safeguard Personal Property and valuables located within the Property;

36 c. It is not a requirement of the GLVAR's MLS for an Owner to allow the use of a keybox;

37 d. Where a tenant/lessee occupies the Property, the tenant/lessee's consent is also required, which shall be
38 obtained by Broker;

39 e. Neither Broker, a prospective tenant's Broker, nor the GLVAR is an insurer against the loss of Personal
40 Property. Owner hereby releases Brokers and the GLVAR from any responsibility relating to the keybox.

41

42 **10. MULTIPLE LISTING SERVICE (MLS):** Broker is a participant of THE GREATER LAS VEGAS
43 ASSOCIATION OF REALTORS® (GLVAR) Multiple Listing Service, and the listing information will be provided
44 to the MLS to be published and disseminated to its Participants and Subscribers in accordance with its Rules and
45 Regulations and Section 11 herein, unless Owner signs Instructions to Exclude. Broker is authorized to cooperate
46 with other real estate Brokers, and to report the lease, its price and terms for the publication, dissemination,
47 information and use by authorized Association members, MLS Participants and Subscribers.

48

49 **11. OWNER OPT OUTS:** Owner further understands and acknowledges that MLS will disseminate the Property's
50 listing information to those MLS brokers and agents (and/or their web vendors) who operate Internet sites, as well as
51 online providers such as realtor.com and lasvegasrealtor.com, and that such sites are generally available to the public.
52 Some, but not all, of these websites may include a commentary section where consumers may include reviews and
53 comments about the Property in immediate conjunction with the listing (blogging), or provide a link to the comments.
54 In addition, some, but not all, of these websites may display an automated estimate of the market value of the

Property Address: _____
Residential Property Management Agreement Rev. 11/11 ©2011 Greater Las Vegas As _____ REALTORS®
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1 Property in immediate conjunction with the listing, or provide a link to the estimate. Owner may opt-out of any of the
2 following by initialing the appropriate space(s) below:

3
4 a. _____ I/we have advised the Broker that I/we **DO NOT** want the listed Property to be **displayed on**
5 **the Internet** (the listing will not appear on any Internet site). In selecting this option, Owner understands that
6 consumers who conduct searches for listings on the Internet will not see information about the listed property in
7 response to their search. (Reminder to Broker: if this section is initialed, you must fax this page to the MLS at (702)
8 732-3154.)

9
10 b. _____ I/we have advised the Broker that I/we **DO NOT** want the **address** of the listed Property
11 to be displayed on the Internet (listing information will be disseminated via Internet, but the Property address will
12 not appear in conjunction with the listing). (Reminder to Broker: if this section is initialed, you must fax this page to
13 the MLS at (702) 732-3154.)

14
15 c. _____ I/we have advised the Broker that I/we **DO NOT** want a **commentary section** displayed or
16 linked to the listed Property (the site operator may indicate that the feature was disabled at the request of the owner).

17
18 d. _____ I/we have advised the Broker that I/we **DO NOT** want an **automated estimate of**
19 **value** displayed or linked to the listed Property (the site operator may indicate that the feature was disabled at the
20 request of the owner).

21
22 **—OR—**

23
24 _____ Owner does **NOT** opt out of any of the above.

25 26 **12. REASONABLE MAINTENANCE AND REPAIR**

27
28 **(A) Ordinary/Emergency Maintenance Repair.** Broker shall make or cause to be made, through contracted
29 services, employees or otherwise, all ordinary repairs and replacements reasonably necessary to preserve the Property
30 in a habitable condition and for the operating efficiency of the Property, and all alterations required to comply with
31 lease requirements, governmental regulations or insurance requirements. Any cost exceeding \$ _____
32 must be approved by Owner in advance except that in an emergency where repairs are immediately necessary for the
33 preservation and safety of the Property, to avoid the suspension of any essential service to the Property, to avoid
34 danger or life of property, or to comply with federal, state or local law; such emergency repairs shall be made by
35 Broker at Owner's expense without prior approval.

36
37 **(B) Smoke Detectors.** At Owner's expense, smoke detectors will be installed on the Property in working
38 condition in accordance with the law prior to the tenant's occupancy. During the occupancy, it shall be the tenant's
39 responsibility to maintain all smoke detectors.

40
41 **13. UTILITIES AND SERVICES.** Owner shall, in Owner's name and at Owner's expense, make contracts for
42 electricity, gas or water and such other services as necessary or prudent for the operation of the Property. All utility
43 charges and deposits shall be Owner's responsibility. Owner authorizes Broker to communicate with the respective
44 utility companies and service providers and make changes to services as Broker deems necessary during the term of
45 this Agreement.

46 47 **14. INSURANCE.**

48
49 **(A) Owner's Insurance.** Owner shall obtain and keep in force adequate insurance against damage and against
50 liability for loss, damage or injury to property or persons which might arise out of the occupancy, management,
51 operation or maintenance of the Property. The deductible required under such insurance policies shall be Owner's
52 expense. Broker shall be named as an additional interest on all liability insurance maintained with respect to the
53 Property. Liability insurance shall be in form, substance and amounts reasonably satisfactory to Broker, but not less
54 than \$500,000 (five hundred thousand dollars). Owner shall provide Broker with proof of fire insurance policies in
55 force and shall obtain adequate vandalism coverage for the Property. Owner shall furnish Broker with a certificate

Property Address: _____
Residential Property Management Agreement Rev. 11/11
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ALTORS®

Authorized Agent for Broker _____ Owner

er _____

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Untitled

1 evidencing fire and liability insurance or with duplicate copies of such policies within 15 days after the date of this
2 Agreement. Such policies shall provide that notice of default or cancellation shall be sent to Broker as well as Owner
3 and shall require a minimum of 30 days written notice to Broker before any cancellation of or changes to such
4 policies.

5
6 **(B) Tenant's Insurance.** Tenants _____ (shall) -OR- _____ (shall not) be required to obtain renter's insurance.
7

8 **15. SAVE HARMLESS.** Owner shall indemnify, defend and save Broker harmless from all loss, investigation,
9 suits, damage, cost, expense (including attorneys fees) liability or claims for personal injury or property damage
10 incurred or occurring in, on or about the Property.

11
12 **16. BROKER ASSUMES NO LIABILITY.** Broker assumes no liability for any damages, losses, or acts of
13 omission by the Tenant. Broker assumes no liability for any acts or omissions of Owner or previous Owners or
14 previous brokers. Broker assumes no liability for default by any tenant. Broker assumes no liability for violations of
15 environmental or other regulations which may become known during the term of this Agreement. Any such
16 regulatory violations or hazards discovered by Broker shall be brought to the attention of Owner, and Owner shall
17 promptly cure them. Broker shall not be liable in the event of bankruptcy or failure of the depository bank where
18 Owner's funds are deposited.

19
20 **17. OWNER'S RESPONSIBILITY FOR EXPENSES OF LITIGATION.**
21

22 **(A) Litigation and Compliance Expenses.** Owner shall pay all fines, penalties, or other expenses in connection
23 with any claim, proceeding or suit involving an alleged violation of any law pertaining to fair employment, fair credit
24 reporting, environmental protection, rent control taxes or fair housing, including illegal discrimination on the basis of
25 race, sex, color, religion, national origin, physical handicap, familial status, elderliness or all other protected classes;
26 provided, however, that Owner shall not be responsible to Broker for any such expenses if Broker is finally adjudged
27 in a court of law to have personally, and not in a representative capacity, violated any such law. Nothing contained in
28 this Agreement shall obligate Broker to employ legal counsel to represent Owner in any such proceeding or suit.

29
30 **(B) Fees for Legal Advice.** Owner shall pay reasonable expenses incurred by Broker in obtaining legal advice
31 regarding compliance with any law affecting the Property. If such expenditure also benefits other principals of
32 Broker, Owner shall pay an apportioned amount of such expense.
33

34 **18. REPRESENTATIONS**
35

36 **(A) Owner Representations.** Owner represents and warrants that Owner has full power and authority to
37 enter into this Agreement; that there are no written or oral agreements affecting the Property other than disclosed
38 tenant leases, copies of which have been furnished to Broker; that there are no recorded easements, restrictions,
39 reservations or rights of way which adversely affect the use of the Property for the purposes intended under this
40 Agreement; that the Property is zoned for the intended use; that all permits for the operation of the Property have
41 been secured and are current; that the building and its construction and operation do not violate any applicable
42 statutes, laws, ordinances, rules, regulations, orders or the like; and that the information supplied by Owner is
43 dependable and accurate. **OWNER REPRESENTS THAT ANY LOANS, NOTES, MORTGAGES, TAXES,
44 DUES OR TRUST DEEDS ARE PAID AND ARE CURRENT WITHOUT DEFAULTS;** and that any future
45 defaults on any loans, mortgages, dues or trust deeds will be reported to Broker within 14 business days of Owner's
46 receipt of notice of default (which commences foreclosure proceedings). **OWNER UNDERSTANDS THAT
47 OFFERING A PROPERTY FOR LEASE WHILE THE PROPERTY IS IN FORECLOSURE
48 PROCEEDINGS, WITHOUT WRITTEN DISCLOSURE, IS A DECEPTIVE TRADE PRACTICE
49 PUNISHABLE BY BOTH A CIVIL FINE AND CRIMINAL PROCEEDINGS.**

50 **Owner Initials** [_____] [_____]
51

52 **(B) Multiple Listing Service.** No Multiple Listing Service or Association of REALTORS® is a party to
53 this Agreement and no Multiple Listing Service or Association of REALTORS® sets, controls, recommends or
54 suggests the amount of compensation for any service rendered pursuant to this Agreement.

Property Address: _____
Residential Property Management Agreement Rev. 11/11 ©2011 Greater Las Vegas A REALTORS®
Page 6 of 10 Authorized Agent for Broker _____ Owner ter _____

1 **19. COMMON INTEREST COMMUNITY.** If the Property is located within a Common Interest Community
2 (CIC), Owner understands and agrees that Broker is not involved in and has no control over the CIC. **OWNER**
3 **UNDERSTANDS THAT THE CIC'S DECLARATION OF COVENANTS, CONDITIONS AND**
4 **RESTRICTIONS (CC&RS) MAY RESTRICT THE LEASING OF THE PROPERTY, AND IT IS OWNER'S**
5 **SOLE RESPONSIBILITY TO DETERMINE WHETHER THE PROPERTY IS SO AFFECTED.** Broker
6 assumes no liability for any costs associated with a Tenant's move-out. Broker assumes no liability for understanding
7 or complying with the CC&Rs, and has no responsibility for any future amendments or additions to the CC&Rs.
8 Owner remains solely responsible for assessments, violations and fines/fees payable to the CIC, and agrees to
9 reimburse Broker for any such assessments, fines or fees which Broker may pay on Owner's behalf. Any subsequent
10 and separate notice which identifies Broker as Owner's property manager will not affect the terms of this Section.
11 **Owner Initials** [_____] [_____]

12
13 **20. TERMINATION**

14
15 **(A) Early Termination.** This Agreement may be terminated by Owner before the termination date specified
16 in Section 2(d) by written notice to Broker not less than 30 days prior to the termination date specified in such notice,
17 together with a cancellation fee in the amount equal to the management fee that would accrue over the remainder of
18 the stated term of any existing lease agreement or this Agreement, whichever is greater. For this purpose, the
19 monthly management fee for the remainder of the stated term of the existing lease agreement shall be presumed to be
20 the same as that of the last full calendar month prior to service of the notice of cancellation. In the event Owner
21 directs Broker to transfer files and documents to a succeeding management company, Owner will pay Broker a
22 transfer fee of \$ _____. This Agreement may be terminated by Broker before the termination date
23 specified in Section 2(d) upon 30 days written notice to Owner. Within ten days of termination, Owner will pay
24 Broker all monies due under this Agreement. Should this Agreement be terminated by either party prior to leasing the
25 Property, Broker is entitled to retain the Set-Up Fee, and Owner shall reimburse Broker for the actual cost of any
26 expenses incurred relative to the Property. If Owner terminates this Agreement prior to leasing the Property, Owner
27 agrees to pay a cancellation fee of \$ _____.

28
29 **(B) Owner Responsible for Payments.** Upon termination of this Agreement, Owner shall assume the
30 obligations of any contract or outstanding costs incurred by Broker under this Agreement. Broker may withhold
31 funds for 30 days after the end of the month in which this Agreement is terminated in order to pay bills previously
32 incurred but not yet invoiced and to close accounts. Broker shall deliver to Owner, within 30 days after the end of the
33 month in which this Agreement is terminated, any balance of monies due Owner or tenant security deposits, or both,
34 which were held by the Broker with respect to the Property, as well as a final accounting reflecting the balance of
35 income and expenses with respect to the Property as of the date of termination or withdrawal. If, after termination,
36 Broker receives funds which are payable to the Owner, Broker may deduct an administration fee of
37 \$ _____ -OR- _____ %, whichever is greater, before delivering the balance of the funds to
38 the Owner. **Owner Initials** [_____] [_____]

39
40 **(C) Leasing Fee Survives.** In addition to the amounts specified in paragraph A of this Section, if Owner
41 terminates this Agreement before the termination date in Section 2(d) and/or before the Property is leased, and within
42 _____ calendar days of the termination the Property is leased to anyone with whom the Broker has had negotiations
43 or to whom the Property was shown prior to the termination, Broker shall be paid the Leasing Fee set forth in Section
44 3(b). This paragraph C shall not apply if Owner enters into a valid property management agreement with another
45 licensed real estate Broker after termination of this Agreement.

46
47 **21. INDEMNIFICATION SURVIVES TERMINATION.** All representations and warranties of the parties
48 contained herein shall survive the termination of this Agreement. All provisions of this Agreement that require
49 Owner to have insured or to defend, reimburse or indemnify Broker shall survive any termination. If Broker becomes
50 involved in any proceeding or litigation by reason of having been Owner's Broker, such provisions shall apply as if
51 this Agreement were still in effect.

Property Address: _____

Residential Property Management Agreement Rev. 11/11

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Authorized Agent for Broker _____ Owner

ALTORS®

fr _____

1 **22. MISCELLANEOUS**

2
3 **(A) Rights Cumulative; No Waiver.** The exercise of any right or remedy provided in this Agreement shall
4 not be an election of remedies, and each right and remedy shall be cumulative. The failure of either party to this
5 Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement,
6 or to exercise any right or remedy provided in this Agreement, shall not be construed as a waiver of such right or
7 remedy with respect to subsequent defaults. Every right and remedy provided in this Agreement may be exercised
8 from time to time and as often as may be deemed expedient by the party exercising such right or remedy.
9

10 **(B) Agreement to Mediate.** All parties agree to engage in mediation through the Greater Las Vegas Association
11 of REALTORS® prior to commencing any legal action. In any action or proceeding involving a dispute between the
12 parties arising out of this Agreement, the prevailing party shall be entitled to receive from the other party court costs
13 and reasonable attorneys fees to be determined by the court or arbitrator.
14

15 **(C) Headings.** All headings and subheadings in this Agreement and in the accompanying List of Provisions
16 are inserted only for convenience and ease of reference and are not to be considered in the construction or
17 interpretation of any provision of this Agreement.
18

19 **23. APPLICABLE LAW AND PARTIAL INVALIDITY.** The interpretation of this Agreement shall be governed
20 by the laws of the State of Nevada. Any action arising under this Agreement shall be brought in state court in the
21 county where the Premises are located. If any part of this Agreement shall be declared invalid or unenforceable by a
22 court of competent jurisdiction, either party shall have the option to terminate this Agreement by written notice to the
23 other party.
24

25 **24. COMPLETE AGREEMENT.** This Agreement shall be binding upon the parties, and each of their respective
26 heirs, executors, administrators, successors and assigns. No amendment is valid unless in writing and signed by the
27 parties. There are no warranties or representations not herein contained.
28

29 **25. SIGNATURES:** This Agreement may be signed by the parties manually or digitally and on more than one copy,
30 which, when taken together, each signed copy shall be read as one complete form. Facsimile signatures may be
31 accepted as original.
32

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Property Address: _____
Residential Property Management Agreement Rev. 11/11 ©2011 Greater Las Vegas Association of REALTORS®
Page 8 of 10 Authorized Agent for Broker _____ Owner _____

1 **26. FOREIGN INVESTMENTS IN REAL PROPERTY TAX (FIRPTA).** Pursuant to the Internal Revenue Code
2 Section 1441, the deduction of a withholding tax on all fixed or determinable gross income shall be required of any
3 non-resident alien individual, fiduciary, foreign partnership or foreign corporation unless exempt under provisions
4 provided under said IRS Section. If Owner is a non-resident alien individual, fiduciary, foreign partnership or foreign
5 corporation, Broker will require a written statement from either a CPA or U.S. Tax Attorney. Owner _____ (is)-OR-
6 _____ (is not) a non-resident alien individual, fiduciary, foreign partnership or foreign corporation.
7

8 **27. ADDITIONAL TERMS:**

9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
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25 _____

26 **BROKER:** _____
27 (Company Name)

28
29 **By:** _____
30 Authorized Agent for Broker Date Owner Signature Date
31 Printed Name: _____
32

33
34 **By:** _____
35 Broker Date Owner Signature Date
36 Printed Name: _____
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Property Address: _____

EXHIBIT 1
PROPERTY INFORMATION

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Owner Name: _____

Property Address: _____

APN: _____

Existing Tenant (if any):

Name: _____

Home Phone: _____

Work Phone: _____

Acceptable Rental Rate/Month: Minimum: \$ _____ Maximum: \$ _____

Acceptable Lease Term: Minimum: _____ Years / Maximum: _____ Years

Will pets be considered? Yes -OR- No (If yes, Tenant must complete Application for Pet Approval.)

Will smoking be permitted in the unit? Yes -OR- No

Will Section 8 be considered? Yes -OR- No

As applicable:

CBU & Mail Box Number: _____

Parking Space Number: _____

Gate Code: _____

Alarm Code: _____



RESIDENTIAL PURCHASE AGREEMENT

(Joint Escrow Instructions and Earnest Money Receipt)

Date: _____

_____ ("Buyer"), hereby offers to purchase _____ ("Property"),

within the city or unincorporated area of _____, County of _____,

State of Nevada, Zip _____, A.P.N. # _____ for the purchase price of \$ _____

(_____ dollars) ("Purchase Price") on the terms

and conditions contained herein:

BUYER does -OR- does not intend to occupy the Property as a residence.

Buyer's Offer

1. FINANCIAL TERMS & CONDITIONS:

\$ _____ A. **EARNEST MONEY DEPOSIT ("EMD")** is presented with this offer -OR- _____

(NOTE: It is a felony in the State of Nevada—punishable by up to four years in prison and a \$5,000 fine—to write a check for which there are insufficient funds. NRS 193.130(2)(d).)

\$ _____ B. **ADDITIONAL DEPOSIT** to be placed in escrow on or before (date) _____. The additional deposit will -OR- will not be considered part of the EMD. (Any conditions on the additional deposit should be set forth in Section 28 herein.)

\$ _____ C. **THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING FOR A NEW LOAN ON THE FOLLOWING TERMS AND CONDITIONS:**
 Conventional, FHA, VA, Other (specify) _____
Interest: Fixed rate, _____ years -OR- Adjustable Rate, _____ years. Initial rate of interest not to exceed _____%. Initial monthly payment not to exceed \$ _____, not including taxes, insurance and/or PMI or MIP.

\$ _____ D. **THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING TO ASSUME THE FOLLOWING EXISTING LOAN(S):**
 Conventional, FHA, VA, Other (specify) _____
Interest: Fixed rate, _____ years -OR- Adjustable Rate, _____ years. Initial rate of interest not to exceed _____%. Monthly payment not to exceed \$ _____, not including taxes, insurance and/or PMI or MIP.

\$ _____ E. **BUYER TO EXECUTE A PROMISSORY NOTE SECURED BY DEED OF TRUST PER TERMS IN "FINANCING ADDENDUM."**

\$ _____ F. **BALANCE OF PURCHASE PRICE** (Balance of Down Payment) in Good Funds to be paid prior to Close of Escrow ("COE").

\$ _____ G. **TOTAL PURCHASE PRICE.** (This price DOES NOT include closing costs, prorations, or other fees and costs associated with the purchase of the Property as defined herein.)

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 **2. ADDITIONAL FINANCIAL TERMS & CONTINGENCIES:**

2 **A. NEW LOAN APPLICATION:** Within _____ business days of Acceptance, Buyer agrees to (1) submit a
3 completed loan application to a lender of Buyer's choice; (2) authorize ordering of the appraisal (per lender's requirements);
4 and (3) furnish a preapproval letter to Seller based upon a standard factual credit report and review of debt to income ratios. If
5 Buyer fails to complete any of these conditions within the applicable time frame, Seller reserves the right to terminate this
6 Agreement. In such event, both parties agree to cancel the escrow and return EMD to Buyer. Buyer

7 does -OR- does not

8 authorize lender to provide loan status updates to Seller's and Buyer's Brokers, as well as Escrow Officer. Buyer agrees to use
9 Buyer's best efforts to obtain financing under the terms and conditions outlined in this Agreement.

10
11 **B. CASH PURCHASE:** Within _____ business days of Acceptance, Buyer agrees to provide written evidence
12 from a bona fide financial institution of sufficient cash available to complete this purchase. If Buyer does not submit the
13 written evidence within the above period, Seller reserves the right to terminate this Agreement.

14
15 **C. APPRAISAL:** If an appraisal is required as part of this agreement, or requested by Buyer, and if the
16 appraisal is less than the Purchase Price, the transaction will go forward if (1) Buyer, at Buyer's option, elects to pay the
17 difference and purchase the Property for the Purchase Price, or (2) Seller, at Seller's option, elects to adjust the Purchase Price
18 accordingly, such that the Purchase Price is equal to the appraisal. If neither option (1) or (2) is elected, then Parties may
19 renegotiate; if renegotiation is unsuccessful, then either Party may cancel this Agreement upon written notice, in which event
20 the EMD shall be returned to Buyer.

21
22 **3. SALE OF OTHER PROPERTY:**

23 This Agreement

24 is not -OR-

25 is contingent upon the sale (and closing) of another property which address is

26 _____
27 Said Property

28 is currently listed

29 is not -OR- is

30 presently in escrow with _____

31 Escrow Number: _____ . Proposed Closing Date: _____

32
33 When Buyer has accepted an offer on the sale of this other property, Buyer will promptly deliver a written notice of the sale to
34 Seller. If Buyer's escrow on this other property is terminated, abandoned, or does not close on time, this Agreement will
35 terminate without further notice unless the parties agree otherwise in writing. If Seller accepts a bona fide written offer from a
36 third party prior to Buyer's delivery of notice of acceptance of an offer on the sale of Buyer's property, Seller shall give Buyer
37 written notice of that fact. Within three (3) days of receipt of the notice, Buyer will waive the contingency of the sale and
38 closing of Buyer's other property, or this Agreement will terminate without further notice. In order to be effective, the waiver
39 of contingency must be accompanied by reasonable evidence that funds needed to close escrow will be available and Buyer's
40 ability to obtain financing is not contingent upon the sale and/or close of any other property.

41
42 **4. FIXTURES AND PERSONAL PROPERTY:** The following items will be transferred, free of liens, with the sale of
43 the Property with no real value unless stated otherwise herein. Unless an item is covered under Section 7(E) of this Agreement,
44 all items are transferred in an "AS IS" condition.

45 **A.** All EXISTING fixtures and fittings including, but not limited to: electrical, mechanical, lighting, plumbing
46 and heating fixtures, ceiling fan(s), fireplace insert(s), gas logs and grates, solar power system(s), built-in appliance(s),
47 window and door screens, awnings, shutters, window coverings, attached floor covering(s), television antenna(s),
48 satellite dishe(s), private integrated telephone systems, air coolers/conditioner(s), pool/spa equipment, garage door
49 opener(s)/remote control(s), mailbox, in-ground landscaping, trees/shrub(s), water softener(s), water purifiers, security
50 systems/alarm(s);

51 **B.** The following additional items of personal property: _____
52 _____
53 _____
54 _____

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

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Untitled

1 **5. ESCROW:**

2 **A. OPENING OF ESCROW:** The purchase of the Property shall be consummated through Escrow
3 ("Escrow"). Opening of Escrow shall take place by the end of one (1) business day after execution of this Agreement
4 ("Opening of Escrow"), at _____ title or escrow company ("Escrow Company" or
5 "ESCROW HOLDER") with _____ ("Escrow Officer") (or such other escrow officer as
6 Escrow Company may assign). Opening of Escrow shall occur upon Escrow Company's receipt of this fully accepted
7 Agreement and receipt of the EMD (if applicable). ESCROW HOLDER is instructed to notify the Parties (through their
8 respective Brokers) of the opening date and the Escrow Number.

9
10 **B. EARNEST MONEY:** Upon Acceptance, Buyer's EMD as shown in Section 1(A), and 1(B) if applicable, of
11 this Agreement, shall be deposited per the Earnest Money Receipt Notice and Instructions contained herein.

12
13 **C. CLOSE OF ESCROW:** Close of Escrow ("COE") shall be on (date) _____ .
14 If the designated date falls on a weekend or holiday, COE shall be the next business day.

15
16 **D. IRS DISCLOSURE:** Seller is hereby made aware that there is a regulation which became effective January
17 1, 1987, that requires all ESCROW HOLDERS to complete a modified 1099 form, based upon specific information known
18 only between parties in this transaction and the ESCROW HOLDER. Seller is also made aware that ESCROW HOLDER is
19 required by federal law to provide this information to the Internal Revenue Service after COE in the manner prescribed by
20 federal law.

21
22 **E. FIRPTA:** If applicable (as designated in the Seller's Response herein), Seller agrees to complete, sign, and
23 deliver to ESCROW HOLDER a certificate indicating whether Seller is a foreign person or a nonresident alien pursuant to the
24 Foreign Investment in Real Property Tax Act (FIRPTA). A foreign person is a nonresident alien individual; a foreign
25 corporation not treated as a domestic corporation; or a foreign partnership, trust or estate. A resident alien is not considered a
26 foreign person under FIRPTA. Additional information for determining status may be found at www.irs.gov. Buyer and Seller
27 understand that if Seller is a foreign person then the Buyer must withhold a tax in an amount to be determined by ESCROW
28 HOLDER in accordance with FIRPTA, unless an exemption applies. Seller agrees to sign and deliver to the ESCROW
29 HOLDER the necessary documents, to be provided by the ESCROW HOLDER, to determine if withholding is required. (See
30 26 USC Section 1445).

31
32 **6. TITLE INSURANCE:** Upon COE, Buyer will be provided with the following type of title insurance policy:
33 CLTA; ALTA-Residential; -OR- ALTA-Extended (including a survey, if required).

34
35 **7. PRORATIONS, FEES AND EXPENSES (Check appropriate box):**

36 **A. TITLE AND ESCROW FEES:**

37 TYPE	PAID BY SELLER	PAID BY BUYER	50/50	N/A
38 Escrow Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39 Lender's Title Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40 Owner's Title Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41 Real Property Transfer Tax	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42 Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

43
44 **B. PRORATIONS:**

45 TYPE	PAID BY SELLER	PRORATE	N/A
46 CIC (Common Interest Community) Assessments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47 CIC Periodic Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48 SIDs / LIDs / Bonds / Assessments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49 Sewer Use Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50 Trash Service Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
51 Real Property Taxes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52 Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

53
54 All prorations will be based on a 30-day month and will be calculated as of COE. Prorations will be based upon figures
55 available at closing. Any supplementals or adjustments that occur after COE will be handled by the parties outside of Escrow.

56
57 **Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.**

Buyer's Name: _____ BUYER(S) INITIALS: . / _____

Property Address: _____ SELLER(S) INITIALS: . / _____

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1 **C. INSPECTIONS AND RELATED EXPENSES (See also Section 12):** Acceptance of this offer is subject to
 2 the following reserved right. Buyer may have the Property inspected and select the licensed contractors, certified building
 3 inspectors and/or other qualified professionals who will inspect the Property. Seller will ensure that necessary utilities (gas,
 4 power and water) are turned on and supplied to the Property within two (2) business days after execution of this Agreement, to
 5 remain on until COE. (It is strongly recommended that Buyer retain licensed Nevada professionals to conduct inspections.)

6	TYPE	PAID BY SELLER	PAID BY BUYER	50/50	WAIVED	N/A
7	Appraisal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	CIC Capital Contribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	CIC Transfer Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	CLUE Report ordered by Seller	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Energy Audit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Fungal Contaminant Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Home Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	Mechanical Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	Oil Tank Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	Pool/Spa Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	Roof Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	Septic Inspection (requires pumping)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	Septic Lid Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Septic Pumping	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	Soils Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	Structural Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	Survey _____ (type)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	Termite/Pest Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	Well Inspection (Quantity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	Well Inspection (Quality)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27	Wood-Burning Device/Chimney Inspection (includes cleaning)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	Re-Inspections	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30						
31						

32 If any inspection is not completed and requested repairs are not delivered to Seller within the Due Diligence Period, Buyer is
 33 deemed to have waived the right to that inspection and Seller's liability for the cost of all repairs that inspection would have
 34 reasonably identified had it been conducted, except as otherwise provided by law. The foregoing expenses for inspections will
 35 be paid outside of Escrow unless the Parties present instructions to the contrary prior to COE (along with the applicable
 36 invoice).

37
 38 **D. CERTIFICATIONS: Notwithstanding the elections below, in the event an inspection reveals problems with any**
 39 **of the foregoing, Buyer reserves the right to require a certification.**

41	TYPE	PAID BY SELLER	PAID BY BUYER	50/50	WAIVED
42	Fungal Contaminant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43	Roof	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	Septic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45	Well	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46	Wood-Burning Device/Chimney Certification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48					

49 The foregoing expenses for certifications will be paid outside of Escrow unless the Parties present instructions to the contrary
 50 prior to COE (along with the applicable invoice). A certification is not a warranty.

51
 52 **E. SELLER'S ADDITIONAL COSTS AND LIMIT OF LIABILITY:** Seller agrees to pay a maximum
 53 amount of \$ _____ to correct defects and/or requirements disclosed by inspection reports, appraisals,
 54 and/or certifications. It is Buyer's responsibility to inspect the Property sufficiently as to satisfy Buyer's use. Buyer reserves
 55 the right to request additional repairs, which may exceed the above-stated amount, based upon the Seller's Real Property

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 Disclosure or items which materially affect value or use of the Property revealed by an inspection, certification or appraisal.
2 Items of a general maintenance or cosmetic nature which do not materially affect value or use of the Property, which existed at
3 the time of Acceptance and which are not expressly addressed in this Agreement are deemed accepted by the Buyer, except as
4 otherwise provided in this section. The Brokers herein have no responsibility to assist in the payment of any repair, correction
5 or deferred maintenance on the Property which may have been revealed by the above inspections, agreed upon by the Buyer
6 and Seller or requested by one party.

7
8 **F. LENDER AND CLOSING FEES:** In addition to Seller's expenses above, Seller will contribute
9 \$ _____ to Buyer's Lender's Fees and/or Buyer's Title and Escrow Fees including -OR- excluding
10 costs which Seller must pay pursuant to loan program requirements. Different loan types (e.g., FHA, VA, conventional) have
11 different appraisal and financing requirements, which will affect the parties' rights and costs under this Agreement.

12
13 **G. HOME PROTECTION PLAN:** Buyer and Seller acknowledge that they have been made aware of Home
14 Protection Plans that provide coverage to Buyer after COE. Buyer waives -OR- requires a Home Protection Plan with
15 _____ . Seller -OR- Buyer will pay for the Home Protection
16 Plan at a price not to exceed \$ _____. Buyer will order the Home Protection Plan. Neither Seller nor Brokers make
17 any representation as to the extent of coverage or deductibles of such plans. ESCROW HOLDER is not responsible for
18 ordering the Home Protection Plan.

19
20 **8. TRANSFER OF TITLE:** Upon COE, Buyer shall tender to Seller the agreed upon Purchase Price, and Seller shall
21 tender to Buyer marketable title to the Property free of all encumbrances other than (1) current real property taxes,
22 (2) covenants, conditions and restrictions (CC&R's) and related restrictions, (3) zoning or master plan restrictions and public
23 utility easements; and (4) obligations assumed and encumbrances accepted by Buyer prior to COE. Buyer is advised the
24 Property may be reassessed after COE which may result in a real property tax increase or decrease.

25
26 **9. COMMON-INTEREST COMMUNITIES:** If the Property is subject to a Common Interest Community ("CIC"),
27 Seller or his authorized agent shall request the CIC documents and certificate listed in NRS 116.4109 (collectively, the "resale
28 package") within two (2) business days of Acceptance and provide the same to Buyer within one (1) business day of Seller's
29 receipt thereof. Buyer may cancel this Agreement without penalty until midnight of the fifth (5th) calendar day following the
30 date of receipt of the resale package. If Buyer does not receive the resale package within fifteen (15) calendar days of
31 Acceptance, this Agreement may be cancelled in full by Buyer without penalty. If Buyer elects to cancel this Agreement
32 pursuant to this section, he must deliver, via hand delivery or prepaid U.S. mail, a written notice of cancellation to Seller or his
33 authorized agent identified in the Confirmation of Representation at the end of this Agreement. Upon such written cancellation,
34 Buyer shall promptly receive a refund of the EMD. The parties agree to execute any documents requested by ESCROW
35 HOLDER to facilitate the refund. If written cancellation is not received within the specified time period, the resale package
36 will be deemed approved. Seller shall pay all outstanding CIC fines or penalties at COE.

37
38 **10. DISCLOSURES:** Within five (5) calendar days of Acceptance of this Agreement, Seller will provide the
39 following Disclosures and/or documents (each of which is incorporated herein by this reference). **Check applicable boxes.**

- 40 **Construction Defect Claims Disclosure**, if Seller has marked "Yes" to Paragraph 1(d) of the
41 Seller Real Property Disclosure Form (NRS 40.688)
42 **Fungal (Mold) Notice Form** (not required by Nevada law)
43 **Lead-Based Paint Disclosure and Acknowledgment**, required if constructed before 1978 (24 CFR 745.113)
44 **Pest Notice Form** (not required by Nevada law)
45 **Promissory Note and the most recent monthly statement of all loans to be assumed by Buyer**
46 **Open Range Disclosure** (NRS 113.065)
47 **Seller Real Property Disclosure Form** (NRS 113.130)
48 **Other** (list) _____

49
50
51
Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

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1 **11. ADDITIONAL DISCLOSURES:**

2 **A. LICENSEE DISCLOSURE OF INTEREST (BUYER):** Pursuant to NRS 645.252(1)(c), a real estate
3 licensee must disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction.
4 _____ is a licensed real estate agent in the State(s) of _____, and has
5 the following interest, direct or indirect, in this transaction: Principal (Buyer) -OR- family or firm relationship with Buyer
6 or ownership interest in Buyer (if Buyer is an entity): (specify relationship) _____ .
7

8 **B.** In addition, for **NEW CONSTRUCTION**, to the extent applicable, Seller will provide: Public Offering
9 Statement (NRS 116.4108); Electric Transmission Lines (NRS 119.1835); Public Services and Utilities (NRS 119.183); Initial
10 Purchaser Disclosure (NRS 113); Construction Recovery Fund (NRS 624); Gaming Corridors (NRS 113.070); Water/Sewage
11 (NRS 113.060); Impact Fees (NRS 278B.320); Surrounding Zoning Disclosure (NRS 113.070); FTC Insulation Disclosure (16
12 CFR 460.16); and Other: _____ .
13

14 **C. AIRPORT NOISE:** Buyer hereby acknowledges the proximity of various overflight patterns, airports
15 (municipal, international, military and/or private) and helipads. Buyer also fully understands that existing and future noise
16 levels at this location, associated with existing and future airport operations, may affect the livability, value and suitability of
17 the Property for residential use. Buyer also understands that these airports have been at their present location for many years,
18 and that future demand and airport operations may increase significantly. For further information, contact your local
19 department of aviation or the Federal Aviation Administration.
20

21 **D. FEDERAL FAIR HOUSING COMPLIANCE AND DISCLOSURES:** All properties are offered without
22 regard to race, color, religion, sex, national origin, ancestry, handicap or familial status and any other current requirements of
23 federal or state fair housing law.
24

25 **12. BUYER'S DUE DILIGENCE:**

26 **A. DUE DILIGENCE PERIOD:** Buyer shall have _____ calendar days from Acceptance to complete Buyer's
27 Due Diligence. Buyer shall ensure that all inspections and certifications are initiated in a timely manner as to complete the Due
28 Diligence in the time outlined herein. (If utilities are not supplied by the deadline referenced herein or if the disclosures are not
29 delivered to Buyer by the deadline referenced herein, then Buyer's Due Diligence Period will be extended by the same number
30 of calendar days that Seller delayed supplying the utilities or delivering the disclosures, whichever is longer.) During this
31 period Buyer shall have the exclusive right at Buyer's discretion to cancel this Agreement. In the event of such cancellation,
32 unless otherwise agreed herein, the EMD will be refunded to Buyer. **If Buyer provides Seller with notice of objections, the**
33 **Due Diligence Period will be extended by the same number of calendar days that it takes Seller to respond in writing to**
34 **Buyer's objections.** If Buyer fails to cancel this Agreement within the Due Diligence Period (as it may be extended), Buyer will
35 be deemed to have waived the right to cancel under this section.
36

37 **B. PROPERTY INSPECTION/CONDITION:** During the Due Diligence Period, Buyer shall take such
38 action as Buyer deems necessary to determine whether the Property is satisfactory to Buyer including, but not limited to,
39 whether the Property is insurable to Buyer's satisfaction, whether there are unsatisfactory conditions surrounding or otherwise
40 affecting the Property (such as location of flood zones, airport noise, noxious fumes or odors, environmental substances or
41 hazards, whether the Property is properly zoned, locality to freeways, railroads, places of worship, schools, etc.) or any other
42 concerns Buyer may have related to the Property. During such Period, Buyer shall have the right to have non-destructive
43 inspections of all structural, roofing, mechanical, electrical, plumbing, heating/air conditioning, water/well/septic, pool/spa,
44 survey, square footage, and any other property or systems, through licensed and bonded contractors or other qualified
45 professionals. Seller agrees to provide reasonable access to the Property to Buyer and Buyer's inspectors. Buyer agrees to
46 indemnify and hold Seller harmless with respect to any injuries suffered by Buyer or third parties present at Buyer's request
47 while on Seller's Property conducting such inspections, tests or walk-throughs. Buyer's indemnity shall not apply to any
48 injuries suffered by Buyer or third parties present at Buyer's request that are the result of an intentional tort, gross negligence
49 or any misconduct or omission by Seller, Seller's Agent or other third parties on the Property. Buyer is advised to consult with
50 appropriate professionals regarding neighborhood or Property conditions, including but not limited to: schools; proximity and
51 adequacy of law enforcement; proximity to commercial, industrial, or agricultural activities; crime statistics; fire protection;
52 other governmental services; existing and proposed transportation; construction and development; noise or odor from any
53 source; and other nuisances, hazards or circumstances. If Buyer cancels this Agreement due to a specific inspection report,
54 Buyer shall provide Seller at the time of cancellation with a copy of the report containing the name, address, and telephone
55 number of the inspector.
56

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIAL S / _____

Property Address: _____ SELLER(S) INITIAL / _____

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1 **C. PRELIMINARY TITLE REPORT:** Within ten (10) business days of Opening of Escrow, Title Company
2 shall provide Buyer with a Preliminary Title Report ("PTR") to review, which must be approved or rejected within five (5)
3 business days of receipt thereof. If Buyer does not object to the PTR within the period specified above, the PTR shall be
4 deemed accepted. If Buyer makes an objection to any item(s) contained within the PTR, Seller shall have five (5) business
5 days after receipt of objections to correct or address the objections. If, within the time specified, Seller fails to have each such
6 exception removed or to correct each such other matter as aforesaid, Buyer shall have the option to: (a) terminate this
7 Agreement by providing notice to Seller and Escrow Officer, entitling Buyer to a refund of the EMD or (b) elect to accept title
8 to the Property as is. All title exceptions approved or deemed accepted are hereafter collectively referred to as the "Permitted
9 Exceptions."

10
11 **13. WALK-THROUGH INSPECTION OF PROPERTY:** Buyer is entitled under this Agreement to a walk-through of
12 the Property within _____ calendar days prior to COE to ensure the Property and all major systems, appliances,
13 heating/cooling, plumbing and electrical systems and mechanical fixtures are as stated in Seller's Real Property Disclosure
14 Statement, and that the Property and improvements are in the same general condition as when this Agreement was signed by
15 Seller and Buyer. To facilitate Buyer's walk-through, Seller is responsible for keeping all necessary utilities on. If any
16 systems cannot be checked by Buyer on walk-through due to non-access or no power/gas/water, then Buyer reserves the right
17 to hold Seller responsible for defects which could not be detected on walk-through because of lack of such access or
18 power/gas/water. The purpose of the walk-through is to confirm (a) the Property is being maintained (b) repairs, if any, have
19 been completed as agreed, and (c) Seller has complied with Seller's other obligations. **If Buyer elects not to conduct a walk-**
20 **through inspection prior to COE, then all systems, items and aspects of the Property are deemed satisfactory, and Buyer**
21 **releases Seller's liability for costs of any repair that would have reasonably been identified by a walk-through inspection,**
22 **except as otherwise provided by law.**

23
24 **14. DELIVERY OF POSSESSION:** Seller shall deliver the Property along with any keys, alarm codes, garage door
25 opener/controls and, if freely transferable, parking permits and gate transponders outside of Escrow, upon COE. Seller agrees
26 to vacate the Property and leave the Property in a neat and orderly, broom-clean condition and tender possession no later than
27 COE **-OR-** _____. In the event Seller does not vacate the Property by this time, Seller shall be
28 considered a trespasser and shall be liable to Buyer for the sum of \$ _____ per calendar day in addition to
29 Buyer's legal and equitable remedies. Any personal property left on the Property after the date indicated in this section shall be
30 considered abandoned by Seller.

31
32 **15. RISK OF LOSS:** Risk of loss shall be governed by NRS 113.040. This law provides generally that if all or any
33 material part of the Property is destroyed before transfer of legal title or possession, Seller cannot enforce the Agreement and
34 Buyer is entitled to recover any portion of the sale price paid. If legal title or possession has transferred, risk of loss shall shift
35 to Buyer.

36
37 **16. ASSIGNMENT OF THIS AGREEMENT:** Unless otherwise stated herein, this Agreement is non-assignable by
38 Buyer.

39
40 **17. CANCELLATION OF AGREEMENT:** In the event this Agreement is properly cancelled in accordance with the
41 terms contained herein, then Buyer will be entitled to a refund of the EMD. Neither Buyer nor Seller will be reimbursed for any
42 expenses incurred in conjunction with due diligence, inspections, appraisals or any other matters pertaining to this transaction
43 (unless otherwise provided herein).

44
45 **18. DEFAULT:**

46
47 **A. MEDIATION:** Before any legal action is taken to enforce any term or condition under this Agreement, the
48 parties agree to engage in mediation, a dispute resolution process, through GLVAR. Notwithstanding the foregoing,
49 in the event the Buyer finds it necessary to file a claim for specific performance, this section shall not apply.

50
51 **B. IF SELLER DEFAULTS:** If Seller defaults in performance under this Agreement, Buyer reserves all legal
52 and/or equitable rights (such as specific performance) against Seller, and Buyer may seek to recover Buyer's actual
53 damages incurred by Buyer due to Seller's default.

54
55
56

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIA _____ / _____

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1 C. IF BUYER DEFAULTS: If Buyer defaults in performance under this Agreement, Seller shall have one of the
2 following legal recourses against Buyer (initial one only):
3

4 [] [] As Seller's sole legal recourse, Seller may retain, as liquidated damages, the EMD. In this
5 respect, the Parties agree that Seller's actual damages would be difficult to measure and that the EMD is in fact a
6 reasonable estimate of the damages that Seller would suffer as a result of Buyer's default. Seller understands that any
7 additional deposit not considered part of the EMD in Section 1(B) herein will be immediately released by ESCROW
8 HOLDER to Buyer.

9 -OR-

10 [] [] Seller shall have the right to recover from Buyer all of Seller's actual damages that Seller may
11 suffer as a result of Buyer's default including, but not limited to, commissions due, expenses incurred until the
12 Property is sold to a third party and the difference in the sales price.
13

Instructions to Escrow

14
15 19. ESCROW: If this Agreement or any matter relating hereto shall become the subject of any litigation or controversy,
16 Buyer and Seller agree, jointly and severally, to hold ESCROW HOLDER free and harmless from any loss or expense, except
17 losses or expenses as may arise from ESCROW HOLDER'S negligence or willful misconduct. If conflicting demands are
18 made or notices served upon ESCROW HOLDER with respect to this Agreement, the parties expressly agree that Escrow is
19 entitled to file a suit in interpleader and obtain an order from the Court authorizing ESCROW HOLDER to deposit all such
20 documents and monies with the Court, and obtain an order from the Court requiring the parties to interplead and litigate their
21 several claims and rights among themselves. Upon the entry of an order authorizing such Interpleader, ESCROW HOLDER
22 shall be fully released and discharged from any obligations imposed upon it by this Agreement; and ESCROW HOLDER shall
23 not be liable for the sufficiency or correctness as to form, manner, execution or validity of any instrument deposited with it, nor
24 as to the identity, authority or rights of any person executing such instrument, nor for failure of Buyer or Seller to comply with
25 any of the provisions of any agreement, contract or other instrument filed with ESCROW HOLDER or referred to herein.
26 ESCROW HOLDER'S duties hereunder shall be limited to the safekeeping of all monies, instruments or other documents
27 received by it as ESCROW HOLDER, and for their disposition in accordance with the terms of this Agreement. In the event
28 an action is instituted in connection with this escrow, in which ESCROW HOLDER is named as a party or is otherwise
29 compelled to make an appearance, all costs, expenses, attorney fees, and judgments ESCROW HOLDER may expend or incur
30 in said action, shall be the responsibility of the parties hereto.
31

32 20. UNCLAIMED FUNDS: In the event that funds from this transaction remain in an account, held by ESCROW
33 HOLDER, for such a period of time that they are deemed "abandoned" under the provisions of Chapter 120A of the Nevada
34 Revised Statutes, ESCROW HOLDER is hereby authorized to impose a charge upon the dormant escrow account. Said charge
35 shall be no less than \$5.00 per month and may not exceed the highest rate of charge permitted by statute or regulation.
36 ESCROW HOLDER is further authorized and directed to deduct the charge from the dormant escrow account for as long as the
37 funds are held by ESCROW HOLDER.
38

Brokers

39
40 21. BROKER FEES: Buyer herein requires, and Seller agrees, as a condition of this Agreement, that Seller will pay
41 Listing Broker and Buyer's Broker, who becomes by this clause a third party beneficiary to this Agreement, that certain sum
42 and/or percentage of the Purchase Price (commission), that Seller, or Seller's Broker, offered for the procurement of ready,
43 willing and able Buyer via the Multiple Listing Service, any other advertisement or written offer. Seller understands and
44 agrees that if Seller defaults hereunder, Buyer's Broker, as a third-party beneficiary of this Agreement, has the right to pursue
45 all legal recourse against Seller for any commission due. In addition to any amount due to Buyer's Broker from Seller or
46 Seller's Broker, Buyer will -OR- will not pay Buyer's Broker additional compensation in an amount determined
47 between the Buyer and Buyer's Broker.
48

49 22. WAIVER OF CLAIMS: Buyer and Seller agree that they are not relying upon any representations made by Brokers
50 or Broker's agent. Buyer acknowledges that at COE, the Property will be sold AS-IS, WHERE-IS without any representations
51 or warranties, unless expressly stated herein. Buyer agrees to satisfy himself, as to the condition of the Property, prior to COE.
Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a
particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

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1 Buyer acknowledges that any statements of acreage or square footage by Brokers are simply estimates, and Buyer agrees to
2 make such measurements, as Buyer deems necessary, to ascertain actual acreage or square footage. Buyer waives all claims
3 against Brokers or their agents for (a) defects in the Property; (b) inaccurate estimates of acreage or square footage; (c)
4 environmental waste or hazards on the Property; (d) the fact that the Property may be in a flood zone; (e) the Property's
5 proximity to freeways, airports or other nuisances; (f) the zoning of the Property; (g) tax consequences; or (h) factors related to
6 Buyer's failure to conduct walk-throughs or inspections. Buyer assumes full responsibility for the foregoing and agrees to
7 conduct such tests, walk-throughs, inspections and research, as Buyer deems necessary. In any event, Broker's liability is
8 limited, under any and all circumstances, to the amount of that Broker's commission/fee received in this transaction.
9

Other Matters

10
11 **23. DEFINITIONS:** "Acceptance" means the date that both parties have consented to and received a final, binding
12 contract by affixing their signatures to this Agreement and all counteroffers. "Agent" means a licensee working under a Broker
13 or licensees working under a developer. "Agreement" includes this document as well as all accepted counteroffers and
14 addenda. "Bona Fide" means genuine. "Buyer" means one or more individuals or the entity that intends to purchase the
15 Property. "Broker" means the Nevada licensed real estate broker listed herein representing Seller and/or Buyer (and all real
16 estate agents associated therewith). "Business Day" excludes Saturdays, Sundays, and legal holidays. "Calendar Day" means
17 a calendar day from/to midnight unless otherwise specified. "CFR" means the Code of Federal Regulations. "CIC" means
18 Common Interest Community (formerly known as "HOA" or homeowners associations). "CIC Capital Contribution" means
19 a one-time non-administrative fee, cost or assessment charged by the CIC upon change of ownership. "CIC Transfer Fees"
20 means the administrative service fee charged by a CIC to transfer ownership records. "CLUE" means Comprehensive Loss
21 Underwriting Exchange. "Close of Escrow (COE)" means the time of recordation of the deed in Buyer's name. "Default"
22 means the failure of a Party to observe or perform any of its material obligations under this Agreement. "Delivered" means
23 personally delivered to Parties or respective Agents, transmitted by facsimile machine, electronic means, overnight delivery, or
24 mailed by regular mail. "Down Payment" is the Purchase Price less loan amount(s). "EMD" means Buyer's earnest money
25 deposit. "Escrow Holder" means the neutral party that will handle the escrow. "FHA" is the U.S. Federal Housing
26 Administration. "GLVAR" means the Greater Las Vegas Association of REALTORS®. "Good Funds" means an acceptable
27 form of payment determined by ESCROW HOLDER in accordance with NRS 645A.171. "IRC" means the Internal Revenue
28 Code (tax code). "LID" means Limited Improvement District. "N/A" means not applicable. "NAC" means Nevada
29 Administrative Code. "NRS" means Nevada Revised Statutes as Amended. "Party" or "Parties" means Buyer and Seller.
30 "PITI" means principal, interest, taxes, and hazard insurance. "PMI" means private mortgage insurance. "PST" means
31 Pacific Standard Time, and includes daylight savings time if in effect on the date specified. "PTR" means Preliminary Title
32 Report. "Property" means the real property and any personal property included in the sale as provided herein. "Receipt"
33 means delivery to the party or the party's agent. "Seller" means one or more individuals or the entity that is the owner of the
34 Property. "SID" means Special Improvement District. "Title Company" means the company that will provide title insurance.
35 "USC" is the United States Code. "VA" is the Veterans Administration.
36

37 **24. SIGNATURES, DELIVERY, AND NOTICES:**

38 A. This Agreement may be signed by the parties on more than one copy, which, when taken together, each
39 signed copy shall be read as one complete form. This Agreement (and documents related to any resulting transaction) may be
40 signed by the parties manually or digitally. Facsimile signatures may be accepted as original.
41

42 B. Delivery of all instruments or documents associated with this Agreement shall be delivered to the Agent for
43 Seller or Buyer if represented.
44

45 C. Except as otherwise provided in Section 9, when a Party wishes to provide notice as required in this
46 Agreement, such notice shall be sent regular mail, personal delivery, by facsimile, overnight delivery and/or by email to the
47 Agent for that Party. The notification shall be effective when postmarked, received, faxed, delivery confirmed, and/or read
48 receipt confirmed in the case of email. Any cancellation notice shall be contemporaneously faxed to Escrow.
49

50 **25. IRC 1031 EXCHANGE:** Seller and/or Buyer may make this transaction part of an IRC 1031 exchange. The party
51 electing to make this transaction part of an IRC 1031 exchange will pay all additional expenses associated therewith, at no cost
52 to the other party. The other party agrees to execute any and all documents necessary to effectuate such an exchange.
53

54 **Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.**

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

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1 26. **OTHER ESSENTIAL TERMS:** Time is of the essence. No change, modification or amendment of this Agreement
2 shall be valid or binding unless such change, modification or amendment shall be in writing and signed by each party. This
3 Agreement will be binding upon the heirs, beneficiaries and devisees of the parties hereto. This Agreement is executed and
4 intended to be performed in the State of Nevada, and the laws of that state shall govern its interpretation and effect. The parties
5 agree that the county and state in which the Property is located is the appropriate forum for any action relating to this
6 Agreement. Should any party hereto retain counsel for the purpose of initiating litigation to enforce or prevent the breach of
7 any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing
8 party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by
9 such prevailing party.

10 **THIS IS A LEGALLY BINDING CONTRACT.** All parties are advised to seek independent legal and tax advice to review
11 the terms of this Agreement.
12

13
14 **NO REAL ESTATE BROKER/AGENT MAY SIGN FOR A PARTY TO THIS AGREEMENT UNLESS THE**
15 **BROKER OR AGENT HAS A PROPERLY EXECUTED POWER OF ATTORNEY TO DO SO.**
16

17 **THIS FORM HAS BEEN APPROVED BY THE GREATER LAS VEGAS ASSOCIATION OF REALTORS®**
18 **(GLVAR). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY**
19 **PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO**
20 **ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN**
21 **APPROPRIATE PROFESSIONAL.**
22

23 This form is available for use by the real estate industry. It is not intended to identify the user as a REALTOR®.
24 REALTOR® is a registered collective membership mark which may be used only by members of the NATIONAL
25 ASSOCIATION OF REALTORS® who subscribe to its Code of Ethics.
26

27 27. **ADDENDUM(S) ATTACHED:** _____
28 _____
29 _____

30 28. **ADDITIONAL TERMS:** _____
31 _____
32 _____
33 _____
34 _____
35 _____
36 _____
37 _____
38 _____
39 _____

Earnest Money Receipt

40 BUYER'S AGENT ACKNOWLEDGES RECEIPT FROM BUYER HEREIN of the sum of \$ _____
41 evidenced by Cash, Cashier's Check, Personal Check, or Other _____
42 payable to _____. Upon Acceptance, Earnest Money to be deposited within ONE (1) business
43 day, with Escrow Holder, Buyer's Broker's Trust Account, - **OR** - Seller's Broker's Trust Account.
44

45 Date: _____ Signed: _____ Buyer's Agent: _____
46

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIA _____ / _____

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Buyer's Acknowledgement of Offer

1
2 Upon Acceptance, Buyer agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures, and
3 attachments.

4
5 _____ : _____ AM PM
6 Buyer's Signature _____ Buyer's Printed Name _____ Date _____ Time _____

7
8 _____ : _____ AM PM
9 Buyer's Signature _____ Buyer's Printed Name _____ Date _____ Time _____

10
11 Seller must respond by: _____ AM PM on (month) _____, (day) _____, (year) _____. Unless this
12 Agreement is accepted, rejected or countered below and delivered to the Buyer's Broker before the above date and
13 time, this offer shall lapse and be of no further force and effect.

14
15 Confirmation of Representation: The Buyer is represented in this transaction by:

16
17 Buyer's Broker: _____ Agent's Name: _____
18 Company Name: _____ Agent's Public ID: _____
19 Phone: _____ Office Address: _____
20 Email: _____ City, State, Zip: _____
21 Fax: _____
22

Seller's Response

23
24 ACCEPTANCE: Seller(s) acknowledges that he/she accepts and agrees to be bound by each provision of this Agreement,
25 and all signed addenda, disclosures, and attachments.

26 COUNTER OFFER: Seller accepts the terms of this Agreement subject to the attached Counter Offer #1.

27 REJECTION: In accordance with NAC 645.632, Seller hereby informs Buyer the offer presented herein is not accepted.

28
29 FIRPTA DECLARATION: Pursuant to Section 5.E. herein, Seller declares that he/she
30 is not -OR-
31 is a foreign person therefore subjecting this transaction to FIRPTA withholding.

32
33
34 _____ : _____ AM PM
35 Seller's Signature _____ Seller's Printed Name _____ Date _____ Time _____

36
37
38 _____ : _____ AM PM
39 Seller's Signature _____ Seller's Printed Name _____ Date _____ Time _____

40
41 Confirmation of Representation: The Seller is represented in this transaction by:

42
43 Seller's Broker: _____ Agent's Name: _____
44 Company Name: _____ Office Address: _____
45 Phone: _____ City, State, Zip: _____
46 Email: _____ Fax: _____
47

48 LICENSEE DISCLOSURE OF INTEREST (SELLER): Pursuant to NRS 645.252(1)(c), a real estate licensee must
49 disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. _____
50 _____ is a licensed real estate agent in the State(s) of _____, and has the following interest,
51 direct or indirect, in this transaction: Principal (Seller) -OR- family or firm relationship with Seller or ownership interest
52 in Seller (if Seller is an entity): (specify relationship) _____.

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIA _____ / _____

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RESIDENTIAL PURCHASE TIMELINE AND CHECKLIST

Client	Property Address	Close of Escrow	
Day	Due Date	Event or Document	Completed Date
0		Residential Purchase Agreement (including any counteroffers) signed by all parties ("Acceptance").	
1 Business		Opening of Escrow and deposit Earnest Money Deposit. RPA, Section 5A, NAC 645.657	
2 Business		Seller will turn on necessary utilities. RPA, Section 7C <i>-AND-</i> Deadline for Seller to request the CIC documents that are required in NRS 116.4109 (resale package). RPA, Section 9	
Business		Buyer to submit a completed loan application, authorize ordering an appraisal and furnish a pre-approval letter to Seller. RPA, Section 2A	
Business		(Cash transaction) Buyer to provide written evidence from a bona fide financial institution of sufficient cash available to complete this purchase. RPA, Section 2B	
5 Calendar		Deadline for Seller to provide the disclosures requested by Buyer. RPA, Section 10	
Calendar		Deadline for Buyer to complete due diligence. (This date may be extended due to Seller not turning on utilities and/or Seller's time to respond to requests for repairs.) RPA, Section 12A	
10 Business		Within 10 business days of Opening of Escrow, Title Company shall provide Buyer with a Preliminary Title Report to review. RPA, Section 12C	
Calendar		CIC has 10 calendar days from receipt of Seller's request to provide resale package to Seller. NRS 116.4109(3)	
Calendar		Buyer may cancel this agreement without penalty until midnight of the 5th calendar day following the date of receipt of the resale package. NRS 116.4109(2), RPA, Section 9	
15 Calendar		If the Buyer does not receive the resale package within 15 calendar days of Seller's acceptance, the purchase agreement may be canceled. RPA, Section 9	
15 Business		The preliminary title report (PTR) must be accepted or rejected by the Buyer within 5 business days of the receipt thereof. If the Buyer makes any objections to the PTR, the Seller has 5 business days to correct or address the objection. RPA, Section 12C	
Calendar		Buyer is entitled to a walk-through of the Property. RPA, Section 13	
		Close of Escrow RPA, Section 5C	
		Possession (COE or date specified in RPA). RPA, Section 14	

DUTIES OWED BY A
NEVADA LICENSEE

IMPACT FEES

SOIL REPORT

COMMON-INTEREST
COMMUNITIES

LIEN FOR DEFERRED
TAXES

OPEN RANGE

SELLER'S REAL PROPERTY
DISCLOSURE

USED MOBILE HOMES

RESIDENTIAL POOL SAFETY
AND DROWNING PREVENTION

ENVIRONMENTAL HAZARDS

SEWER AND WATER
RATES

Nevada Real Estate Division

RESIDENTIAL DISCLOSURE GUIDE

*A few things you need to know
before buying or selling a home
in Nevada.*

Revised
November
2011



State of Nevada
Department of Business & Industry
Real Estate Division

Nevada Real Estate Division

RESIDENTIAL DISCLOSURE GUIDE



State of Nevada
Department of Business & Industry
Real Estate Division

I/We acknowledge that I/we have received a copy of the Residential Disclosure Guide.

DATE _____

Client — Print Name

Client — Signature

Client — Print Name

Client — Signature

Make copy of page for additional signatures.

Retain original or copy in each transaction file.

Introduction

The Department of Business and Industry—Nevada Real Estate Division has developed this booklet to increase consumer awareness and understanding of disclosures that may be required by a buyer or seller during the sale or purchase of a residential property in the State of Nevada.

In almost every real estate transaction, some form of written disclosure is required. For example, real estate licensees must disclose if they are related to a party in the transaction or affiliated with the lender involved in approving the loan for that particular transaction. Sellers, for instance, are responsible for disclosing material facts, data and other information relating to the property they are attempting to sell. And buyers, in some cases, must disclose if they are choosing to waive their 10-day opportunity to conduct a risk assessment of lead hazards.

These are only a few examples of what must be disclosed during a real estate transaction. While it is impossible to outline which disclosures are needed in every situation (as each real estate transaction is unique), this booklet contains discussions on the most commonly required state, federal and local disclosures.

References to real estate licensees and the sale of residential properties in this booklet apply only to the state of Nevada. This guide, however, does not specifically address vacant land or commercial properties.

We hope that you will find this booklet helpful and that it becomes a valuable resource during your real estate transaction. For more information, please visit our website at www.red.state.nv.us.

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Common-Interest Communities and Condominium Hotels

⇒ Purpose of Disclosure

The purpose of the information statement required when purchasing a home or unit in a common-interest community or a condominium hotel to make the buyer aware of all rights, obligations and other aspects related to owning a unit within a common-interest community (also known as a homeowner's association) or a condominium hotel.

⇒ Who must provide the disclosure?

The seller must, at seller's expense, provide an information statement with the sale of any unit belonging to a common-interest community or condominium hotel. The statement is entitled "BEFORE YOU PURCHASE PROPERTY IN A [COMMON- INTEREST COMMUNITY] [CONDOMINIUM HOTEL] DID YOU KNOW..."

⇒ When is it due?

The statement must be delivered to the buyer not later than the date the offer becomes binding on the purchaser.

⇒ Additional Information

Public Offering Statement

If the property is a new unit in a common-interest community or a condominium hotel, or if the community is subject to any developmental rights, or contains converted buildings or contains units which may be in a time share, or is registered with the Securities and Exchange Commission, the buyer must also be provided with a **Public Offering Statement** disclosing applicable information, including:

- development rights of contractors
- construction schedule
- description of proposed improvements
- mechanical & electrical installations
- initial or special fees
- number & identity of units in timeshare

Common-Interest Communities and Condominium Hotels

Unless the buyer has personally inspected the unit, the buyer may cancel the contract to purchase, by written notice, until midnight of the fifth calendar day following the date of execution of the contract. This provision must be stated in the contract.

Resale Package

In addition to the information statement, the seller must provide the prospective buyer with a resale package which includes the following: declarations, bylaws, rules and regulations, monthly assessments, unpaid assessments of any kind, current operating budget, financial statement, reserve summary, unsatisfied judgments, status of any pending legal actions.

Transfer Fees

Does not pertain to Condominium Hotels

The resale package for a home or unit in a common-interest community must also include a statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

Unpaid Obligations

Does not pertain to Condominium Hotels

The resale package for a home or unit in a common-interest community must also include a statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligations that are due from the selling unit's owner, including management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fee.

(Continued on next page...)

State 5

Common-Interest Communities and Condominium Hotels

(Continued from previous page...)

The statement of unpaid obligations will be effective for 15 working days from the date of delivery to the seller or seller's agent. If the association becomes aware of an error in the statement while it is effective and before close of escrow, it must deliver a replacement statement to, and obtain a written acknowledgment of receipt from, the seller or seller's agent. If a replacement statement is not timely provided, seller may rely on the accuracy of the statement provided.

Delivery of Resale Package

Pertains to Common-Interest Communities and Condominium Hotels

The resale package must be delivered as soon as practicable or before conveyance of the unit. Unless the buyer has accepted conveyance of the unit, the buyer may cancel the contract to purchase, by written notice, until midnight of the fifth calendar day following receipt of the resale package. This provision must be stated in the contract.

For more information:

NRS 116 governs Common-Interest Communities;
NRS 118B governs Condominium Hotels

Form: Before-You-Buy-Resale-Property-in-a-Common-Interest-Community-Did-You-Know... or Before-You-Buy-Resale-Property-in-a-Common-Interest-Community-Did-You-Know...

Website: <http://red.state.nv.us/forms/584.pdf> or <http://red.state.nv.us/forms/584a.pdf>

NRS: 116.4101 — 116.4109S; Sec. 1, SB 403 (2011 Legislative Session); 1166.740-1166.765

6 State

Consent to Act

⇒ Purpose of Disclosure

The purpose of the Consent to Act form is for the licensee to obtain the written consent to act for more than one party in a transaction.

⇒ Who must provide the disclosure?

The licensee must provide this form to all parties in the transaction if he seeks to act for more than one party.

⇒ When is it due?

If a licensee makes such a disclosure, the consent must be obtained from all parties before the licensee may continue to act in his capacity as an agent.

⇒ Additional Information

The written consent must include:

1. A description of the real estate transaction;
2. A statement that the licensee is acting for two or more parties to the transaction and that, in acting for these parties, the licensee has a conflict of interest;
3. A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of the brokerage agreement unless he is required to do so per court order or he is given written permission by that party;
4. A statement that a party is not required to consent to the licensee acting on his behalf;
5. A statement that the party is giving his consent without coercion and understands the terms of the consent given.

For more information:

Form: Consent to Act

Website: <http://red.state.nv.us/forms524.pdf>

NRS: 645.252-254

State 7

Construction Defects

⇒ Purpose of Disclosure

The purpose of disclosures relating to construction defects is to make the buyer aware of any construction defects in the property.

⇒ Who must provide the disclosure?

If there is a construction defect, the contractor must disclose the information in understandable language that is underlined and in bold-faced type with capital letters. If the property is or has been the subject of a construction defect claim or lawsuit, the seller must provide the following information to the buyer:

- copies of all notices given to contractor
- expert opinions obtained by claimant
- terms of settlement or order of judgment
- detailed report of all repairs

⇒ When is it due?

Construction defects must be disclosed to the buyer before purchase of the residence. If the property is or has been the subject of a defect claim or lawsuit, the information must be disclosed 30 days before close of escrow, or if escrow is less than 30 days, then immediately upon signing the sales agreement. If a claim is made while in escrow, the disclosure must be made within 24 hours of notice of complaint.

⇒ Additional Information

If the property is located within a common-interest community and is the subject of a defect claim or lawsuit, this information must be disclosed in the buyer's resale package (see Common-Interest Communities).

For more information:

NRS: 40.640, 40.668

State 8

**Duties Owed By a
Nevada Real Estate Licensee**

- ⇒ Purpose of Disclosure
The purpose of the Duties Owed form is to make the buyer or seller aware of obligations owed by a real estate licensee to all parties involved in the transaction.
- ⇒ Who must provide the disclosure?
A licensee who acts as an agent in a real estate transaction must disclose to each party for whom the licensee is acting as an agent and any unrepresented party all duties owed to the parties and the licensee's relationship as an agent to each party in the transaction.
- ⇒ When is it due?
The disclosure form must be presented to the client before any documents are signed by the client.
- ⇒ Additional Information

A Nevada licensee who has entered into a brokerage agreement to represent a client in a real estate transaction shall:

1. Exercise reasonable skill and care to carry out the terms of the brokerage agreement and the licensee's duties in the brokerage agreement.
2. Not disclose, except to the licensee's broker, confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless licensee is required to do so by court order or the client gives written permission.
3. Seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client.
4. Present all offers made to or by the client as soon as practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;

(Continued on next page...)

**Duties Owed By a
Nevada Real Estate Licensee**

- (Continued from previous page...)
5. Disclose to the client material facts of which the licensee has knowledge concerning the real estate transaction;
 6. Advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and
 7. Account to the client for all money and property the licensee receives in which the client may have an interest.

**Waiver of Duty to Present All Offers
Authorization to Negotiate Directly with Seller**

A client may choose to waive the broker's duty to present all offers by signing a waiver on a form, the "Waiver Form," prescribed by the Division. Concurrent with the option of a client to waive the duty of his/her broker to present all offers is the form "Authorization to Negotiate Directly with Seller," which gives permission in writing to authorize a licensee to negotiate a sale or lease directly with a seller. Both forms must be utilized and signed by a client who waives the duty to present all offers. Otherwise, a licensee for a buyer does not have the permission of the seller's broker to present offers or negotiate with the sellers directly.

For more information:
Form: Duties Owed By a Nevada Real Estate Licensee.
NRS: 645.183, 645.252-645.254

Impact Fees

- ⇒ **Purpose of Disclosure**
The seller of any property must give notice of any impact fees that may be imposed upon the buyer. An impact fee is a charge imposed by a local government on new development (i.e., the construction, reconstruction, redevelopment, conversion, alteration, relocation or enlargement of any structure which increases the number of service units) to finance some of the costs attributable to the new development.
- ⇒ **Who must provide the disclosure?**
A seller who has knowledge of the impact fee must give written notice to the buyer, including the amount of the impact fee and the name of the local government imposing the fee.
- ⇒ **When is it due?**
The notice must be provided to the buyer before the property is conveyed.
- ⇒ **Additional Information**
If the seller fails to give this notice, the seller is liable to the buyer for the amount of the impact fee.

For more information:
NRS: 279E.320

State 11

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Untitled

Lien for Deferred Taxes

- ⇒ **Purpose of Disclosure**
If there are deferred taxes that have not been paid at the time the property is sold or transferred, the buyer must be notified in writing that there is a lien for deferred taxes on the property.
- ⇒ **Who must provide the disclosure?**
The seller must notify the buyer of the lien.
- ⇒ **When is it due?**
The lien must be disclosed at the time the property is sold or transferred.
- ⇒ **Additional Information**
The owner of the property on the date the deferred taxes become due is liable for the deferred taxes.

For more information:
NRS: 381A.290

State 12

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Untitled

Manufactured Housing — Used Manufactured/Mobile Homes

⇒ Purpose of Disclosure

The purpose of the Used Manufactured/Mobile Home disclosure is to make the buyer aware that a used manufactured or mobile home that has not been converted to real property is personal property and subject to personal property taxes.

⇒ Who must provide the disclosure?

The real estate licensee shall provide the form to the purchaser as soon as practicable, but before title is transferred.

⇒ Additional Information

This disclosure also informs the purchaser that title will not pass unless the county assessor's endorsement is placed on the face of the title, verifying that taxes have been paid in full. The disclosure also instructs the consumer to submit certain documents to Nevada's Manufactured Housing Division and the county assessor within 45 days after the sale is complete and before a certificate of ownership will be issued.

For more information:

Form: Used Manufactured/Mobile Home Disclosure

Website: Manufactured Housing Division

NRS: 645.268, 489.521, 489.531, 489.541

State 13

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Untitled

Manufactured Housing — Manufactured Home Parks

⇒ Purpose of Disclosure

The purpose of the disclosure relating to placing or buying a manufactured or mobile home in a manufactured home park is to make the buyer aware that he may be subject to approval by the landlord of the manufactured home park if the manufactured or mobile home will remain in the park.

⇒ Who must provide the disclosure?

If the landlord requires approval of a prospective buyer and tenant, the landlord must post a sign which is clearly readable at the entrance of the park which advises consumers that before a manufactured home in the park is sold, the buyer and tenant must be approved by the landlord.

⇒ Additional Information

If the property will remain in the manufactured home park, make sure you have a lease agreement with the park manager and that you know the park's rules and regulations.

Remember: the seller or a manufactured home dealer cannot promise that you'll be accepted as a tenant in a particular manufactured home park. You must apply for the lease yourself and should do so before finalizing the purchase of your home. The landlord must approve or deny a completed application from a prospective buyer and tenant within 10 days after the date the application is submitted.

For more information:

Website: Manufactured Housing Division—[Placing or Buying Your Home in a Rental Community](#)

NRS: 118B.170

14 State

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Untitled

Open Range Disclosure

⇒ Purpose of Disclosure

The purpose of the Open Range Disclosure is to inform the prospective buyer of a home or an improved or unimproved lot adjacent to open range that livestock are permitted to graze or roam on the property. Open range means all unenclosed land outside of cities and towns upon which cattle, sheep or other domestic animals by custom, license, lease or permit are grazed or permitted to roam. It also serves to inform the prospective buyer that the parcel may be subject to county or State claims of right-of-way, (commonly referred to as R.S. 2477 rights-of-way) including rights-of-way that may be unrecorded, undocumented or unsurveyed, and used by miners, ranchers, hunters or others, for access or recreational use, in a manner which interferes with the use and enjoyment of the parcel.

⇒ Who must provide the disclosure?

A seller must disclose, in writing, to a potential buyer of property adjacent to open range, that livestock grazing on the open range are permitted to enter the property; and that the parcel may be subject to county or State claims of right-of-way.

⇒ When is it due?

The disclosure must be provided to the potential buyer, with the requirement that the buyer sign the disclosure form acknowledging the date of receipt of the original disclosure document, before the sales agreement is signed.

⇒ Additional Information

The disclosure acknowledges fencing the property to keep livestock out and recognizes the property owner's entitlement to damages if livestock enter a fenced property

(Continued on next page...)

State 15

Open Range Disclosure

(Continued from previous page...)

but warns against harming roaming livestock even on a fenced property.

The law requires that the seller retain a copy of the disclosure document that has been signed by the buyer acknowledging the date of receipt of the document, provide a copy to the buyer, and record the original disclosure document containing the buyer's signature and the seller's notarized signature in the office of the county recorder in the county where the property is located.

For more information:

Form: Open Range Disclosure Form 551

NRS: 113.065.568.355

Real Estate Division Position Statement, dated July 1, 2010

16 State

Private Transfer Fee Obligation

⇒ Purpose of Disclosure

The purpose of the disclosure is to make the buyer aware that the property is subject to a Private Transfer Fee Obligation (PTFO) which will require the buyer, upon conveyance of the property by the seller, to pay either a one-time fixed amount or a one-time percentage of the purchase price to a third party payee.

⇒ Who Must Provide the Disclosure?

The seller of a property that is subject to a PTFO must provide the disclosure as a written statement that discloses the existence of and describes the PTFO, and includes language substantially similar to the legislatively-prescribed notice informing the buyer that the PTFO may lower the value of the property and that the laws of this State prohibit the enforcement of certain PTFOs created on or after May 20, 2011.

⇒ When is it due?

The disclosure must be provided to the potential buyer before the conveyance of the property.

⇒ Additional Information

The notice regarding the existence of a PTFO in the seller's disclosure must be in substantially the following form:

A private transfer fee obligation has been created with respect to this property. The private transfer fee obligation may lower the value of this property. The laws of this State prohibit the enforcement of certain private transfer fee obligations that are created on or after May 20, 2011 and impose certain notice requirements with respect to private transfer fee obligations that were created before May 20, 2011.

For more information:

Sec. 14, AB 271 (2011 Legislative Session)

State 17

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Untitled

Seller Real Property Disclosure

⇒ Purpose of Disclosure

The purpose of the Seller's Real Property Disclosure form is to make the buyer aware of the overall condition of the property before it is transferred. This disclosure is not a guarantee nor does it take the place of an inspection. In some cases a Seller has never lived on the property and may have no knowledge of the condition of the property. The Buyer is advised to obtain an independent inspection performed by a properly licensed home inspector. This form is not required for new home sales.

⇒ Who must provide the disclosure?

The Seller must complete the "Seller's Real Property Disclosure" form, detailing the condition of the property, known defects, and any other aspects of the property which may affect its use or value. A real estate licensee, unless he is the Seller of the property, may not complete this form.

The form must be fully and properly completed. If the Seller has no knowledge, "no" is an appropriate answer to the "Are you aware ..." questions. Each question must be answered with a mark in the corresponding "yes", "no" or "n/a" box. Explanations of any "yes" answers, and a properly executed signature by the Seller, are also required. The Buyer may only sign the form after full and proper completion by the Seller.

A Buyer may rescind the contract without penalty if he does not receive a fully and properly completed Seller's Real Property Disclosure form. If a Buyer closes a transaction without a completed form or if a known defect is not disclosed to a Buyer, the Buyer may be entitled to treble damages, unless the Buyer waives his rights under NRS 113.150(6).

⇒ When is it due?

The disclosure must be delivered to the buyer at least 10 days prior to conveyance of the property.

18 State

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Untitled

Seller Real Property Disclosure

⇒ Additional Information

The content of the disclosure is based on what the seller is aware of at the time. If, after completion of the disclosure form, the seller discovers a new defect or notices that a previously disclosed condition has worsened, the seller must inform the purchaser, in writing, as soon as practicable after discovery of the condition, or before conveyance of the property.

The buyer may not waive, and the seller may not require a buyer to waive, any of the requirements of the disclosure as a condition of sale or for any other purpose. In a sale or intended sale by foreclosure, the trustee and the beneficiary of the deed of trust shall provide, not later than the conveyance of the property to, or upon request from, the buyer:

- written notice of any defects of which the trustee or beneficiary is aware; and
- the contact information of any asset management company who provided asset management services, if any defects are repaired or replaced or attempted to be repaired or replaced. The asset management company shall provide a service report to the purchaser upon request.

If a Seller requests a Buyer to waive his rights or legal remedies under NRS 113.150 or otherwise, the Buyer should contact an attorney for advice regarding the legal consequences. A real estate licensee cannot explain the legal consequences of waiving a Buyer's legal rights or remedies.

For more information:

Form: Seller's Real Property Disclosure

NRS: 113.130, 113.140; 113.150;
Sec. 34, 58, 214, 2011 Legislative Session.

State 19

Water & Sewer Rates

⇒ Purpose of Disclosure

The purpose of the disclosure relating to water and sewer rates is to inform the buyer of a previously unsold home or improved lot of public utility rates when service is for more than 25 but fewer than 2,000 customers.

⇒ Who must provide the disclosure?

The seller must post a notice, which shows the current or projected rates, in a conspicuous place on the property.

⇒ When is it due?

The notice must be posted and a copy provided to the buyer before the home is sold.

⇒ Additional Information

The notice must contain the name, address and telephone number of the public utility and the Division of Consumer Complaint Resolution of the Public Utilities Commission of Nevada.

For more information:

NRS: 113.060

20 State

Lead-Based Paint

- ⇒ **Purpose of Disclosure**
The purpose of the lead-based paint disclosure is to make the buyer aware that the residential property (if built prior to 1978) may present exposure to lead.
- ⇒ **Who must provide the disclosure?**
Federal law requires that the seller disclose any known presence of lead-based paint hazards and provide the buyer with the EPA disclosure booklet, "Protect Your Family From Lead in Your Home," along with any other available records and/or reports.
- ⇒ **When is it due?**
The disclosure is on a federally prescribed form and must be made as a condition of the sale before conveyance of the property.
- ⇒ **Additional Information**
On the disclosure form, the buyer must acknowledge receipt of the EPA disclosure booklet and copies of lead reports, if available. Additionally, the buyer will receive a 10-day opportunity to conduct a risk assessment or may choose to waive this opportunity.

For more information:

Form: Disclosure of Information on Lead-Based Paint
Website: Environmental Protection Agency (Lead)
Phone: National Lead Information Center 1-800-424-LEAD

21 Federal

Pool Safety and Drowning Prevention Disclosure

- ⇒ **Purpose of Disclosure**
The purpose of the Southern Nevada Health District's pool safety and drowning prevention disclosure is to make the buyer aware of the risk of death by drowning in private and public pools particularly for children 4 years or younger.
- ⇒ **Who must provide the disclosure?**
The information is provided by the Nevada Real Estate Division (NRED) in agreement with the Southern Nevada Health District (SNHD) to promote SNHD's efforts to inform the public on drowning prevention.
- ⇒ **When is it due?**
The disclosure will be provided to the buyer before the sales agreement is signed by way of the Residential Disclosure Guide in which it is contained. The buyer is advised to visit SNHD's website <http://www.southernnevadahdhealthdistrict.org/health-topics/drowning-prevention.php> for information.
- ⇒ **Additional Information**
Drowning is the leading cause of unintentional injury death in Clark County for children four years of age and under. The majority of drowning deaths occur in the family pool. Preventable mistakes include leaving a child unattended near a body of water in which a child's nose and mouth can be submerged.
- More information on drowning facts, preventable mistakes, how to be prepared to prevent a drowning, pool security, drowning statistics, adult supervision and more can be obtained at SNHD's website at <http://www.southernnevadahdhealthdistrict.org/health-topics/drowning-prevention.php> and <http://www.gethealthyclarkcounty.org/be-safe/index.php>.

Website: <http://www.southernnevadahdhealthdistrict.org/health-topics/drowning-prevention.htm>

22 Local/Miscellaneous

Miscellaneous Disclosures

Depending upon the transaction, the following disclosures may also be required from a buyer, seller or licensee:

- ⇒ **AIRPORT NOISE**
Buyers should investigate the impact of airport flight paths and the noise levels at different times of the day over that property.
- ⇒ **BUILDING & ZONING CODES**
The purpose of the building and zoning disclosure is to inform the buyer of transportation beltways and/or planned or anticipated land use within proximity of the subject property of which the seller has knowledge.

For more information on building and zoning codes, contact your local jurisdiction.

⇒ ENVIRONMENTAL HAZARDS

Although the seller is required to disclose the presence of environmental hazards, a statement that the seller is not aware of a defect or hazard does not mean that it does not exist. It is the buyer's responsibility to be informed and take additional steps to further investigate. Some potential hazards that may be found in Nevada include:

- Radon (www.epa.gov/radon)
 - Floods (<http://www.floodsmart.gov>)
 - Methamphetamine Labs (NRS 40.770 & 489.776)
 - Wood-Burning Devices (<http://www.epa.gov/air/raab/cambast.html>)
 - Underground Storage Tanks (<http://www.epa.gov/ubt/ubt.aspx>)
<http://www.epa.gov/ubt/ubt.aspx>
 - Well & Septic Systems (<http://www.epa.gov/ubt/ubt.aspx>)
<http://www.epa.gov/ubt/ubt.aspx>
 - Contaminated Soils (<http://www.epa.gov/ubt/ubt.aspx>)
<http://www.epa.gov/ubt/ubt.aspx>
 - Groundwater (www.epa.gov/safewater/protect/c/ground.html)
 - Public Pools & Spas (<http://www.poolsite.com/vab.html>)
- For more information on environmental hazards, visit: www.epa.gov.

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Miscellaneous Disclosures

- ⇒ **GAMING (Initial Purchaser in New Construction Only)**
If there is a gaming district near the property, the seller must disclose information which includes a copy of the most recent gaming enterprise district map, the location of the nearest gaming enterprise district, and notice that the map is subject to change. This disclosure is required for Nevada counties with population over 400,000.

The information must be provided at least 24 hours before the seller signs the sales agreement. The buyer may waive the 24-hour period.

The seller must retain a copy of the disclosure.

For more information on gaming, see: NRS.113.080

⇒ HOME INSPECTIONS

When obtaining an FHA-insured loan, this disclosure informs the buyer about the limits of the Federal Housing Administration appraisal inspection and suggests the buyer obtain a home inspection to evaluate the physical condition of the property prior to purchase.

The form is entitled, "For Your Protection: Get a Home Inspection."

For more information on FHA home inspections, visit: www.fha.gov.

⇒ MILITARY ACTIVITIES

The purpose of the Military Activities Disclosure is to make the purchaser of residential property aware of planned or anticipated military activity within the proximity of the property. Counties in which the military files Military Activities Plans include Clark County, Washoe County, Churchill County and Mineral County.

For more information on military activities plans in these counties, contact the local municipal jurisdiction or the Public Information Officer of the Military Installation in your county.

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Miscellaneous Disclosures

⇒ LICENSEE DISCLOSURES

In addition to the "Consent to Act" and the "Duties Owed by a Nevada Real Estate Licensee" forms (see pages 7 & 9), a real estate licensee is required to disclose other information such as his relationship to one or more parties in the transaction and/or having a personal interest in the property.

For more information regarding duties and disclosures owed by a licensee, see: *NRS 645.252-645.254*, *MAC 645.637*, and *MAC 645.649*.

⇒ ROAD MAINTENANCE DISTRICT

The sale of residential property within a road maintenance district is prohibited unless the seller provides notice to the purchaser, including the amount of assessments for the last two years.

For more information, see: *NRS 320.130*.

⇒ SOIL REPORT (New Construction Only)

If the property has not been occupied by the buyer more than 120 days before completion, the seller must give notice of any soil report prepared for the property or for the subdivision in which the property is located.

The seller must provide such notice upon signing the sales agreement.

Upon receiving the notice, the buyer must submit a written request within 5 days for a copy of the actual report. The seller must provide a true report to the buyer within 5 days of receiving such request.

Upon receiving the soil report, the buyer has 20 days to rescind the sales agreement. This rescission right may be waived, in writing, by the buyer.

For more information, see: *NRS 113.135*.

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Contact Information

<p>Nevada Real Estate Division (LV) 2501 East Sahara, Suite 101 Las Vegas, NV 89104 Phone: (702) 466-4033 Fax: (702) 466-4275 Email: realres@nd.state.nv.us Website: www.nd.state.nv.us</p>	<p>Nevada Real Estate Division (CC) 1179 Fairview Drive, Suite E Carson City, NV 89701 Phone: (775) 687-4280 Fax: (775) 687-4688 Email: realres@nd.state.nv.us Website: www.nd.state.nv.us</p>
<p>Manufactured Housing Division (LV) 2501 East Sahara, Suite 204 Las Vegas, NV 89104 Phone: (702) 466-4135 Fax: (702) 466-4369 Email: nmhd@nd.state.nv.us Website: http://nmhd.state.nv.us</p>	<p>Manufactured Housing Division (CC) 788 Fairview Drive, Suite 100 Carson City, NV 89701 Phone: (775) 887-5500 Fax: (775) 887-3521 Email: nmhd@nd.state.nv.us Website: http://nmhd.state.nv.us</p>
<p>Ombudsman Office (Common-Interest Communities) 2501 East Sahara, Suite 202 Las Vegas, NV 89104 Phone: (702) 466-4480 Toll Free: (877) 529-9907 Fax: (702) 466-5137 Email: COOmbudsman@nd.state.nv.us Website: http://nd.state.nv.us/odcc.htm</p>	<p>U.S. Environmental Protection Agency Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, DC 20460 Phone: (202) 272-0167 Website: www.epa.gov</p>
<p>National Lead Information Center 8601 Georgia Avenue, Suite 503 Silver Spring, MD 20910 Phone: (800) 424-LEAD Fax: (301) 565-7976 Email: hotline.lead@epa.gov Website: www.epa.gov/lead</p>	<p>Department of Health and Human Services – Center for Disease Control & Prevention 1600 Clifton Road Atlanta, GA 30333 Phone: (404) 638-3311 Public Inquiries: (800) 311-3435 Website: www.cdc.gov</p>
<p>U.S. Consumer Product Safety Commission 4330 East River Highway Bethesda, MD 20814 Phone: (301) 504-2923 Fax: (301) 504-0124 Website: www.cpsc.gov</p>	

**SHORT SALE ADDENDUM
TO PURCHASE AGREEMENT**
(and Joint Escrow Instructions)



1 In reference to the Purchase Agreement submitted herewith by _____ as
2 Buyer(s) dated _____ covering the real property at
3 _____,
4 the Buyer hereby proposes that the Purchase Agreement be amended as follows:
5

6 **1. Contingent on Existing Lender Approval.** Buyer and Seller acknowledge that the Purchase
7 Price is less than the amount of Seller's existing loan(s) against the Property due and owing to one or
8 more lender(s) and/or lienholder(s) (collectively, "Lender"). Such a transaction is called a "short sale."
9 Therefore, the Purchase Agreement is contingent upon Seller and/or Seller's Agent obtaining approval
10 from Lender ("Lender Approval") to accept an amount less than what is owed on the Property to release
11 Lender's lien on the Property (subject to parties' approval; see Section 3 below). **SELLER**
12 **UNDERSTANDS AND ACKNOWLEDGES THAT LENDER APPROVAL MAY BE**
13 **CONDITIONED UPON ANY OR ALL OF THE FOLLOWING: (A) MAKING A CASH**
14 **PAYMENT; (B) SIGNING A NEW PROMISSORY NOTE; (C) CONTINUING TO OWE THE**
15 **LENDER THE UNPAID PORTION OF THE LOAN(S); AND (D) OTHER REQUIREMENTS**
16 **MADE BY LENDER.** Seller shall reasonably cooperate with Lender in the short sale process by
17 providing such documentation as may be required by Lender. **BUYER AND SELLER**
18 **UNDERSTAND THAT LENDER APPROVAL MAY TAKE SEVERAL MONTHS TO OBTAIN,**
19 **AND NEITHER THE SELLER, THE ESCROW HOLDER NOR THE BROKERS CAN**
20 **GUARANTEE THE TIMELINESS OF LENDER'S REVIEW, APPROVAL OR REJECTION.**
21 **Buyer Initials [] [] Seller Initials [] []**

22 **2. Notice of Lender Approval.** Seller agrees to provide Buyer with written notice of Lender
23 Approval within two (2) business days of Seller's receipt of the approval. Seller may use the "Lender
24 Short Sale Approval Addendum" to facilitate this notice. (For clarification, this is not intended to
25 encompass or delay transmission of any subsequent Lender Approval which may be issued to grant an
26 extension at the end of the transaction pursuant to Section 5 herein.)
27
28

29 **3. No Guarantee of Lender Approval.** Buyer and Seller understand that no Lender is required or
30 obligated to accept a short sale, and that Lender Approval may be revoked at any time prior to COE. In
31 addition, the Parties understand that Lender may require that in exchange for approval some terms of the
32 Purchase Agreement be amended. Neither Buyer nor Seller is obligated to agree to any of Lender's
33 proposed terms; either Party may, in its sole discretion, reject the amended terms required by Lender. In
34 such event, the Purchase Agreement shall be void and the Parties agree to execute cancellation
35 instructions with ESCROW HOLDER and return EMD to Buyer. **NEITHER THE BUYER, THE**
36 **SELLER, THE ESCROW HOLDER NOR THE BROKERS IN THIS TRANSACTION HAVE**
37 **ANY CONTROL OVER LENDER APPROVAL, OR ANY ACT, OMISSION OR DECISION BY**
38 **ANY LENDER IN THE SHORT SALE PROCESS.**
39

40 **4. Time Periods.** Opening escrow and depositing earnest money shall occur as stated in the
41 Purchase Agreement. The time periods specified in the Purchase Agreement for due diligence,
42 disclosures, inspections and other contingencies shall begin (check one):
43 as stated in the Purchase Agreement;
44 one (1) calendar day after the Parties' mutual written approval of the Lender Approval; **—OR—**
45 Other _____

Buyer Initials: [] [] Page 1 of 3 Seller Initials: [] []

Short Sale Addendum to Purchase Agreement Rev. 2/13 © 2013 Greater Las Vegas Assoc LTORS®

1 **5. Close of Escrow.** Buyer and Seller understand that Lender Approval will include an expiration
2 date by which Close of Escrow ("COE") must occur. A typical Lender Approval is valid for 30 days.
3 The Parties agree to use best efforts to meet the Lender's COE deadline and understand that any
4 extension(s) must be by mutual written agreement and Lender's consent. Buyer understands that Lender
5 may impose additional requirements, such as per diem funds to be paid by Buyer, as additional
6 consideration for any extension(s).

7
8 **6. Other Offers.** Buyer and Seller acknowledge that the Seller's Agent is required by the Multiple
9 Listing Service to place the property in "Contingent" status after the Purchase Agreement is executed,
10 while the transaction is subject to Lender Approval. The Parties understand that additional offers may be
11 received by the Seller's Agent, which must be presented to the Seller pursuant to Nevada law. Seller
12 may choose to accept such subsequent offers as back-up offers.

13
14 **7. Buyer's Right to Cancel.** Buyer may cancel the Purchase Agreement for any reason and without
15 penalty any time after 45 60 90 _____ days from Acceptance if Lender Approval has not
16 been received. Upon receipt of Buyer's written cancellation and demand for return of EMD, ESCROW
17 HOLDER is instructed to cancel escrow and return EMD to Buyer without any further instruction from
18 the Parties.

19
20 **8. Foreclosure and Other Property Issues.** Buyer is aware that issues regarding the Seller's status in
21 the property may arise at any time, including foreclosure and bankruptcy, which may adversely affect this
22 Agreement. **Seller agrees to provide Buyer with the Supplemental Property Disclosure within five (5)**
23 **days of Acceptance.** Buyer and Seller understand that if COE does not occur before a foreclosure sale of
24 the Property, the Purchase Agreement shall be void and escrow shall be cancelled. In such event,
25 ESCROW HOLDER is instructed to return EMD to Buyer without any further instruction from the
26 Parties. The Parties agree to forever release and relieve ESCROW HOLDER from any and all
27 responsibility, liability, costs and/or litigation for the return of the EMD under these conditions.

28
29 **9. Tax Consequences and Advice.** A SHORT SALE MAY HAVE SERIOUS AND ADVERSE
30 LEGAL, TAX, CREDIT AND ECONOMIC CONSEQUENCES FOR THE SELLER. Seller agrees
31 to seek advice from an attorney, a certified public accountant or other qualified professional regarding
32 the legal effect and meaning of a short sale and any Lender Approval.

33 Seller Initials [_____] [_____] [_____] [_____]
34

35 **10. Unfulfilled Contingency.** If the Lender rejects the short sale, Seller will promptly notify Buyer
36 of the rejection and the Purchase Agreement shall be void due to the unfulfilled contingency and escrow
37 shall be cancelled. In such event, ESCROW HOLDER is instructed to return EMD to Buyer without any
38 further instruction from the Parties. The Parties agree to forever release and relieve ESCROW HOLDER
39 from any and all responsibility, liability, costs and/or litigation for the return of the EMD under these
40 conditions.

41
42 **11. Other Terms and Conditions:** _____
43 _____
44 _____
45 _____
46 _____
47 _____

Buyer Initials: [_____] [_____] [_____] [_____]

Seller Initials: [_____] [_____] [_____] [_____]

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____

8 All other terms of the Purchase Agreement, including all prior counteroffers and addenda not modified
9 by this Addendum shall remain the same. To the extent that any terms of this Addendum are in conflict
10 with the Purchase Agreement, this Addendum will control. **WHEN PROPERLY COMPLETED,**
11 **THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS**
12 **CONTENTS, SEEK COMPETENT LEGAL AND TAX COUNSEL BEFORE SIGNING.**

14 Buyer _____ Date _____

17 Buyer _____ Time _____

19 **Acceptance:**

22 Seller _____ Date _____

25 Seller _____ Time _____

28 Prepared by: _____
29 Agent's Printed Name Phone

SELLER'S REAL PROPERTY DISCLOSURE FORM

In accordance with Nevada Law, a seller of residential real property in Nevada must disclose any and all known conditions and aspects of the property which materially affect the value or use of residential property in an adverse manner (*see NRS 113.130 and 113.140*).

Date _____ Do you currently occupy or have you ever occupied this property? YES NO
 Property
 address _____

Effective October 1, 2011: A purchaser may not waive the requirement to provide this form and a seller may not require a purchaser to waive this form. (*NRS 113.130(3)*)

Type of Seller: Bank (financial institution); Asset Management Company; Owner-occupier; Other: _____

Purpose of Statement: (1) This statement is a disclosure of the condition of the property in compliance with the Seller Real Property Disclosure Act, effective January 1, 1996. (2) This statement is a disclosure of the condition and information concerning the property known by the Seller which materially affects the value of the property. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction and is not a substitute for any inspections or warranties the Buyer may wish to obtain. Systems and appliances addressed on this form by the seller are not part of the contractual agreement as to the inclusion of any system or appliance as part of the binding agreement.

Instructions to the Seller: (1) ANSWER ALL QUESTIONS. (2) REPORT KNOWN CONDITIONS AFFECTING THE PROPERTY. (3) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS REQUIRED. (4) COMPLETE THIS FORM YOURSELF. (5) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK N/A (NOT APPLICABLE). EFFECTIVE JANUARY 1, 1996, FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE THE PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT AND SEEK OTHER REMEDIES AS PROVIDED BY THE LAW (*see NRS 113.150*).

Systems / Appliances: Are you aware of any problems and/or defects with any of the following:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>		<u>YES</u>	<u>NO</u>	<u>N/A</u>
Electrical System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shower(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sink(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer System & line	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sauna / hot tub(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Septic tank & leach field	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Built-in microwave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well & pump	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Range / oven / hood-fan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yard sprinkler system(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dishwasher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fountain(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Garbage disposal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heating system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash compactor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooling system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Central vacuum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solar heating system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alarm system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireplace & chimney	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned . . <input type="checkbox"/> leased . . <input type="checkbox"/>			
Wood burning system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Smoke detector	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Garage door opener	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Intercom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water treatment system(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Data Communication line(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
owned . . <input type="checkbox"/> leased . . <input type="checkbox"/>				Satellite dish(es)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water heater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned . . <input type="checkbox"/> leased . . <input type="checkbox"/>			
Toilet(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bathtub(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

EXPLANATIONS: Any "Yes" must be fully explained. Attach explanations to form.

Property conditions, improvements and additional information:

YES NO N/A

Are you aware of any of the following?:

1. Structure:

- (a) Previous or current moisture conditions and/or water damage?
- (b) Any structural defect?
- (c) Any construction, modification, alterations, or repairs made without required state, city or county building permits?
- (d) Whether the property is or has been the subject of a claim governed by NRS 40.600 to 40.695 (construction defect claims)?
(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED)

2. Land / Foundation:

- (a) Any of the improvements being located on unstable or expansive soil?
- (b) Any foundation sliding, settling, movement, upheaval, or earth stability problems that have occurred on the property?
- (c) Any drainage, flooding, water seepage, or high water table?
- (d) The property being located in a designated flood plain?
- (e) Whether the property is located next to or near any known future development?
- (f) Any encroachments, easements, zoning violations or nonconforming uses?
- (g) Is the property adjacent to "open range" land?
(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED under NRS 113.065)

3. Roof: Any problems with the roof?

4. Pool/spa: Any problems with structure, wall, liner, or equipment?

5. Infestation: Any history of infestation (termites, carpenter ants, etc.)?

6. Environmental: Any substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, radon gas, urea formaldehyde, fuel or chemical storage tanks, contaminated water or soil on the property?

7. Fungi / Mold: Any previous or current fungus or mold?

8. Any features of the property shared in common with adjoining landowners such as walls, fences, road, driveways or other features whose use or responsibility for maintenance may have an effect on the property?

9. Common Interest Communities: Any "common areas" (facilities like pools, tennis courts, walkways or other areas co-owned with others) or a homeowner association which has any authority over the property?

(a) Common Interest Community Declaration and Bylaws available?

(b) Any periodic or recurring association fees?

(c) Any unpaid assessments, fines or liens, and any warnings or notices that may give rise to an assessment, fine or lien?

(d) Any litigation, arbitration, or mediation related to property or common area?

(e) Any assessments associated with the property (excluding property taxes)?

(f) Any construction, modification, alterations, or repairs made without required approval from the appropriate Common Interest Community board or committee?

10. Any problems with water quality or water supply?

11. Any other conditions or aspects of the property which materially affect its value or use in an adverse manner?

12. Lead-Based Paint: Was the property constructed on or before 12/31/77?
(If yes, additional Federal EPA notification and disclosure documents are required)

13. Water source: Municipal Community Well Domestic Well Other
If Community Well: State Engineer Well Permit # _____ Revocable Permanent Cancelled

Use of community and domestic wells may be subject to change. Contact the Nevada Division of Water Resources for more information regarding the future use of this well.

14. Wastewater disposal: Municipal Sewer Septic System Other

15. This property is subject to a Private Transfer Fee Obligation?

EXPLANATIONS: Any "Yes" must be fully explained. Attach explanations to form.

Buyers and sellers of residential property are advised to seek the advice of an attorney concerning their rights and obligations as set forth in Chapter 113 of the Nevada Revised Statutes regarding the seller's obligation to execute the Nevada Real Estate Division's approved "Seller's Real Property Disclosure Form". For your convenience, Chapter 113 of the Nevada Revised Statutes provides as follows:

CONDITION OF RESIDENTIAL PROPERTY OFFERED FOR SALE

NRS 113.100 Definitions. As used in NRS 113.100 to 113.150, inclusive, unless the context otherwise requires:

1. "Defect" means a condition that materially affects the value or use of residential property in an adverse manner.
2. "Disclosure form" means a form that complies with the regulations adopted pursuant to NRS 113.120.
3. "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.
4. "Residential property" means any land in this state to which is affixed not less than one nor more than four dwelling units.
5. "Seller" means a person who sells or intends to sell any residential property.

(Added to NRS by 1995, 842; A 1999, 1446)

NRS 113.110 Conditions required for "conveyance of property" and to complete service of document. For the purposes of NRS 113.100 to 113.150, inclusive:

1. A "conveyance of property" occurs:
 - (a) Upon the closure of any escrow opened for the conveyance; or
 - (b) If an escrow has not been opened for the conveyance, when the purchaser of the property receives the deed of conveyance.
2. Service of a document is complete:
 - (a) Upon personal delivery of the document to the person being served; or
 - (b) Three days after the document is mailed, postage prepaid, to the person being served at his last known address.

(Added to NRS by 1995, 844)

NRS 113.120 Regulations prescribing format and contents of form for disclosing condition of property. The Real Estate Division of the Department of Business and Industry shall adopt regulations prescribing the format and contents of a form for disclosing the condition of residential property offered for sale. The regulations must ensure that the form:

1. Provides for an evaluation of the condition of any electrical, heating, cooling, plumbing and sewer systems on the property, and of the condition of any other aspects of the property which affect its use or value, and allows the seller of the property to indicate whether or not each of those systems and other aspects of the property has a defect of which the seller is aware.

2. Provides notice:

- (a) Of the provisions of NRS 113.140 and subsection 5 of NRS 113.150.
- (b) That the disclosures set forth in the form are made by the seller and not by his agent.
- (c) That the seller's agent, and the agent of the purchaser or potential purchaser of the residential property, may reveal the completed form and its contents to any purchaser or potential purchaser of the residential property.

(Added to NRS by 1995, 842)

NRS 113.130 Completion and service of disclosure form before conveyance of property; discovery or worsening of defect after service of form; exceptions; waiver.

1. Except as otherwise provided in subsection 2:

(a) At least 10 days before residential property is conveyed to a purchaser:

- (1) The seller shall complete a disclosure form regarding the residential property; and
- (2) The seller or the sellers' agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent shall inform the purchaser or the purchaser's agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

- (1) Rescind the agreement to purchase the property; or
- (2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

- (a) By foreclosure pursuant to chapter 107 of NRS.
- (b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.
- (c) Which is the first sale of a residence that was constructed by a licensed contractor.
- (d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may not waive any of the requirements of subsection 1. A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, or upon the request of the purchaser of the residential property, provide:

(a) Written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware; and

(b) If any defects are repaired or replaced or attempted to be repaired or replaced, the contact information of any asset management company who provided asset management services for the property. The asset management company shall provide a service report to the purchaser upon request.

5. As used in this section:

(a) "Seller" includes, without limitation, a client as defined in NRS 645H.060.

(b) "Service report" has the meaning ascribed to it in NRS 645H.150.

(Added to NRS by 1995, 842; A 1997, 349; 2003, 1339; 2005, 598; 2011, 2832)

Seller(s) Initials

Buyer(s) Initials



Nevada Real Estate Division
Replaces all previous versions

Page 3 of 4

Seller Real Property _____
Revised 03/08/2013

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547
Untitled

NRS 113.135 Certain sellers to provide copies of certain provisions of NRS and give notice of certain soil reports; initial purchaser entitled to rescind sales agreement in certain circumstances; waiver of right to rescind.

1. Upon signing a sales agreement with the initial purchaser of residential property that was not occupied by the purchaser for more than 120 days after substantial completion of the construction of the residential property, the seller shall:

(a) Provide to the initial purchaser a copy of NRS 11.202 to 11.206, inclusive, and 40.600 to 40.695, inclusive;

(b) Notify the initial purchaser of any soil report prepared for the residential property or for the subdivision in which the residential property is located; and

(c) If requested in writing by the initial purchaser not later than 5 days after signing the sales agreement, provide to the purchaser without cost each report described in paragraph (b) not later than 5 days after the seller receives the written request.

2. Not later than 20 days after receipt of all reports pursuant to paragraph (c) of subsection 1, the initial purchaser may rescind the sales agreement.

3. The initial purchaser may waive his right to rescind the sales agreement pursuant to subsection 2. Such a waiver is effective only if it is made in a written document that is signed by the purchaser.

(Added to NRS by 1999, 1446)

NRS 113.140 Disclosure of unknown defect not required; form does not constitute warranty; duty of buyer and prospective buyer to exercise reasonable care.

1. NRS 113.130 does not require a seller to disclose a defect in residential property of which he is not aware.

2. A completed disclosure form does not constitute an express or implied warranty regarding any condition of residential property.

3. Neither this chapter nor chapter 645 of NRS relieves a buyer or prospective buyer of the duty to exercise reasonable care to protect himself.

(Added to NRS by 1995, 843; A 2001, 2896)

NRS 113.150 Remedies for seller's delayed disclosure or nondisclosure of defects in property; waiver.

1. If a seller or the seller's agent fails to serve a completed disclosure form in accordance with the requirements of NRS 113.130, the purchaser may, at any time before the conveyance of the property to the purchaser, rescind the agreement to purchase the property without any penalties.

2. If, before the conveyance of the property to the purchaser, a seller or the seller's agent informs the purchaser or the purchaser's agent, through the disclosure form or another written notice, of a defect in the property of which the cost of repair or replacement was not limited by provisions in the agreement to purchase the property, the purchaser may:

(a) Rescind the agreement to purchase the property at any time before the conveyance of the property to the purchaser; or

(b) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

3. Rescission of an agreement pursuant to subsection 2 is effective only if made in writing, notarized and served not later than 4 working days after the date on which the purchaser is informed of the defect:

(a) On the holder of any escrow opened for the conveyance; or

(b) If an escrow has not been opened for the conveyance, on the seller or the seller's agent.

4. Except as otherwise provided in subsection 5, if a seller conveys residential property to a purchaser without complying with the requirements of NRS 113.130 or otherwise providing the purchaser or the purchaser's agent with written notice of all defects in the property of which the seller is aware, and there is a defect in the property of which the seller was aware before the property was conveyed to the purchaser and of which the cost of repair or replacement was not limited by provisions in the agreement to purchase the property, the purchaser is entitled to recover from the seller treble the amount necessary to repair or replace the defective part of the property, together with court costs and reasonable attorney's fees. An action to enforce the provisions of this subsection must be commenced not later than 1 year after the purchaser discovers or reasonably should have discovered the defect or 2 years after the conveyance of the property to the purchaser, whichever occurs later.

5. A purchaser may not recover damages from a seller pursuant to subsection 4 on the basis of an error or omission in the disclosure form that was caused by the seller's reliance upon information provided to the seller by:

(a) An officer or employee of this State or any political subdivision of this State in the ordinary course of his or her duties; or

(b) A contractor, engineer, land surveyor, certified inspector as defined in NRS 645D.040 or pesticide applicator, who was authorized to practice that profession in this State at the time the information was provided.

6. A purchaser of residential property may waive any of his or her rights under this section. Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.

(Added to NRS by 1995, 843; A 1997, 350, 1797)

The above information provided on pages one (1) and two (2) of this disclosure form is true and correct to the best of seller's knowledge as of the date set forth on page one (1). **SELLER HAS DUTY TO DISCLOSE TO BUYER AS NEW DEFECTS ARE DISCOVERED AND/OR KNOWN DEFECTS BECOME WORSE (See NRS 113.130(1)(b)).**

Seller(s): _____ Tom Cogan Date: _____

Seller(s): _____ Date: _____

BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY AND ITS ENVIRONMENTAL STATUS. Buyer(s) has/have read and acknowledge(s) receipt of a copy of this Seller's Real Property Disclosure Form and copy of NRS Chapter 113.100-150, inclusive, attached hereto as pages three (3) and four (4).

Buyer(s): _____ Wilson Ma Date: _____

Buyer(s): _____ Date: _____

Seller(s) Initials

Buyer(s) Initials



VACANT LAND DISCLOSURE

In reference to the Listing Contract and/or Purchase Agreement dated _____, covering the real property at (address/APN/description) _____, the undersigned Buyer(s) and Seller(s) hereby agree that the referenced Listing and/or Sales Contract is subject to Seller(s) fully disclosing any and all conditions, whether past or present, known to Seller(s) which may materially affect the value and/or desirability of said property. This statement is not a warranty of any kind by Seller or any Agent representing Seller in this transaction and is not a substitute for any due diligence, inspections or warranties that Buyer may wish to obtain.

Instructions to Seller: (1) Answer all questions; (2) Report known conditions affecting the property; (3) Attach additional pages with your signature if additional space is required; (4) Complete this form yourself; (5) If some items do not apply to your property, check N/A (not applicable).

1. Soils/Physical Conditions

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Sliding, settling, movement, upheaval or any soils or stability problems that have occurred on the property or in the immediate area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Drainage or flooding problems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Whether the property is located in a designated flood zone?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Any fill being added to the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Any need to add fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Whether the property lines are marked in any way?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) Whether a survey of the property has been done?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, is a copy available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Who ordered the survey? Present Owner _____ Other _____			
Date of the survey: _____			
(h) Any soils reports or percolation tests done on the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, is a copy available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Who ordered the test(s)? Present Owner _____ Other _____			
Date of the test(s): _____			

Comments: _____

Seller(s) Initials

Buyer(s) Initials

2. Sewer System

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) The property being connected to a public sewer line?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) A public sewer within 400 feet of the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Any need, notice or requirement to connect to public sewer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) A septic or other private system on or servicing the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, how many gallon tank? _____			
Date of the last professional septic service: _____			
(e) Any problems with the septic/sewer system?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

3. Water System

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Any public service with a meter installed on the property? ..	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, are fees paid?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meter size: _____			
(b) A public line to the property boundary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
With current connection cost of _____			
(c) A well located on or servicing the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, type of well: <input type="checkbox"/> private <input type="checkbox"/> community <input type="checkbox"/> commercial			
Is there a written and valid community well agreement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is there a proper well permit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Depth of well: _____			
Current gallons per minute: _____			
Date of last professional service: _____			
(d) A private water company servicing the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Any known problems affecting water supply or quality? ...	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Any known requirement to connect to public water system?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

Seller(s) Initials

Buyer(s) Initials

4. Other Utilities

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Electric service at the property boundary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how far away? _____			
(b) Natural gas service at the property boundary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how far away? _____			
(c) Telephone service at the property boundary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how far away? _____			
(d) Propane gas service at the property boundary?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If not, how far away? _____			

Comments: _____

5. Zoning and Property Uses

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Existing zoning is _____			
(b) Existing master plan zoning is _____			
(c) Any adjoining property zoned or Master Planned for a different zone than the subject property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, what zone? _____			
(d) Any proposed zone change requests within 600 feet of the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Any variance, use permit, special condition or restrictions that Buyer should be aware of?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Any violation of local, state or federal laws relating to the use of the subject property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) Any historical artifacts, burial grounds or mining operations that could affect the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, explain _____			
(h) Any easements or licenses affecting the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) Any public access to the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(j) Any private drives that affect the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(k) Any walls or fences existing on the property lines?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(l) Any existing encroachments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(m) Any agreements with third parties affecting the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

Seller(s) Initials

Buyer(s) Initials

6. Common Interest Community ("CIC"):

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Any Common Interest Community affecting the property?..	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Any CC&R's, bylaws or declarations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Any periodic or recurring association fees?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, are the CIC fees current?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How much are the CIC fees? _____			
How are they paid: <input type="checkbox"/> Monthly <input type="checkbox"/> Annually <input type="checkbox"/> Other _____			
(d) Any unpaid fines, assessments, liens, warnings or notices that may give rise to an assessment, fine or lien?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Any litigation, problems, or special assessments relating to the property or any common area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) Any other assessment affecting the property, such as SID or LID fees (excluding property taxes)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

Seller(s) Initials

Buyer(s) Initials

7. Miscellaneous

Are you aware of any of the following:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>
(a) Any environmental concerns that affect the subject property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Any above ground or underground storage, waste, disposal of chemicals or buried items?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Any assessments that exist or are planned for the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Whether the property is on a fault line?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Any other facts or conditions that could affect the property or its intended use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: _____

The parties named below acknowledge that they have been advised of appropriate disclosures prior to signing a Listing Contract and/or Purchase Agreement and should seek legal and tax advice prior to signing, if not understood.

Dated: _____

 Seller

 Seller

Received this date: _____

 Buyer

 Buyer

 Seller(s) Initials

 Buyer(s) Initials



VACANT LAND PURCHASE AGREEMENT

(Joint Escrow Instructions and Earnest Money Receipt)

1 Date: _____
2
3 _____ ("Buyer"), hereby offers to
4 purchase _____ ("Property"),
5 within the city or unincorporated area of _____, County of _____,
6 State of Nevada, Zip _____, A.P.N. # _____ for
7 the purchase price of \$ _____ ("Purchase Price") on the following terms and conditions:
8

Offer & Acceptance

9
10 **1. FINANCIAL TERMS & CONDITIONS:**

11 \$ _____ A. **EARNEST MONEY DEPOSIT** ("EMD") is presented with this offer - OR - _____

12
13 *(NOTE: It is a felony in the State of Nevada—punishable by up to four years in prison and a \$5,000*
14 *fine—to write a check for which there are insufficient funds. NRS 193.130(2)(d).)*

15
16 \$ _____ B. **ADDITIONAL DEPOSIT** to be placed in escrow on or before (date) _____ .
17 The additional deposit will – OR – will not be considered part of the EMD. (Any conditions on the
18 additional deposit should be set forth in Paragraph 29 herein.)

19
20 \$ _____ C. **THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING FOR A NEW LOAN**
21 **ON THE FOLLOWING TERMS AND CONDITIONS:**

22 Conventional, Other (specify) _____ .
23 Interest: Fixed rate, _____ years – OR – Adjustable Rate, _____ years. Initial rate of interest
24 not to exceed _____ %. Initial monthly payment not to exceed \$ _____ , not
25 including taxes, insurance and/or PMI or MIP.

26
27 \$ _____ D. **THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING TO ASSUME THE**
28 **FOLLOWING EXISTING LOAN(S):**

29 Conventional, Other (specify) _____ . Interest: Fixed rate, _____
30 years – OR – Adjustable Rate, _____ years. Initial rate of interest not to exceed _____ %.
31 Monthly payment not to exceed \$ _____ , not including taxes, insurance and/or PMI or MIP.

32
33 \$ _____ E. **BUYER TO EXECUTE A PROMISSORY NOTE SECURED BY DEED OF TRUST PER**
34 **TERMS IN "FINANCING ADDENDUM."**

35
36 \$ _____ F. **BALANCE OF PURCHASE PRICE** (Balance of Down Payment) in Good Funds to be paid prior
37 to Close of Escrow ("COE").

38
39 \$ _____ G. **TOTAL PURCHASE PRICE.** (This price DOES NOT include closing costs, prorations, or other
40 fees and costs associated with the purchase of the Property as defined herein.)
41

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 **2. ADDITIONAL FINANCIAL TERMS & CONTINGENCIES:**

2 **A. NEW LOAN APPLICATION:** Buyer agrees to submit a completed loan application with the required
3 information for loan qualification with a lender within _____ business days of Acceptance. Buyer agrees to use
4 Buyer's best efforts to obtain financing under the terms and conditions outlined in this Agreement. If Buyer does not submit the
5 application in the above period, Buyer is in default of this Agreement. Buyer does -OR- does not authorize lender to provide
6 lender to provide loan status updates to Seller's and Buyer's Brokers, as well as Escrow Officer. Different loan types have different
7 appraisal and financing requirements, which will affect the parties' rights and costs under this Agreement.
8

9 **B. CASH PURCHASE:** Within _____ business days of Acceptance, Buyer agrees to provide written evidence from a
10 bona fide financial institution of sufficient cash available to complete this purchase. If Buyer does not submit the written evidence
11 within the above period, Seller reserves the right to terminate this Agreement.
12

13 **C. APPRAISAL:** If an appraisal is required as part of this agreement, and if the appraisal is less than the purchase
14 price, the transaction will go forward if (1) Buyer, at Buyer's option, elects to pay the difference and purchase the Property for the
15 Purchase Price, or (2) Seller, at Seller's option, elects to adjust the Purchase Price accordingly, such that the Purchase Price is equal
16 to the appraisal. If neither option (1) or (2) is elected, and the Parties cannot renegotiate, then either Party may cancel this
17 Agreement upon written notice, in which event the EMD shall be returned to Buyer.
18

19 **3. SALE OF OTHER PROPERTY:** This Agreement is not -OR- is contingent upon the sale (and closing) of another
20 property which address is _____ .
21 Said Property is not -OR- is presently in escrow with _____ .
22 Escrow Number: _____ . Proposed Closing Date: _____ .
23

24 **4. ESCROW:**

25 **A. OPENING OF ESCROW:** The purchase of the Property shall be consummated through Escrow ("Escrow").
26 Opening of Escrow shall take place by the end of one (1) business day after execution of this Agreement ("Opening of Escrow"),
27 at _____ title or escrow company ("Escrow Company" or "Escrow Holder")
28 with _____ ("Escrow Officer") (or such other escrow officer as Escrow Company may
29 assign). Opening of Escrow shall occur upon Escrow Company's receipt of this fully accepted Agreement and receipt of the EMD
30 (if applicable). Escrow Holder will notify the Parties (through their respective Brokers) of the Opening date and the Escrow
31 Number.
32

33 **B. EARNEST MONEY:** Upon Seller and Buyer signing this Agreement and all counteroffers or addenda, Buyer's
34 EMD as shown in Paragraph 1(A) and 1(B) if applicable, of this Agreement, shall be deposited per the Earnest Money Receipt
35 Notice and Instructions contained herein.
36

37 **C. CLOSE OF ESCROW:** Close of Escrow ("COE") shall be on (date) _____ . If the designated
38 date falls on a weekend or holiday, COE shall be the next business day.
39

40 **D. 1099.** Seller is hereby made aware that there is a regulation which became effective January 1, 1987, that requires
41 all ESCROW HOLDERS to complete a modified 1099 form, based upon specific information known only between parties in this
42 transaction and the ESCROW HOLDER. ESCROW HOLDER is hereby authorized and instructed to provide this information to
43 the Internal Revenue Service after the close of escrow in the manner prescribed.
44

45 **E. FIRPTA.** If applicable, (as designated in the Seller's Response herein) Seller agrees to complete, sign, and deliver
46 to ESCROW HOLDER a certificate indicating whether Seller is a foreign person or a nonresident alien pursuant to the
47 Foreign Investment in Real Property Tax Act (FIRPTA). A foreign person is a nonresident alien individual; a foreign
48 corporation not treated as a domestic corporation; or a foreign partnership, trust or estate. A resident alien is not considered a
49 foreign person under FIRPTA. Additional information for determining status may be found at www.irs.gov . Buyer and Seller
50 understand that if Seller is a foreign person then the Buyer must withhold a tax in an amount to be determined by ESCROW
51 HOLDER in accordance with FIRPTA, unless an exemption applies. Seller agrees to sign and deliver to the ESCROW HOLDER
52 the necessary documents, to be provided by the ESCROW HOLDER, to determine if withholding is required. (See 26 USC Section
53 1445).

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 **5. PRORATIONS, FEES AND EXPENSES (Check appropriate box):**

2 **A. TITLE AND ESCROW FEES:**

3	4 TYPE	PAID BY SELLER	PAID BY BUYER	50/50	N/A
5	Escrow Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	Lender's Title Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Owner's Title Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	Real Property Transfer Tax	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Title Policy Endorsements	See Paragraph 6			

12 **B. PRORATIONS:**

13	14 TYPE	PAID BY SELLER	PRORATE	N/A
15	CIC (Common Interest Community) Assessments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	CIC Periodic Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	SIDs / LIDs / Assessments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	Taxes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

21 All prorations will be based on a 30-day month and will be calculated as of COE. Prorations will be based upon figures available
 22 at closing. Any supplementals or adjustments that occur after COE will be handled by the parties outside of Escrow.
 23

24 **C. INSPECTIONS AND RELATED EXPENSES:** Acceptance of this offer is subject to the following
 25 reserved right. Buyer may have the Property inspected and select the licensed inspectors and/or other qualified professionals
 26 who will inspect the Property. If applicable, Seller will ensure that necessary utilities (gas, power and water) are turned on and
 27 supplied to the Property within two (2) business days after execution of this Agreement. (It is strongly recommended that Buyer
 28 retain licensed Nevada professionals to conduct inspections.) These elections are for the benefit of Buyer and may be waived at
 29 any time by Buyer prior to COE.
 30
 31
 32

33	34 TYPE	PAID BY SELLER	PAID BY BUYER	WAIVED	N/A
35	Appraisal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	CIC Capital Contribution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	CIC Transfer Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	Land Survey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	Septic Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	Soils Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41	Well Inspection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

43 **D. CERTIFICATIONS:**

44	45 TYPE	PAID BY SELLER	PAID BY BUYER	WAIVED	N/A
46	Septic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47	Well	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

49 The foregoing expenses for inspections and certifications will be paid outside of Escrow unless the Parties present instructions to
 50 the contrary prior to COE (along with the applicable invoice). A certification is not a warranty. All inspections and
 51 certifications are to be performed by a company licensed and bonded in Nevada. Notwithstanding the above elections, in the event
 52 an inspection reveals problems with any of the foregoing, Buyer reserves the right to require a certification. This section
 53

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 is for the benefit of Buyer and may be waived hereafter by Buyer prior to COE.

2
3 **E. LENDER'S FEES:** In addition to Seller's expenses above, Seller will contribute \$ _____ to
4 Buyer's Lender's Fees and Buyer's Title and Escrow Fees including -OR- excluding costs which Seller must pay pursuant
5 to loan program requirements.

6
7 **F. SELLER'S ADDITIONAL COSTS AND LIMIT OF LIABILITY:** Seller agrees to pay a maximum amount of
8 \$ _____ to correct defects and/or requirements disclosed by Seller's Vacant Land Disclosure, inspection
9 reports and/or appraisals. It is Buyer's responsibility to inspect the Property to determine if the Property is suitable for Buyer's
10 intended use.

11
12 **6. TITLE INSURANCE:** Upon COE, Buyer will be provided with the following type(s) of title insurance policy:
13 CLTA (Basic) -OR- ALTA (Residential) -OR- ALTA-Extended (requiring a survey).
14 LP-10
15 Joint Protection Policy (in the event of Seller financing).
16 Additional Endorsement(s) required (indicate the party to pay): _____

17
18
19 **7. TRANSFER OF TITLE:** Upon COE, Buyer shall tender to Seller the agreed upon purchase price, and Seller shall tender
20 to Buyer marketable title to the Property free of all encumbrances other than: (1) current pro-rata Property taxes; (2) covenants,
21 conditions and restrictions (CC&R's) and related restriction; (3) zoning or master plan restrictions and public utility easements; and
22 (4) obligations assumed and encumbrances accepted by Buyer prior to COE.

23
24 **8. COMMON OWNERSHIP INTEREST PROPERTIES:** If the Property is subject to a Common Interest Community
25 ("CIC"), Seller or his authorized agent shall request the CIC documents and certificate listed in NRS 116.4109 (collectively, the
26 "resale package") within two (2) business days of Acceptance and provide the same to Buyer within one (1) business day of
27 Seller's receipt thereof. Buyer may cancel this Agreement without penalty until midnight of the fifth (5th) calendar day following
28 the date of receipt of the resale package. If Buyer does not receive the resale package within fifteen (15) calendar days of
29 Acceptance, this Agreement may be cancelled in full by Buyer without penalty. If Buyer elects to cancel the Agreement pursuant
30 to this section, Buyer must deliver, via hand delivery or prepaid U.S. mail, a written notice of cancellation to Seller or his
31 authorized agent identified in Section 28 of this Agreement. Upon such written cancellation, Buyer shall promptly receive a refund
32 of the EMD. The parties agree to execute any documents requested by Escrow Holder to facilitate the refund. If written
33 cancellation is not received within the specified time period, the resale package will be deemed approved. Seller shall pay all
34 outstanding CIC fines or penalties at COE.

35
36 **9. DELIVERY OF POSSESSION:** Seller agrees to vacate the Property and tender possession no later than COE. In the event
37 Seller does not vacate the Property by COE, Seller shall be considered a trespasser and shall be liable to Buyer for the sum of
38 \$ _____ per calendar day in addition to Buyer's legal and equitable remedies. Any personal property left on
39 the Property after COE shall be considered abandoned by Seller.

40
41 **10. DISCLOSURES:** Within five (5) calendar days of Acceptance, Seller will provide the following Disclosures and/or
42 documents (each of which is incorporated herein by this reference). Check applicable boxes.

- 43
44 Pest Notice Form (not required by Nevada law)
45 Promissory Note and the most recent monthly statement of all loans to be assumed by Buyer
46 Open Range Disclosure Form (NRS 113.065)
47 Seller's Vacant Land Disclosure Form
48 Other (list) _____
49

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 **11. LICENSEE DISCLOSURE OF INTEREST (BUYER):** Pursuant to NRS 645.252(1)(c), a real estate licensee must
2 disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. _____
3 _____ is a licensed real estate agent in the State(s) of _____,
4 and has the following interest, direct or indirect, in this transaction: Principal (Buyer) -OR- family or firm relationship with
5 Buyer or ownership interest in Buyer (if Buyer is an entity): (specify relationship) _____
6

7 **12. BUYER'S DUE DILIGENCE:**

8 **A. DUE DILIGENCE PERIOD:** Buyer shall have _____ calendar days from Acceptance to complete Buyer's
9 Due Diligence. (If utilities are not supplied by the deadline referenced herein, if applicable, or if the Disclosures are not delivered
10 to Buyer by the deadline referenced herein, then Buyer's Due Diligence period will be extended by the same number of calendar
11 days that Seller delayed supplying the utilities or delivering the Disclosures, whichever is longer.) During this period Buyer shall
12 have the exclusive right at Buyer's discretion to cancel this Agreement. In the event of such cancellation, unless otherwise agreed
13 herein, the EMD will be refunded to Buyer. **If Buyer provides Seller with notice of objections, the Due Diligence Period will be**
14 **extended by the same number of calendar days that it takes Seller to respond in writing to Buyer's objections.** If Buyer fails
15 to cancel this Agreement within the Due Diligence Period, Buyer will be deemed to have waived the right to cancel under this
16 section.
17

18 **B. PROPERTY INSPECTION/CONDITION:** During the Due Diligence Period, Buyer shall take such action
19 as Buyer deems necessary to determine whether the Property is satisfactory to Buyer including, but not limited to, whether the
20 property is insurable to Buyer's satisfaction, whether there are unsatisfactory conditions surrounding or otherwise affecting the
21 Property (such as availability of utilities, water, and postal service, presence of easements, access, location of flood zones, airport
22 noise, noxious fumes or odors, environmental substances or hazards, whether the Property is properly zoned, locality to freeways,
23 railroads, places of worship, schools, etc. or any other concerns Buyer may have related to the Property). During such Due
24 Diligence Period, Buyer shall have the right to have non-destructive inspections of all water/well/septic, survey, square footage,
25 and any other property or systems, through licensed and bonded contractors or other qualified professionals. Seller agrees to
26 provide reasonable access to the Property to Buyer and Buyer's inspectors. Buyer agrees to indemnify and hold Seller harmless
27 with respect to any injuries suffered by Buyer or third parties while on Seller's Property conducting such inspections, tests or
28 walk-throughs. Buyer's indemnity shall not apply to any injuries suffered by Buyer or third parties present at Buyer's request that
29 are the result of an intentional tort, gross negligence or any misconduct or omission by Seller, Seller's Agent or other third parties
30 on the Property.
31

32 **C. PRELIMINARY TITLE REPORT:** Within ten (10) business days of Opening of Escrow, Title Company
33 shall provide Buyer with a Preliminary Title Report ("PTR") to review, which must be approved or rejected within five (5)
34 business days of receipt thereof. If Buyer does not object to the PTR within the period specified above, the PTR shall be deemed
35 accepted. If Buyer makes an objection to any item(s) contained within the PTR, Seller shall have five (5) business days after
36 receipt of objections to correct or address the objections. If, within the time specified, Seller fails to have each such
37 exception removed or to correct each such other matter as aforesaid, Buyer shall have the option to: (a) terminate this
38 Agreement by providing notice to Seller and Escrow Officer, entitling Buyer to a refund of the EMD or (b) elect to accept title to
39 the Property as is. All title exceptions approved or deemed accepted are hereafter collectively referred to as the "Permitted
40 Exceptions."
41

42 **D. AIRPORT NOISE:** Buyer hereby acknowledges the proximity of various overflight patterns, airports and
43 helipads including, but not limited to, Nellis Air Force Base, McCarran International Airport, the North Las Vegas Airport,
44 and/or the Henderson Executive Airport to the Property. Buyer also fully understands that existing and future noise levels at
45 this location, associated with existing and future airport operations, may have an effect upon the livability, value, and suitability of
46 the Property for residential use. Buyer also understands that these airports have been at their present location for many years, and
47 that future demand and airport operations may increase significantly. For further information, contact the Clark County
48 Department of Aviation and/or Federal Aviation Administration.
49

50 **E. CANCELLATION DUE TO INSPECTION REPORT:** If Buyer cancels this Agreement due to a specific inspection
51 report, Buyer shall provide Seller at the time of cancellation with a copy of the report containing the name, address, and telephone
52 number of the inspector.

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1
2 **13. WATER RIGHTS:** The following water rights will be transferred with the sale of the Property with no real value
3 unless stated otherwise herein: _____
4 _____
5 _____
6 _____

7 **14. RISK OF LOSS:** Risk of loss shall be governed by NRS 113.040. This law provides generally that if all or any
8 material part of the Property is destroyed before transfer of legal title or possession, Seller cannot enforce the Agreement and
9 Buyer is entitled to recover any portion of the sale price paid. If legal title or possession has transferred, risk of loss shall shift to
10 Buyer.

11 **15. ASSIGNMENT OF THIS AGREEMENT:** Unless otherwise stated herein, this Agreement is non-assignable by
12 Buyer.
13

14 **16. CANCELLATION OF AGREEMENT:** In the event this Agreement is properly cancelled in accordance with the
15 terms contained herein, then Buyer will be entitled to a refund of the EMD. Neither Buyer nor Seller will be reimbursed for any
16 expenses incurred in conjunction with due diligence, inspections, appraisals or any other matters pertaining to this transaction
17 (unless otherwise provided herein).
18

19 **17. DEFAULT:**

20 **A. MEDIATION:** Before any legal action is taken to enforce any term or condition under this Agreement, the
21 parties agree to engage in mediation, a dispute resolution process, through GLVAR in accordance with GLVAR's rules of
22 procedure. Notwithstanding the foregoing, in the event Buyer finds it necessary to file a claim for specific performance, this
23 paragraph shall not apply.
24

25 **B. IF BUYER DEFAULTS:** If Buyer defaults in performance under this Agreement, Seller shall have one of
26 the following legal recourses against Buyer (**initial one only**):
27

28 [] [] As Seller's sole legal recourse, Seller may retain, as liquidated damages, the EMD. In this respect, the
29 Parties agree that Seller's actual damages would be difficult to measure and that the EMD is in fact a reasonable
30 estimate of the damages that Seller would suffer as a result of Buyer's default. Seller understands that any additional
31 deposit not considered part of the EMD in Paragraph 1(B) herein shall be immediately released by Escrow Holder to
32 Buyer.
33

34 **-OR-**

35 [] [] Seller shall have the right to recover from Buyer all of Seller's actual damages that Seller may
36 suffer as a result of Buyer's default including, but not limited to, commissions due, expenses incurred until the Property
37 is sold to a third party and the difference in the sales price.
38

39 **C. IF SELLER DEFAULTS:** If Seller defaults in performance under this Agreement, Buyer reserves all legal and/or
40 equitable rights (such as specific performance) against Seller, and Buyer may seek to recover Buyer's actual damages incurred by
41 Buyer due to Seller's default.
42
43

Instructions to Escrow

44 **18. ESCROW:** If this Agreement or any matter relating hereto shall become the subject of any litigation or controversy,
45 Buyer and Seller agree, jointly and severally, to hold Escrow Holder free and harmless from any loss or expense, except losses or
46 expenses as may arise from Escrow Holder's negligence or willful misconduct. If conflicting demands are made or notices
47 served upon Escrow Holder with respect to this Agreement, the parties expressly agree that Escrow is entitled to file a suit in
48 interpleader and obtain an order from the Court authorizing Escrow Holder to deposit all such documents and monies with the
49 Court, and obtain an order from the court requiring the parties to interplead and litigate their several claims and rights among
50 themselves. Upon the entry of an order authorizing such Interpleader, Escrow Holder shall be fully released and discharged

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____
Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 from any obligations imposed upon it by this Agreement; and Escrow Holder shall not be liable for the sufficiency or correctness
2 as to form, manner, execution or validity of any instrument deposited with it, nor as to the identity, authority or rights of any
3 person executing such instrument, nor for failure of Buyer or Seller to comply with any of the provisions of any
4 agreement, contract or other instrument filed with Escrow Holder or referred to herein. Escrow Holder's duties hereunder shall be
5 limited to the safekeeping of all monies, instruments or other documents received by it as Escrow Holder, and for their disposition
6 in accordance with the terms of this Agreement. In the event an action is instituted in connection with this escrow,
7 in which ESCROW HOLDER is named as a party or is otherwise compelled to make an appearance, all costs, expenses
8 attorney fees, and judgments ESCROW HOLDER may expend or incur in said action, shall be the responsibility of the parties
9 hereto.

10
11 **19. UNCLAIMED FUNDS:** In the event that funds from this transaction remain in an account, held by ESCROW
12 HOLDER, for such a period of time that they are deemed "abandoned" under the provisions of Chapter 120A of the Nevada
13 Revised Statutes, ESCROW HOLDER is hereby authorized to impose a charge upon the dormant escrow account. Said charge
14 shall be no less than \$5.00 per month and may not exceed the highest rate of charge permitted by statute or regulation. ESCROW
15 HOLDER is further authorized and directed to deduct the charge from the dormant escrow account for as long as the funds are held
16 by ESCROW HOLDER.

Brokers

18 **20. BROKER FEES:** Buyer herein requires, and Seller agrees, as a condition of this Agreement, that Seller will pay
19 Listing Broker and Buyer's Broker, who becomes by this clause a third party beneficiary to this Agreement, that certain sum and/or
20 percentage of the purchase price (commission), that Seller, or Seller's Broker, offered for the procurement of ready,
21 willing and able Buyer via the Multiple Listing Service, any other advertisement or written offer. Seller understands and agrees
22 that if Seller defaults hereunder, Buyer's Broker, as a third-party beneficiary of this Agreement, has the right to pursue
23 all legal recourse against Seller for any commission due. **In addition to any amount due to Buyer's Broker from Seller or
24 Seller's Broker, Buyer will -OR- will not pay Buyer's Broker additional compensation in an amount determined
25 between the Buyer and Buyer's Broker.**

26
27 **21. WAIVER OF CLAIMS.** Buyer and Seller agree that they are not relying upon any representations made by Brokers
28 or Broker's agent. Buyer acknowledges that at COE, the Property will be sold AS-IS, WHERE-IS without any representations or
29 warranties, unless expressly stated herein. Buyer agrees to satisfy himself, as to the condition of the Property, prior to COE.
30 Buyer acknowledges that any statements of acreage or square footage by Brokers are simply estimates, and Buyer agrees to make
31 such measurements, as Buyer deems necessary, to ascertain actual acreage or square footage. Buyer waives all claims
32 against Brokers for (a) defects in the Property; (b) inaccurate estimates of acreage or square footage; (c) environmental waste or
33 hazards on the Property; (d) the fact that the Property may be in a flood zone; (e) the Property's proximity to freeways,
34 airports or other nuisances; (f) the zoning of the Property; (g) tax consequences; or (h) factors related to Buyer's failure to conduct
35 walk-throughs or inspections. Buyer assumes full responsibility for the foregoing and agrees to conduct such tests, walk-throughs,
36 inspections and research, as Buyer deems necessary. In any event, Broker's liability is limited, under any and all circumstances, to
37 the amount of that Broker's commission/fee received in this transaction.

Other Matters

38
39
40 **22. DEFINITIONS:** "Acceptance" means the date that both parties have consented to and received a final, binding
41 contract by affixing their signatures to this Agreement. "Agent" means a licensee working under a Broker. "Agreement"
42 includes this document as well as all accepted counteroffers and addenda. "ALTA" means the American Land Title
43 Association. "Bona Fide" means genuine. "Buyer" means one or more individuals or the entity that intends to purchase the
44 Property. "Broker" means the Nevada licensed real estate broker listed herein representing Seller and/or Buyer (and all real
45 estate agents associated therewith). "Business Day" excludes Saturdays, Sundays, and legal holidays. "Calendar Day" means
46 a calendar day from/to midnight unless otherwise specified. "CIC" means Common Interest Community (formerly known as
47 "HOA" or homeowners associations). "CIC Capital Contribution" means a one-time, non-administrative fee, cost or
48 assessment charged by the CIC upon change of ownership. "CIC Transfer Fees" means the administrative service fee charged
49 by a CIC to transfer ownership records. "CLTA" means the California Land Title Association. "COE" means the time of

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 recordation of the deed in Buyer's name. "Default" means the failure of a Party to observe or perform any of its material
2 obligations under this Agreement; also known as breach of contract. "Down Payment" is the Purchase Price less loan amount(s).
3 "EMD" means Buyer's earnest money deposit. "Escrow Holder" means the neutral party that will handle the escrow. "FHA" is
4 the U.S. Federal Housing Administration. "GLVAR" means the Greater Las Vegas Association of REALTORS®. "Good Funds"
5 means an acceptable form of payment determined by ESCROW HOLDER in accordance with NRS 645A.171. "IRC" means the
6 Internal Revenue Code (tax code). "Joint Protection" is a type of title insurance that protects both the owner and lender. "LP-10"
7 means "N/A" means not applicable. "LID" means Limited Improvement District. "NRS" means Nevada Revised Statutes as
8 Amended. "Party" or "Parties" means Buyer and Seller. "PITI" means principal, interest, taxes, and hazard insurance. "PMI"
9 means private mortgage insurance. "PTR" means Preliminary Title Report. "Property" means the real property and any personal
10 property included in the sale as provided herein. "Receipt" means delivery to the party or the party's agent. "Seller"
11 means one or more individuals or the entity that is the owner of the Property. "SID" means Special Improvement District. "Title
12 Company" means the company that will provide title insurance. "USC" is the United States Code. "VA" is the Veterans
13 Administration.
14

15 **23. SIGNATURES, DELIVERY, AND NOTICES:**

16
17 A. This Agreement may be signed by the parties on more than one copy, which, when taken together, each signed copy
18 shall be read as one complete form. This Agreement (and documents related to any resulting transaction) may be signed by the
19 parties manually or digitally. Facsimile signatures may be accepted as original.
20

21 B. Delivery of all instruments or documents associated with this Agreement shall be delivered to the Agent for Seller
22 or Buyer.
23

24 C. Except as otherwise provided in Paragraph 8, when a Party wishes to provide notice as required in this Agreement,
25 such notice shall be sent regular mail and/or by facsimile to the Agent for that Party. The notification shall be effective when
26 mailed and/or faxed. Any cancellation notice shall be contemporaneously faxed to Escrow.
27

28 **24. PERSONAL PROPERTY:** The following personal property will be transferred with the sale of the Property with no real
29 value unless stated otherwise herein: _____
30

31 **25. IRC 1031 EXCHANGE:** Seller and/or Buyer may make this transaction part of an IRC 1031 exchange. The party electing
32 electing to make this transaction part of an IRC 1031 exchange will pay all additional expenses associated therewith, at no cost to
33 the other party. The other party agrees to execute any and all documents necessary to effectuate such an exchange.
34

35 **26. OTHER ESSENTIAL TERMS:** Time is of the essence. No change, modification or amendment of this Agreement
36 shall be valid or binding unless such change, modification or amendment shall be in writing and signed by each party. This
37 Agreement will be binding upon the heirs, beneficiaries and devisees of the parties hereto. This Agreement is executed and
38 intended to be performed in the State of Nevada, and the laws of that state shall govern its interpretation and effect. The parties
39 agree that the county and state in which the Property is located is the appropriate forum for any action relating to this Agreement.
40 Should any party hereto retain counsel for the purpose of initiating litigation to enforce or prevent the breach of any provision
41 hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs
42 and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such
43 prevailing party.

44 **THIS IS A LEGALLY BINDING CONTRACT.** All parties are advised to seek independent legal and tax advice to review
45 the terms of this Agreement.

46 **NO REAL ESTATE BROKER/AGENT MAY SIGN FOR A PARTY TO THIS AGREEMENT UNLESS THE BROKER
47 OR AGENT HAS A PROPERLY EXECUTED POWER OF ATTORNEY TO DO SO.**

48 **THIS FORM HAS BEEN APPROVED BY THE GREATER LAS VEGAS ASSOCIATION OF REALTORS® (GLVAR).
49 NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY
50 SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL
51 ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE
52 PROFESSIONAL.**

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

1 This form is available for use by the real estate industry. It is not intended to identify the user as a REALTOR®.
2 REALTOR® is a registered collective membership mark, which may be used only by members of the NATIONAL
3 ASSOCIATION OF REALTORS® who subscribe to its Code of Ethics.

4
5 27. ADDENDUM(S) ATTACHED: _____

6 _____
7 _____

8 28. ADDITIONAL TERMS: _____

9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____

Earnest Money Receipt

27
28 BUYER'S AGENT ACKNOWLEDGES RECEIPT FROM BUYER HEREIN of the sum of \$ _____
29 evidenced by Cash, Cashier's Check, Personal Check, or Other _____
30 payable to _____. Upon Acceptance, Earnest Money to be deposited within ONE (1)
31 business day, with Escrow Holder, Buyer's Broker's Trust Account, - OR - Seller's Broker's Trust Account

32
33
34 Date: _____ Signed: _____ Buyer's Agent.
35

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____
Property Address: _____ SELLER(S) INITIALS: _____ / _____

Buyer's Acknowledgement of Offer

1
2 Upon Seller's acceptance, Buyer agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures,
3 and attachments.
4

5 _____: AM PM
6 Buyer's Signature _____ Buyer's Printed Name _____ Date _____ Time _____

7
8 _____: AM PM
9 Buyer's Signature _____ Buyer's Printed Name _____ Date _____ Time _____

10
11 Seller must respond by: _____ AM PM on (month) _____, (day) _____, (year) _____.
12 Unless this Agreement is accepted by execution below and delivered to the Buyer's Broker before the above date and time,
13 this offer shall lapse and be of no further force and effect. (Under NAC 645.632, Seller is required by law to respond in any
14 event.)

15
16 Confirmation of Representation: The Buyer is represented in this transaction by:

17
18 Buyer's Broker: _____ Agent's Name: _____

19 Company Name: _____ Agent's Public ID: _____

20 Phone: _____ Office Address: _____

21 Email: _____ City, State, Zip: _____

22 Fax: _____
23

Seller's Response

24 ACCEPTANCE: Seller(s) acknowledges that he/she accepts and agrees to be bound by each provision of this Agreement, and
25 all signed addenda, disclosures, and attachments.

26 COUNTER OFFER: Seller accepts the terms of this Agreement subject to the attached Counter Offer #1.

27 REJECTION: In accordance with NAC 645.632, Seller hereby informs Buyer the offer presented herein is not accepted.
28

29 FIRPTA DECLARATION: Pursuant to Section 4.E. herein, Seller declares that he/she

30 is not -OR-

31 is a foreign person therefore subjecting this transaction to FIRPTA withholding.
32

33 _____: AM PM
34 Seller's Signature _____ Seller's Printed Name _____ Date _____ Time _____

35
36 _____: AM PM
37 Seller's Signature _____ Seller's Printed Name _____ Date _____ Time _____

38
39 Confirmation of Representation: The Seller is represented in this transaction by:

40
41 Seller's Broker: _____ Agent's Name: _____

42 Company Name: _____ Office Address: _____

43 Phone: _____ City, State, Zip: _____

44 Email: _____ Fax: _____
45

46 LICENSEE DISCLOSURE OF INTEREST (SELLER): Pursuant to NRS 645.252(1)(c), a real estate licensee must
47 disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction _____

48 _____ is a licensed real estate agent in the State(s) of _____, and has the following interest,

49 direct or indirect, in this transaction: Principal (Seller) -OR- family or firm relationship with Seller or ownership interest
50 in Seller (if Seller is an entity): (specify relationship) _____

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: _____ BUYER(S) INITIALS: _____ / _____

Property Address: _____ SELLER(S) INITIALS: _____ / _____

WALK-THROUGH INSPECTION AND RELEASE



PROPERTY ADDRESS: _____ Date: _____

Pursuant to the terms of the Purchase Agreement, Buyer is entitled to a walk-through of the Property prior to COE to ensure the Property and all major systems, appliances, heating/cooling, plumbing and electrical systems and mechanical fixtures are as stated in Seller's Real Property Disclosure Statement, and that the Property and improvements are in the same general condition as when this Agreement was signed by Seller and Buyer. To facilitate Buyer's walk-through, Seller is responsible for keeping all necessary utilities on. If any systems cannot be checked by Buyer on walk-through due to non-access or no power/gas/water, then Buyer reserves the right to hold Seller responsible for defects which could not be detected on walk-through because of lack of such access or power/gas/water. The purpose of the walk-through is to confirm (a) the Property is being maintained (b) repairs, if any, have been completed as agreed, and (c) Seller has complied with Seller's other obligations. **If Buyer elects not to conduct a walk-through inspection prior to COE, then all systems, items and aspects of the Property are deemed satisfactory, and Buyer releases Seller's liability for costs of any repair that would have reasonably been identified by a walk-through inspection, except as otherwise provided by law.**

The following aspects of the above referenced property have been personally inspected by the undersigned Buyer(s) or their authorized representative. Any unsatisfactory conditions should be noted in item 1 on page 2. Any items that cannot be checked should be noted in item 2 on page 2.

GENERAL	Working			KITCHEN	Working		
	Yes	No	N/A		Yes	No	N/A
Air-Conditioning				Ceiling Fan			
Alarm System				Dishwasher			
Automatic Garage Door				Doors and Windows			
Breaker Box				Faucets			
Carbon Monoxide Detector(s)				Garbage Disposal			
Central Vacuum				Microwave			
Door Bell(s)				Outlets			
Doors and Windows				Oven			
Heating				Oven Hood/Fan			
Intercom				Range			
Smoke Detector(s)				Refrigerator			
Thermostat(s)				Switches			
Water Conditioner				Trash Compactor			
Water Heater(s)							

LIVING ROOM	Working		
	Yes	No	N/A
Ceiling Fan			
Doors/Windows			
Fireplace			
Light Fixtures			
Outlets			
Switches			

DINING ROOM	Working		
	Yes	No	N/A
Ceiling Fan			
Doors/Windows			
Fireplace			
Light Fixtures			
Outlets			
Switches			

FAMILY ROOM	Working		
	Yes	No	N/A
Ceiling Fan			
Doors/Windows			
Fireplace			
Light Fixtures			
Outlets			
Switches			

BEDROOMS	Master Bedroom Working		
	Yes	No	N/A
Ceiling Fan			
Doors/Windows			
Fireplace			
Light Fixtures			
Outlets			
Smoke Detector			
Switches			

Bedroom #2	Working		
	Yes	No	N/A

Bedroom #3	Working		
	Yes	No	N/A

Bedroom #4	Working		
	Yes	No	N/A

Bedroom #5	Working		
	Yes	No	N/A

Buyer's Initials: [] []

Wardley Real Estate 7670 W Lake Mead Blvd Ste 100 Las Vegas, NV 89128 Phone: (702)256-4900 Fax: (702) Untitled
 Lois Harper Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

BATHROOMS	Master Bathroom Working			Bathroom #2 Working			Bathroom #3 Working			Bathroom #4 Working			Bathroom #5 Working		
	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A
Ceiling Fan															
Doors/Windows															
Exhaust Fan															
Light Fixtures															
Outlets															
Plumbing															
Faucets															
Shower															
Sink(s)															
Toilet															
Tub															
Switches															

MISCELLANEOUS	Working		
	Yes	No	N/A
Pool			
Pool Equipment			
Spa			
Washer			
Dryer			

	Working		
	Yes	No	N/A
Sprinklers			
Front			
Rear			
Sides			

The Buyer(s) or their authorized representative, _____, have personally conducted the
Name of Authorized Representative
above described inspection and acknowledge:

1. Except as otherwise noted below, all items of the subject property are acceptable to Buyer, and Seller has completed all repairs as agreed to by the Buyer and Seller.
Exceptions: _____

2. The following items were not able to be checked:

3. See Funds Held Supplemental Escrow Instructions

SELECT ONE:

We hereby acknowledge receipt of a copy of this Inspection and release any and all brokers and agents from further responsibility and liability in this matter.

-OR-

Buyer hereby **WAIVES** the walk-through inspection and releases any and all brokers and agents from further responsibility and liability in this matter.

Buyer/Authorized Rep.: _____ Date: _____ Time: _____

Buyer/Authorized Rep.: _____ Date: _____ Time: _____

Received by:

Seller: _____ Date: _____ Time: _____

Seller: _____ Date: _____ Time: _____

Buyer's Init _____] [_____]

GREATER LAS VEGAS ASSOCIATION OF REALTORS®

1750 E. SAHARA AVE. • LAS VEGAS, NEVADA 89104-3706 • (702) 732-8177



Multiple Listing Service WITHDRAWAL/TERMINATION ORDER

ADDRESS/DESCRIPTION _____ MLS# _____

MLS AREA _____ PROPERTY TYPE _____ CURRENT PRICE \$ _____

TO: _____ COMPANY

The undersigned, being the owner(s) of property described above, hereby authorizes the following changes, which are to be made a part of the original listing contract:

WC (1) Withdrawal from the Multiple Listing Service (does not terminate listing contract).

Conditional (list conditions) - - Effective Date _____

WU (2) Termination of Listing Contract and Withdrawal from the Multiple Listing Service.

Unconditional (list exceptions) - - Effective Date _____

The receipt of a copy of this authorization is hereby acknowledged.

Broker _____ Owner

Listing Agent _____ Owner

Date _____, _____ Date _____, _____

NOTE:

THIS FORM DOES NOT CONSTITUTE A VALID WITHDRAWAL/TERMINATION ORDER UNLESS SIGNED BY THE BROKER OF THE LISTING OFFICE.

Revised 01/01

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

788 Fairview Drive, Suite 200 * Carson City, NV 89701-5453 * (775) 687-4280
2501 East Sahara Avenue, Suite 102 * Las Vegas, NV 89104-4137 * (702) 486-4033
Email: realest@red.state.nv.us <http://www.red.state.nv.us>

WAIVER FORM

In representing any client in an agency relationship, a real estate licensee has specific statutory duties to that client. Under Nevada law only one of these duties can be waived. NRS 645.254 requires a licensee to "present all offers made to or by the client as soon as practicable." This duty may be waived by the client.

"Presenting all offers" includes without limitation: accepting delivery of and conveying offers and counteroffers; answering a client's questions regarding offers and counteroffers; and assisting a client in preparing, communicating and negotiating offers and counteroffers.

In order to waive the duty, the client must enter into a written agreement waiving the licensee's obligation to perform the duty to present all offers. **By signing below you are agreeing that the licensee who is representing you will not perform the duty of presenting all offers made to or by you with regard to the property located at:**

Property Address _____

City _____

AGREEMENT TO WAIVER

By signing below I agree that the licensee who represents me shall not present any offers made to or by me, as defined above. I understand that a real estate transaction has significant legal and financial consequences. I further understand that in any proposed transaction, the other licensee(s) involved represents the interests of the other party, does not represent me and cannot perform the waived duty on my behalf. I further understand that I should seek the assistance of other professionals such as an attorney. I further understand that it is my responsibility to inform myself of the steps necessary to fulfill the terms of any purchase agreement that I may execute. I further understand that this waiver may be revoked in writing by mutual agreement between client and broker.

WAIVER NOT VALID UNTIL SIGNED BY BROKER.

Client _____ Date _____ Licensee _____ Date _____

Client _____ Date _____ Broker _____ Date _____

06/22/2007

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Chapter 4

Real Estate Financing Terminology,
Closing Costs,
and Net Sheets

REAL ESTATE FINANCING TERMINOLOGY, CLOSING COSTS, AND NET SHEETS

This chapter contains the following information regarding real estate financing terms, closing costs and net sheets:

- **Glossary** – includes most all real estate financing terms and their respective definitions
- **Buyer and Seller Closing Costs and the HUD-1 Explained**
- **HUD-1 Settlement Statement**
- **Your Settlement Costs** – explanations in details of each cost that can appear on a HUD-1
- **Closing Cost Calculator** – to help buyers understand the types of closing costs in obtaining a new loan
- **Estimate Costs and Net Sheets** – worksheet to calculate buyer closing expenses and seller's net proceeds
- **Who Can Pay What?** – a cheat sheet as to which party can pay what expenses for each type of loan
- **Who Gets the Bill?** – typically, who in Clark County Nevada pays for what closing costs

In a live, classroom setting, the instructor will review these documents in detail with all students. For those individuals taking this course online or through correspondence study, it is the student's responsibility to read through the documents to remain current. These students are free to contact an instructor at support@realtyschool.com. An instructor will reply to student questions via email as quickly as possible, but no later than within 1 business day.

ESTIMATED COSTS AND NET PROCEEDS

Glossary of Terms

ALTA Lender's Policy: Insurance that protects the lender against any claims that arise from arguments about ownership of the property. The cost is based on the loan amount.

Appraisal Fee: Fee charged for preparing an appraisal, which gives an estimate of the property's fair market value; an appraisal is generally required by a lender before a loan can be approved.

Assumption Fee: Fee that may be charged when a buyer is assuming a mortgage from a seller.

Brokerage Fee: Compensation payable to the real estate broker(s) for services rendered in the sale of property.

Common Interest Community Document Fee: Fee charged by a common interest community to prepare a resale package according to NRS 116.4109.

Common Interest Community Transfer Fee: An administrative service fee charged by a common interest community to transfer ownership records.

Down Payment: The amount of cash a buyer will pay at the time of closing.

Escrow Fee: Fee charged by an escrow company to facilitate the closing of a real estate transaction.

Existing Mortgage Prepayment Fee: A penalty that may be assessed when paying off a mortgage note before the due date.

Mortgage Insurance Premium (MIP): A monthly payment for mortgage insurance. Mortgage insurance protects lenders against some or most of the losses that can occur when a borrower defaults. Mortgage insurance is required primarily for borrowers with a down payment of less than 20% of the purchase price.

Flood Certification: A fee charged by the title company to determine whether a property is in a flood plain.

Home Inspection: A fee charged by a home inspector who examines the structure and mechanical systems to determine a home's safety, and to notify the buyer of any repairs that may be needed.

Home Warranty Plan: Offers protection for mechanical systems and attached appliances against unexpected repairs not covered by homeowner's insurance. Coverage extends for a specific period of time.

Insurance: Also known as homeowner's or hazard insurance. A policy that combines protection against damage to a dwelling and its contents with protection against claims of negligence or inappropriate action that results in someone's injury or property damage.

Interest: A fee charged for the use of money. At closing, the interest will be prorated until the first mortgage payment due date.

Lender Document Preparation Fee: An administrative fee charged to prepare the actual loan documents for signature.

Loan Discount Points: Discount points are paid to reduce the interest rate on a loan, and are generally calculated to be the equivalent to 1% of the total loan amount.

Loan Origination Fee: The charge for preparing, submitting and evaluating a loan application. The fee compensates the loan officer and is usually calculated as a percentage of the new loan amount.

Loan Processing/Application Fee: The charge for processing a loan and preparing it for underwriting.

Impound: Amounts paid by a borrower as part of the monthly mortgage payment and held in an escrow account to pay insurance (homeowner's and mortgage, if applicable) and taxes to cover those fees when due.

Real Property Transfer Tax (RPTT): (Also known as the Nevada Transfer Tax) A tax required to be paid any time property is conveyed from one owner to another. Rates vary by county. The current rate is \$5.10 per \$1,000 in Clark County.

Non-recurring costs: One time expenses that are paid at the close of escrow.

Proration: A proportional division of a fee or assessment, such as taxes.

Reconveyance Fee: A fee charged by a mortgage holder to convey the property to the owner when a loan is paid off.

Recurring costs: Ongoing expenses.

Recording Fee: A fee charged by the County Recorder to file and record written documents on the public record. The fee is based on the number of pages recorded.

Setup/Collection Fees: An account servicing fee charged by a title company, when there is seller participation in a loan.

Tax Service: A fee charged to set up monitoring of a borrower's tax payments, to prevent tax liens to the lender's detriment.

Taxes: An annual assessment on real property that is paid to the county.

Title Insurance Policy: A homebuyer's policy that protects against any claims that arise from arguments about ownership of the property.

Transaction Fee: A fee that may be charged by a brokerage to cover document protection and storage, transaction coordination, etc.

VA Funding Fee: A charge levied by the Veterans' Administration to insure a VA loan, paid instead of MIP. The amount is calculated as a percentage of the loan amount.

Client Initials _____ Date: _____

Client Initials _____ Date: _____

BUYER AND SELLER CLOSING COSTS AND THE HUD-1 EXPLAINED

Closing Costs Explained

Closing your home should be exciting, and once you understand the process and how it works, it can be.

Here you will find a list of costs commonly associated with closing on a home. Fees may vary depending on where you live, so be sure to talk to your lender, real estate agent, and settlement company for more specific information.

All closing costs must be listed on your HUD-1 settlement form, a document that is required to be filled out prior to finalizing the purchase of your home.

What are My Closing Costs?

In addition to the sales price of the home, there are a variety of costs associated with finalizing the transaction. Click on any of these links below for more information on these costs:

- [Real Estate Broker Commission/Fees - Section 700](#)
- [Loan Fees - Direct Loan Costs - Section 800](#)
- [Items Required by the Lender to be paid in advance \(a/k/a "Pre-pays"\) - Section 900](#)
- [Escrows/Impounds/Reserves - Section 1000](#)
- [Title and Closing Charges - Section 1100](#)
- [Recording/Government Filing Fees - Section 1200](#)
- [Other, Miscellaneous Charges - Section 1300](#)
- [Harmful Fees That Could Appear on the HUD-1](#)

Real Estate Broker Commission/Fees (Section 700)

If you use a real estate agent to help you in buying your home, the cost of the agent's services can be paid in one of two ways. Generally, the seller pays for all agents in a transaction in an amount usually stated as a percentage of the sales price. While this amount will be deducted, along with other seller-paid closing costs, from any amount the seller might otherwise be paid and is usually stated on the HUD-1, this will not be your charge. Increasingly, buyers in some places are engaging their own so-called "buyer's broker or agent." How they are paid and by whom varies from place to place and can be negotiated in many cases. Sellers frequently also pay for such services on behalf of buyers but if a charge is paid by the buyer, it will also be stated on the HUD-1 and added to the amount you'll need to bring to closing.

Loan Fees - Direct Loan Costs (Section 800)

Most people need to obtain a mortgage loan to pay for their home. There are often fees associated with obtaining a loan such as the ones listed below. These fees include ones paid directly to the lender or the lender's designated payee. Fees payable to third-party loan originators (typically Mortgage Brokers) are also shown in this section of the HUD-1.

- **801-Loan Origination Fee** - This fee covers the lender's cost of obtaining financing and administration for your loan. The fee is usually calculated as a percentage of the loan amount but can also be in a flat dollar amount. It has become more common for an "application" fee (stated in flat dollar amount) and, possibly, other up-front charges like an "underwriting" fee (also usually in flat dollar terms) either to take the place of or be in addition to an origination fee. Each lender and each loan program a lender offers will have different front-end charges. You should shop carefully and examine all the fees and terms prior to closing. It is generally too late to change those fees and terms at closing.
- **802-Loan Discount (Sometimes referred to as "points")** - This is a one-time fee charged by the lender in order to give you a lower interest rate on your loan. Each point is 1% of the mortgage amount. Points paid upfront can

reduce the interest rate you pay on your loan. Whether this is the best option for you in shopping for a mortgage loan depends on whether you have the necessary cash and how long you think you'll stay in the home or keep the mortgage before selling or refinancing — the longer you intend to stay and keep the financing, the better off you may be paying something upfront and paying a lower interest rate on your loan. In any event, this cost will be collected at closing generally.

- **803-Appraisal Fees** - To approve your loan your lender has to obtain an estimate of what your home is really worth. The appraisal fee covers the cost of getting an estimate of the market value of your home, usually by an independent, certified, licensed appraiser.
- **804-Credit Report Fee** - Mortgage lenders require a credit report to determine whether or not you are eligible (have good enough credit) for a loan, how much they will lend you and at what interest rate. Credit Reports today often also include a "credit score" which is an indicator of your ability and willingness to repay the loan. The higher your credit score, the better risk you are.
- **805-Lender Inspection Fees** - If the lender requires certain inspections to take place before closing (particularly where new construction or recent repairs are involved), such inspection fees, payable to the lender or its designee, will appear in this section of the HUD-1.
- **806-Mortgage Insurance Application Fee** - There are often fees associated with processing an application for mortgage insurance. Some private mortgage insurers waive the application fee. This line of the HUD-1 may be used for other fees when the borrower is seeking an FHA-insured or VA-guaranteed loan.
- **807-Assumption Fee** - If you are taking over the existing mortgage loan on the home, there is often a charge associated with assuming the mortgage, called the assumption fee.
- **808-Mortgage Broker Fee** - This fee covers the costs of services of a mortgage broker if one is engaged by the borrower to help them shop for mortgage financing. Mortgage brokers typically present the borrower's application to a variety of funding sources before helping the borrower make their final selection.
- **809-Yield Spread Premium (YSP)** - This is a fee that the funding lender may pay directly to the mortgage broker or other third-party loan originator. This fee is for securing a borrower on behalf of the funding lender at rate and terms agreed upon which may be higher than what is called "at par." The fee is sometimes called a "Par-Plus Pricing" fee. While this fee is not paid by the borrower (it typically is shown as "POC" by the Lender"), it must be shown on the HUD-1 if the mortgage broker is receiving such compensation.

Items Required by the Lender to be paid in advance (Section 900)

There are certain items the lender may require you to pay at the time of closing or in advance of the actual closing date. These could include:

- **901-Interest** - Lenders usually require payment of loan interest from and including the day of closing through the end of the month of closing. After that, interest is accrued and paid as part of the monthly loan installments.
- **902-Mortgage Insurance Premium** - At the settlement, you may be required to pay your first year's mortgage insurance premium, or a lump sum premium that covers the life of the loan. This fee is payable to a Private Mortgage Insurance Company. If the loan is being federally insured (FHA) or guaranteed (VA), the mortgage insurance or funding fees for those government loan programs would be charged here.
- **903-Hazard Insurance Premium** - Oftentimes lenders require payment of one year's hazard insurance, commonly referred to as homeowner's insurance, against fire, windstorms and natural hazards. In order to bind the coverage, the premium is often paid in advance of closing.
- **822-Flood Insurance** - Depending on the location of your home, flood insurance may be required and payment of the first year's premium must be made in advance of closing.

Escrows/Impounds/Reserves (Section 1000)

Although the lender isn't required to provide an estimate of the reserves they will be collecting, it is important that you be aware of whether the lender will or will not be "escrowing" for taxes, mortgage insurance (if any), hazard and flood insurance. The use of an escrow/impound account to build up the funds needed to pay these items as they become due can often be a good way for borrowers to budget rather than having to pay these large sums out-of-pocket when they come due. Be sure to ask your lender in advance of closing how these items will be paid on a go-forward basis.

Title and Closing Charges (Section 1100)

These fees cover the administrative costs of a title search, title examination, issuance of the title commitment/binder and final title insurance policy(s.) Also included would be charges for conducting the closing/settlement/escrow. You are free to select the company to conduct your closing/settlement/escrow, and to shop for the best pricing.

1101-Settlement/Closing Fee -A fee must be paid to a settlement agent who has prepared documents, calculated figures, and oversees proper execution of closing documents. This fee is often split between buyer and seller but can be negotiated as part of the sales contract.

- **1102-Abstract of Title, Search, Title Examination, Title Insurance Commitment or Binder** - In order to ensure that there are no pre-existing problems with your property, a title insurance professional must perform a title search and produce documentation on the home's title. In some places, one or more of these charges will appear separately on the HUD-1 and in other places they may be included within the title insurance premium. When a mortgage loan is involved, there may also be added charges for special endorsements that will accompany the lender's title policy.
- **1105-Document Preparation** - Some settlement agents charge for the cost of preparing legal papers such as the mortgage, deed of trust, note or deed and/or other loan and title documentation. If a lender charges a document preparation fee, it will typically appear in the Loan Fees/Direct Loan Costs section of the HUD-1.
- **1106-Notary Fee** - Because there are legal documents involved, a licensed notary is required to acknowledge the fact that the proper people signed these official documents in their presence. Notaries often charge a fee for their services.
- **1107-Attorney fees** - Both the homebuyer and the seller might have their own legal representation to prepare and record legal documents. Frequently, however, where an attorney is acting as a settlement agent, there may only be one involved in the closing. Who pays for those services is a matter of contract negotiation but is often handled like fees paid to any other settlement agent/title agent.
- **1108-Title Insurance** - There are two kinds of title insurance policies: Loan and Owner's policies. The cost for the Loan Policy is based on the loan amount and the cost for the Owner's Policy is based on the sales price of the home. Who pays these one-time fees at closing varies from state to state. Ask your settlement agent how it is handled in your area. In some circumstances, discounts may be available (such as a "reissue rate" or "reissue credit") when the property has recently been insured by a title insurer. Be sure to ask if you are entitled to any discounts.
- **1109- Lenders coverage- Title Insurance**
- **1110- Owners Title Insurance**

You also have the option of purchasing a policy with expanded coverage. It's called the Homeowner's Policy and it covers more things than the Owner's Policy. Ask your local title company for an explanation of the expanded Homeowner's Policy so you can decide which policy is the best one for you.

Recording/Government Filing Fees (Section 1200)

Buying a home is not only a big investment, it is also a matter of public record. The property information and the loan information are required to be filed at the county courthouse or other local government recording office.

- **1201-Recording Fees** - The recording fee is paid to a government body which enters an official record of the change of ownership.
- **1202-Transfer Taxes, Document or Transaction Stamps** - These are government charges based on the amount of the mortgage and, often, also on the purchase price. Depending on your location, there could be a city, county or state tax involved, or some combination.

Other, Miscellaneous Charges (Section 1300)

- **1301-Survey Fee** - Lenders and title insurers often require a surveyor to conduct a survey of your property to define the property size and boundaries and to see if any part of the building or other improvements are "encroaching" on a neighbor's yard — or the other way around. They are also looking to see if there are any setback violations or other material matters that are considered problematic.
- **1302-Inspection Fees** - When homes are sold an inspection is often recommended and in some cases the contract may even be contingent upon an acceptable inspection report. This fee covers the cost of an inspector to check the dwelling for any structural problems or issues. Frequently, this is a sales contract term imposed by the homebuyer to obtain an accurate assessment of the condition of the property. The work is done prior to closing but the fee is often collected at closing. There are several inspections that a future homeowner might want to request and a lender might require. These could include pest inspections (termites and other wood-destroying organisms), lead paint inspections (for structures built before 1978), roof inspections, water/well certifications, structural or mechanical inspections, or additional specific inspections based on the property type and location.
- **1303- Home Owners Association fees and charges**

Harmful Fees That Could Appear on the HUD-1

Consumers should be aware of a relatively new legal instrument, called Wall Street Home Resale Fees (also known as Private Transfer Fees). While traditional covenants have an accepted and beneficial role in the housing market by benefitting the land, these for-profit covenants require homeowners to pay a premium for the right to sell their property. These fees are typically placed on properties by developers and often go unnoticed by unsuspecting homebuyers. Wall Street Home Resale Fees are inserted into home sale contracts by private third parties, and require that every time a home is sold for the next 99 years, a percentage of the sale of the home (usually 1%) be paid to the third party. In return, homeowners receive nothing but reduced home equity and a harder time selling their home. In contrast, resale fees levied by homeowners' and condo associations direct money back towards homeowners in the form of infrastructure and amenity improvements. This is what differentiates them from the private, for-profit transfer fee.

The American Land Title Association (ALTA) cautions consumers about the impact Wall Street Home Resale Fees have on real estate. When purchasing a home, read through your sales contract to make sure this fee is not attached to your house. If you believe a Wall Street Home Resale Fee has been placed on your property, send an email to ALTA.

D. HUD-1 Settlement Statement

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		SETTLEMENT STATEMENT	
B. TYPE OF LOAN		6. File Number	7. Loan Number
		8. Mortgage Insurance Case Number	
1. FHA 2. FmHA 3. CONV. UNINS. 4. VA 5. CONV. INS.			
<i>C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.</i>			
D. NAME AND ADDRESS OF BORROWER:		E. NAME AND ADDRESS OF SELLER:	
F. NAME AND ADDRESS OF LENDER:			
G. PROPERTY LOCATION:		H. SETTLEMENT AGENT: NAME, AND ADDRESS	
		PLACE OF SETTLEMENT:	I. SETTLEMENT DATE:

J. SUMMARY OF BORROWER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<i>Adjustments for items paid by seller in advance</i>	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
120. GROSS AMOUNT DUE FROM BORROWER	

K. SUMMARY OF SELLER'S TRANSACTION	
400. GROSS AMOUNT DUE TO SELLER:	
401. Contract sales price	
402. Personal property	
403.	
404.	
405.	
<i>Adjustments for items paid by seller in advance</i>	
406. City/town taxes to	
407. County taxes to	
408. Assessments to	
409.	
410.	
411.	
412.	
420. GROSS AMOUNT DUE TO SELLER	

200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:	
201. Deposit of earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<i>Adjustments for items unpaid by seller</i>	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. TOTAL PAID BY/FOR BORROWER	

500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
<i>Adjustments for items unpaid by seller</i>	
510. City/town taxes to	
511. County taxes to	
512. Assessments to	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. TOTAL REDUCTION AMOUNT DUE SELLER	

300. CASH AT SETTLEMENT FROM/TO BORROWER	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	
303. CASH (FROM) (TO) BORROWER	

600. CASH AT SETTLEMENT TO/FROM SELLER	
601. Gross amount due to seller (line 420)	
602. Less reductions in amount due seller (line 520)	
603. CASH (TO) (FROM) SELLER	

L. SETTLEMENT CHARGES

	@	% =	PAID FROM BORROWER'S FUNDS AT SETTLEMENT		PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$					
<i>Division of Commission (line 700) as follows:</i>					
701. \$		to			
702. \$		to			
703. Commission paid at Settlement					
704.					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee		%			
802. Loan Discount		%			
803. Appraisal Fee		to			
804. Credit Report		to			
805. Lender's Inspection Fee					
806. Mortgage Insurance Application Fee to					
807. Assumption Fee					
808.					
809.					
810.					
811.					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest from	to	@ \$	/day		
902. Mortgage Insurance Premium for		months @	to		
903. Hazard Insurance Premium for		years @	to		
904.		years @	to		
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001. Hazard Insurance		months @ \$	per month		
1002. Mortgage insurance		months @ \$	per month		
1003. City property taxes		months @ \$	per month		
1004. County property taxes		months @ \$	per month		
1005. Annual assessments		months @ \$	per month		
1006.		months @ \$	per month		
1007.		months @ \$	per month		
1008. Aggregate Adjustment		months @ \$	per month		
1100. TITLE CHARGES					
1101. Settlement or closing fee		to			
1102. Abstract or title search		to			
1103. Title examination		to			
1104. Title insurance binder		to			
1105. Document preparation		to			
1106. Notary fees		to			
1107. Attorney's fees		to			
		<i>(includes above items numbers;</i>			
		<i>)</i>			
1108. Title Insurance		to			
		<i>(includes above items numbers;</i>			
		<i>)</i>			
1109. Lender's coverage		\$			
1110. Owner's coverage		\$			
1111.					
1112.					
1113.					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording fees: Deed \$; Mortgage \$; Releases \$		
1202. City/county tax/stamps:		Deed \$; Mortgage \$		
1203. State tax/stamps:		Deed \$; Mortgage \$		
1204.					
1205.					
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey		to			
1302. Pest inspection		to			
1303.					
1304.					
1305.					
1400. TOTAL SETTLEMENT CHARGES <i>(enter on lines 103, Section J and 502, Section K)</i>					

III. YOUR SETTLEMENT COSTS

A. Specific Settlement Costs

This part of the Booklet discusses the settlement services which you may be required to get and pay for and which are itemized in Section L of the HUD-1 Settlement Statement. You also will find a sample of the HUD-1 form to help you to understand the settlement transaction.

When shopping for settlement services, you can use this section as a guide, noting on it the possible services required by various lenders and the different fees quoted by service providers. Settlement costs can increase the cost of your loan, so compare carefully.

700. Sales/Broker's Commission: This is the total dollar amount of the real estate broker's sales commission, which is usually paid by the seller. This commission is typically a percentage of the selling price of the home.

L. SETTLEMENT CHARGES				
700. TOTAL SALES/BROKER'S COMMISSION based on price \$	@	%=	PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
<i>Division of Commission (line 700) as follows:</i>				
701. \$	to			
702. \$	to			
703. Commission paid at Settlement				
704.				

800. Items Payable in Connection with Loan: These are the fees that lenders charge to process, approve and make the mortgage loan:

801. Loan Origination: This fee is usually known as a loan origination fee but sometimes is called a "point" or "points." It covers the lender's administrative costs in processing the loan. Often expressed as a percentage of the loan, the fee will vary among lenders. Generally, the buyer pays the fee, unless otherwise negotiated.

802. Loan Discount: Also often called "points" or "discount points," a loan discount is a one-time charge imposed by the lender or broker to lower the rate at which the lender or broker would

otherwise offer the loan to you. Each "point" is equal to one percent of the mortgage amount. For example, if a lender charges two points on a \$80,000 loan this amounts to a charge of \$1,600.

803. Appraisal Fee: This charge pays for an appraisal report made by an appraiser.

804. Credit Report Fee: This fee covers the cost of a credit report, which shows your credit history. The lender uses the information in a credit report to help decide whether or not to approve your loan and how much money to lend you.

805. Lender's Inspection Fee: This charge covers inspections, often of newly constructed housing, made by employees of your lender or by an outside inspector. (Pest or other inspections made by companies other than the lender are discussed in line 1302.)

806. Mortgage Insurance Application Fee: This fee covers the processing of an application for mortgage insurance.

807. Assumption Fee: This is a fee which is charged when a buyer "assumes" or takes over the duty to pay the seller's existing mortgage loan.

808. Mortgage Broker Fee: Fees paid to mortgage brokers would be listed here. A CLO fee would also be listed here.

800. ITEMS PAYABLE IN CONNECTION WITH LOAN		
801. Loan Origination Fee	%	
802. Loan Discount	%	
803. Appraisal Fee	to	
804. Credit Report	to	
805. Lender's Inspection Fee		
806. Mortgage Insurance Application Fee to		
807. Assumption Fee		
808. Mortgage Broker Fee		
809.		
810.		
811.		

900. Items Required by Lender to Be Paid in Advance: You may be required to prepay certain items at the time of settlement, such as accrued interest, mortgage insurance premiums and hazard insurance premiums.

901. Interest: Lenders usually require borrowers to pay the interest that accrues from the date of settlement to the first monthly payment.

902. Mortgage Insurance Premium: The lender may require you to pay your first year's mortgage insurance premium or a lump sum premium that covers the life of the loan, in advance, at the settlement.

903. Hazard Insurance Premium: Hazard insurance protects you and the lender against loss due to fire, windstorm, and natural hazards. Lenders often require the borrower to bring to the settlement a paid-up first year's policy or to pay for the first year's premium at settlement.

904. Flood Insurance: If the lender requires flood insurance, it is usually listed here.

900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest from	to	@\$	/day
902. Mortgage Insurance Premium for		months to	
903. Hazard Insurance Premium for		years to	
904.		years to	
905.			

1000 - 1008. Escrow Account Deposits: These lines identify the payment of taxes and/or insurance and other items that must be made at settlement to set up an escrow account. The lender is not allowed to collect more than a certain amount. The individual item deposits may overstate the amount that can be collected. The aggregate adjustment makes the correction in the amount on line 1008. It will be zero or a negative amount.

1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	months @ \$	per month	
1002. Mortgage insurance	months @ \$	per month	
1003. City property taxes	months @ \$	per month	
1004. County property taxes	months @ \$	per month	
1005. Annual assessments	months @ \$	per month	
1006.	months @ \$	per month	
1007.	months @ \$	per month	
1008. Aggregate Adjustment			

1100. Title Charges: Title charges may cover a variety of services performed by title companies and others. Your particular settlement may not include all of the items below or may include others not listed.

1101. Settlement or Closing Fee: This fee is paid to the settlement agent or escrow holder. Responsibility for payment of this fee should be negotiated between the seller and the buyer.

1102-1104. Abstract of Title Search, Title Examination, Title Insurance Binder: The charges on these lines cover the costs of the title search and examination.

1105. Document Preparation: This is a separate fee that some lenders or title companies charge to cover their costs of preparation of final legal papers, such as a mortgage, deed of trust, note or deed.

1106. Notary Fee: This fee is charged for the cost of having a person who is licensed as a notary public swear to the fact that the persons named in the documents did, in fact, sign them.

1107. Attorney's Fees: You may be required to pay for legal services provided to the lender, such as an examination of the title binder. Occasionally, the seller will agree in the agreement of sale to pay part of this fee. The cost of your attorney and/or the seller's attorney may also appear here. If an attorney's involvement is required by the lender, the fee will appear on this part of the form, or on lines 1111, 1112 or 1113.

1108. Title Insurance: The total cost of owner's and lender's title insurance is shown here.

1109. Lender's Title Insurance: The cost of the lender's policy is shown here.

1110. Owner's (Buyer's) Title Insurance: The cost of the owner's policy is shown here.

1100. TITLE CHARGES			
1101. Settlement or closing fee	to		
1102. Abstract or title search	to		
1103. Title examination	to		
1104. Title insurance binder	to		
1105. Document preparation	to		
1106. Notary fees	to		
1107. Attorney's fees	to		
<i>(includes above items numbers;</i>		<i>)</i>	
1108. Title Insurance	to		
<i>(includes above items numbers;</i>		<i>)</i>	
1109. Lender's coverage	\$		
1110. Owner's coverage	\$		
1111.			
1112.			
1113.			

1200. Government Recording and Transfer Charges: These fees may be paid by you or by the seller, depending upon your agreement of sale with the seller. The buyer usually pays the fees for legally recording the new deed and mortgage (line 1201). Transfer taxes, which in some localities are collected whenever property changes hands or a mortgage loan is made, can be quite large and are set by state and/or local governments. City, county and/or state tax stamps may have to be purchased as well (lines 1202 and 1203).

1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording fees: Deed \$; Mortgage \$	
		; Releases \$	

1202. City/county tax/stamps:	Deed \$; Mortgage \$		
1203. State tax/stamps:	Deed \$; Mortgage \$		
1204.				
1205.				

1300. Additional Settlement Charges:

1301. Survey: The lender may require that a surveyor conduct a property survey. This is a protection to the buyer as well. Usually the buyer pays the surveyor's fee, but sometimes this may be paid by the seller.

1302. Pest and Other Inspections: This fee is to cover inspections for termites or other pest infestation of your home.

1303-1305. Lead-Based Paint Inspections: This fee is to cover inspections or evaluations for lead-based paint hazard risk assessments and may be on any blank line in the 1300 series.

1300. ADDITIONAL SETTLEMENT CHARGES				
1301. Survey	to			
1302. Pest inspection	to			
1303.				
1304.				
1305.				

1400. Total Settlement Charges: The sum of all fees in the borrower's column entitled "Paid from Borrower's Funds at Settlement" is placed here. This figure is then transferred to line 103 of Section J, "Settlement charges to borrower" in the **Summary of Borrower's Transaction** on page 1 of the HUD-1 Settlement Statement and added to the purchase price. The sum of all of the settlement fees paid by the seller are transferred to line 502 of Section K, **Summary of Seller's Transaction** on page 1 of the HUD-1 Settlement Statement.

1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)				
--	--	--	--	--

Paid Outside Of Closing ("POC"): Some fees may be listed on the HUD-1 to the left of the borrower's column and marked "P.O.C." Fees such as those for credit reports and appraisals are usually paid by the borrower before closing/settlement. They are additional costs to you. Other fees such as those paid by the lender to a mortgage broker or other settlement service providers may be paid after closing/settlement. These fees are usually included in the interest rate or other settlement

charge. They are not an additional cost to you. These types of fees will not be added into the total on Line 1400.

B. Calculating the Amount You Need At Settlement

The first page of the HUD-1 Settlement Statement summarizes all the costs and adjustments for the borrower and seller. Section J is the summary of the borrower’s transaction and Section K is the summary of the seller’s side of the transaction. You may receive a copy of the seller’s side, but it is not required.

Section 100 summarizes the borrower’s costs, such as the contract cost of the house, any personal property being purchased, and the total settlement charges owed by the borrower from Section L.

Beginning at line 106, adjustments are made for items (such as taxes, assessments, fuel) that the seller has previously paid. If you will benefit from these items after settlement, you will usually repay the seller for that portion of the cost.

Here is an example for you to use in making your own calculations:

J. SUMMARY OF BORROWER'S TRANSACTION		
100.	GROSS AMOUNT DUE FROM BORROWER:	
101.	Contract sales price	100,000.00
102.	Personal Property	
103.	Settlement charges to borrower (line 1400)	4,000.00
104.		
105.		
<i>Adjustments for items paid by seller in advance</i>		
106.	City/town taxes to	
107.	County taxes to	
108.	Assessments 6/30 to 7/31 (owners assn.)	40.00
109.	Fuel Oil 25 gals. @ \$1.00/gal.	25.00
110.		
111.		
112.		
120.	GROSS AMOUNT DUE FROM BORROWER	104,065.00

Assume in this example, the cost of the house is \$100,000 and the borrower’s total settlement charges brought from Line 1400 of Section L are \$4,000. Assume that the settlement

date is July 1. Here the borrower has agreed to pay the seller for the \$40 Home Owners Association dues that have been paid for the month of July and for the 25 gallons of fuel oil left in the tank. This is added for a gross amount due from the borrower of \$104,065.

Section 200 lists the amount paid by the borrower or on behalf of the borrower. This will include the deposit of earnest money you put down with the agreement of sale, the loan(s) you are getting and any loan you may be assuming.

Beginning at Line 210, adjustments are made for items that the seller owes (such as taxes, assessments) but for which you as the borrower will pay after settlement. The seller will usually pay you or credit you this portion at settlement.

200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		
201.	Deposit of earnest money	2,000.00
202.	Principal amount of new loan(s)	80,000.00
203.	Existing loan(s) taken subject to	
204.		
205.		
206.		
207.		
208.		
209.		
<i>Adjustments for items unpaid by seller</i>		
210.	City/town taxes to	
211.	County taxes 1/1 to 6/30 \$1,200/ year	600.00
212.	Assessments 1/1 to 6/30 \$200/yr.	100.00
213.		
214.		
215.		
216.		
217.		
218.		
219.		
220.	TOTAL PAID BY/FOR BORROWER	82,700.00

In this example, assume the borrower paid an earnest deposit of \$2,000 and is getting a loan for \$80,000. A tax of \$1200 and an assessment of \$200 are due at the end of the year. The seller will pay the borrower for six months or one-half of this amount. Line 220 shows the total \$82,700 to be paid by or for the borrower.

Section 300 reflects the difference between the gross amount due from the borrower and the total amount paid by/for the borrower. Generally, line 303 will show the amount of cash the borrower must bring to settlement.

300. CASH AT SETTLEMENT FROM/TO BORROWER		
301.	Gross Amount due from borrower (line 120)	104,065.00
302.	Less amounts paid by/for borrower (line 220)	(82,700.00)
303.	CASH (<input checked="" type="checkbox"/> FROM) (TO) BORROWER	21,365.00

In this example, the borrower must bring \$21,365.00 to settlement.

C. Adjustments To Costs Shared By Buyer and Seller

At settlement it is usually necessary to make an adjustment between buyer and seller for property taxes and other expenses. The adjustments between buyer and seller are shown in Sections J and K of the HUD-1 Settlement Statement. In the example given above, the taxes, which are payable annually, had not yet been paid when the settlement occurs on July 1. The borrower will have to pay a whole year's taxes on the following December 1. However, the seller lived in the house for the first six months of the year. Thus, one half of the year's taxes are to be paid by the seller. Accordingly, lines 211 and 511 on the HUD-1 Settlement Statement would read as follows:

211. County taxes	1/1/97	to	6/30/97	\$600.00	511. County taxes	1/1/97	to	6/30/97	\$600.00
-------------------	--------	----	---------	----------	-------------------	--------	----	---------	----------

The borrower is given credit for this amount at the settlement and the seller will pay this amount or count it as a deduction from sums payable to the seller.

Similar adjustments are made for homeowner association dues, special assessments, and fuel and other utilities, although the billing periods for these may not always be on an annual basis. Be sure you work out these cost sharing arrangements or "prorations" with the seller before the settlement. You may wish to notify utility companies of the change in ownership and ask for a special reading on the day of settlement, with the bill for pre-settlement charges to be mailed to the seller at his or her new

Closing Cost Calculator

The following information is designed to help borrowers understand the types of closing costs involved in obtaining a first mortgage. The costs will vary depending on the city, county, type of mortgage and loan amount.

Items Payable in Connection With Your Loan

Loan Origination Fee-Typically 1% of the loan amount (\$100,000 loan would be \$1,000).
 Appraisal Fee \$400.00
 Credit Report \$65.00
 Tax Service Fee \$80.00
 Underwriting Fee \$500.00
 Flood Certificate \$60.00

Pre Paid Items

Interest-will be between 1-30 days, depending on when in the month you close
 Hazard Insurance - 1 year premium

Reserves

Hazard Insurance -1 year and 2 Months
 Taxes – 2-3 Months
 Mortgage Insurance - 2 Months if applicable

Title Charges

Closing Fee \$750.00
 Title Policy \$75.00-\$750+ Depending on loan amount, purchase or refinance
 Endorsements \$75.00
 Courier Fee \$125.00

Recording & Transfer Fees

Recording Fees \$60.00
 Documentary stamps (varies by state) (\$5.10 per \$1000 of sale price)
 Intangible tax and stamps on mortgage (varies by state)

Additional Charges

Survey \$100.00

Broker Administrative Fee \$400.00

Purchase Price	\$	100000.00
		% Down Payment
Down Payment	\$	10000.0
Loan Amount	\$	90000.00
		% Closing Costs
Closing Costs*	\$	4000.00
Appraisal Fee*	\$	275.00
Credit Report Fee*	\$	65.00
Inspection Fee*	\$	175.00
Moving-In Costs	\$	
Total Closing Costs*	\$	14515.0

This calculator will help you to determine the amount of cash needed for the home purchase

1 - Purchase Price:

Enter the Purchase Price from the Down Payment Calculator.

2 - Down Payment:

Enter the Down Payment percentage you are making. The Loan Amount and other numbers automatically recalculate if you change the purchase price or down payment percentage.

3 - Appraisal, Credit Report and Inspection Fees:

The Appraisal Fee, Credit Report Fee, and Inspection Fee default to \$275.00, \$65.00, and \$175.00 (this is an estimated amount). You may change any or all of these entries.

4 - Closing Costs:

The Closing Costs are automatically calculated on 4% of the Purchase Price. This is a guessestimate only but includes documentary taxes, title insurance, intangible taxes, escrows for property taxes and insurance. Remember to increase this number if you are paying points on your loan.

5 - Moving-In Costs:

These include the moving van, deposits on electric and other services, purchase you will be making such as furniture, dishwasher, washing machine, dryer, etc. Enter the amount in Moving-In Costs.

6 - Calculate:

The values are updated as you tab from entry to entry.

* Fees are estimates - check with your lender for actual fees.

ESTIMATED COSTS AND NET PROCEEDS



Prepared for _____ Price \$ _____

Property Address _____

Terms: Cash(\$) Conv. (C) FHA (F) VA (V) Assumption (A) Seller Financing

		BUYER	SELLER	
Down Payment			\$AVFC	
MORTGAGE COSTS				
Non-Recurring Costs	Loan Origination Fee _____ %		VFC	
	Loan Discount Points _____ %			
	Appraisal Fee		VFC	VFC
	Credit Report		AVFC	
	VA Funding Fee (may be financed)		V	
	FHA Mortgage Ins. Premium (may be financed)		F	
	Lender Document Preparation Fee			VF
	Loan Processing/Application Fee		C	VF
	Existing Mortgage Prepayment Fee			
	Assumption Fee		A	A
Recurring Costs	Tax Service		C	VF
	Interest for _____ days @ _____ % per day		VFC	
	Taxes _____ months @ \$ _____ per month		VFC	
	Insurance _____ months @ \$ _____ per month		VFC	
	Mortgage Insurance Impound		CF	
TITLE COSTS				
Non-Recurring Costs	Recording Fee		\$AVFC	\$AVFC
	Escrow Fee		\$AFC	\$AVFC
	ALTA Lender's Policy		VFC	
	Buyer's Closing Costs (when incl. in price)			VFC
	Title Insurance Policy			\$AVFC
	Real Property Transfer Tax (\$5.10 per \$1000)			\$AVFC
	Reconveyance Fee			
	Proration (Interest/Assessments)			
	Setup/Collection Fees		A	A
	Flood Certification		CF	V
BROKER'S FEES				
Brokerage Fee				
Transaction Fee				
MISCELLANEOUS COSTS				
Common Interest Community Document Fee				\$AVFC
Common Interest Community Transfer Fee			\$AVFC	\$AVFC
Home Inspection				
Home Warranty Plan				
Repairs (Negotiable in purchase agreement)				
Termite Inspection				VF
Well/Septic Inspection				
TOTAL ESTIMATED COSTS				

Client Initials _____ Date: _____

Client Initials _____ Date: _____

WHO CAN PAY WHAT?	FHA				VA				Conventional			
	Buyer		Seller		Buyer		Seller		Buyer		Seller	
	Can	Cannot	Can	Cannot	Can	Cannot	Can	Cannot	Can	Cannot	Can	Cannot
Loan Origination	X		X		X		X		X		X	
Appraisal	X		X		X		X		X		X	
Credit Report	X		X		X		X		X		X	
Recording fee	X		X		X		X		X		X	
Notary Fee	X		X		X		X		X		X	
Alta Title insurance Policy	X		X		X		X		X		X	
Escrow	X		X			X			X		X	
Tax Service		X	X		X		X		X		X	
Discount points	X		X		X		X		X		X	
Mortg. Insur. Premium (FHA)	X		X		X		X		X		X	
VA Funding fee	NA		NA		X		X		NA		NA	
Private Mortgage Insurance	NA		NA		NA		NA		X		X	
Termite Report	X		X		X		X		X		X	
Termite Clearance work	X		X			X			X		X	
Hazard Insurance (Impounds)	X		X		X		X		X		X	
Taxes (Impounds)	X		X		X		X		X		X	
Interim Interest (Impounds)	X		X		X		X		X		X	
Document Fee		X	X			X			X		X	
Processing Fee		X	X			X			X		X	
Funding Fee (financed)	X		NA		NA		NA		NA		NA	
Flood Certification	X		X		X		X		X		X	
Underwriting fee	X		X			X			X		X	

Who Gets the Bill? Normally & Customarily Everything is Negotiable

The Seller:

- Owners Title Policy
- Broker Commissions
- ½ the Escrow Fee (except VA loans)
- All Loans in the Sellers name and title,
- Real Estate Transfer Fees
- Unpaid HOA/CICA dues
- Any Judgments, Liens, etc.

The Buyer:

- Lenders Title Policy
- Loan Charges
- ½ the Escrow Fee (unless a VA loan)
- Interest on New Loan
- Prepaid items (insurance, taxes, etc.)
- Recording Fees

Items Paid Per The Contract:

- Termite/Pest Inspections(VA = seller)
- Home Warranty
- HOA/CICA Transfer & Document Fees
- Any Bonds, Assessments, SIDs/LIDs
- Repairs regarding the Home Inspections

Prorations

All prorations described in the purchase contract for taxes, HOA/CICA dues, sewer fees, SIDs/LIDs assessments, etc. will be prorated to the day of recording. If the date of recording is different from the estimated date used on the settlement statement, the prorations will change accordingly.

Buyers Normal Costs Associated w/ FHA Loans

- Down Payment-3.5%
- Origination Fee (lender)
- Credit Report (lender)
- ½ Escrow Fee
- Title Policy (Lenders)
- Recording Fees(county)
- Mortgage Insurance
 - (up-front fee)
- MIP (2 months payment)
- Hazard Insurance (1yr)+(2mos)
- Tax Impound
 - (3 months)
- Prepaid Interest
- Home Inspection (required)
- Appraisal

Sellers Normal Costs Associated w/ FHA Loans

- ½ Escrow Fee
- Recording Fees
- Title Policy (Owners)
- Real Estate
 - Brokerage Commission
- Regulatory Compliance
- Tax Service Fee
- HOA Resale Package/Demand
- Real Property Transfer Tax

Buyers Normal Costs Associated w/ VA Loans

- Origination Fee
- Credit Report
- Title Policy (Lenders)
- Recording Fees
- VA Funding Fee
- Appraisal
- Hazard Insurance (1 year)
 - (2 months)

- Tax Impound
 - (3 months)
- Prepaid Interest
- Home Inspection

Sellers Normal Costs Associated w/ VA Loans

- Escrow Fee (100%)
- Recording Fees
- Title Policy (Owners)
- Real Estate
 - Brokerage Commission
- Appraisal
- Septic and Well inspections (if applicable)
- Pest Inspection
- Regulatory Compliance
- Tax Service Fee
- HOA Resale Package
- Real Property Transfer Tax

Buyers Normal Costs Associated w/ Conventional Loans

- Down Payment-20%
- Origination Fee(lender)
- Credit Report(lender)
- ½ Escrow Fee
- Title Policy (Lenders)
- Hazard Insurance (1 year) (2 months)
- Tax Impound (3 months)
 - (3 months)
- Prepaid Interest
- HOA Transfer Fee
- Regulatory Compliance
- Home Inspection
- Pest Inspection

Sellers Normal Costs Associated w/ Conventional Loans

- ½ Escrow Fee
- Recording Fees
- Title Policy (Owners)
- Real Estate
- Brokerage commission
- Appraisal
- Regulatory Compliance
- HOA Resale Package-demand
- HOA transfer fees
- Real property transfer tax

Buyers Normal Costs Associated w/ Cash Sales

- Down Payment
- ½ Escrow Fee
- County Recording Fees
- Title settlement fees
- Home Inspection
- Pest Inspection
- Balance of Purchase Price

Sellers Normal Costs Associated w/ Cash Sales

- ½ Escrow Fee
- Recording Fees
- Title Policy (Owners)
- Real Estate
 - Brokerage Commission
- Regulatory Compliance
- HOA Resale Package/Demand
- HOA transfer fees

Chapter 5

State or Local Laws Governing Real Estate Transactions



STATE OR LOCAL LAW GOVERNING REAL ESTATE TRANSACTIONS

The statutes in NRS.645 and the administrative code within NAC.645 are rather extensive. For this unit, we have hand-chosen what we believe to be the most relevant sections of the code for practicing real estate licensees in Nevada.

AGENCY AND FIDUCIARY DUTIES

Nevada recognizes two types of agency: General Agency and Special Agency. With **General Agency**, the agent is authorized under a general power-of- attorney and is granted all the duties under a broad scope of authority to convey real property to another. A general agent can bind the client to a contract. In a **Special Agency** relationship, the agent is given a limited authority to act in that certain restrictions are placed upon the agent's authority and the relationship is only for specific transactions. Real estate brokerage agreements create a special agency relationship. Under a special agency, the agent cannot bind the client to a contract.

NRS 645 defines "agency" as the relationship between a principal (client) and an agent (broker) arising out of a brokerage agreement whereby the agent agrees to do certain acts on behalf of the principal in dealings with a third party. These certain acts are identified in the brokerage agreement include assisting, soliciting or negotiating the sale, purchase, option, rental, or lease of real property, or the sale, exchange, option or purchase of a business. A brokerage agreement may be oral or written with the exception that an exclusive right to sell contract must be in writing. The client does not need to be the one paying the broker's compensation. The broker is considered an independent contractor and not an employee.

Nevada does not recognize "transactional" agency, or "limited" agency representation. With **transactional agency**, the broker is not representing either party but is only hired to "facilitate" the transaction. **Limited agency** is a relationship whereby the broker contractually limits his or her duties and liabilities by agreeing to perform only certain acts of representation.

To ensure a client understands the licensee's basic duties, the licensee is required to provide the client and each unrepresented party with a state mandated form, **Duties Owed by a Nevada Real Estate Licensee**.

DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE	
<i>This form does not constitute a contract for services nor an agreement to pay compensation.</i>	
In Nevada, a real estate licensee is required to provide a form setting forth the duties owed by the licensee to:	
a) Each party for whom the licensee is acting as an agent in the real estate transaction, and	
b) Each unrepresented party to the real estate transaction, if any.	
Licensee: The licensee in the real estate transaction is _____	
whose license number is _____ The licensee is acting for [client's name(s)] _____	
who is/are the <input type="checkbox"/> Seller/Landlord, <input type="checkbox"/> Buyer/Tenant.	
Broker: The broker is _____, whose	
company is _____.	
Licensee's Duties Owed to All Parties:	
A Nevada real estate licensee shall:	
1. Not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.	
2. Exercise reasonable skill and care with respect to all parties to the real estate transaction.	
3. Disclose to each party to the real estate transaction as soon as practicable:	
a. Any material and relevant facts, data or information which licensee knows, or with reasonable care and diligence the licensee should know, about the property.	
b. Each source from which licensee will receive compensation.	
4. Abide by all other duties, responsibilities and obligations required of the licensee in law or regulations.	
Licensee's Duties Owed to the Client:	
A Nevada real estate licensee shall:	
1. Exercise reasonable skill and care to carry out the terms of the brokerage agreement and the licensee's duties in the brokerage agreement.	
2. Not disclose, except to the licensee's broker, confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless licensee is required to do so by court order or the client gives written permission.	
3. Seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client.	
4. Present all offers made to or by the client as soon as practicable, unless the client chooses to waive the duty of the licensee to present all offers and licensee advises of the duties on a form prescribed by the Division.	

This form must also be utilized when a licensee is a principal in a transaction, as well.

Single, or sole agency, is the most common form of agency and is least likely to create liability for a broker. In this scenario the broker represents only one party in a given transaction and the broker’s duty, loyalty, and responsibilities are focused on promoting the interests of that client.

When **Acting for More Than One Party to the Transaction,** a broker may represent more than one party in a real estate transaction. The same person or entity may act as the agent for two parties interested in the same transaction when their interests do not conflict and where loyalty to one does not necessarily constitute breach of duty to the other.” A broker must

The image shows a sample 'CONSENT TO ACT' form. At the top, it says 'CONSENT TO ACT' and a disclaimer: 'This form does not constitute a contract for services nor an agreement to pay compensation.' Below that, there is a section for 'DESCRIPTION OF TRANSACTION' with checkboxes for 'sale and purchase' and 'lease'. A 'Property Address' field is provided. A paragraph explains that in Nevada, a licensee must obtain written consent from all parties. The 'Licensee' section asks for the licensee's name, license number, and affiliation. There are also fields for 'Seller/Landlord' and 'Buyer/Tenant', each with a 'Print Name' label.

disclose this representation and obtain the written consent of each party before proceeding through the utilization of the **Consent to Act** form. The Consent to Act is a state mandated disclosure form which outlines consequences of the licensee’s multiple representation and also requires client’s written authorization.

Assigned Agency is a strategy designed to lessen the conflict when a broker represents both parties. It provides an “Ethical Wall” wherein the broker is allowed to assign a separate agent to each client. In an assigned agency, the broker does not need to use the Consent to Act disclosure form nor receive the approval of the clients.

If there is a change in the licensee’s relationship, the change must be disclosed to each party and must be made as soon as practicable as well as in writing. A new Duties Owed form should be provided to each client.

Throughout the years in Nevada, there have been a substantial number of division disciplinary hearing cases concern agency disclosure form violations, including:

- forms not given to clients
- forms not completed correctly
- lacking required signatures or missing necessary information

The Real Estate Commission has found the incorrect execution of these forms amounts to gross negligence by the licensee. Therefore, it is incumbent upon each broker to ensure the Duties Owed and Consent to Act forms are properly completed and signed.

Creation of Agency

An agency relationship can be created by expressed statement, wherein both the client and the broker agreed to the agency (normal); or by unintentional or implied agency (unplanned). **Unintentional agency** is a situation whereby the licensee did not intend to create or continue with the representation of the client, however, the client reasonably assumed the licensee was representing him or her. An **implied agency** can be created when a licensee acts as the agent of the client with the intention of representation and the client tacitly accepts those services even though there is no expressed (oral or written) brokerage agreement. The Nevada Supreme Court found an agency relationship can exist when a licensee's actions were sufficient enough to support a client's conclusion that the licensee impliedly agreed to the agency (Keystone Realty v. Osterhuse).

Duties of the Licensee

Nevada licensees must disclose any material fact relating to the property which he knows, or which by the exercise of reasonable care and diligence, should have known. In addition, duties to the client extend to those which were agreed to by contract. These duties are divided into two types of affirmative prescriptions ("you shall") and prohibitions ("you shall not").

There are three types of behavior that can create liability for the licensee:

- not doing what one is required to do
- doing what one is not supposed to do
- doing something one is supposed to do but doing it in a wrong (negligent) way

Things for which a licensee is *not* liable:

- misrepresentations made by the client, unless the licensee knew of the misrepresentation and failed to inform the person to whom the misrepresentation was made
- the seller's failure to disclose information that is of public record and which is readily available to the client with the caveat that the licensee must reasonably not know of the client's misstatement or concealed fact
- There is no duty to any party to independently verify the accuracy of a statement made by a certified/licensed inspector; however the licensee will not be released from liability if the "professional" is unlicensed or uncertified.
- There is no duty to conduct an independent investigation of the financial condition of a party; however the licensee is still responsible for disclosing to his or her client all material facts of which the licensee *has knowledge* concerning the transaction such as the licensee's obligation to disclose the seller's bankruptcy to the buyer.
- The licensee is not required to perform services or give advice outside the realm of real estate related services or for which a separate certification or license is required or the

licensee may be held liable for unauthorized services (giving legal advice or determining the market value of a property are services most common).

Termination of Agency: Agency relationships can be terminated when:

- the object of the agency is fulfilled, or
- the contract expires, or
- the broker and client mutually agree to terminate, or
- the agency is abandoned, or
- the agency is terminated due to a party's breach, or
- it ends because of the death of either party.

Rights may extend past the revocation or termination of the brokerage agreement. In the case of confidentiality, it is one year in Nevada. The broker may have a right to collect compensation even if the agency has ended.

Evolution of the Common Law to Statutory Duties

Rules of agency, as we know them, evolved from the common law. Under common law a broker's main duty is to ensure the client's business and interests are carried out to the client's best advantage. This is the broker's *fiduciary duty*. Fiduciary duty includes:

- absolute fidelity to the client's interests;
- honesty;
- use of reasonable skill and care in all aspects of the transaction; and
- full disclosure of all issues and facts concerning the property or the transaction.

Client Before Self – Absolute Fidelity. A licensee must put the client's interests ahead of his or her own. Further, a licensee is not permitted to use authority for personal gain in severe hostility to the interest of the principal such as when a licensee withholds an offer from the client in order to purchase the property himself or has a buyer of his own.

Disclosure of Licensee's Interest. A licensee must disclose in writing to the parties whenever the licensee:

- has a personal interest in either the transaction or the property;
- has a personal relationship with one of the principals;
- receives, or expects to receive, compensation from more than one party;

In addition, a licensee may not:

- take an undisclosed profit at the expense of another party
- purchase or sell the property of a client through the use of a third person without full disclosure and the client's consent

Advertising. Advertisements must identify the licensee's licensed status and must be made whether acting as an agent or as a principal. In selling a personal property, the licensee must state "for sale by owner-broker" (agent, salesperson, etc.) or substantially similar words.

Confidentiality. It is quite often that a licensee may obtain confidential information during the course of the brokerage relationship. A licensee should consider confidential any information that, if disclosed to the other party, would harm the client's position. The licensee is under the duty not to disclose the client's confidential information for one year after the revocation or termination of the brokerage agreement. However, a licensee must always disclose to all parties any material and relevant facts relating to the property.

In Nevada, it is *not* "material" if the property was:

- the site of a homicide, suicide or death (with the exception if the property caused the death)
- occupied by a person with AIDS or any other disease not transmitted through occupancy of the property
- the site of a felony (with the exception if the property was used to manufacture methamphetamine and the property was not rehabilitated)
- located near a licensed facility under NRS 449.0055, transitional living for released offenders (does not include a halfway house for recovering alcohol and drug abusers)
- in a community where a sex offender lives, or is expected to live

When may a licensee disclose confidential information? The law provides protection for disclosure of confidential information under any one of four circumstances:

- a court of competent jurisdiction orders disclosure;
- client authorizes disclosure;
- licensee discloses information to the broker;
- when the information is required to be disclosed by law.

A licensee may not be held liable to the other party for non-disclosure of any of the above items. A buyer-client and licensee may agree the licensee will disclose the information if the licensee knows the answer, but any such agreement should be in writing and cleared with the broker.

No Deceit, Fraud or Dishonesty. *Deceit* is the act of intentionally or recklessly giving a false impression or statement, so that another person will rely on it. *Fraud* or *dishonesty* is the intentional act of misstating or not telling the truth. The following are examples of deceit, fraud, or dishonesty and all are subject to disciplinary actions by the Commission:

- any material misrepresentation or false promises;
- guaranteeing future profits on the resale of property;
- submitting any false or fraudulent appraisal to a financial institution or other interested person;

- naming false consideration in a document;
- filing with the Division any false documents with willful, material misstatements of fact
- misrepresentation in the sale of home protection insurance

Because regulations require a broker to maintain brokerage transaction files for five years, some brokers have charged their clients for file storage and compliance costs by charging an additional fee, calling the charge, among other terms, a “regulatory compliance fee.” Calling a charge a name that implies the fee is required by law, when it is not, could subject the broker to disciplinary action. The Division has stated this is misleading “conduct which constitutes deceitful, fraudulent or dishonest dealing.” A licensee’s duty of honesty includes the duty to deal fairly with all parties to a transaction, not just the client.

Silence as Deceit. A licensee has a duty to speak the whole truth and not be misleading by silence. Mere silence is not a misrepresentation unless there is a duty to speak. Nevada’s agency laws impose the duty to disclose to each party all known material facts about the property to disclose to the client all known facts about the transaction.

Reasonable Skill and Care: Competency. *Reasonable skill and care* is the degree of care that a reasonably prudent real estate licensee would exercise in similar circumstances. A licensee must not act incompetently or with gross negligence. A licensee is expected to have the knowledge required to obtain a then current real estate license and to act on that knowledge. Further, a licensee must keep informed of current laws and regulations that impact the real estate practice while brokers are required to familiarize their licensees with all relevant current federal and state laws. Additionally, a broker must ensure there is a system in place for monitoring licensee compliance.

Four Elements of Negligence: All four of these elements must exist before there is a legal cause of action:

- **Must Have Duty:** found in statutes, regulations, common law, and contract
- **Must Be Breach:** not doing something, doing something one is not supposed to do, or by doing something in a careless or haphazard manner
- **Agent Caused Harm:** client’s loss must be the cause of the licensee
- **Must Be Damages:** client suffered injury, loss or detriment

Standard of Care. This is the legal level against which a person’s behavior is judged and is based on how a “reasonable person” would act in a certain situation. A licensee is assumed to have a superior knowledge of real estate transactions and with that superior knowledge, there is a heightened standard of care.

When Must A Licensee Investigate?

- the information concerns an item that directly impacts the property;
- the licensee has volunteered, or claims an expertise in, any relevant information;
- the information is required to be disclosed by law; or
- the broker has explicitly contracted with the client to be responsible for obtaining certain information.

Anything impacting the physical condition of the property is material and relevant. Anything that affects the property's value or use is material and relevant.

Supplementary Services. If a licensee is asked by a client to perform services outside the licensee's expertise, the client must be advised to obtain guidance from an expert. A licensee may be disciplined for providing specialized professional services outside the licensee's authority such as activities that requires a license, permit or professional certification. Two areas where a licensee is most likely to provide unauthorized services are with legal and appraisal activities. The preparation of a BPO must "not be an *appraisal* of the market value of the property" for which the "services of a licensed or certified appraiser must be obtained."

BROKERAGE AGREEMENTS

A broker's legal relationship with the client starts with an employment contract called a brokerage agreement. A broker promises to provide real estate related services for valuable consideration such as assisting, soliciting, or negotiating the sale, purchase, option, rental or lease.

Consideration may be paid either by the client or another person. The listing contract is a seller's brokerage agreement while the buyer's brokerage agreement is with a buyer.

We also encounter specialized brokerage agreements such as for commercial real estate, advance fees, and property management agreements.



A brokerage agreement is between the broker and the client – not with a salesperson or broker-salesperson, regardless of whether or not the broker knows the client. The broker always retains overall responsibility for the brokerage relationship and only the broker may collect compensation for services. A non-broker licensee who accepts compensation from anyone other than the employing broker is subject to a fine up to \$10,000 and may have conditions placed on his or her license, such as suspension, revocation, or being denied renewal of a license.

Broker-salespersons or salespersons may not perform real estate related services without being associated with a licensed broker and may not accept compensation from anyone other than the broker. These individuals may not advertise without the broker's supervision. They may not hold a client's funds, but must "promptly" turn over any money to the broker.

The broker gives the salesperson or broker-salesperson the authority to act for the broker, but at no time does this transfer the broker's liability. Also, the broker must always supervise any agents and is ultimately responsible for the agents' actions.

Oral brokerage agreements are legal in Nevada, but no oral brokerage agreement may be exclusive. With an oral listing contract, the seller is only obligated to compensate the broker if the broker was the procuring cause of a successful transaction. All exclusive agency brokerage agreements must be in writing under Nevada law and must have certain statutory requirements regarding terms, form, and distribution. The client must receive a copy when it is signed or as soon thereafter as possible and failure to do so may result in a fine of up to \$10,000 and administrative action. A brokerage agreement may have a "receipt acknowledgment" incorporated into the form.

Electronic Brokerage Agreements. Nevada law authorizes an electronic format for any transaction or contract. An electronic record satisfies any statute that requires the contract to be in writing while an electronic signature satisfies any statute requiring a signature. There are statutes in effect regarding what is acceptable to demonstrate a valid electronic signature.

Termination of a Brokerage Agreement. The following occurrences will terminate a brokerage agreement:

- Completion of the contract's purpose
- Termination by contract term
- Mutual agreement
- Impossibility of performance
- Breach
- Operation of law
- A party's death

After termination of a brokerage agreement, the broker must stop representing the client; must remove any personal property from the seller's property (such as signs); must account to the client for all funds; must keep the client's confidences; and do nothing to harm the ex-client or interfere with the transaction.

Broker protection period. This contract clause gives the broker the right to collect a commission for a set time after the brokerage agreement ends to collect a commission. The broker must have introduced the property or buyer to the client during the brokerage agreement period.

Types of Representation

Open Brokerage Agreement. With this agreement, the broker has no exclusive representation of the client. The client may hire any number of other brokers. The broker is entitled to a commission only if the broker is the "procuring cause" of the transaction. If an open listing, it

allows seller to sell the property himself without owing a commission.

An open agreement may be oral or written. The courts find other brokers' open agreements terminated as soon as the client accepts one broker's offer.

Exclusive Agency Representation. The broker is the client's sole real estate agent. There are two types of exclusive agreements:

- broker will get paid regardless of who is the procuring cause (Exclusive Right to Sell)
- the client hires the broker as an exclusive agent, but retains the right to sell or find a property without paying a commission (Exclusive Agency)

Licensees may not negotiate with the client who is a party to an exclusive agreement with another licensee and may not interfere with a broker's contract.

There are four requirements of Exclusive Agency Representation:

- must be in writing;
- must be signed by both the broker and the client or authorized representatives;
- must have a definite termination date;
- may not require the client to notify the broker of the client's intention to cancel.

A buyer's brokerage agreement has all the required terms of the exclusive listing agreement.

By law, a licensee cannot "contract away" nor can a client "waive" the statutory duties of NRS 645.252 or NRS 645.254. The public has the right to expect the licensee will adhere to the law and abide by all of the licensee's legal duties. The broker can be held responsible for not performing all of the stated duties whether or not the client and broker have agreed otherwise. A licensee and a client cannot agree, by contract, to do an illegal thing or such a contract is void. For example, the broker cannot agree with the client to discriminate against a protected class. The Division may bring a complaint against a licensee who breaks the law regardless of the terms of any brokerage agreement.

Compensation. "Compensation" includes any:

- commission
- finder's fee
- referral fee
- advanced fee
- payment
- something of value
- exchanging of services
- gift if given in exchange for services

Under Nevada law, only a broker is authorized to collect compensation for real estate related services. A broker-salesperson or salesperson cannot accept compensation from any person other than the broker at the time of the transaction.

Advance Fee. An *advance fee* is compensation collected by a broker from a client before services are rendered. It may be collected for listing or advertising a property or a business for sale or lease, however most advanced fees are for the sale of prospecting lists. Any broker who charges an advance fee must give the client an accounting of that fee within three months after collecting it.

Source and Amount of Commissions. The commission is determined by agreement between the broker and the client and is negotiable. It may be determined as a percentage of sale price, a flat fee, or *unbundled services*. A broker may rebate the client a portion of the broker's commission on that transaction without violation. Commissions cannot be shared with a non-licensuree (illegal referral fee). Cooperating fees, paid to cooperating brokers in a co-broke, are established in the MLS™.

RESPA and Anti-Trust. The Real Estate Settlement Procedures Act mandates that no person may give or accept any fee, kickback, or thing of value strictly for a referral to a real estate services provider:

- real estate agent
- lender
- closing agent
- insurer

The act does *not* regulate the amount of commission or compensation.

There are two sources of anti-trust legislation for Nevada brokers:

- state law (NRS 598A); and
- federal laws (Sherman Act and the Clayton Act)

The objective of these laws is to regulate trade to ensure a competitive market for the protection of the consumer. The main concern is:

- price fixing of broker compensation;
- broker collusion regarding fees;
- division of the market to not compete;
- activities to establish standard practices such as length of contract.

Disclosure. Licensees must disclose to *each party* to a transaction each source from which compensation will be received. The Real Estate Commission can discipline any licensee found guilty of accepting, giving, or charging, any undisclosed commission by a fine of up to \$10,000 per charge, and may suspend or revoke the licensee’s license. The licensee may also be charged with deceitful, fraudulent or dishonest dealing. The Commission may discipline a licensee if it finds the licensee has not disclosed, in writing, that the licensee expects to receive any direct or indirect compensation from any person who will perform services related to the property or received compensation from more than one party.

PURCHASE AGREEMENTS

An offer is the first step toward a legally binding purchase contract. Its terms will create the initial rights and responsibilities of the parties. Since the licensee will often help draft or review an offer, understanding its legal parameters is crucial.

Typically, the buyer presents the offer to the seller who can:

- accept;
- modify (counter-offer); or
- reject.

The person who gives the offer is the *offeror* while the person receiving the offer is the *offeree*. As the preparer of the offer, you are responsible for:

- **Clear and definite terms.** There can be no ambiguous words or contradicting terms or this can make the offer unenforceable. There must be no built-in vagueness such as “close of escrow to be at the end of the month.” Courts rule against the preparer of the document when it is vague.
- **Agreement.** There must be a “meeting of the minds.” Any counter-offer turns the offer into a rejection with a new offer which must be agreed to by both parties. Subsequent counter-offers should reference each other.
- **Delivery.** Offers and counteroffers must be promptly delivered. If an offer is rejected, the licensee is responsible for obtaining a written notice of the rejection and providing that notice within a reasonable time. Delivery to the other party’s agent is considered equal to delivery to the principal. ***Once an offer (or counteroffer) is accepted and that acceptance it delivered to the offeror, the parties have a legal contract.***
- **Creating the Offer.** Verbal offers are legal; however Nevada’s ***Statute of Frauds*** requires all purchase contracts for real property to be in writing.

- **Withdrawal of an Offer.** Most offers contain an expiration date and time at which time the offer is considered withdrawn. Setting an expiration time does not require the offeror to hold the offer open until that time ends as any offer may be withdrawn (revoked) by the offeror any time before it is accepted. After the expiration date, the offer is automatically revoked.
- **Presenting the Offer.** Licensees must present all offers as soon as practicable. The listing broker is further required to present all written bona fide offers to the seller as soon as possible. There are no laws or regulations concerning how an offer is to be presented; whether the seller sees the offers in their submission order, all at once, the highest price first, or so forth; or if the seller has to reject one offer before seeing the next one. The Real Estate Commission may take action against any licensee who is found guilty of failing to submit offers after the offers are “received.” Therefore a licensee cannot “pocket” an offer.
- **Multiple Offers.** The Nevada Real Estate Division has issued guidelines for multiple offers which includes several alternatives:
 - accept one offer in writing, and reject all other offers in writing
 - counter all offers in writing

Brokerages and professional associations have designed various multiple offer forms. In a multiple offer situation, a client may mistakenly accept or become liable for two contracts on the sale of a single property. The Division has stated it is a violation of fair dealing to insert an “acceleration” clause whereby the offeror promises to pay a certain set amount above the highest offered sale price and usually provides for a maximum or cap amount.

Example: “I will pay \$2,000 over the highest offer up to \$300,000.” This gives one offeror a stated advantage over other offerors and may not allow fair dealing for the other offerors.

- **Discrimination.** Regardless of any instruction or preference of the client, a licensee may never reject or modify an offer because the offeror is a member of a protected class. It is illegal to discriminate on the basis of race, religious creed, color, national origin, disability, ancestry, familial status or sex (gender). A licensee cannot modify the terms and conditions of an offer to discriminate against, or provide a preference for, a person based on class. Sexual orientation is not a protected class for housing in either Nevada or federal law.
- **Rejection of Offer.** If an offer is rejected, the licensee must obtain a written notice signed by the offeree informing the offeror of the rejection although there is no requirement that the notice explain why it was rejected. The purpose of this regulation is to satisfy the offeror that offer was actually presented, reviewed, and ultimately rejected.

- **Termination by Death.** There is no specific Nevada law addressing offers upon the death of one of the parties. General contract law provides if an offeree dies before acceptance, the offer immediately terminates. If there is more than one offeree, the surviving offeree may accept or reinstate the offer, but is not legally obligated to do so.

Purchase Agreement Requirements

- **Legal Age.** Each party must be over the age of majority. In Nevada, the age of majority is 18. Contracts with minors are unenforceable or voidable by the minor.
- **Legally Competent.** Insanity, intoxication, or lack of authority can make the contract void. If the contract were notarized, that is prima facie evidence of legally sufficient signing; however, most purchase agreements are not notarized.
- **In Writing.** This is required by Nevada's statute of frauds to prove a contract exists, thereby preventing fraud and perjury. Emails may be sufficient to create a legal purchase agreement.
- **Consideration.** Consideration is the receipt of anything of value exchanged between the parties from money to love and affection. It could also be the mutuality of obligation (rights and obligations). Earnest money is not consideration and is also not a legal requirement.
- **Signing Authority.** When there is a question as to a party's signing authority, the licensee should request proof or verification because if dealing with an unauthorized principal, the whole transaction may unravel at the end. Since Nevada is a community property state, married buyers must both sign the purchase contract. Interestingly with married sellers, the other spouse does not have to sign the purchase agreement but does need to sign the deed. In a trust, the trustee has the authority to sell or purchase and the beneficiaries do not. Licensees should be cautious as to authorized signers for business entities as well.
- **Licensee's Statutory Duties:**
 - not to be negligent
 - ensure a copy of the contract has been given to the client
 - reasonable skill and care
 - not to act in an irresponsible, careless, or negligent manner
 - ensure all the terms and conditions of the purchase agreement are in writing and that it is properly signed
 - ensure that the purchase agreement accurately reflects the authentic terms of the parties' agreement
 - not to represent an amount or terms differing from those actually agreed upon
 - not name any false consideration; misstatement or concealment of a material fact to a lender is fraud and subject to criminal and civil lawsuits and regulatory discipline

- not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest
- provide the broker with a copy of the agreement within five days after the paperwork is signed
- brokers must keep a copy of the purchase agreement (and all related records whether or not the transaction ever closed) for five years
- within 10 business days after the transaction has closed, a complete, detailed closing statement must be delivered to the principals

Alternative Contracts

- **Installment Contract.** This agreement is often also called a land sale contract, land contract, contract for deed, bond for title, or articles of agreement for warranty deed. In this situation, the buyer makes periodic payments to the seller, in return for equitable title which includes the buyer taking immediate possession of the property. Legal title is retained by the seller. Upon successful conclusion of all payments, the seller is obligated to transfer legal title to the buyer.
- **Option to Purchase.** This contract contains all the necessary terms of a purchase agreement and requires the seller to hold open to the buyer, for a set time, with set terms, the right to purchase the property at a later date. An option contract's consideration may be non-refundable, or it may be incorporated into the property's purchase price once the option is exercised. Here, the seller is the optionor and the buyer is the optionee. It is a unilateral contract that becomes a bilateral contract once the option is exercised. Only one party (optionor/seller) is required to perform. The buyer (optionee) may or may not choose to exercise the option.
- **Lease with Option to Purchase.** This starts as a rental agreement, thereby establishing a landlord and tenant relationship and includes an option contract, giving the tenant an option to purchase on set terms and conditions. This agreement could be an installment contract if a portion of the rent is used to build up the tenant's equity.

DISCLOSURES

This unit will address:

- General Disclosure Information
- The When, Who, and How of Disclosure
- What Must Be Disclosed

“When in doubt – disclose, disclose, disclose.” The purpose for full and honest disclosure is to ensure all parties to the transaction have



sufficient information on key issues to make informed decisions. There is a certain level of disclosure to the customer yet a heightened level of disclosure to the client. Sources requiring disclosures include:

- statute or regulation
- common law
- federal, state and local laws
- codes and ordinances
- by contract

Duty of Inquiry. A licensee's duty of inquiry could be best described as *"a duty to disclose to each party to the transaction any material and relevant facts, data, or information which he or she knows, or which, by the exercise of reasonable care and diligence, should have known, relating to the property."*

- **Exemptions and Exceptions**

- Stigmatized property: Nevada's stigmatized property law contains a list of certain facts that a licensee does not need to disclose:
 - whether the property was the site of a homicide;
 - a suicide or a death by any other means, except deaths caused by a condition of the property (for example, faulty wiring);
 - that the property was occupied by a person with HIV, or any other disease that is not known to be transmitted by living in the property;
 - whether the property was the site of a felony or any other crime, except if the crime was the manufacture of methamphetamine and the property has not been rehabilitated;
 - whether a sex offender resides or is expected to reside in the community; and
 - whether the property is located near a licensed facility for transitional living for released offenders.
- Client Misrepresentations:
 - A licensee might not be held liable for client misrepresentations, but this issue is always subject to what a judge might rule in a court of law. A licensee has an obligation to verify information provided by the client before simply repeating it to the customer.
- Seller's nondisclosure of information on the SRPD, if:
 - the licensee did not know of the nondisclosure; or
 - the information is of public record readily available to the public.
 - There is no duty to investigate professional inspections or the financial condition of a party.

- **Disclosure and the “As Is” Clause.** A licensee should never rely on an “as is” clause to shield his or her nondisclosure liability. The licensee must always disclose, as soon as practicable and to each party to the transaction, all material and relevant facts, data or information relating to the property. If aware of a defect that the seller does not disclose, the licensee is still bound by law to disclose the defect.
- **Confidential information.** Confidential information obtained while in an agency relationship may not be disclosed for one year after the revocation or termination of the brokerage agreement. Some professional trade organizations require extended time frames for keeping client confidences.
- **The When, Who, and How Of Disclosure**
 - **When.** When a disclosure is made can be as important as making the disclosure itself. Timing is dictated by statute, contract, or general common law principles. For example, Nevada’s SRPD must be provided by the seller to a buyer “at least 10 days before residential property is conveyed to a purchaser.” Or an event could occur that creates the disclosure requirement. If and when the event occurs, the disclosure must be made. For example, if there is a change in the licensee’s relationship to a party, the licensee must disclose that change to all parties to the transaction.
 - **Who.** Nevada licensees have an obligation of disclosure to **each party** to the transaction:
 - material facts about the property;
 - licensee’s agency status;
 - licensee’s compensation sources; and
 - licensee’s interest in the transaction or property (if any)

A Nevada licensee further has obligations of disclosures only to the **client** which include:

- all material facts about the transaction
- facts which licensee has actual knowledge

A Nevada licensee is also required to make certain disclosures to other parties, such as:

- the licensee’s broker;
- the Nevada Real Estate Division;
- the public (by way of advertising); and
- applicable law enforcement agencies

A salesperson, or broker-salesperson, performs all real estate activities through the authority of the broker, thus, the licensee is required to make all disclosures concerning the

transaction or property to the broker. The Nevada Real Estate Division has the right to require certain disclosures and has the ability to compel disclosure of a licensee's books and papers. Failure to disclose information when validly requested subjects the licensee to discipline and the possibility of criminal action. Advertisements must identify the licensee's licensed status, whether acting as an agent or as a principal. If the licensee has an ownership interest in the property, the advertisement must disclose "for sale by owner-broker," "owner-licensee," or "owner-salesperson." Licensee must cooperate with law enforcement officials when asked to provide information on a client or client's property. Should a licensee be requested to provide a client's personal information to law enforcement, the licensee should immediately direct the officer to the broker. Certain client information may be confidential and, unless the client has authorized the disclosure of that information, the broker may be liable for its unauthorized release.

- **How.** Some disclosures require the use of a specific form. Some disclosure content is determined by law. Some requirements do not identify specifically what item must be disclosed or how the disclosure is to be made and the broker might create his or her own forms. Any disclosure is ineffective unless it is delivered to the person to whom it is meant to inform.

- **What.**
 - The ***Residential Disclosure Guide*** summarizes various disclosures, their purpose, who must provide them, and when they are due. The licensee must have the client sign the back page and this document must be retained by the broker as part of the transaction file.

 - Disclosures regarding agency must be made to all parties as soon as practicable on the state prescribed agency disclosure forms which are:
 - Duties Owed by a Nevada Licensee
 - Consent to Act

Changes in agency status may require the preparation of a new form. Note the form itself does not create an agency relationship. These forms are not required on a referral.

- Disclosures regarding the transaction as we have already mentioned include:
 - to the client: all material facts concerning the transaction of which the licensee has knowledge;
 - to all parties: the licensee's compensation sources; and
 - to all parties: the licensee's anticipated or present interest in either the transaction or the property

- Property disclosures that must be made by a license include:
 - issues concerning the property itself;
 - issues concerning the property’s use or value;
 - anything that affects the property’s value or use in a material and relevant way;
 - defects. A defect is a condition of the property that affects its value or use in an adverse manner. A **patent defect** is readily observable and can be seen using reasonable diligence, such as a broken window. A **latent defect** is one that cannot be readily observed or discovered without some extraordinary activity, such as the discovery of a termite infestation behind a garage wallboard which would require the wall to be removed.
 - environmental hazards
 - mold
 - asbestos
 - lead-based paint
 - high-powered electric transmission lines
 - radon, and others
 - Be leery of disclosing information about:
 - neighbors and dogs
 - crime statistics
 - quality of schools
 - demographics
 - anything “external” to the property

NEVADA LAW ON ADVERTISING

Advertising: What it IS:

- *printed materials* such as business cards, stationery, signs, billboards, pre-printed forms and other documents used in a real estate transaction
- *face-to-face* solicitations such as door-to-door canvassing, listing and other presentations; any live or recorded presentations; “selling” seminars; and open houses
- all *electronic* formats such as broadcasts made by radio, television or other electronic means, including, without limitation, unsolicited electronic mail (email) and the internet.



Advertising laws are applicable regardless of the type of media used and there may be specific laws for the use of certain media.

Advertising: What it ISN'T. Not all information disseminated about a property or a licensee's services is advertising. Legitimate news articles, non-purchased media interviews, a licensee's or brokerage's reputation, statements made in restricted members only multiple listing services, etc. are not considered advertising and not subject to advertising laws.

Purpose of Advertising Laws. Laws that govern how we advertise are intended to control commerce for the public good. They require merchants to present a true picture of what is being sold (Truth in Advertising), ensure fair trade and competition, protect the public against aggressive or unwanted intrusions into the public's privacy, and ensure that members of various protected classes have equal access to advertised services and properties.

Sources of Advertising Law include:

- federal, state, county, city, and local laws, statutes, codes, and ordinances
- local advertising restrictions
- administrative regulations

General Restrictions Pertaining to Advertising are that ads:

- must not be false or misleading
- must provide a true and accurate picture of what is being sold
- must be done under the auspices and supervision of the broker
- must indicate the brokerage firm's name in prominence to the licensee's name
- must use the name under which he or she is licensed

Anti-trust laws cover four main areas of activity: monopolies, tying arrangements, boycotting and price fixing. In real estate, boycotting has occurred when "traditional" brokerages advertised against "discount" brokerages.

Boycotting can occur whenever two or more brokerages agree to not cooperate with a specific brokerage or other real estate related service provider. Activities associated with boycotting are when licensees publish disparaging remarks against other agents, brokerages, or a competitor's services.

Price fixing occurs when two or more competitors agree to a common marketing price. Claims of price fixing occur when various brokers advertise their commission rates are "prevailing," "common," "fixed," or "standard" in the area. Brokers should establish in their office policies and procedures an independent justification for their commission rates. Price fixing is also when competitors set the same terms as one another. For example, brokers agreeing to take only six-month listings and informing sellers that no broker accepts less than a six-month listing can be a violation.

Deceptive Trade Practices. A person engages in a "deceptive trade practice" if he or she knowingly makes a false representation as to:

- the source of goods or services for sale or lease;
- the affiliation, association or certification by another entity;
- the characteristics, uses, alterations or quantities of goods or services;
- advertising goods or services without the intent to sell them as advertised;
- advertising “free” services with the intent to receive payment in undisclosed costs;
- making false or misleading statements of fact;
- fraudulently altering any contract; or knowingly making any other false representation
- advertising lists of rentals for an advanced fee without the owners’ permission or when such properties are not available

The Internet continues to evolve. Nevada statutes and regulations provide that the dissemination of unsolicited information concerning real property or the marketing of real property is “advertising” and therefore all advertising laws are applicable to internet advertising. Each internet “page” should be considered a distinct advertisement.

Email is subject to the rules and sanctions of the Federal Trade Commission (FTC). All email advertisements are subject to all of the advertising rules regarding brokerage name, etc.

Fax. Nevada’s statute provides that a person shall not make any unsolicited transmissions to a facsimile machine to solicit a person to purchase real property, goods or services.

Handbills (Flyers). Many agents opt to create flyers promoting properties and pass them out in public or put on automobile windshields. Local governments have restrictions on the distribution of handbills which include filing the handbill with the local government, paying a fee, and receiving a permit number which often must be on the handbill itself. If distributed on private property, such as a grocery store parking lot, prior permission of the property owner must be obtained. No advertising may be placed in mailboxes.

Door-to-door canvassing. Local governments may have time restrictions as to when a residence may be solicited by either knocking on doors or hanging door bills. All other rules of advertising apply.

Advertising Broker Services. Each broker is required to have a sign in a conspicuous place identifying the brokerage at the broker’s place of business. The sign must identify the brokerage name, or the name under which the broker does business. If the firm has more than one office, each office must have a similar sign. Nevada regulations require the sign to be readable from the nearest public sidewalk, street or highway. If located in an office building, hotel, or apartment house, the sign must be posted on the building directory or on the exterior of the entrance to the business.

Franchises and Fictitious Names. If a broker is advertising under the name of a franchise, the broker must incorporate, in a conspicuous way, the real name under which the brokerage is licensed. If applicable, there must also be an acknowledgement that each office is independently owned and operated. A broker may not operate or advertise under a fictitious name without first

registering the fictitious name and obtaining a certificate from the county clerk. The name must then be filed with the Nevada Real Estate Division and the broker may not use more than one name for each license under which the broker operates.

Team Advertising. In Nevada, a team must have two or more members and all members must be employed by the same broker. The team name *must* incorporate the last name of one of the team members into the team name. Team names must not use a trade name nor may the team name be deceptively similar to a name under which another person or entity is lawfully doing business. Of course, the team must comply with all other applicable advertising laws and regulations.

Cold Calling And The “Do Not Call” Laws. Telephone solicitation is currently regulated by both the federal and state “Do Not Call” laws. The laws establish cold calling procedures requiring a person to gather a list of telephone numbers of potential customers. The licensee or broker must then register with the Federal Trade Commission (FTC). The licensee can access a list of restricted telephone numbers filed with the FTC and then “scrubs” (compares) his or her list against the restricted list removing any matching numbers. Remaining telephone numbers may then be called.

If a recipient expresses a desire not to be disturbed or called again, the licensee must put that telephone number on an internal “do not call” list. Brokers should have an office policy regarding using cold calling by their agents.

Nevada’s Do Not Call laws are more restrictive than the federal law. The requirements are:

- No calling between 8 p.m. and 9 a.m.
- No annoying, abusive or harassing language
- No fair housing violations – blockbusting
- No claiming to be information gathering when the intent is to induce a sale
- The caller must inform the person who answers the telephone of the sales nature of the call within 30 seconds after beginning the conversation and must provide the name, address and telephone number of the business or organization.

HOW TO LOSE YOUR LICENSE

- **NRS 645.630 Authorized disciplinary action; grounds for disciplinary action; orders imposing discipline deemed public records.**

1. The Commission may require a licensee, property manager or owner-developer to pay an administrative fine of not more than \$10,000 for each violation he or she commits or suspend,



revoke, deny the renewal of or place conditions upon his or her license, permit or registration, or impose any combination of those actions, at any time if the licensee, property manager or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

(a) Making any material misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this chapter or [chapter 119](#) or [119A](#) of NRS from any person except the licensed real estate broker with whom he or she is associated or the owner-developer by whom he or she is employed.

(d) Representing or attempting to represent a real estate broker other than the broker with whom he or she is associated, without the express knowledge and consent of the broker with whom he or she is associated.

(e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.

(f) Failing, within a reasonable time, to account for or to remit any money which comes into his or her possession and which belongs to others.

(g) If he or she is required to maintain a trust account:

(1) Failing to balance the trust account at least monthly; and

(2) Failing to submit to the Division an annual accounting of the trust account as required in [NRS 645.310](#).

(h) Commingling the money or other property of his or her clients with his or her own or converting the money of others to his or her own use.

(i) In the case of a broker-salesperson or salesperson, failing to place in the custody of his or her licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker.

(j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his or her acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.

(k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.

(l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

- **NRS 645.633 Additional grounds for disciplinary action: Improper trade practices; violations of certain orders, agreements, laws and regulations; criminal offenses; other unprofessional and improper conduct; reciprocal discipline; violations relating to property management; log of complaints; reports.**

1. The Commission may take action pursuant to [NRS 645.630](#) against any person subject to that section who is guilty of any of the following acts:

(a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, [chapter 116](#), [119](#), [119A](#), [119B](#), [645A](#) or [645C](#) of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesperson or salesperson who has not secured a license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his or her state of residence.

(d) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or nolo contendere to:

(1) A felony relating to the practice of the licensee, property manager or owner-developer;

or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which the person is required to hold a license pursuant to this chapter, [chapter 119](#), [119A](#) or [119B](#) of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before the person became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesperson or salesperson, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of [NRS 645.8701](#) to [645.8811](#), inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to [NRS 645.8791](#).

2. The Commission may take action pursuant to [NRS 645.630](#) against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesperson's or salesperson's license issued by any other jurisdiction.

3. The Commission may take action pursuant to [NRS 645.630](#) against any person who:

(a) Holds a permit to engage in property management issued pursuant to [NRS 645.6052](#); and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to [NRS 645.6056](#):

- (1) Is convicted of violating any of the provisions of [NRS 202.470](#);
 - (2) Has been notified in writing by the appropriate governmental agency of a potential violation of [NRS 244.360](#), [244.3603](#) or [268.4124](#), and has failed to inform the owner of the property of such notification; or
 - (3) Has been directed in writing by the owner of the property to correct a potential violation of [NRS 244.360](#), [244.3603](#) or [268.4124](#), and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.
4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.
 5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:
 - (a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and
 - (b) Any disciplinary actions taken by the Commission pursuant to subsection 3.

NRS 645.635 Additional grounds for disciplinary action: Unprofessional and improper conduct relating to real estate transactions. The Commission may take action pursuant to [NRS 645.630](#) against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.
2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if the person knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.
3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of [NRS 645.254](#).
4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him or her for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his or her files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesperson's or salesperson's responsibility and must be deemed to be in compliance with this provision.
5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.
6. Failure to produce any document, book or record in his or her possession or under his or her control, concerning any real estate transaction under investigation by the Division.
7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it

be submitted in writing, except as otherwise provided in subsection 4 of [NRS 645.254](#).

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of [NRS 645.254](#).

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of [NRS 645C.557](#).

NRS 645.645 Additional grounds for disciplinary action: Unprofessional and improper conduct relating to sale of insurance for home protection. The Commission may take action pursuant to [NRS 645.630](#) against any person selling insurance for home protection, as defined in [NRS 690B.100](#), under the authority of a license issued pursuant to this chapter who:

1. Makes a misrepresentation in the sale of insurance for home protection.
2. Misrepresents the provisions of the contract of insurance for home protection.
3. Misappropriates any fees or premiums collected for the insurance for home protection.

Chapter 6

Federal Laws Governing Real Estate Transactions

FEDERAL LAWS: CIVIL RIGHTS ACT OF 1866; CIVIL RIGHTS ACT OF 1964; AND THE FAIR HOUSING ACT OF 1968

There are a number of important federal laws, dating from 1866 to the present day that focus specifically on the rights of American citizens to buy, sell, own, and rent property. Real estate agents, among others, need a working knowledge of these laws to fulfill the responsibilities of being the agent.

As a group, these laws have been enacted to prevent discrimination against certain, protected classes:

- the Civil Rights Act of 1866
- the Civil Rights Act of 1964
- the Fair Housing Act of 1968

During the period of Reconstruction (1865-1876), several issues were addressed: the return to the Union of those southern states that had seceded, the status of ex-Confederate leaders, and the integration of the African-American freedmen; bitter controversy arose over how to accomplish it all.

Central to the success of the Reconstruction effort was the development of laws regarding the status and rights of the four million former slaves. Three important amendments to the U.S. Constitution began to accomplish the establishment of freedom for former slaves.

- The 13th Amendment (1865) abolished slavery.
- The 14th Amendment (1868) established citizenship for all persons born in the U.S. or naturalized, and granted them federal civil rights, including due process of law.
- The 15th Amendment decreed that the right to vote could not be denied based on race, color or the “previous condition of servitude.” This amendment did not grant the right to vote, as electoral policies are established by the states; however, it did limit the ability to use race, color, or slavery as reasons a state could use to deny the right to vote.

Civil Rights Act of 1866 (Reconstruction Act) – This legislation was passed by Congress over the veto of President Andrew Johnson who succeeded to the presidency from vice president after the assassination of President Abraham Lincoln. This law provided that all persons born in the United States are declared to be citizens, regardless of race or color, and shall have the right to enter into contracts, to sue, inherit, acquire and dispose of property, and shall equally benefit from the law as do white citizens.

Classes protected by this law were race and color.

Civil Rights Act of 1964 – is a historical piece of civil rights legislation that banned discrimination based on race, color, religion, sex, or national origin. It ended unequal voting rights and racial segregation in schools, at the workplace, and by facilities that served the general public, **public accommodations**.

Civil Rights Act of 1968 – Notwithstanding the racial injustice prevailing in American society in the 100 years between the passage of the Civil Rights Act of 1866 and the mid-1960s, not much happened to improve the lot of our minority citizens. However, by the 1960s, the matter of civil rights for all citizens had again reached the status of a national crisis. Numerous acts were adopted to advance the equal treatment of people of all races, and principal among them was the Fair Housing Act of 1968.



Formally known as Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act, this legislation was enacted on April 11, 1968, and was amended in 1988. The Federal Fair Housing Act provides the basis for fair housing rights and enforcement throughout the United States. The Act also provided for accessibility requirements for covered multi-family housing built for first occupancy after March 13, 1991.

This comprehensive legislation protected four classes or classifications of Americans. Race and color from 1866 and in 1968 covered religion and national origin. Gender was added in 1974 and family status and disability were added in 1988.

- Race (1866)
- Color (1866)
- Religion (1968)
- National Origin (1968)
- Sex/Gender (1974)
- Familial Status (1988), families with children 18 and under and pregnant women
- Disability (1988), mental or physical impairments

These seven, protected classes formed the basis of a new effort to assure the American dream of housing to all citizens.

Note: Marital status, age, and occupation are *not* protected classes.

The Act *does* cover two categories of housing:

1. Single Family Residences
 - a. privately owned and a real estate agent is used
 - b. privately owned and four or more units in total are owned
 - c. privately owned when the owner sells two or more homes in the immediate prior two years where the owner did not live there
 - d. non-privately owned property
2. Multifamily Dwellings
 - a. with five (5) or more units
 - b. four or fewer units if the owner does not live there

Specific wrongs – The 1968 Fair Housing Act defined prohibited practices involving housing, which involved sales, rentals, advertising, and financing. The law’s most important provisions made it unlawful to take the following actions if the prohibited behavior affected a member of a protected class:

- refusing to sell a property, or to lease a property, because the prospective buyer or tenant is a member of a protected class;
- altering terms in a contract to purchase or to lease a property because the prospective buyer or tenant is a member of a protected class;
- using discriminatory statements in advertising;
- denying service as a real estate professional because the prospective client is a member of a protected class;
- showing properties to a prospective buyer or tenant only in areas of the market which are predominantly of the same ethnicity as the prospect – **steering**;
- attempting to create **panic selling** by creating a sales contract with a member of a protected class with the intent to use the sale to a protected class member as a method of inducing owners in the area to sell, before the neighborhood becomes too “mixed” or the homes lose value is called **blockbusting**. Blockbusting contracts are void. Listings based upon a blockbusting scheme are voidable by the seller once the blockbusting scheme is discovered;
- A lender who refuses to lend in an area because it is populated with members of a protected class is **redlining**. The term comes from lenders who would make areas on a map (often with a red line) and say they “just don’t loan in areas like that.”

Beyond the seven prohibited practices, the Fair Housing Act included a wide variety of parameters which were very important to real estate agents:

Wide applicability – The Fair Housing Act prohibits discriminatory conduct by many kinds of legal entities. These include individuals, corporations, associations, partnerships, legal representatives, mutual companies, labor organizations, family trusts, unincorporated organizations, trustees, receivers, fiduciaries, municipalities, local government units, as well as cities and federal agencies.

A fifth new protected class (1974) – The Housing and Community Development Act (1974) added sex/gender to the list of protected classes, bringing the total to five.

Two new protected classes (1988) – The Fair Housing Amendments Act of 1988 added two major sets of provisions that apply to *disabled persons* and *families with children 18 years old and under*, bringing the total number of protected classes to seven.

Disability – It became illegal to discriminate in the sale or rental of a dwelling because of the disability of the buyer or tenant, any disabled person who will reside in the dwelling after it is sold or rented, or any person associated with the buyer or renter.

Familial Status – It became illegal to discriminate against any buyer or renter based on the size of their family or on the pregnancy of a prospective tenant.

Refusal to Rent or Sell – It is *not* illegal to refuse to rent or sell property to an individual whose tenancy would constitute a threat to other individuals or to their health and safety, or whose tenancy would result in damage to the building or to the property of others.

Multifamily properties – Multi-family properties must be constructed so that the public portions and common-use portions are accessible to people with disabilities.

Advertising restrictions – Advertising of dwellings for sale or for lease must not disclose a “preference, limitation, or discrimination,” based on any of the protected categories. Any media company that runs an offensive advertisement may be held liable for it. The advertiser may also be held liable.

Selective advertising – The act prohibits advertising programs that selectively market properties to minorities, especially housing which is segregated or over-priced. Also prohibited is the use of code words, such as “exclusive neighborhood,” in the text of an advertisement to sell or rent housing.

Discriminatory statements – The law prohibits unpublished statements which include discriminatory language or encourage discriminatory conduct, such as a landlord's instruction to his property manager that she should not rent to minorities or should give white customers a preference.

“Not Available” statements – The Fair Housing Act prohibits the practice of representing, to any member of a protected class, that a dwelling is not available for sale or rental, when it actually is available. In case law, one real estate firm was found to have violated the law by its practice of putting sold signs on their listings in a white neighborhood in an attempt to discourage minorities from renting or purchasing homes in that neighborhood.

Blockbusting – The 1968 act was intended to end the practice of blockbusting. This practice, in place before 1968, tried to frighten homeowners into selling their homes at low prices, based on the “talk” that members of a particular race, ethnic group, religion, or other protected class were moving into the neighborhood. In cases that are alleged to show blockbusting activities, the court has focused on what was heard, not what was said. So, at the end of the day, if a homeowner felt threatened, it did not matter if there was no wrongful intent by the real estate agent, or explicit reference to a protected class, the agent may have violated the Fair Housing Act.

Regulation of banks – The Fair Housing Act governs the activities of the banks and financial institutions because Congress felt that lenders might discriminate in the housing and real estate industries. As a result of the act, banks and financial institutions may not discriminate

when financing the purchase, construction, improvement, repair, or maintenance of a residential housing unit.

Enforcement and fines – The federal Fair Housing Act is administered by the Office of Fair Housing and Equal Opportunity and supervised by the secretary of HUD. HUD makes information available to the public regarding the process to citizens who feel they were discriminated against illegally. Substantial fines may be imposed and civil and criminal lawsuits can also be brought. HUD “testers” are sent out to determine if agents are engaging in discriminatory activities.

Handicapped persons – Under the amendment to the 1968 act adding “Status of Handicap,” a new area of potential concern was opened. In short, a landlord may not deny a handicapped person access to rent a unit, even though it may pose a potential risk to the handicapped person. The handicapped individual may make such alterations to the premises as are necessary to accommodate his handicap and do so at his own expense. The landlord may not deny the right to make these alterations. When the handicapped individual vacates the property, he is required to “reasonably restore” the property to its original condition.

Service animals – Landlords who will not allow pets may not deny handicapped individuals the right to have life assisting animals, nor can the landlord charge any additional sums due to the presence of such animals (seeing eye dogs, and other such animals are considered “life assisting.”) Note that a provision of “No Pets” in a rental listing is invalid when the prospective renter has a service animal.

Familial status – This deals with regulations landlords used to make properties unavailable to families with children. This amendment was added in 1988 to offset the discrimination that was occurring against families who had minor children and who were seeking to rent property. It was determined that often this was nothing but thinly veiled discrimination as minority families were over-represented in families with children who were seeking to rent property.

Age-restricted communities – In age-restricted or age-qualified communities, there may be a restriction which prohibits persons under the age of 18 from residing in the residence more than 3 months in any calendar year. This has been determined as permissible under the Fair Housing Act.

The “Sun City Exception” – There is an exception for rental or ownership based communities specifically for senior citizens. If the project has a specific marketing plan, and does its marketing to persons over the age of 55, then it may have a prohibition against children in the project.

Exemptions to the Act – Despite the depth of coverage of the law, Congress decided to exempt certain individuals from the provisions of the law. These included single family homeowners, multiple-family homeowners (up to four units), religious organizations, private

clubs, and senior citizens. In other words, members of these groups are given limited permission to discriminate in certain ways and under certain conditions.

Exemptions include:

1. Any single-family dwelling sold or rented by the owner under the following conditions. The owner:
 - cannot own more than three single-family dwellings at any one time.
 - must currently reside in the dwelling or be the most previous resident of the dwelling.
 - cannot use the services of a real estate agent or company for any reason.
 - cannot publish or advertise in a way to violate the Act.
2. The rental of rooms or units up to four family units if the owner actually maintains and occupies one of the units as his/her residence.

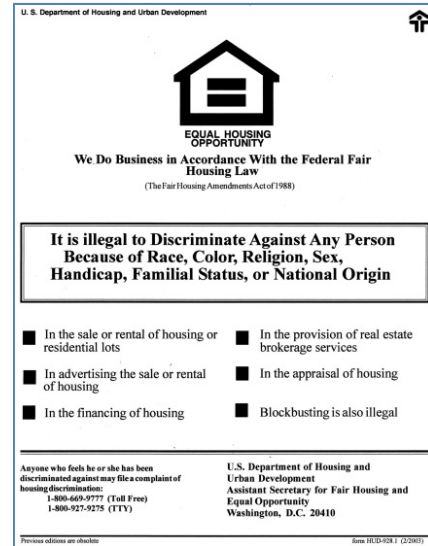
Example: A female wishing to rent a room in her house and does not desire to rent to a male. It would be *legal* to discriminate against sex under this exemption.

3. Religious or church related non-profit organizations may restrict the use of property owned by the organization by only allowing members of that religion to occupy the property.
4. Private clubs providing lodging which it owns or operates for other than a commercial purpose, may limit rental or occupancy to its members and give preference to its members.

NOTE: None of the above mentioned exemptions apply to real estate agents or real estate companies. Those that meet the requirements above can discriminate so long as they do not use the services of real estate agents in any capacity. Real estate agents and companies will face significant fines and penalties for violating fair housing laws.

JONES VS. MAYER — in 1965, Jones filed a lawsuit against Mayer claiming Mayer refused to sell Jones a house in St. Louis for the sole reason that he is black. The lawsuit eventually made its way to the Supreme Court which upheld the Civil Rights Act of 1866. Mayer claimed he was “exempt” according to the exemptions provided in the Fair Housing Act of 1968. The court ruled that there are no exemptions to discrimination based on race – ever, and thus ruled in Jones’ favor.

Equal Housing Poster – The Act requires the display of the fair housing poster at real estate agencies and related industries. Failure to display the poster is considered by the Department of Housing and Urban Development (HUD) to be a form of illegal discrimination.



OTHER FEDERAL HOUSING LAWS

Equal Credit Opportunity Act (ECOA) – This act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, or because an applicant receives income from a public assistance program.

The most important application of this law is in the granting of mortgages, home improvement loans, or in the use of credit-based information in the renting of homes.

Regulatory authority for this law is spread across several federal agencies and it is based on the type of financial institution involved—national bank, state bank, credit union, mortgage broker, mortgage originator, mortgage servicer, lender offering private educational loans, and payday lender, regardless of size.

Americans with Disabilities Act (The ADA) – The ADA is an anti-discrimination law that deals with physical workplace accommodations for disabled persons. While the ADA is not usually related to housing units and properties, real estate agents are advised to have some knowledge of the law and its requirements.

The ADA prohibits discrimination in employment practices against persons with disabilities. Before this law went into effect, many employers had facilities which were not “handicap accessible.” They were able to claim inability to hire the handicapped because of work place limitations. The ADA banned discrimination based on the status of a person’s handicap, and also addressed the issue of accessibility for “public buildings” or “buildings open to the public.”

Public buildings are defined as buildings owned or operated by a public entity such as city, county or state buildings, buildings in public parks, libraries, museums and the like. Buildings open to the public but owned by private owners are covered if they are business properties open to the general public, or are residential properties consisting of five (5) or more units (apartment complexes, timeshare developments, and other similar properties).

The types of disabilities protected are:

- vision impaired
- limited mobility
- confinement to wheelchair or similar devices

- hearing impaired
- alcoholism – if the person is enrolled in a recognized treatment program
- drug addiction – if the person is enrolled in a recognized treatment program
- HIV positive or AIDS



To insure access for handicapped persons to public buildings and buildings open to the public, a barrier-free construction requirement was phased in, starting in 1992. To be ADA compliant, hallways and doors have to be wide enough to accommodate a standard wheelchair, restrooms have to have provisions for handicapped persons, structures more than one story have to have elevators, and instructions in Braille must be posted on elevator controls and on certain signs. Handicap parking must also be provided.

Housing for Older Persons Act (1995) – HOPA outlines the requirements *for the persons who are 55 years of age or older* exemption established in the Fair Housing Act. This exemption applies to the familial status provisions of the Fair Housing Act, but does not exempt the housing from the other provisions of the law.

This law states that communities can legally market themselves as “age-restricted” or “age-qualified,” provided that 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older. Most 55+ age-restricted, active, adult communities place an age-minimum on the residents. In most of these communities, no one under the age of 19 may reside in the community unless granted an exemption. Nearly all age-restricted and active adult communities allow people under the age minimum, such as grandchildren, to visit and stay on a limited basis. Most age-restricted communities have covenants that allow people under the age minimum to reside temporarily in the community for a period of time, ranging from two weeks to 90 days per year (varies by community).

Housing and Community Development Act of 1974 – The Act’s primary purpose was to end discrimination in various areas of community development. According to the Department of Housing and Urban Development (HUD), when Congress passed the Housing and Community Development Act of 1974 (HCD), it broke down the barriers of prevailing practice where under separate categorical programs, the government had made the decisions about every community development project undertaken by cities.

The HCD Act departed from this model by creating a block grant program titled the Community Development Block Grant program (CDBG). CDBG merged seven (7) categorical programs into a block of flexible community development funds distributed each year by a formula that considers population and measures of distress, including poverty, age of housing, housing overcrowding, and growth lag. Grantors now determine what activities they will fund as long as certain requirements are met.

The Housing and Community Development Act of 1974 also added a fifth protected class, that of sex/gender, to the Fair Housing Act of 1968.

Section 504 of the Rehabilitation Act (1973) – Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against people with disabilities in programs and activities conducted by HUD or that receive financial assistance from HUD. This includes public housing, public university housing, government run housing programs, etc.

The chart below illustrates the classes of individuals protected by Fair Housing Laws:

Classes of Citizens Protected by Major Civil Rights Legislation								
Legislation → ↓ Protected Class	Civil Rights Act 1866	Fair Housing Act 1968 Title VIII	Fair Housing Amendments Act (1988)	Equal Credit Opportunity Act of 1974	Housing and Community Development Act (1974)	Americans with Disabilities Act (1995)	Section 504 Rehabilitation Act	Housing for Older Persons Act (1995)
Race	✓	✓		✓				
Color	✓	✓		✓				
Religion		✓		✓				
National Origin		✓		✓				
Sex				✓	✓		✓	
Age				✓				✓
Marital Status				✓				
Disability			✓			✓		
Familial Status			✓					
Public Assistance Income				✓				

Summary of Fair Housing Legislation:

The fair housing legislation can be daunting. While it is interesting to understand which laws cover which people, which properties, and which situations, it is also important to understand the combined applicability of all of this legislation. The following is a summary.

Why do we have fair housing laws?

- Fair housing is the right to choose housing without having to endure unlawful discrimination.
- Federal, state, and local fair housing laws protect from unlawful discrimination in transactions involving rentals, sales, lending, and insurance.

- Fair housing guarantees that people have the right to choose the housing that is best for their needs without discrimination.
- Fair housing laws help guarantee that no outside preferences or stereotypes will be imposed.
- Fair housing laws encourage sellers, landlords, and even neighborhoods to put out their “welcome mat.”
- Fair housing laws contribute to the establishment of appealing, friendly, vibrant, dynamic neighborhoods.

Are people in protected classes who are seeking mortgage loans similarly protected?

Yes, a lender cannot:

- refuse to provide information regarding loans.
- impose different terms or conditions on a loan.
- charge different interest rates, points, or fees.
- refuse to make a mortgage loan based on class.
- discriminate in appraising property.
- refuse to purchase a loan.
- set different terms or conditions for purchasing a loan.

However, a lender may refuse a loan to anyone, regardless of protected class or any other factor, if the applicant fails the income or credit qualifications.

LIMITATIONS ON ADVERTISING

The purpose of advertising is to motivate and to inform. Real estate advertising is controlled by federal statutes, state laws, the rules of common law, and common sense. When a statement is made, the statement may contain **material facts**.

A material fact is a fact that would be important to a reasonable person in deciding whether to engage or not to engage in a particular transaction. It is an important fact as distinguished from some unimportant or trivial detail.

Opinions – Everyone has opinions, including real estate agents. Most people can state their opinions freely, but real estate agents have to be much more careful about what they say. Because agents are considered experts in real estate, agents always need to ensure that opinions are clearly stated as opinions.

Example: In a statement like, “In my opinion, this room will fit a round table with room to spare,” an agent is expressing an opinion. Or agents may confine opinions to a trivial or unimportant area, “I think your daughter will like the purple room.”

Puffing (Puffery) – Not unique to the real estate world, puffery is considered “good salesmanship” and is not a statement or misstatement of material fact. “This is the best view in town!”

Nowhere are these advertising concepts more important than in real estate sales. Over the years, a number of abuses have led to a plethora of federal, state, and local laws about advertising, as well as statements of ethics and similar devices published by professional organizations and individual brokerages. The same thing has occurred in the related industry of mortgage lending.

It is unethical, and potentially illegal conduct, for a real estate professional to engage in any form of deception concerning the condition of the property or any other material fact about the property.



Example: A real estate agent runs the following advertisement in the local paper:

Great Starter Home! Beautiful condition, 3br/2ba, 2-car garage. Priced for quick sale at \$287,500. A true must see! Call Bonnie at Carson Realty 555-5555.

On the surface this ad looks okay. “Great Starter Home,” “Beautiful condition,” and “A true must see” are all puffery. That the home has 3 bedrooms, 2 baths, and a 2-car garage, are facts, perhaps material facts. The price being \$287,500 is also a material fact.

What we did not tell you: Bonnie has had no activity on this listing because the sellers told her they will not even consider an offer under \$300,000. Bonnie thinks this is too high, but was not able to convince her sellers to list at a lower price. Her plan is to get buyers to look at the house and then tell them the newspaper misprinted the price and that the price is really \$300,000.

So, what’s the problem? First, Bonnie is flirting with fraud if she has not already committed it. Second, Bonnie is guilty of false advertising, and third, she has breached her fiduciary duty to her clients who have only authorized Bonnie to price the property at a minimum of \$300,000.

A real estate professional must always be truthful when dealing with clients and with customers. Remember that the agency relationship requires the agent to act in accordance with the fiduciary responsibilities owed by an agent to the client. The agent also has the duty of fair and honest dealing and disclosure of all material facts to the customer.

When dealing with clients or customers, real estate professionals are often asked for opinions or advice. This is an exceptionally precarious area and some good practices in “risk aversion” or “risk management” should be developed.

If asked a question to which you know the answer, and you would not be disclosing confidential information, and it is not rendering an expert opinion or practicing law, it is probably permissible to answer the question. However, clients often want information and seem to expect the real estate professional to be able to provide it. But for many reasons, the agent should not give the answers.

Example Questions:

“What is crime like in this neighborhood?” Tell them you understand their interest but you do not keep those records. Perhaps refer them to the local police for that information.

“Why are the sellers selling?” If the reason is not confidential and the sellers have authorized you to tell, go ahead. But if the reason is they are about 30 days away from foreclosure, that is confidential information, and you should discuss with your broker how this should be handled.

“Is this lot at least 3 acres? I need that to build my store.” Unless you are a registered surveyor, you cannot answer. However, you could consult the tax record and show that to the client. Or, you could suggest that if precise size is an issue, you will arrange for a survey at either party’s cost.

“What is this black splotch on the bathroom wall? Is that the black mold stuff I have heard about in the news?” Unless you are a mold expert, you cannot answer. You can tell them that you understand their concern and suggest it be examined by an expert.

“We’re a married couple and we want to avoid probate costs if we can. How should we take title to our home?” You might know the answer is probably “joint tenancy,” but to say so would be considered giving legal advice. Unless you are also a lawyer licensed to practice law in the state, you cannot advise. You can tell them there are several ways to hold title which, based on their particular circumstances, will impact the complexity of their estate. They should really discuss this with their attorney, tax advisor, or escrow officer.

Truth in Advertising – Federal truth-in-advertising regulations are designed to protect the public, especially consumers, from advertising that is false, misleading, or both. These laws are based on the simple concepts that advertisers (including real estate agents) be required to tell the truth about products and to be able to prove the claims they make in their ads.

The **Federal Trade Commission (FTC)** is the primary enforcement body for truth-in-advertising claims, although a number of state agencies are also active in this regard. If real estate customers or clients have fallen victim to advertising violations, the law allows for the reporting of a complaint and remediation.

Generally, truth-in-advertising laws require print, TV, magazine, newspaper, Internet, and other advertising to be truthful, non-deceptive, provable by evidence furnished by the advertiser, and fair.

Definition: “Deceptive”

An ad is labeled deceptive if misleading statements and/or omitted items of information affect a consumer's decision to purchase or use a product. An ad is considered unfair if it causes unavoidable consumer injury that is not outweighed by a benefit.

FEDERAL FINANCE AND CREDIT LAWS

CONSUMER CREDIT PROTECTION ACT, TRUTH-IN-LENDING ACT, REGULATION “Z” – The potential for the abuse of a borrower by a lender, together with actual abuses which were occurring in the market, brought about a series of federal laws designed to protect consumers with credit matters.

Transactions covered:

1. loans to individual consumers (not business loans)
2. all consumer real estate loans where a lien will be placed against the residence of the consumer
3. consumer loans secured by personal property, or which is unsecured where the amount of the loan exceeds \$25,000

Transactions NOT covered:

1. business or investment loans
2. non-real estate loans greater than \$25,000
3. assumptions with no change in the terms of the loan
4. zero interest loans
5. loans with 4 or fewer payments
6. agricultural loans in excess of \$25,000 provided the farm house is not included
7. loans to corporations, business entities of government agencies
8. real estate purchase agreements

The principal purpose of these laws is to provide the consumer with complete and understandable credit information so the consumer can make informed credit decisions. The disclosures required by these laws are:

Finance charges:

1. interest charged on the loan
2. loan fees (such as the loan origination fee)
3. discount points
4. appraisal fees
5. mortgage guarantee/insurance costs
6. credit reports or other fees charged in connection with researching the borrower’s credit history
7. other service charges or fees charged as a requirement for obtaining the loan

Annual Percentage Rate (APR):

1. The APR is the finance charges, expressed as a percentage when applied to the unpaid balance of the loan. The total of the finance charges is the sum of all of the costs in order to obtain the loan. The APR will always be greater than the stated interest rate, unless there are no costs at all to the borrowing, in which case the loan would be a true zero interest, zero cost loan.
2. The APR must be disclosed, in writing, to the borrower as a percentage rate.
3. The APR must be disclosed, in writing, to the borrower in total dollars charged.

Advertising Restrictions: Lenders or others who are advertising credit must either refrain from stating *any* credit terms, *or* must state *all* credit terms. In advertising, lenders may not pick and choose what terms to advertise.

Vague references, or general terms, may be advertised without disclosure. The first advertisement would be permissible, as no credit terms are used, and “price” is not a **trigger term**. A trigger term is any term of the financing and “triggers” the need to disclose *all* credit terms – all or none.

The second advertisement would NOT be permissible, as the down payment is a trigger term, and the entire credit disclosure including the APR would need disclosure in the advertisement.

The only numbers which may be used in an advertisement which do *not* trigger are “price” and the “APR.”

Three (3) business day right of rescission – To protect the consumer from areas in which abuse has occurred, the law provides for a *three business day right of rescission*. This right to rescind the agreement applies only to the creation of any monetary encumbrance on the personal residence of the consumer, including:

- a. second mortgages or other junior liens.
- b. refinancing.
- c. home improvement loans.
- d. transactions which create a potential mechanic’s lien against the consumer’s personal residence.

Willow Way Executive Homes: Easy, move-in pricing. Luxury which won’t bust your budget! Homes starting from the low \$600,000s

Willow Way Executive Homes: Easy, move-in pricing. \$25,000 down payment, starting from the low \$600.000s

EXCEPTION: The loan which finances the original purchase of the consumer’s personal residence (the first mortgage) does NOT have a right of rescission.

EQUAL CREDIT OPPORTUNITY ACT (ECOA) *covered earlier more detail*

In the attempt to open the opportunity of home ownership to all Americans, Congress determined that equal access to financing needed to be provided and discrimination in lending practices were essentially the same as discrimination in housing availability. The ECOA prohibits discrimination in lending based upon:

1. race
2. color
3. gender
4. age (provided the party is of lawful age to contract)
5. religion
6. national origin
7. marital status – it is a custom that the credit of a married couple is often kept in the name of the husband. In the event of divorce or death, many women found themselves without a credit history in their name. The ECOA allows the widow, or divorced spouse to use the credit of the husband during the husband’s lifetime, or period of the marriage.
8. source of income – many lenders were denying loans to individuals if any of the income received by the prospective borrower was some form of “public assistance.” Normally this was income from the “Aid to Dependent Children” programs. Congress determined that minorities were “over-represented” in the receipt of public assistance, and to not include this income in qualifying the borrower for a loan was effectively discrimination based on race, national origin, or marital status. The only requirement to be considered is that the source of income must be “legal income.”

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) – administered by HUD, the primary purpose of RESPA is to inform the parties to a covered real estate transaction what the closing costs and charges are, and which costs they pay for. RESPA applies to:

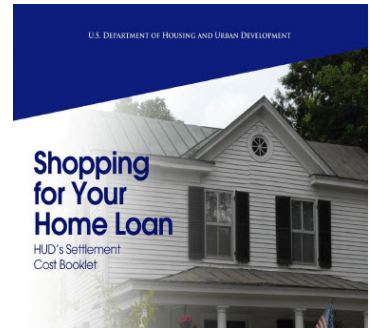
1. new first mortgages (also refinances if it creates a new first mortgage)
2. on 1 to 4 family homes, and,
3. are “federally related” in some way
 - a. FHA, VA or RECD loans
 - b. loans by a federally chartered lender
 - c. loans by a federally insured lender
4. any Lender who makes \$1,000,000 or more in loans

Not covered are:

1. seller financing under \$1,000,000
2. land loans
3. investor or commercial loans

4. second mortgages
5. assumptions (provided there are no changes in terms)

To satisfy RESPA, the borrower must be provided with a copy of the HUD booklet *Shopping for Your Home Loan* revised in 2010 and formerly called *Settlement Costs and You*. This is normally provided by the Lender. The Lender also must provide the borrower with a *Good Faith Estimate of Closing Costs* within 3 business days from loan application.



The **Uniform Settlement Statement (HUD 1)** must be used for the closing. This is an easy to read form which details the amount of the closing costs and who is paying them (seller, buyer, or a third party).

A party who wants to see the actual closing costs may, if they request it one day prior to close of escrow. This short time period is because the closing costs are constantly changing with the effect of accruing interest on loans, and the effect of the passage of time on amounts due for things such as real estate taxes, homeowner association dues, special assessments, or any other charge which is time sensitive.

The primary motive behind RESPA is to expose any *kickbacks* which may be occurring. All payments to and from the parties to the transaction, together with the real estate professionals, the title and escrow companies, and the casualty insurance companies must be disclosed.

REGULATION OF ENVIRONMENTAL HAZARDS

People desire to live and work in an environment that is safe and free from certain kinds of health risks. Therefore, environmental issues have become important in the practice of real estate.

Much of the legal burden for disclosure or elimination of hazards arises when properties are transferred and real estate salespeople must be alert to environmental hazards and be familiar with local, state, and federal environmental laws.

The burden of disclosure falls heavily on the homeowners who are selling their property, as most states have a requirement for sellers to disclose the condition of their home prior to selling. Buyers also have a due diligence period in which to further check the condition of the home they are purchasing, including the presence of any environmental issues.

When confronted with any of the following environmental issues, it is wise to involve professional specialists. They have knowledge of abatement processes and the associated costs.

Environmental protection laws – In general, environmental protection laws come from the federal government. Local and state agencies may also promote a clean and safe environment through local laws and regulations.

CERCLA and SARA – the *Comprehensive Environmental Response, Compensation, and Liability Act* (1980), CERCLA, established a *Superfund* to clean up hazardous waste sites and to collect the costs from certain responsible persons associated with the sites. The *Superfund Amendment and Reauthorization Act* (1986), SARA, clarified regulations regarding hazardous waste and limited liability for some parties, including innocent landowners and real estate brokers.

Federal clean air and clean water acts – Providing clean air and water is a fundamental role for the national government. As early as 1273, when King Edward I banned burning coal in London, the quality of air and water directly impacted the quality of life of the citizens and, more importantly, the willingness of the citizen to be governed. If the government is not able to provide clean air or water, the citizens may well conclude that government will be unable to provide other services and may determine a different government should be put in place.

In more modern times, as industry and the expansion of the population have placed strains on natural resources, the quality of water and air has taken on economic as well as political importance. Applied to real estate, the major concerns are the availability of adequate supplies of clean water to support existing populations and proposed growth. Clean air has also had a major impact on real estate and real estate development. As cities grow and residential areas are developed further away from sources of employment, traffic increases bring about issues concerning air quality.

Growth in the demand for power, combined with the general aversion to nuclear power, has caused a proliferation of natural gas and coal burning power plants, each presenting additional pollution challenges. Each new project brings with it an impact on the surrounding environment, including traffic impacts, water, gas and electric demands, potential damage to natural habitats, and possible pollution of streams, lakes, and subsurface water resources. In balancing the need for development and the desire for clean air, clean water, and safe, pleasant places to live and work, developers are required to submit impact statements to planning and zoning officials demonstrating the effect of their proposed project on existing resources and facilities.

There are many hazardous materials that relate to housing with which agents should be familiar:



1. **Asbestos** – Asbestos is found in insulation and in ceiling and floor tiles. For many years, it was widely used in residential and commercial buildings. Removal is very expensive, and inhalation of asbestos can lead to serious, often fatal lung disease. In a state of disintegration, it is considered friable (easily crumbled or pulverized) and thus easily airborne.

2. Lead – Lead is found in plumbing pipes in older homes. Lead-based solder and lead-based seals could, over time, place harmful quantities of lead in the water.



3. Lead-based paint – can be found in homes built prior to 1978. Federal law banned the use of lead-based paint in residential properties after January 1, 1978. It was often used to paint cabinets and baseboards or other areas of significant wear. Discovery was made that lead-based paint was often eaten by small children as they chewed on cabinet doors and trim. Lead-based paint, if ingested, can result in brain damage and death.

Note that disclosures about lead-based paint, mold, radon, and other hazards are very common in many jurisdictions. These may be separate documents signed by the buyer or a longer document that contains several disclosures.

4. Urea formaldehyde foam insulation (UFFI) – This has been used as an insulation in residential and commercial buildings. Ingestion and inhalation present significant health hazards.



5. Leaking underground storage tanks (LUST) – these tanks are found in older gas stations and other facilities where gasoline and other petroleum products were stored in steel or iron underground tanks. The primary hazard is leaking and the contamination of ground water as the petroleum product leaches further into the soil.

6. Mold - Recent interest in mold in homes has increased. Mold is a fungus that thrives on moisture. While some molds are benign or even beneficial, others can cause allergic reactions when inhaled or touched.



7. Radon - Radon is an odorless, colorless, radioactive gas produced naturally by the radioactive materials in the ground. It represents another environmental hazard and has been linked to lung cancer.



8. Electromagnetic fields (EMFs) - These are fields generated by the movement of electrical currents, such as in power transmission lines.

9. Carbon monoxide (CO) - Carbon monoxide is a colorless and odorless gas that occurs as a byproduct of burning certain types of fuels. It can pose a significant health hazard if not properly ventilated.

Chapter 7

Professional Relationships between Agents and Their Clients

LAWS, DEFINITIONS, AND NATURE OF AGENCY RELATIONSHIPS

American concept of agency – The American concept of *agency* evolved from English Common Law and depicts the duties and obligations originally assigned to an agent of the crown, a very powerful position in English society. Today, agency refers to the fiduciary relationship between a principal and an agent. The role of the agent is to deal with third parties on behalf of the client. Sometimes, the broker is called the “fiduciary.” The term fiduciary refers to a relationship of trust and confidence.

Key concepts of agency – There are a number of important concepts involved in the American system of agency and its use in a real estate environment.

- **Agency** describes the fiduciary relationship between the agent and the principal.
- The **principal** delegates authority to the agent to represent the principal’s interest in a transaction. The principal is obligated by contract to compensate the agent and not hinder the agent’s ability to fulfill the agent’s fiduciary obligations.
- The **broker** is an agent who agrees to represent the interests of the principal, who agrees to let the broker exercise authority on behalf of the principal. Normally, this authority has to do with listing, selling, or leasing a property.
- The **client** is the principal to whom the agent is expected to give advice and counsel during the period of agency.
- The **customer** is a third party for whom a service is provided by the agent.

Types of Agency – In most states, four types of agency have been defined. These are **Universal Agency**, **General Agency**, **Special Agency**, and **Subagency**.

- **Universal agency** – This form of agency is created in a written, **unlimited power of attorney** which grants the agent the authority to do anything the clients could do for themselves. Universal agency authorizes binding the client to contracts and authorizes the sale or other disposition of real and personal property.

Example: A member of the military is preparing to be shipped overseas to a combat area. While the military member is overseas, the spouse is given full authority through a universal agent’s power of attorney.

- **General agency** – This form of agency is created in a general agency agreement, normally in writing, and often referred to as a **limited power of attorney** or a **general power of attorney**. A general agent has the authority to negotiate contracts and to bind the client to a contract, but only within specially designated and limited areas.

Example: An insurance agent is normally a general agent with the power to bind insurance companies to contracts of insurance within certain defined guidelines.

Example: Property managers also act as general agents. They are authorized to represent the property owner in all matters concerning one area of interest – the property to be managed.

- **Special agency** – This form of agency is most often used in real estate. Special agency is created in an agreement, often in writing. The special agent represents the client and has all of the fiduciary duties, but has no authority to bind the client to anything. The role of the special agent is simply to represent the interests of their client, but the special agent must allow the client to make the final decision whether or not to be contractually bound.

Example: Real estate brokers and real estate agents are special agents. They represent their clients, but have no authority to bind their clients to contract.

- **Subagent** – A subagent is a person to whom agency has been delegated, always by an agent who is responsible to a principal and always with the permission of the principal. Subagents assist in carrying out client-based functions on behalf of the principal. Note that cooperating agents or subagents from the same company have the same fiduciary duties and responsibilities as the original agent.

Example: A principal who wants to sell a home will often list the property with a particular brokerage. At this point, the principal becomes the client of the broker, and the broker becomes the agent of the principal. Any agents associated with this broker on this transaction become subagents and represent the principal.

Fiduciary duties and responsibilities – One of the key concepts of agency is that of ***fiduciary duties and responsibilities***. Originally known as duties the agent had to perform for the king or queen, they eventually found their way into English common law, and then into the law of agency that exists in every state.

In our modern system of agency, these important fiduciary duties involve “trust and confidence” and are owed by the agent to the principal in the transaction, who may be the buyer, seller, lessor, or lessee of property.

The six fiduciary duties are *care, obedience, loyalty, disclosure, accounting, and confidentiality* — often remembered by the acronym COLDAC. (Remember: “COLD Air Conditioning.”)

C O L D A C

Care – The agent is required to put forth best efforts on behalf of the client and always take great care in representing the client’s interests. Principals have a right to expect the level of real estate knowledge of an agent to be superior to that of an average person. Care also encompasses an agent’s competency or skill and knowledge.

Example: If the agent represents the *seller*, great care and skill must be applied to help the seller arrive at a realistic and appropriate listing price, to help the seller understand the local market, to discover and disclose facts that affect the seller's position, and to properly present contracts and other documents for the seller's signature.

Example: If the agent represents the *buyer*, the agent is expected to help the buyer locate suitable property, evaluate the property and its value, discover and disclose property and neighborhood considerations, and properly draft offers and counteroffers.

Obedience – The agent is required to be obedient to the client. As the king or queen was the law in old England, this did not represent a problem, since there could be no real conflict between the crown's requirements and those of the third parties with whom the agent was dealing. In modern society, however, the agent is obviously not representing the crown, but another individual.

Important exception: While the agent must obey the client, this obedience does not permit breaking the law or concealing material facts from others. When dealing with third parties on behalf of a client, the agent must follow the rules of fair and honest dealing and the disclosure of material facts to the third parties.

Loyalty – It is expected that the agent will always be loyal to the client and to the client's interests to the highest standards.

Disclosure – Information may reach the agent which would be significant for the client to know. The agent must keep the client informed of all material facts which may have any importance in matters where the agent is representing the client. If the agent acquires information which would cause a reasonable person to ask some questions, the agent is expected to do so. This is the ***Duty of Further Inquiry***.

Accounting or accountability – The agent may receive money, property, or other things of value which belong to the client. The agent must account to the client for these items and must use great care in protecting the client's interests.

Confidentiality – An agent must keep confidential all information about the client which, if disclosed without the principal's permission, could hurt the principal's bargaining position.

Example: If the agent represents a *seller*, the agent cannot reveal information about the seller's financial condition, or willingness to accept less than the list price, or urgency to accept an offer, or other similar facts.

Example: If the agent represents the *buyer*, information cannot be revealed about the buyer's financial condition, willingness to pay more than list price, the tightness of the buyer's moving schedule, etc. Note that these rules are codified by statute at the state level, so it is important for you to consult your state's treatment of all six parameters (COLDAC).

Important note: While a broker has a fiduciary duty to the principal, the broker or agent is obligated to disclose all known material facts about the property to the customer, including those which would potentially be detrimental to the principal. Most states have specific forms that outline these fiduciary duties and require that they be presented to the client as disclosures.

A client's duty toward the agent – As you can imagine, when an agent represented a king or queen, the relationship was pretty lopsided. A person acting as the queen's agent owed her all of those fiduciary duties, but was owed little in return. Over time, another concept has materialized, the **Duty of Indemnification**. This means should an agent suffer an injury (now most likely a financial one) while acting in the client's behalf, the client must indemnify, or secure against loss, the broker or agent.

An agent's duty to third parties – Modern agents, and particularly real estate agents, deal with third parties frequently to meet contractual responsibilities. An agent is required to deal with third parties in a truthful and honest fashion and is required to disclose all material facts which the agent knows about the property, or should know about the property or through the exercise of reasonable due diligence.

Definition: *A material fact is a fact that would be important to a reasonable person in deciding whether to engage or not to engage in a particular transaction; it is an important fact as distinguished from some unimportant or trivial detail.*

DUTIES OF BEING AN AGENT



Creating Agency Relationships In Real Estate

In most states, there are two ways that an agency relationship can be created: **expressed agency** or **implied agency**.

An **expressed agency** relationship occurs when a formal document is signed, binding the parties to an agency relationship. Once signed, a listing agreement, buyer's brokerage agreement, or similar document, creates an agency relationship.

Implied agency occurs when the parties involved "act like" or "imply" that an agreement has been reached. Once this occurs, an implied agency agreement has been created, though this may have been done accidentally, inadvertently, or unintentionally.

Obviously then, an agency relationship can be created without signatures, although a signed, documented agency agreement is usually preferable because it prevents misunderstandings between the parties.

Agent of the seller – This relationship is created in the listing agreement where the seller is the client and the broker is the special agent. The sales agent involved on behalf of the broker is technically a special subagent, who owes the fiduciary duties to the seller through the broker. In most states, the listing agreement provides for exclusivity as in an exclusive brokerage agreement, or an exclusive right to sell listing.

Agent of the buyer – This relationship is created in the buyer's brokerage agreement where the buyer is the client and the broker is the special agent. The sales agent involved on behalf of the broker is technically a special subagent, who owes the fiduciary duties to the buyer through the broker.

Agent for the owner-investor – This agency relationship involves the act of managing property for the owner-investor. This relationship is created in the property management agreement, between the broker and the property owner. This relationship is a general agency, and an agent of the brokerage would be a general, subagent of the owner through the broker.

Single agency – This is the typical, agency relationship used in real estate. One agent represents the seller and another agent represents the buyer, in most cases. Every client who enters into an agency agreement with a broker has the right to know that in a single transaction, the agent exclusively represents only his side of a transaction.

Dual agency – In a situation where one agent represents both the buyer and the seller, the resulting arrangement is generally called **dual agency**. In some states, dual agency is not allowed. In others, it is allowed, but only with the expressed, informed consent of both represented parties. Nevada allows dual agency but now prefers the term **multiple party representation**. It is legal provided there is informed consent as demonstrated through the Consent to Act document.

A dual agency scenario exists for a sales agent when he has produced a ready, willing, and able buyer for one of his own listings. Because the agent will be able to receive a commission from both sides of the transaction, dual agency is attractive because of its significant monetary rewards.

Conflicts inherent in dual agency – There are inherent conflicts of interests with dual agency. Sellers typically want the highest price, with the best possible terms, and a quick closing. Buyers want the lowest possible price, with the best possible terms, and a closing date that allows for mortgage application processing and due diligence. These can be conflicting interests.

Many other conflicts can also be present. For example, the agent probably knows the reasons the sellers have for selling which the buyers would like to know. Or, the sellers have probably told the agent what the "bottom dollar" is and may also have disclosed information which, if revealed to the buyers, would be considered a breach of the agent's fiduciary duties to the sellers. The reverse is often true concerning the agency relationship with the buyers. They have probably revealed information about their buying decision and their "top dollar," which if disclosed to the sellers, would compromise the buyers bargaining position.

Even considering all of these reasons not to enter into a dual-agency relationship, there are circumstances where such a relationship makes sense. Some states, therefore, have made allowances for dual agency providing that the dual agency situation and its potential conflicts of interest have been fully and completely disclosed to both buyer and seller. In these situations, both buyer and seller will normally have to voluntarily consent *in writing* to the dual agency representation, after which dual agency will be permitted.

Designated agency – In some other states, brokers are allowed to “designate” agents to represent clients. This could happen when one salesperson is designated to represent the seller and another is designated to represent the buyer in the same transaction. This could happen when a brokerage has the listing “in-house” and also has the buyers “in-house.” In this situation, many of the potential problems of dual agency go away, however, the broker, in some states, remains a dual agent. In other states, the broker has no agency with the two parties.

Transaction or transactional broker – Some states deal with dual agency concerns by using the concept of a **transaction broker**. The premise of a transaction broker is an agent without fiduciary duties but who handles the transaction from start to finish. Those states adopting the transaction broker approach take the position that the real estate professionals represent the transaction and not the parties to the transaction. So, if an otherwise dual agency situation arises, the duty of fair and honest dealing with all parties remains, but no fiduciary duties exist. It is important to note that some states do not recognize the concept of transactional brokerage.

Responsibilities of agents to customers and third parties – Even though agents are primarily responsible to the principal, agents also have duties and responsibilities to the customer and third parties. Anytime agents work with or have contact with customers or third parties, responsibilities as an agent encompass these areas:

- understand and adhere to state and federal consumer protection laws
- understand and adhere to the ethical requirements imposed by professional organizations
- exercise care in performance
- demonstrate reasonable skill as a real estate agent or subagent
- ensure honest and fair dealing with everyone
- disclose all facts that the licensee knows, or should reasonably be expected to know, that materially affect the desirability or value of the property in question

Responsibilities relative to environmental hazards – Environmental and health hazards, whether confined to a subject property or endemic to a larger area, can render a property without value, unsuitable for a client’s needs, and therefore unsalable. Agents are required, often by federal law as is the case involving lead-based paint, to disclose the possible presence of environmental hazards.

These hazards may include:

- lead-based paint
- asbestos
- presence of mold
- radon gas

- toxic-waste dumping
- contaminated soil or water
- underground storage tanks
- nearby chemical or nuclear facilities

Opinion versus fact – Real estate agents are encouraged to be very careful about the statements they make, ensuring that the listener understands if the statement is an opinion or a fact. Statements of fact are always permissible if they are true; statements of opinion are permissible, if there is no intent to deceive.

One long recognized activity in business is the practice of **puffing** or **puffery**, which is the exaggeration of a property's benefits such as "This home has the best curb appeal on the block." Puffing is legal because it is based on individual opinions, but agents must make sure that none of their comments or statements about real estate can be treated as fraudulent. Fraud involves the intentional misrepresentation of a material fact.

More about fraud:

- Fraud is the intentional use of deceit, a trick, or some other dishonest means to take money, property, or a legal right from another person.
- Victims of fraud can file a lawsuit for damages, including punitive damages.
- Punitive damages serve as punishment and as a public example of the malicious nature of a fraud.
- If multiple people are involved in committing a fraud they may individually be held liable for the total damages.
- Inherent in fraud is an unjust advantage being taken over another.
- For real estate agents, fraud can include failing to point out a known mistake in a contract or for not communicating an important fact that should have been communicated.
- Perpetrators of fraud can also face criminal charges.

Negligent misrepresentations – Misrepresentations can also be negligent or just plain mistakes. **Negligent misrepresentations** occur when a broker or agent should have known that a statement about a material fact was false. The broker's lack of awareness of the fact is no excuse. Also, the concept of negligent misrepresentation extends to situations where the broker or agent simply fails to do something or follow through as expected. A broker's failing to deliver an offer from a buyer to a seller might be an example of a negligent misrepresentation.

Brokers or agents can be sued for these transgressions if their clients or customers were injured because of the broker's actions. Some practitioners and students falsely assume the difference between fraud and misrepresentation is the degree of harm or damage caused by what was said. The true difference is *intent*. If the intention of the agent was to provide false information, it is fraud. If there were no intent, but the statement was nonetheless false, it is likely misrepresentation.

Property conditions – In years gone by, it was always incumbent on the buyer to discover all of the possible things wrong with a property before the purchase was consummated. This was referred to as **caveat emptor**, translating to “buyer beware.” Federal and state laws have dramatically changed this playing field to the extent that the seller or agent must disclose defects and issues that they know to exist. Some of the categories of issues that must be disclosed are:

- construction defects that have not been resolved
- **patent defects** (an archaic term, but still used in construction), which are accessible, unhidden, visible defects
- **latent defects** – those defects that are not visible. These may be known or unknown to the seller or agent. If these are known, both the seller and the agent have a responsibility to reveal them.
- Violation of building codes must also be disclosed.

Notwithstanding, these categories of defects and the responsibility of the seller and agent to disclose them, it is still incumbent on the buyer, and often required by law, for the buyer to perform the inspections necessary to ensure that defects do not exist. For these reasons, many buyers perform a home inspection and possibly a pest inspection during the period of **due diligence**.

The term **as is** is used in many listings to communicate the fact that a property is being sold in its “known” present condition. It does not mean that a seller has been absolved of all responsibility relative to defects of which he or she is aware. Many states have adopted a specialized form and mandate that a seller disclose the condition of a property for sale on this form.

Stigmatized properties – A property may become stigmatized because of some event that has occurred at the property or nearby, or because of the presence of some negative factor in the local area. All of these factors could stigmatize a property:

- a death or a homicide
- illegal drug manufacturing
- gang activity
- a suicide
- a sex offender living in the area

The issue of stigmatization is complex and is the focus of numerous federal and state laws. Consider the regulations of two adjacent states when an owner dies in his home. In one state, this fact *must be disclosed* to a potential buyer. In the adjoining state, this fact *must NOT be disclosed* to a potential buyer.

Consider that disclosing a previous occupant of a property died of AIDS or was HIV positive constitutes illegal discrimination against the handicapped under the federal Fair Housing Act. Since there are dozens more scenarios like these two, agents should seek competent legal counsel when dealing with a stigmatized property.

Terminating Agency Relationships in Real Estate

There will be times when an agency relationship must be terminated, either because the need for the agency is no longer a factor, or because the principal or the agent wants to terminate the agreement. In most states there are six ways to terminate an agency relationship.

- **Expiration** – The term of the agency agreement has run out or expired. This happens frequently with listing agreements when a home fails to sell within the term of the agreement.
- **Completion** – The property was sold or transferred, so there is no further need for the agency. This is also referred to as ***fulfillment or performance***.
- **Death/Incapacity** – the demise or incapacity of either the principal or the broker
- **Destruction** – The property was condemned, or destroyed by fire, flood, war, wind, etc.
- **Mutual agreement** – both parties agree to cancel the agency relationship
- **Breach** – One of the parties breached the contract, failed to perform as promised, or stated performance would not occur as promised.
- **Operation of law** – The agency relationship may be cancelled by operation of law, which occurs for example, when the principal enters a bankruptcy proceeding and the property is transferred to a court-appointed receiver.

Property Management

Fiduciary duties of a property manager – In most states, the role of a property manager creates a *general agency*. In this relationship, the broker doing property management, or agents within the brokerage authorized by the broker to engage in the property management activity, are serving the client in a general agency relationship as there will be some authority extended from the client to the property manager to bind the client or the client's property to contract. The extent of this authority should be clearly spelled out in the property management agreement.

In most states the property management agreement must be in writing, and the broker must maintain a separate trust account for the property management activities.

The property manager will be responsible for the proper handling of rents received, for deposits made by tenants, and other funds belonging to the owner which come into the care, custody, and control of the property manager.

The property manager should be fully versed on the various federal laws dealing with the rental of property or the operation of buildings open to the public. Among these will be:

- the 1968 Fair Housing Act, as amended;
- the Americans with Disabilities Act (ADA) as it applies to public buildings and buildings open to the public;
- the Uniform Residential Landlord Tenant Act (URLTA) as it was adopted by your state. This sample law was developed in 1974 by The National Conference on Commissioners on Uniform State Laws and was adopted individually by states.

URLTA provisions – While the provisions of the URLTA vary from state to state, the following provisions are generally applicable to all states:

- Deposits, including security deposits and last month rent deposits, cannot exceed 3 times the monthly rent.
- Reasonable rules and regulations concerning the property and the tenant’s use and enjoyment of the property can be adopted by and enforced by the landlord. However, the tenant must be provided notice of the rules and regulations at the time of renting the property. If not, they may not be enforced against the tenant, unless the tenant acknowledges in writing the new rule or regulation, or until the tenant has had a thirty-day written notice of it.
- The tenant may not deny landlord reasonable access to the premises for the purposes of inspection or making repairs.
- The landlord may not use the right of access to harass the tenant and except in the case of emergency, will give the tenant 24 hours prior notice of access. The landlord will access the premises only during normal business hours unless the tenant agrees otherwise.
- The landlord cannot retain the tenant’s personal property for unpaid rent unless the landlord has been granted an order of attachment or garnishment by a court.
- The purpose of the URLTA is to *assure the parties to the lease that neither the tenant nor the landlord has unreasonable rights solely as a function of their respective positions.*

DUTIES AND OBLIGATIONS OF BROKERS AND THEIR ASSOCIATES

Broker responsibilities: Brokers, operating as agents of clients, must respect the laws of the state in carrying out fiduciary responsibilities. While different states have different rules concerning brokers, the following are universal. Note that many of these “broker” responsibilities also apply to associated licensees as they are “sub-agents” to the principal through their employing broker.

Affiliation – In most states, a salesperson and a broker-salesperson must be affiliated with either a licensed real estate broker or a registered owner-developer of new homes. This affiliation should be represented by a written agreement spelling out the relationship, commission splits, office or desk fee arrangements, franchise fees, if any, and the entire agreement between the broker and the agent.

Fixed place of business – Each broker must maintain a fixed place of business.

Trust accounts/commingling of funds – A busy brokerage might be holding thousands of dollars for clients as earnest money deposits. The law may require all of these funds be deposited in a trust account, or be handled in a manner to which the principal has agreed. These funds may not be commingled with the broker’s operating funds.

Reasonable care – A broker must always exercise reasonable care when representing a principal.

Good faith – The broker must always act in good faith and carry out the principal’s legal instructions within the scope of the authority provided by the principal.

Presentation of offers – The broker must present all offers to the principal promptly when received. Note that the broker and the principal can agree on the timeframes for presenting offers, such as “*Review them Monday at 5 PM,*” or “*Hold them until the weekend,*” etc. but in the absence of such an agreement, the broker cannot simply hold onto offers until the broker or agent feels like presenting them.

Buyer agency – Most buyers hire a broker to locate a home or particular type of property. The broker is committed to the principal, the buyer, through a buyer’s agency agreement even when the entire commission is paid for by the seller. The broker in this situation must be fair and honest with the seller, but owes greater responsibility to the buyer and must work to protect the buyer’s best interests. This includes disclosing pertinent facts and opinions to the buyer. These could be that the home has been listed for over a year, or that it is currently overpriced, or that the HOA is in a legal battle with the city where it operates, etc. Buyer agency also requires the broker to use bargaining and negotiating skills in the best interest of the buyer.

Cooperating brokers – This term is reserved for buyer brokers who work with (cooperate with) listing brokers to produce a buyer who is ready, willing, and able to purchase.

Salespersons – In most communities, salespersons are formally classified as subagents, although they typically call themselves “real estate agents.” Their activities are also regulated by statute. The following are some of the rules governing the behavior of salespersons:

Licensing – Every salesperson is licensed to a particular broker and can carry out only the activities assigned and approved by that broker.

Listings belong to brokers – All listings taken by a salesperson are taken in the name of the brokerage. The listing belongs to the broker, not the salesperson. Similarly, all salesperson’s activities must be carried out in the name of their brokers.

Supervision – All salespersons must be supervised by their respective brokers.

Advertising requirement – In most states, salespersons may not place advertising without identifying their brokers. This requirement may include a provision for “Open House” or “For Sale” signs to similarly identify the brokerage.

Employment of salespersons – Salespersons may work for brokers either as employees or independent contractors. Most salespersons are employed as independent contractors.

- **Employee status** – In some states, by statute and regulation, the salespersons and broker-salespersons are employees. This is the relationship that transfers the obligation to train and supervise agents to the broker. It also is the relationship that gives the broker the authority to direct the activities of the associates.
- **Independent contractor status** - This is a tax status. The Internal Revenue Service (IRS) has agreed to allow real estate professionals to elect independent contractor status for tax purposes, even though they may legally be employees. In order to qualify for this treatment, agents must have a written employment agreement with the broker which states an agent will be treated as an independent contractor for tax purposes. As an independent contractor, agents are able to deduct those reasonable and necessary business expenses. This tax treatment often offers greater deductibility of operating expenses than if taxed as an employee.

Commissions and fees – Commissions in the real estate industry are earned by brokers (agents) who share these commissions with salespersons (subagents) with whom they are associated and with other brokers (cooperating brokers).

- **Compensation agreements** – Salespersons are compensated based on schedules or agreements signed with their brokers, most commonly referred to as ***Independent Contractor Agreements***.
- **Setting commissions** – Commissions are always negotiable between a broker and the principal. They are NOT fixed nor is there an industry standard. It is a violation of the Sherman Anti-Trust Law, “price fixing,” to suggest there is a standard commission rate. Commissions will always be expressed in the agency agreement as a percentage of a sale price, or as a flat fee, or both. Net listings, a concept where a broker receives any overage after a pre-determined net proceeds to the seller, is not allowed in most states.
- **Earning commissions** – To be entitled to a brokerage commission for listing or selling a property, a broker must:
 - be licensed
 - be the procuring cause of the sale or purchase
 - be employed by the principal
 - act according to the laws of agency

In most listing agreements, there is a protection clause that provides for the payment of a commission to the listing broker in those cases where, within a certain number of days after the listing agreement expires or is cancelled, the owner transfers or sells the property to

someone whom the listing broker/agent had previously introduced to the seller. In other words, it prevents a principal from cancelling a listing agreement, or letting one expire, with the intent of escaping the payment of a commission.

- **Sharing commissions** – Brokers can share commissions only with the people they employ or with other licensed brokers. When sharing with other brokers, the brokers do not have to be in the same state or country, but they must be licensed in their own jurisdictions.
- **Entitlement to commissions** – When a broker, employed by a seller, successfully finds a buyer who is ready, willing, and able to complete a transaction based on the terms and conditions in the listing, the broker has earned commission – even if the sale is not completed because of a principal’s default.
- **Payment of commissions** – Salespersons may not receive any compensation directly from the principals they represent. All commissions earned by the salesperson must be paid to the broker who will share the commission with the salesperson, usually according to a predefined agreement.

GENERAL ETHICS

The ethical behavior of real estate agents may be best summarized or guided by the following statements:

1. Tell the truth.
2. Tell the whole truth.
3. Don’t steal the money.
4. Do your homework.
5. Don’t act like an expert in areas you are not.
6. Treat your clients as you would want to be treated.
7. Keep your client’s confidential information to yourself.
8. Disclose required information even if it may blow the deal.
9. Know the law and follow it.
10. Understand your ethical obligations and practice them at the highest level.

Regrettably, not all real estate professionals follow these ten simple statements and as a result, we have an enormous number of rules, regulations, and laws we must follow and for which we can be punished if we fail in our professional responsibilities.

This is a subject vital to the success of any professional, notwithstanding a specific profession. Ethics are matters of standards of conduct and moral behavior based on the concept of “doing the right thing.” This author recommends agents purchase and read *Doing the Right Thing* by Deborah H. Long. Ethics are perceived as conduct which is not only legal in nature, but more than just merely legal, getting closer to terms like “justice,” “fairness,” “kind,” “honest,” “generous,” and “exceeded our expectations.”

The law describes the *minimum acceptable conduct*. If you go any lower, you are breaking the law and your conduct is illegal. Ethical conduct is generally above and beyond what is required to be “legal. In real estate, the most frequent examples of unethical conduct come in the form of “taking advantage.” There is nothing wrong with taking an advantage, as in seizing the moment, or exercising superior knowledge and skill for your client, but, when you take advantage of your client, or your customer, you are acting unethically.

An example of an ethical situation – You are having lunch at the local diner and the head of planning and zoning and one of the prominent county commissioners takes the booth behind you. In the course of eating your lunch, you overhear their conversation which deals with the final decision on the location of a new freeway off ramp. It will be placed right next to a commercial listing you have, making that property greatly more valuable than its current list price. The commissioner tells the head of planning and zoning to keep it under wraps until the press conference set for next week. You should:

- a. call a buddy of yours who is a developer and tell him you can get him a real steal on a great commercial site, if he agrees to cut you in for 25% of the deal.
- b. do nothing. You weren’t supposed to hear the conversation anyway.
- c. call your clients, tell them what you heard, and suggest you get together to re-evaluate the pricing on the property.
- d. take a “wait and see” approach until after the public announcement next week.

So, what do you do? Easy! Is it’s a material fact you have to disclose. Period! To whom do you have to disclose? You are required to disclose to both sides of the transaction any material fact that affects the value or desirability of the property. Therefore, you must do so with both your client and the buyer.

Ethical requirements for real estate licensees – *The Code of Ethics*, established by the National Association of REALTORS®, have become *the* governing guidelines of ethical behavior for real estate practitioners. Some states have even added to the NAR code in attempts for even more professionalism within the industry.

Chapter 8

Valuation of Real Estate & General Principles of Economics

APPRAISAL

Generally considered, there are four (4) influences, or characteristics, of value:

1. **Demand:** There must be a demand in the market for the property. If the market does not want the property, it has little or no value. **Effective Demand** refers to the market having the capacity or ability to purchase the property. If the market lacks adequate purchasing power to buy the property, the property's value is greatly diminished.
2. **Utility:** The property must be useful in the eyes of the market. If the real estate is not useful (not good for anything) it has little or no value.
3. **Scarcity:** The extent of the supply in the marketplace will have an influence on the value. If there are vast numbers of similar properties, any one property's value is greatly diminished. Likewise, if there are few or no such properties, the value will increase.
4. **Transferability:** The property must be able to be sold (transferred) from one owner to another. If the property cannot be sold due to restrictions on its ownership, such as a burden on title, the property's value is greatly diminished.



Many refer to the acronym "DUST" to remember these four characteristics of value.

Definition of an appraiser: An individual licensed or certified by a state authority who is educated in the field of valuation and is skilled in estimating the current value of property.

Definition of an appraisal: An estimate by an appraiser of the current price which will most probably be paid in a market consisting of informed buyers and sellers who are acting under normal and rational motivations. Such a transaction should be at **arm's length**, meaning there is no special pricing because of the relationship of the parties.

It is important to note that the appraiser is giving an *estimate* of value. The *best* indicator of market value is that price at which an informed seller and buyer ultimately agree to. This will not be known until there is an accepted offer on the property and the transaction closes.

The **Uniform Residential Appraisal Report (URAR)** is the standard format of a written appraisal as required by many institutions.

Appraisals may be ordered for any number of different and specific uses, not always just a step in the loan approval process. Appraisals may be ordered by different parties who have a present or potential future interest in the **subject property**.

The Uniform Standards of Professional Appraisal Practice (USPAP) establishes the quality control standards applicable for real property, personal property, intangibles, and business valuation appraisal analysis and reports. USPAP was founded in the 1980s by a committee of appraisers representing the major U.S. and Canadian appraisal organizations.

Uses of Appraisals:

1. to verify value of collateral for lenders (this is the greatest use of appraisals)
2. to establish value for insurance companies using a “co-insurance” clause in their policies. In residential homeowner insurance policies, the insured is normally required to carry insurance equal to at least 80% of the property’s value.
3. Internal Revenue Service – The IRS uses appraisals for “means testing” to determine if the value of property owned by a tax payer is consistent with the income reported by the tax payer.
4. Federal Institutions Reform, Recovery and Enforcement Act – Often referred to as the “Savings and Loan Bailout Act,” this enactment determined that one of the causes of losses in the savings and loan industry was the absence of appraisals to verify the value of collateral securing loans made. From and after 1991, all “federally related” loans required an appraisal made by a state licensed or certified appraiser.

Appraisal principles:

1. **Highest and best use** – The appraiser must determine if the current use of the *subject property* (the property to be appraised) is the most profitable legal use for the property. If not, this must be disclosed in estimating the value. Property should only be appraised considering differences, if any, between its current use and its highest and best use.
2. **Substitution** – The principle of substitution is based on the likelihood that the market will not pay substantially more for one property over another if the properties are substantially the same.
3. **Conformity** – The property should be consistent with the nature of its location and the other surrounding properties. If a property is significantly better than surrounding properties, its value will *regress* downward toward the value of the surrounding properties. If a property is significantly poorer than surrounding properties, the surrounding properties will tend to cause the subject property’s value to *progress* upward as a result of the higher value of the surrounding properties.
4. **Supply and demand** – If there is an imbalance in the supply of or the demand for the subject property, this will be reflected in its market value.

High Demand + Low Supply = Higher Values

Low Demand + High Supply = Lower Values

5. **Contribution** – The appraiser must determine what the market will pay for a feature or amenity. The value the feature or amenity *contributes* is not necessarily equal to its cost.

Example: If a typical swimming pool costs about \$45,000 to construct, will the presence of a swimming pool add \$45,000 to the value of the property when compared to similar properties without swimming pools? Normally the answer will be no.

The appraiser must determine the amount of value contributed by the swimming pool. This is done by finding other properties which have recently sold and are similar to each other (not necessarily similar to the subject property) one of which has a pool, the other does not. If all other amenities are fairly equal, the difference in price paid should represent the value the market considers the pool adds. This is called a **paired sales analysis**.

6. **Increasing and decreasing returns** – Similar to the principle of contribution, the concept of increasing and decreasing returns takes a look at whether or not the cost of making an improvement or repair adds more to the value than making the improvement or repair costs. If it does not, then the improvement or repair should not be made, unless the owner is doing it for reasons other than increasing the value of the property.

EXAMPLE: An owner is considering replacing the carpeting before putting the home on the market. The carpet is several years old and does show some sign of wear. The new carpet will cost \$5,000. Will installing the carpet add at least \$5,000 to the value of the house? If so (increasing returns), it should be done. If not (decreasing returns), it should not be done.

7. **Plottage and assemblage** – If several smaller parcels could be assembled into one large parcel, often the resulting larger parcel will have a greater value than the sum of the values of the individual smaller parcels. If so, this increase in value is called **plottage** and the act of bringing the parcels together is called **assemblage**.

EXAMPLE: A shopping center developer sees an opportunity, but the available parcel is not big enough for his shopping center. He is able to purchase several surrounding parcels and reach the needed land size. The act of assemblage brought together several small parcels which, when consolidated into the shopping center parcel, were much more valuable than they were individually. This increase in value is the plottage.

8. **Change and anticipation** – In some parts of a community, the available uses for parcels may be changing. Increased traffic may diminish the value of a property for residential, but increase its value as a commercial site. Local economic considerations may be affecting values. The opening of new industries or the closing of sources of employment can have a great effect on values, even though they may not have any direct impact on the physical property. The appraiser, in reaching a valid estimate of the market value of a property, must take these matters into consideration in reaching an estimate of value.

THE THREE APPRAISAL APPROACHES TO VALUE

There are three commonly accepted methods by which an appraisal can be performed. The method used is determined by the type of property being appraised.

I. **Cost approach** – The cost approach is based on the appraisal principle of substitution. The appraiser determines what it would cost to replace the subject property as if it were being built from the land up. Using informational sources available to the appraiser, the subject property is “rebuilt” on paper.

Normally, the appraiser uses **replacement cost** in this approach. Replacement cost represents the theoretical building of a substantially similar property, using currently available materials and construction techniques.

Reproduction cost would be used if the building were so unique that using available materials and techniques would not produce a substantially similar building. If the building were an historical structure having unique and features not commonly used in current-day construction, the appraiser would use reproduction costs.

The cost approach is used by the appraiser when the property does not produce income, and when there is not an established market for the type and use of the property.

The steps in the cost approach:

1. **Determine the value of the land** – This is done by looking to see what comparable parcels of land have recently sold for. This is the “land value.” Remember, this approach calculates the cost to rebuild the property from the “ground” up; hence we start with the value of the land.
2. **Determine the replacement cost of the structure** – The appraiser would rely upon resource material to determine the cost of the materials and labor to construct a structure similar to the subject property. We acquired the land on paper and now we rebuild the structure on paper.
3. **Determine accumulated depreciation** – Depreciation is the reduction in value as a result of age, poor state of repair, poor design, etc. We depreciate the building of the comparable on paper to mirror the subject property.

In appraisal there are three (3) sources of depreciation, also referred to as **obsolescence**:

- a. **Physical depreciation** – The property is in a bad state of repair, or some of the components of the property are nearly worn out.
- b. **Functional depreciation** – The property is out of style for the market place, or features of the property, although working properly, are inadequate for the property. As an example, the air conditioning system is too small for the property, although operating properly.

- c. **External/Environmental/Locational/Economic Obsolescence** – Four names for the same thing! The property is located in an “environment” or in a “location” in which the market will penalize the value, such as the subject property being adjacent to a waste facility.

In considering the depreciation, the appraiser will determine if the depreciation is **curable** or **incurable**. *Curable depreciation* consists of two (2) elements:

- 1) that the depreciation can be cured (fixed or repaired), and
- 2) that the added value to the property by curing the depreciation will be more than the cost to cure it

Note that curable depreciation is not just that the depreciation can be remedied. The law of increasing returns must apply.

Incurable depreciation dictates that the loss in value is either unfixable or not cost effective to make the repairs.

- a. Physical depreciation can be curable or incurable.
- b. Functional depreciation can be curable or incurable.
- c. Environmental or locational obsolescence is always incurable as you cannot move the land.

4. **Subtract the accumulated depreciation from the replacement cost.**

5. **Add in the land value.** Land is not depreciable and is added after the structure’s depreciation is subtracted.

COST APPROACH		
	Reproduction cost (new)	\$100,000
Minus:	Physical deterioration	\$25,000
	Functional obsolescence	10,000
	Economic obsolescence	<u>5,000</u>
	Total accrued depreciation	\$40,000 <u>- 40,000</u>
	Depreciated value of improvements	\$ 60,000
Add:	Site value	<u>20,000</u>
	Value indicated by <i>cost approach</i>	<u>\$ 80,000</u>

EXAMPLE: If the appraiser were appraising a church, the cost approach would most likely be used as there are not many churches for sale in a community (market data comparison approach) and churches do not produce income (income approach). The appraiser determines that the land value for the parcel on which the church sits is \$200,000. The appraiser estimates that the structure can be replaced at \$185.00 per square foot and the size of the church is 10,000 square feet. The appraiser estimates the church structure has a useful life of 50 years and is not subject to any other type of depreciation other than physical depreciation due to its age. The church is 14 years old.

SOLUTION:

1.	Determine the value of the land (through the market data approach):	\$200,000
2.	Determine the replacement cost of the structure: \$185 replacement cost per sq. ft. x 10,000 sq. ft.	\$1,850,000
3.	Determine accumulated depreciation: \$1,850,000 replacement cost ÷ 50 years useful life x 14 years of age	\$518,000
4.	Subtract the accumulated depreciation from the replacement cost: \$1,850,000 replacement cost - \$518,000 accumulated depreciation	\$1,332,000
5.	Add in the land value: \$1,332,000 depreciated structure + \$200,000 land	<u>\$1,532,000</u>

II. Market data or comparable sales approach – This approach is also based on the principle of substitution. This appraisal approach is the most common particularly for residential properties. In the market data approach, the appraiser looks for properties which have sold recently, in close proximity, and comparable in features and amenities to the subject property. What is considered proximate and recent is going to be community specific. In smaller markets, properties may not be selling as quickly as in larger markets. In some areas, proximity might be within a few miles, while in others it would be within a few blocks.

The appraiser is working with **comparables**. They are recently sold properties that resemble the subject property but are not identical, and therefore some adjustments may be required. The need for, and the extent to which adjustments are made, are judgment calls by the appraiser.

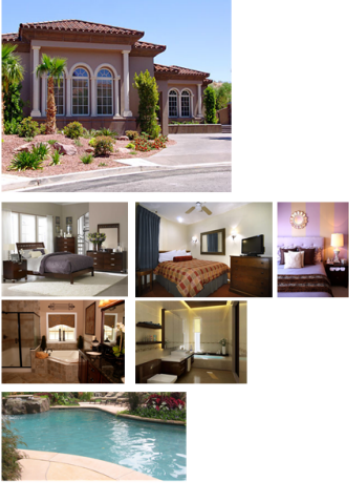
In making adjustments, the appraiser, based on the principle of contribution, determines the market value of features or amenities which differ between the comparable property and the subject. The appraiser will *adjust the price for which the comparable property sold upward*, if it lacked features or amenities which the subject property has. Conversely, if the comparable property has features or amenities which make it superior to the subject property, the appraiser will *adjust the price of the comparable downward*.

Note: The appraiser adjusts the sold price of the comparable upward or downward – **not the subject property**. There is no price of the subject to adjust! This is a commonly missed test item.

If the comparable is superior, the appraiser will subtract the contribution for the amenity.

If the comparable is inferior, the appraiser will add the contribution for the amenity.

Subject
3 bedrooms, 2 baths, and a pool



Subject
3 bedrooms, 2 baths, and a pool

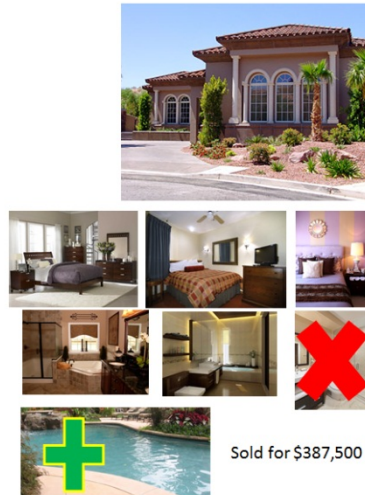


Comparable
3 bedrooms, 2.5 baths, and no pool



Sold for \$387,500

Comparable
3 bedrooms, 2.5 baths, and no pool



Sold for \$387,500

EXAMPLE: The subject property has 3 bedrooms, 2 baths, and a pool. The comparable property, which is 3 blocks from the subject property, sold two weeks ago for \$387,500. (Note that the comparable is proximate and recent.) The “comp” has 3 bedrooms, 2.5 baths, and no pool. The appraiser, based upon a paired sales analysis, has determined the market will pay \$32,000 for a pool and the value of a ½ bath is \$2,200.

SOLUTION: The appraiser will make adjustments to the comparable to make the comparable look as much like the subject as possible. The number of bedrooms is the same with both homes, so there is no adjustment for bedrooms.

The comparable property is superior to the subject by an extra half bath, so the appraiser will subtract the contribution for a half bath, \$2,200.

The comparable is inferior to the subject by having no pool. The comparable must have the contribution of the pool, \$32,000, added to the sale price.

The appraiser makes the following adjustments to the comparable:

$$\$387,500 \text{ Sale Price of Comparable} + 32,000 \text{ Pool} - \$2,200 \text{ Half Bath} = \underline{\underline{\$417,300 \text{ Value}}}$$

The adjustments made in this scenario were made on “physical” characteristics. It should be noted that the appraiser might make adjustments for:

- location
- financing conditions
- non-arm’s length sale
- timeliness of closing date
- terms of the transaction
- distressed seller or property

***If the comparable is superior, subtract.
If the comparable is inferior, add.***

Here are some suggestions for choosing the best “comps”:

Location, location, location – Choose comps as close to the subject property as possible. Sometimes, however, a comp on the next street might not be as good a choice as a house that is the same model and has the same amenities but is located in an adjacent subdivision. In most cases, homes should be compared against comps from the same development since these homes were usually built at the same time, by the same builder.

Use recent comps – The more recent the sale, the better the representation of the subject’s value. As a general rule, try to use sales that have closed within the last three to four months, but if that is not feasible, you may have to go back further and make adjustments to the comps for time. Have prices been increasing or decreasing? Make your adjustments accordingly.

Price per square foot – This is a widely accepted concept that works well in practice. Looking at your comparables, divide the sale price by the living area square footage for each comp, and calculate an average price per square foot. Then, apply that figure to the square footage in the subject property. Potential flaws with this method are location, condition, extras, upgrades, lot size, pools, etc. are not considered when using this method, so adjustments will need to be made for those differences.

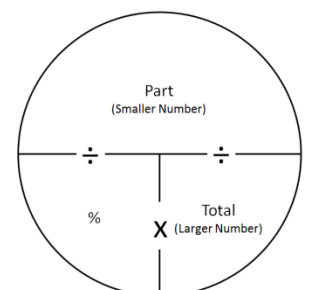
Amenities – Other factors also contribute to the subject property’s value, in some instances, such as:

- curb appeal
- condition of exterior
- nearby parks and shops
- neighborhood condition
- traffic or noise
- school district

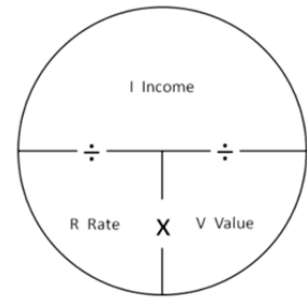
If you are a listing agent, on a listing appointment with a potential seller, remember that the seller probably already knows the value of the home and more than likely has already decided where to price it. The seller may have already met with one or more other agents, may have heard what the neighbors sold for, and may have used an online service like Zillow® to estimate the value.

III. The income approach: This approach is based upon the value of an income producing property being a reflection of the investor’s required rate of return by investing in real estate. This method is most commonly utilized to determine the value of an income producing property.

The IRV circle: Commonly referred to as the “IRV circle,” or sometimes the “T-bar,” this helpful device helps students visualize what numbers to multiply or divide. The rule is, the part is a percentage of the total; or the smaller number is a percentage of the larger number. The beauty of the circle is, as long as you have any two of the three numbers, the circle will tell you the mathematic formula to follow.



As it relates to the income approach to valuation, IRV is used in the following way: “I” equals Income (net operating income); “R” equals Rate (rate of return or capitalization rate); and “V” equals Value. The theory is, if we know the net operating income of the property, and we know an investor’s desired rate of return, we can plug those numbers into the IRV circle to estimate the value.



The **net operating income** (I) is the gross scheduled income of the property minus the property’s annual operating expenses and also minus the annual vacancy and bad debt the property experiences. The following equation is used to determine NOI:

$$\begin{aligned}
 & \text{GSI/PGI (Gross Scheduled Income or Potential Gross Income)} \\
 & - \text{V/BD (Vacancies and Bad Debts)} \\
 & = \text{EGI (Effective Gross Income)} \\
 & - \text{OE (Operating Expenses)} \\
 & = \text{NOI (Net Operating Income)}
 \end{aligned}$$

Gross scheduled income, or **potential gross income**, reflects the income the property *should have earned* had there not been vacancies or bad debts and before the operating expenses were calculated.

Vacancies and bad debts are those losses to the gross income the owner incurred due to units being vacant for any length of time and for rents that should have been, but were not, collected. When expressed as a percentage, they reflect a percentage of the GSI.

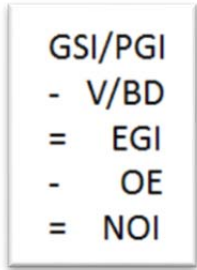
Effective gross income, or **adjusted gross income**, is the income *actually collected or earned*. It is the GSI less the V/BD.

Operating expenses are costs associated with operating the building such as utilities, taxes, management fees, etc. and should not be confused with “debt service fees” which are incurred as a result of financing the original purchase of the property. When expressed as a percentage, they express a percentage of the EGI.

The “Rate (R),” also referred to as the **capitalization rate**, **cap rate**, **desired rate of return**, or **return on investment**, is the yield to the investor for investing in the income property. This rate may be determined based on the current income and value of the property, or the rate the investor demands. This rate will be compared to alternate investments such as stocks, bonds, mutual funds, and anything the investor may have an interest in.

EXAMPLE: An apartment building has 300 units which rent for an average of \$1400 per month. 8% of the units are vacant or represent bad debts. The operating expenses of the property are 28% of the rents received. An investor is considering the apartment but requires an annual return of 8.2% on any real estate investment he makes. How much would this investor be willing to pay for this property?

SOLUTION: Remembering this sequence of calculations will be essential in solving such problems.



GSI: 300 units x \$1,400 avg. rent per month x 12 months = \$5,040,000 GSI

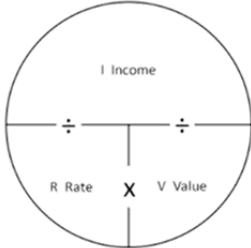
V/BD: When expressed as a percentage, they reflect a percentage of the GSI.
 \$5,040,000 x .08 = \$403,200 V/BD

EGI: \$5,040,000 GSI - \$ 403,200 V/BD = \$4,636,800 EGI

OE: When expressed as a percentage, they are a percentage of the EGI. The question states, “The operating expenses of the property are 28% of the rents received.” – That is 28% of the Effective Gross Income, the income actually collected.

\$4,636,800 EGI x .28 OE = \$1,298,304 Operating Expenses

\$4,636,800 EGI - \$1,298,304 Operating Expenses = \$3,338,496 NOI
 The NOI is the “I” in IRV. NOI, when divided by the desired annual return of 8.2%, is the value of that property to that investor.
 \$3,338,496 NOI ÷ .082 Rate of Return = \$40,713,365 Value



If the appraiser is looking to determine the value using the income approach and there is no investor with the expectation of a certain rate of return, the appraiser will have to find the apparent rate of return required by investors in a given “class” of property. To do this, the appraiser will seek out income producing properties which have recently sold, contact the new owners and ask for the income, vacancy, and operating expense numbers to determine a market rate of return.

In our example, the appraiser would have been able to find that the property had sold for \$40,713,365, and after talking with the owner or the property manager, would have been able to come up with a NOI of approximately \$3,338,496. He would then divide the purchase price paid by the investor by the NOI to get an indicated return rate which the investor required (3,338,496 ÷ 40,713,365 = .082 or 8.2%).

The appraiser would find several such properties and then be able to determine what the apparent rate of return requirement was. With this information, a value for the subject property can be determined.

GRMs and GIMs: Abbreviations for *gross rent multiplier* and *gross income multiplier*, these two techniques are alternate methods for assessing the value of income producing properties from a single family home to an industrial property. The GRM is used on smaller, residential property while the GIM is used on income producing real estate on a grander scale. The appraiser knows the “multiplier” for the appraised market area through methods covered prior such as by looking at comparable sales, determining their income streams, and calculating the multipliers.

GRM = Sale Price ÷ Gross, Monthly, Rent
Value = Monthly Rental Income x GRM

EXAMPLE: An appraiser is determining the value of a duplex which is generating a gross income for the seller of \$450 per month per side. Using a GRM of 101, what will the appraiser determine the value to be?

SOLUTION: Value = Monthly Rental Income x GRM
Value = \$900 (2 units at \$450 per month each) x 101 = \$90,900

GIM = Sale Price ÷ Gross, Annual, Rent or Income
Value = Annual Income x GIM

EXAMPLE: A local toy store grosses an average monthly profit of \$15,700. The assigned appraiser uses a GIM of 4 for smaller retail establishments in the area. What value will the appraiser likely assess to the toy store?

SOLUTION: Value = Annual Income x GIM
Value = \$188,400 (\$15,700 monthly gross income x 12 months) x 4 = \$753,600

Note: GRMs are generally larger numbers and GIMs usually are smaller simply because GRMs are applied to monthly figures while GIMS are used for annual incomes.

SUMMARY: Appraisals are estimates of value made by persons who are skilled in making them. If possible, all three of the appraisal approaches should be used when doing an appraisal and often are. If the property is unique, the appraiser cannot use the market data approach; if the property produces no income, then the appraiser cannot use the income approach. Sometimes, the appraiser is limited to only the cost approach.

Reconciliation - There will be a difference in value between the various approaches and this is where the judgment of the appraiser comes into play. The appraiser must assign weights to the various results based on how relevant and reliable the findings under each approach proved out. Using a “weighted average” gives the appraiser a method of expressing confidence in the results given by the application of the various approaches.

MARKET ANALYSIS



A **market analysis** is taken from the data contained in the **local multiple listing service**. Most MLS™ systems require member brokers to report listings as they are taken and post pertinent data such as the list price, the date of the closing of the sale, the amount of the sale price, and the days the property was on the market before it closed (the DOM).

This information can then be used by both appraisers as well as other real estate professionals to complete a market analysis.

Sold Listings: show recent trends in the prices of property; the comparables

Active Listings: show properties currently for sale in the market; the competition

Expired Listings: show properties that did not sell; usually overpriced

Days on Market: shows the length of time from list date to sale

The appraiser or agent will rely on the *sold listings* most. This establishes the market value based on recent sales. Real estate professionals can use all the information above to develop a comparative market analysis (CMA) for their clients. If the market is trending up or down in price, this information is valuable to the seller and the buyer.

Active listings show sellers the current competition and suggest the range in which they should price their property for sale. Active listings show buyers what other similar properties are being offered for, and suggest the range of price they should offer. However, active listings do *not necessarily* represent market value as asking prices could be inflated.

Expired listings reflect properties which did not sell during the period of the listing. It is often because the price was too high. Sometimes the property did not sell because it did not show well or was not properly marketed.

Days on market shows sellers how long it took for the sale price to be achieved. Sellers generally want their property sold within a reasonably short period of time. DOM lets the seller know that perhaps they can attain a certain price if they are willing to wait as long as other sellers had to.

Pending sales are formerly active listings that are now under contract but not yet closed. Because they have not closed, you will likely not know the sale price to use for your analysis. Most listing agents are trained not to disclose the actual sale price until the transaction closes. If the house should go back on the market, the sellers will have a difficult time getting a better price if their prior accepted price is public knowledge. However, pending sales do indicate the direction the market is moving and the active listings that were chosen by buyers in the market.

Withdrawn listings – are properties that were taken off the market for a variety of reasons such as the seller's decision not to move, the market was not willing to meet the seller's price, or the seller

terminated the listing relationship with the broker. The information from these properties could be of some use as well.

Summary of Comparable Listings

February 05, 2010

This page summarizes the comparable listings contained in this market analysis.

										<u>AGE_DESC</u>
<i>Active listings</i>										
Address	L/S Price	Bd	Bth	Sqft	\$/Sq	Age	MLS#	Date	DOM	
21495 W 122Nd Street	\$179,900	3	3.1			6-10 Years	1609356	04/27/2009	278	
21439 W 121St Street	\$185,000	4	2.1			6-10 Years	1647034	12/16/2009	51	
12289 S Crest Drive	\$194,500	3	2.1			3-5 Years	1650969	01/21/2010	15	
21212 W 119Th Place	\$197,500	3	2.1			6-10 Years	1649398	01/12/2010	24	
\$189,225 3.3 2.4									92	
<i>Pending listings</i>										
Address	L/S Price	Bd	Bth	Sqft	\$/Sq	Age	MLS#	Date	DOM	
21233 W 119Th Place	\$179,900	4	3.1	1,661	\$108	6-10 Years	1639847		70	
12296 S Clinton Street	\$210,000	3	2.2			6-10 Years	1645314		37	
\$194,950 3.5 2.7 1,661 \$108									54	
<i>Sold listings</i>										
Address	L/S Price	Bd	Bth	Sqft	\$/Sq	Age	MLS#	Date	DOM	
21443 W 119Th Place	\$187,000	3	2.1			3-5 Years	1636718	12/21/2009	48	
21467 W 120Th Street	\$189,950	3	2.1	1,575	\$121	3-5 Years	1628598	10/15/2009	13	
\$188,475 3.0 2.1 1,575 \$121									31	
Median: \$188,475 Average: \$190,469										

Broker price opinion: This tool is often utilized to determine value and is commonly requested by a third party such as the lender in the case of foreclosure and by a relocation company in the event of an executive transfer that will result in a buyout. "BPOs" are generally performed by licensed real estate agents and brokers for a nominal fee. The report is more detailed than a CMA generally because the party making the request is not familiar with the subject property or the area.

Broker price opinion:

CLOSED SALES							
ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3			
Address	123 MAIN ST	490 MILLER AVE	190 MAIN ST	325 CRANE ST			
Proximity to Subject		0.15 MILES	0.02 MILES	0.46 MILES			
Original List Price	\$	\$ 139,900	\$ 144,900	\$ 145,000			
List Price When Sold	\$	\$ 130,000	\$ 128,900	\$ 142,000			
Sales Price	\$	\$ 130,000	\$ 127,000	\$ 142,000			
Sales Date		01/09/10	02/08/10	12/14/09			
Days on Market		88	169	104			
VALUE ADJUSTMENTS (Use the following codes for the adjustments: S=Superior E=Equal I=Inferior U=Unknown)							
DESCRIPTION	DESCRIPTION	DESCRIPTION	ADJ	DESCRIPTION	ADJ	DESCRIPTION	ADJ
Above Grade Room Count	Total # of Rooms 6 Bdrm 2 Baths 1	Total # of Rooms 6 Bdrm 2 Baths 1.5		Total # of Rooms 6 Bdrm 2 Baths 1		Total # of Rooms 6 Bdrm 2 Baths 1.5	
Gross Living Area	Sq. Ft. 850	Sq. Ft. 890	Code	Sq. Ft. 844	Code	Sq. Ft. 950	Code
Sales or Financing Concessions		NONE	E	NONE	E	NONE	E
Location							
Site/Lot Size	.10 ACRES	.15 ACRES	S	.10 ACRES	E	.07 ACRES	E
Landscaping							
Design and Appeal	AVERAGE	AVERAGE	E	AVERAGE	E	AVERAGE	E
Age (number of yrs. since house was built)	80	70	E	81	E	77	E
Overall Condition	AVERAGE	AVERAGE	E	AVERAGE	E	AVERAGE	E
Garage/Carport	1 CAR ATT	NONE	I	1 CAR ATT	E	1 CAR ATT	E
Porch, Patio Deck, Pool, Fence	NONE	NONE	E	NONE	E	NONE	E
Overall Rating/Est. \$ Value of Adjustments		\$0.00	E	\$0.00	E	\$0.00	E
Indicate Property Most Comparable to Subject (Check One)		<input type="checkbox"/>		<input checked="" type="checkbox"/>		<input type="checkbox"/>	
COMMENTS:							

GENERAL PRINCIPLES OF ECONOMICS

CHARACTERISTICS OF REAL ESTATE

Physical Characteristics

Real estate is said to have five *physical* characteristics:

1. **immobility** – Because real estate remains in one fixed location (immobile), the location is extremely important in determining a property’s value. The value is also influenced by the surrounding area. The **highest and best use** of a parcel, the most profitable, possible, legal use of a property thereby maximizing the highest value, is determined by potential users bidding for the site in accordance with the locational and environmental value of the site in each use. If the value of a site in its current highest and best use

declines relative to competing uses, the highest and best use may change and land use transition will begin.

2. **The real estate market is slow to respond to supply and demand.** It takes substantial time for construction to respond to demand from home buyers. Consider the time it takes for builders to acquire land, get plans approved, permits and inspections, construction, etc.
3. **indestructibility of land:** Land, itself, is permanent and indestructible. It should be noted too that land does not depreciate.
4. **nonhomogeneous** – no two parcels are exactly alike
5. **Government controls influence the market** – through zoning, building codes, and taxes. The government also influences real estate through federal laws and monetary policies.

Economic Characteristics

More than likely, you at some time in your past heard a lecture on supply and demand. The same principles of supply and demand hold true in the real estate market. The supply of real estate refers to the amount of available housing in the market. There are four variables that can have an influence on **supply**:



1. **availability of skilled labor** – labor costs are affected by the number of laborers available for work, skills required, unemployment, and other factors.
2. **availability of construction loans and financing** – the cost and availability of financing will influence the number of homes builders can afford to build.
3. **availability of land** – the availability of land, such as land controlled by state governments, influences the supply of housing.
4. **availability of materials** – the cost and availability of materials will also influence the supply of construction.

Demand is the desire and the purchasing power to buy. There are five variables that can have an influence on **demand**:

1. **price of the real estate** – As prices rise, demand for real estate usually decreases. Conversely, as prices fall, demand usually increases.
2. **population and household composition** – population increases create larger demand. **Household** composition can affect demand in terms of the size, square footage, and the number of rooms desired.

3. **income of consumers** – as consumer salaries increase, the demand for bigger and better housing also increases. When it is time to tighten your belt, downsizing often occurs.
4. **availability of mortgage credit** – as interest rates rise, demand decreases and the reverse is also true.
5. **consumer tastes or preferences** – consumer tastes change over time. Do you remember the harvest gold and olive green from the 70s? How about shag carpeting? Consumers in present times are into more electronics, energy efficiency, and more modern or current decor. These slow changes in preferences redirect demand.

Interpreting Market Conditions

The following market conditions are gauges of what is happening in the current real estate market.

Price levels – prices will go up or down, as a direct result of supply and demand.

High Demand + Low Supply = Higher Values

Low Demand + High Supply = Lower Values

Vacancy rates – When we worked with the income approach to valuation, we looked at potential gross income and vacancy rates. Vacancy rates reflect the percentage of units that go unoccupied and are a true loss of income to the owner-investor. An owner-investor might elect to raise rents when vacancies increase. Higher rents usually cause renters to consider home ownership.

Building permits – There is an understandably, logical lag between the number of building permits pulled and new homes built. Building permits are a very clear indicator of market growth.

Sales volume – Wise real estate practitioners and investors keep a keen eye on the number of transactions closing each month. By tracking sales volume, one can keep a good pulse of what is happening in the market and perhaps predict future trends.

Area preference – The term **situs** refers to consumer preferences for geographical areas over others. Just like sales volume, monitoring area preferences keeps one abreast of real estate market activity.

Buyer's market and seller's market – Markets change constantly. In a **seller's market**, homes are only on the market for a short period of time as offers from buyers come in quickly. This is typically because the inventory is low in a seller's market and there are more buyers competing than there are properties for sale. In a **buyer's market**, inventory is plentiful and sellers compete for buyers by dropping their prices. It is important that a broker keep a current pulse on the market as these markets shift.

Real Estate Investment Terminology

Cash flow – the “flow” or movement of money, in or out of an investment. The net cash flow over a period of time is equal to the change in cash balance over this period. It is considered to produce a positive cash flow if the cash balance increases, or negative if the cash balance decreases.

Leverage – income from the asset will more than pay for the cost of borrowing. An investor who purchases a four-plex with a 7% loan and yields an 11% rate of return, is benefiting from positive leverage.

Capital gain or loss – A capital gain is a profit that results from the sale of real estate (or other investment vehicle) where the amount realized on the sale exceeds the purchase price. The gain is the difference between a higher selling price and a lower purchase price. Conversely, a capital loss arises if the proceeds from the sale of a capital asset are less than the purchase price.

Basis – is generally the cost of the asset.

Appreciation – any increase in value for any reason.

Depreciation – any decrease in value for any reason.

Equity – the current market value of the property less any debts mortgaged against it.

Liquidity – the ability to sell an asset quickly sold without a significant reduction in value or loss.

Risk – a tradeoff relationship between a high rate of return with a high risk of loss of investment versus a low rate of return with a low risk of investment capital.

Tax shelter – any investment vehicle reducing tax liability to state and federal governments.

Advantages of Real Estate Investments

Good rate of return – If you examine the overall, long-term, rate of return for investing in real estate, whether it is for personal residence reasons or for reasons of investment, real estate has always provided, and will always continue to provide, a good rate of return.

Tax advantages – another reason so many investors opt for real estate investments over other alternatives is the favorable tax advantages the IRS offers for real estate. Although some advantages have been reduced in recent years, there are still plenty of reasons to invest in real estate.



Hedge against inflation – Inflation is generally measured against the Consumer Price Index (CPI). If you were to compare historical rates of inflation versus rates of appreciation of real estate, you will see that real estate appreciates faster than inflation can increase. Real estate is one of the few assets that react proportionately to inflation. As inflation occurs, housing values go up.

Leverage – If an investor were to invest a relatively small amount of her own money, and borrow the rest, her investment is said to be “highly leveraged.” If she invested \$10,000 in a property and borrowed \$90,000 from a lender, she is able to buy a \$100,000 asset. If, for the next 10 years, her investment property appreciates by 5%, her appreciation is on the entire \$100,000 asset, not only the \$10,000 of her own money.

Year 1: \$100,000 x 1.05 =
Year 2: \$105,000 x 1.05 =
Year 3: \$110,250 x 1.05 =
...Year 10: \$162,889

After 10 years, her property value would have increased by almost \$63,000 dollars. This investor turned her \$10,000 investment into over a \$60,000 appreciation profit simply by utilizing leverage. Leverage could be described as *profiting by using other peoples’ money*. This investor could compare her rate of return against her rate of interest to see the positive gain on the leverage.

Equity build up – This could be equated to a “forced savings account.” While you own real estate, and you presumably reduce your mortgage liability, and your property value presumably increases, your equity “builds up” creating additional net worth.

Disadvantages of Investing In Real Estate

Illiquidity – As described above, *liquidity* is the ability to sell an asset quickly sold without a significant reduction in value or loss. Unlike stocks or bonds, real estate is usually considered to be an illiquid asset in the short run mostly because of the amount of time it takes to sell it. Real estate requires large amounts of capital, decision making, knowledge or investigation of the market, and consideration of risk.



The market is local in nature. The demand from potential investors is limited to those targeting that particular marketplace as opposed to let’s say, stocks, which are available internationally. The argument being the value is capped by a limited number of potential investors in the local market. A conflicting viewpoint might argue with the expansion of internet marketing, the pool of potential investors is broadening by exposing more and more properties to potential buyers.

Need for expert help – Important decisions have to be made when investing in real estate in order to maximize the rate of return. This might require a need for expert help such as tax advice, property management, financial consultants, legal counsel, etc.

Management effort – Property managers may be required in locating and securing tenants, determining market rents, the collection of rents, dealing with tenant issues, late payments, non-payment of rents, evictions, etc.

Risk – As with any investment vehicle, real estate comes with a certain degree of risk of loss of the capital investment. Property values may decline. The building may experience vacancies or bad debts. Tenants may destroy the premises. Any number of foreseen and unforeseen circumstances may occur as a real estate investor that could cause a loss in the investment.

Assessment of Risk

As just written, every investment has a certain degree of risk – we all know that. But, risk can actually be further defined, or categorized into even more detailed degrees of risks associated with general business conditions:

Business risk – the possibility of business losses or failure due to uncertainties in preferences of consumers, increased competition, change in government policy, etc. Every business undertakes an uncertainty in profits, or danger of going out of business, due to some unforeseen events in the future.

Financial risk – risk associated with all aspects of the financing, including loans at risk of default and loss of capital and equity. The inability to pay financial obligations.

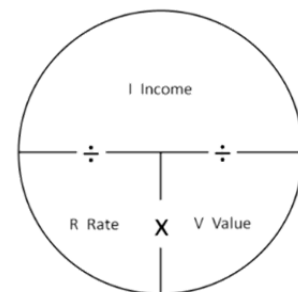
Purchasing power risk – the risk that unexpected increases in inflation will penalize an investor's real return from holding an investment. In other words, in an unexpected, inflationary period, the investor's yield or profit will be offset by a decrease in purchasing power due to the increase in inflation.

Interest rate risk – the risk that an investment's value will change due to a change in the interest rates. As interest rates go up, the value goes down, and conversely.

Risks That Affect Return

Liquidity Risk – As already explained, real estate is considered to be an illiquid investment. Because of this, real estate is considered to have a **liquidity risk** because it cannot be sold quickly enough in the market to prevent a loss.

Safety risk – Safety risk is considered to be both **market risk**, the potential loss of the capital investment, and the **risk of default**, the loss of income.



Market risk – can be defined as “The possibility for an investor to experience losses due to factors that affect the overall performance of the financial markets.” Examples of market risk include recessions, political turmoil, changes in interest rates, natural disasters, and terrorist attacks.

Risk of Default – the risk in which companies or individuals will be unable to make the required payments on their debt obligations. Lenders and investors are exposed to **risk of default** in virtually all forms of credit extensions. Because of this, lenders charge rates of return that correspond to the debtor's level of default risk. The higher the risk, the higher the required return.

Chapter 9

Emerging Trends and Practices

EMERGING TRENDS AND PRACTICES

Technologies

One might say that the real estate industry has historically been behind the curve with respect to the way we do business, especially pertaining to technology. The traditional real estate office looks quite different today than it did 20 years ago. Real estate agents perform their daily duties differently as well. Salespeople used to answer or call out using the phones from the office. Now, that is almost unheard of as they use their cellular devices. New technologies seem to be emerging on a daily basis. Agents can now work from any location with the utilization of smart phones equipped with the local MLS™ data, contact management software, and a host of real estate software. Agents are emailing documents and obtaining electronic signatures in counterpart rather than running to get signatures as we did for so many years. Printed pages are “out” while electronic documents are “in.”

The consumer’s role in the buying process has changed as well. Buyers now have access to websites posting available home inventories. They can view multiple color photos and virtual tours saving them time wasted previewing homes that are not appealing even from the curb. As just mentioned, email alone has allowed the consumer to save time with completing forms and signing documents. The consumers in today’s market are more informed and do a lot of the research on their own time. Some might even argue we are in the people and technology business more so than the bricks and mortar business. As real estate professionals, we are more like providers of information rather than salespeople.

Real estate firms that embrace emerging trends and practices and respond promptly to the demands of their clients will be far more likely to succeed than those firms who hang on to their former ways of doing business. Many firms have opted to go paperless with the utilization of transaction management software. The documents formerly required to be maintained in the office “file” are now stored electronically and backed up on some form of media. Even state licensing laws are changing to reflect these changes. As an example, some states have changed their regulations to include verbiage such as “required to be maintained for five years in either paper or electronic media.”

How We Do Business

Salespeople strive to be more efficient with their time. By hiring a personal assistant, or even forming a team, the lead salesperson can devote 100% of his or her time focused on the closing activities that yield higher incomes and delegating much of the administrative work to the assistant or other team members. Precautions must be taken to be sure personal assistants without a license do not perform any task that requires a license. Some agents have simply resorted to getting their assistants licensed to avoid any potential disciplinary sanctions. Some states require an employment agreement between the agent, the assistant, and the broker and will hold the broker accountable for the actions of the assistant. With respect to the formation of a team, the goal should be “one plus one equals three.” This implies that the members of the

team are able to accomplish more by joining forces than they could working individually. The teams should establish a team agreement which spells out solutions to all potential problems that could arise.

Because of the salesperson's ability to work from home or any other location, agents are spending less time in the office itself. Remember that in Nevada, the broker has a legal obligation to supervise and train all licensees. With fewer opportunities to interact with the salespeople, brokers have to find ways to keep their licensees coming into the office. Sales meetings, training and development offerings, and office events have to be meaningful and attract agents to attend. As the broker, you may have to schedule one-on-one meetings with each member of your sales force for coaching opportunities and assisting in transactional matters.

Change is inevitable and as this chapter is being written, we worry that the industry will have changed so rapidly that the contents will be already outdated by the second edition! But change is good. Brokers need to adapt to those changes and stay aware of what their sales associates are experiencing. In watching an interview with Jay Leno, the host of the Tonight Show for some 23 years, Mr. Leno commented that as he has aged, he hasn't been able to stay in touch with the younger viewing audiences as his replacement, Jimmy Fallon, has simply because of his youthful age. When asked if Jay Leno knew Justin Bieber's latest hit to which the answer was, "uh, no" (nor would this author even care to know).

Brokers who are actively involved in the careers of their sales associates, overseeing transactions on a regular basis, and attending training sessions themselves, usually manage to stay abreast of what is current in the marketplace. Being open to embrace new technologies is a common area where some of the older brokers tend to resist such changes. Refusing to get on board with the latest smart phone and, instead, sticking to a 10-year-old flip phone will not keep you in touch with what your sales associates are doing. If you haven't caught on how to market yourself or your company with Facebook and Twitter, you may not fully appreciate what your sales team is up to and how you can best support their efforts.

Legal Matters Affecting Changes in Practices

Our law makers continually try to create legislation to correct problems that arise in everyday life as well as those matters that arise as a result of real estate transactions. Our real estate Commissions adopt new regulations in the same regard. Even the IRS impacts our profession as they make changes to the tax code. Many local associations of REALTORS® have committees to have input to these matters. As new laws and regulations are introduced, they have a direct impact on how we conduct our businesses. It is essential we remain current on these new laws or we may find ourselves facing a disciplinary sanction. It is no wonder why so many states, including Nevada, require a legislative update course as a mandatory requirement in our continuing education requirement.

There is a chapter within this course containing some of the more relevant federal laws that affect our industry such as RESPA, ECOA, fair housing laws, and more. Consider how if additional

federal legislation is created or modified how that will impact how you transact business. As an example, in response to fair housing laws, real estate licensees need to be cautious to avoid *blockbusting*, *steering*, and discriminatory advertising which might include seemingly harmless phrases such as “great family neighborhood” or “close to synagogue.” This author was trained if you offer one family coffee as they visit you in your office, you better offer *every* family coffee to avoid a perception that one certain people of a particular race are entitled to coffee. Is that going too far? *Testers* are in the field posing as buyers and sellers and have brought charges with significantly stiff penalties for actions exactly like these. How will changes in the laws govern new behaviors?

In an article entitled *Emerging Trends in Lawsuits Against Real Estate Professionals*, attorney Geneau M. Thames claims the current real estate market has caused an increase in activity for real estate professionals. With this increase in activity, there has also been an increase in litigation against real estate agents, brokers, appraisers, home inspectors, mortgage specialists and other real estate professionals across the country.

Further, the attorney states that causes of disciplinary actions include:

- claims for breach of the standard of care (i.e., professional negligence)
- breach of contract
- negligent and intentional misrepresentation
- deceptive trade practice
- consumer fraud
- and other state-specific causes of action.

The article offers the following list of emerging trends in suits against real estate professionals and the ways in which real estate professionals can guard against such claims:

1. Failing to Advise on a Contract

Whether representing a potential buyer or seller, it is important that real estate professionals identify issues or problematic clauses in contracts *before* contracts are signed. If a buyer or seller notices a problem after the transaction is complete, then the likelihood that he/she will sue to recoup these damages increases.

An example can be seen in a recent transactional broker professional negligence case out of Colorado in *Gibbons v. Ludlow*, 2013 CO 49; 304 P.3d 239. In this case, the sellers of property brought an action against their real estate brokers who had been involved in the real estate transaction from the start. The brokers failed to advise the sellers that the purchase agreement from the buyer of their property contained an infrastructure credit provision, which permitted the purchaser a credit of more than \$1.6 million against the purchase price at closing for infrastructure costs. After closing on the sale, the sellers filed suit against the brokers to recover the credit, alleging that the brokers were negligent for failing to specifically point out this

important provision. Ultimately, the brokers were dismissed on summary judgment, but only after they incurred substantial litigation costs. Advising the buyers as to this provision at the start could have prevented litigation from the onset or served as a defense.

2. Misrepresenting the Value of a Property

Misrepresenting the value of a property has become an increasing area of professional liability for real estate appraisers. Appraisers are required to appraise properties in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). When appraisals for property fail to adhere to the standards set forth in USPAP, this becomes a potential area for litigation. A recent example can be seen in Illinois in the matter of *FDIC v. Masarsky*, 2013 U.S. Dist. LEXIS 122806. In this case, the defendant appraisers were retained to prepare written appraisals for mortgage lending purposes. The appraisals were used to facilitate a mortgage refinance loan secured by Colonial Bank. FDIC was the receiver for Colonial Bank.

In reliance on the appraisals, Colonial funded the loan, which was secured by the property. After the borrower defaulted, the FDIC alleged that it subsequently discovered that the appraisals omitted material information regarding the completion of the property and used inappropriate properties as comparable sales. The FDIC alleged that these misrepresentations resulted in an inflated appraised value for the property and a loan that was severely under-secured. The FDIC alleged that had the true value of the property been known, the loan would not have been funded.

The FDIC filed a complaint against the appraiser that, in part, relied upon the allegation that the appraiser did not follow the USPAP guidelines and prevailing industry practices. The defendant appraisers were able to get some of the counts dismissed, but claims premised upon negligent misrepresentation were not dismissed. The negligent misrepresentation claim was based in large part on the alleged appraisers' failure to follow the USPAP's guidelines. Appraisers can defend these types of claims by following the standards set forth in USPAP in explicit detail and documenting their compliance in the appraisal reports.

3. Exaggerating the Features of a Property

When facilitating a sale or purchase, agents/brokers must be honest about the features of a property. Over-inflating features in a property and/or exaggerating the qualities of a property can become problematic when the buyer moves into the property and feels misled because the property does not have the features that it was advertised to have at the time of sale. Agents/Brokers should make certain that any advertisements concerning property listings are accurate and not exaggerated. Agents/Brokers should also keep copies of advertisements, listings, emails and other related notes in their file for the time period required by state law in order to defend against these potential claims should litigation ensue. Maryland requires that agents/brokers keep their file for no less than 5 years.

4. Discovering Property Damage

Like Appraisers, licensed home inspectors also face similar claims of professional negligence. These claims typically center on allegations that the home inspector failed to conduct the inspection in a thorough or workmanlike manner or to report defective conditions in the property. Home inspectors should not only conduct a thorough inspection, but document every aspect of their inspection in accordance with the state law/licensing division. It is also prudent to identify areas of the property that were not inspected and document why such an inspection did not happen. Most important, home inspectors should provide a contract before performing work and include a limitation of liability clause. State laws vary on the enforceability of these clauses. Notwithstanding, it is a helpful clause to include in the contract. In Maryland, limitation of liability clauses, are generally permitted in contracts and enforced by the Court.

Other protective measures include requiring the presence of the purchaser at the inspection and clearly documenting all aspects of the inspection, including: the start and stop time, areas inspected, findings, and, if areas cannot be inspected due to weather conditions and the like, documenting these facts as well.

The author further claims this list is not exhaustive. It seeks to show some of the trends that we have seen develop in recent malpractice claims against real estate professionals across the country. Knowing these are the leading behaviors leading to disciplinary actions, what measures (such as policies and procedures or training) would you put into place as the broker to avoid finding your firm in the same traps?

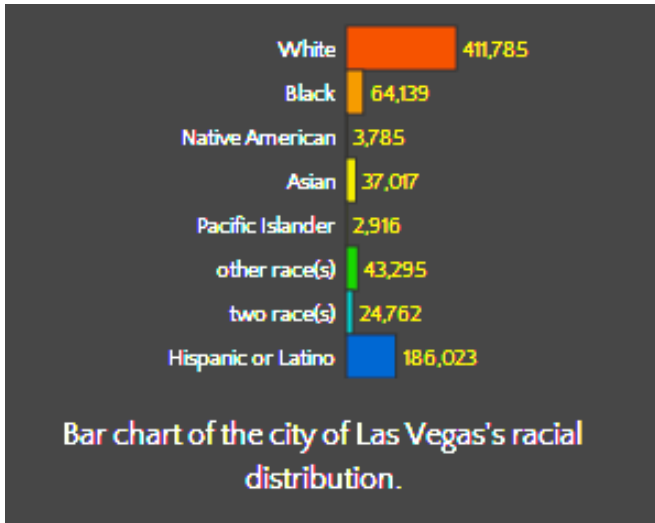
Emerging Consumer Profiles

In the 1970s, harvest gold, bright orange, and olive green were in style for appliances and carpeting. Those choices, if you are old enough to remember, replaced the robin's egg blue from the generation before. Buyers in subsequent years couldn't wait to rip out the outdated colors and replace with neutral "earth tones."

Just look at the word "outdated" and ask yourself, "what does this word mean to consumers?" Purchasers can look at a house built only 10 years ago and consider it outdated. What this translates to is, the tastes and expectations consumers have are always evolving. Granite countertops and shower surfaces might be the "in thing" today, but what will replace it in five years or sooner?

Just as the tastes and expectations of the consumer are ever-changing, the profiles of consumers are changing. The huge segment of our population referred to as the "baby boomers" are now reaching ages of retirement. New, younger generations, such as "Generation Y" (those born between 1979 and 1995), are considered to be the most culturally diverse and transient group thus far with entirely different demands such as more than 60% of them preferring city/downtown life. New generations will continue to enter the market. How will you respond to the changes taking place in their lifestyle which will directly impact their housing needs? Is it fair

to say that the large, retiring sector will expect active, senior services and amenities? Wouldn't it be safe to say that the younger generations will be looking for "smart houses" to go with their "smart phones" and "smart TVs?"



Our country is becoming more ethnically diverse all the time. The illustration to the left reflects the racial distribution of the Las Vegas population in 2012.

In a report by Jennifer M. Ortman and Hyon B. Shin of the U.S. Census Bureau, our country saw an increase of 147.6% of people who spoke a language other than English at home between 1980 and 2009.

With the ongoing changes in our demographics, comes the requirement for real estate professionals to acclimate to

these changes to best suit our consumers' needs. If the only language you speak is English, will you not begin to miss out on some opportunities? If you are not aware of cultural differences, such as Europeans are used to close proximity when speaking to another person while Americans prefer to keep their distance, how might that affect your business? Twenty years ago, many of us had not even heard of Feng Shui (the Chinese philosophical system of harmonizing the human existence with the surrounding environment).

Perhaps our brokers and recruiters are considering targeting sales associates who understand these diverse cultures and serve these sectors of the population appropriately. Maybe these trends will influence our marketing decisions. Being alert to the emerging consumer profiles will allow us as real estate professionals to plan and adjust to keep in tune with these changing social factors.

Economic Factors

The difficulty in writing a chapter on emerging trends and practices is although we all may have our theories and hunches, no one of us can say with any degree of certainty what is to come in the future within our industry. How will these economics fluctuate over the years to follow and also influence our practices?

- interest rates on the rise or decline
- overall economy gaining or losing strength
- increased or decreased occupancy rates
- rates of new construction



- changes in lending practices
- political influences
- the evolution of a global market

Once again, we certainly know these issues will arise. How we prepare for them and respond to them is completely up to us.

ACTIVITY

Since change in the real estate business is inevitable, what kind of changes do you see taking place in the next five years? How will the way we transact business change? What new technologies will emerge and how will we use them listing and selling real estate? How might the roles of the broker and the sales associates change? How might the roles of our buyers and sellers change?