

# **Arizona Department of Real Estate**

## **Model Broker's Policy and Procedures Manual**

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**Douglas A. Ducey**  
**Governor**

**Judy Lowe**  
**Commissioner**

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# ADRE Model Broker's Policy and Procedure Manual

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# **ADRE Model Policy and Procedure Manual**

## **INTRODUCTION**

The ADRE Model Broker's Policy and Procedure Manual ("Manual") has been developed to provide a model for the broker's written policies and procedures required by A.A.C. R4-28-1103.

This Model Policy and Procedures Manual is not intended to serve as the final Broker Policy and Procedures Manual, or tell a broker how to run the broker's office, but is a starting point for a broker to convey to licensed and unlicensed persons in the broker's employ how that broker operates their business, and the manner in which the broker expects salespersons and associate brokers to handle the day-to-day activities of a real estate Sales Associate. The broker should "tailor" this model to fit the needs of the brokerage. A broker may use any or this entire model manual as a guide to create a manual that brings the broker into compliance with the rule which requires a written policy

The Manual is intended to serve as a model only, and the broker may choose to adopt any portion of the Manual that is relevant to their brokerages. The ADRE Model Broker's Policy Manual is not intended to be used as a broker's policy and procedures manual.

### **Notice of Disclaimer**

The requirements set forth in this model are based upon a practical application of Arizona laws, Commissioner's Rules, Substantive Policy Statements and custom, and are not intended to provide legal advice. Laws, Commissioner's Rules, Substantive Policy Statements, forms, custom and requirements referenced in this manual may change. Neither the Real Estate Commissioner, nor any division, officer or employee of the Department of Real Estate warrants the accuracy, reliability or timeliness of any information in this model manual, and will not be responsible or liable for any loss, consequence, or damage resulting directly or indirectly from reliance on the accuracy, reliability, or timeliness of the information. Information in this model may have been derived from or repeated from other sources and may be applicable or not. The documents and materials found or referenced here may have been revised or replaced since the last printing of this model manual. Any person or entity that relies on information obtained from this manual does so at their own risk. The user assumes the risk of verifying any materials used or relied upon herein.

The Company (Employing Broker) and/or Designated Broker is responsible for the acts of all licensees and other employees acting within the scope of their employment (A.A.C. R4-28-1103(D)).

## DEFINITIONS

Definitions of many terms are found in the [Real Estate Law Book](#). In addition to terms defined in A.R.S. § 32-2101, 32-2171, and A.A.C. R4-28-101, the following terms may appear in this manual which are defined below:

**A.A.C.** - Arizona Administrative Code (unofficially, the Commissioner's Rules)

**AAR** - Arizona Association of REALTORS®

**ADRE** - Arizona Department of Real Estate

**A.R.S.** - Arizona Revised Statute

**AMA** – Arizona Multihousing Association

**Associate Broker** – A licensed broker employed by another broker. Unless otherwise specifically provided, an associate broker has the same license privileges as a salesperson.

**AZREEA** – Arizona Real Estate Educators Association

**Broker** – A company's designated broker

**Company** – (Company name here)

**D.B.A./dba** – Doing Business As name

**Designated Broker** – The natural person who is licensed as a broker under Title 32, Chapter 20, and who is either: designated to act on behalf of an employing real estate, cemetery or membership camping entity, or doing business as a sole proprietor, pursuant to A.R.S. § 32-2101(A)(21).

**Employing Broker** – A person who is licensed or is required to be licensed as a broker entity pursuant to A.R.S. § 32-2125 (A) or a sole proprietorship if the sole proprietor is a broker licensed pursuant to Title 32, Chapter 20.

**Licensee** – A person to whom a license for the current license period has been granted under any provision of Title 32, Chapter 20.

**Listing** – An employment contract to represent a seller in the marketing of the seller's property.

**Buyer Broker Agreement** – An employment contract to represent a buyer in the intended purchase of property.

**MLS** – local multiple listing service

**NAR** – National Association of REALTORS®

**NARPM** – National Association of Residential Property Managers®

**RESPA** – Real Estate Settlement Procedures Act

**Sales Associate** - A licensed salesperson or associate broker working with the company as either an employee or an independent contractor.

**SPDS** - Seller's Property Disclosure Statement

**SPS** – ADRE Substantive Policy Statement

**ULI** – Urban Land Institute

## **ADRE REQUIREMENTS**

### Office Policy Manual

Effective August 6, 2002, Commissioner's Rule R4-28-1103, [click here](#), was adopted that requires an Employing Broker and a Designated Broker to exercise reasonable supervision and control over the activities of brokers, salespersons, and others in the employ of the broker. Reasonable supervision and control includes the establishment and enforcement of written policies, rules, procedures, and systems to:

1. Review and manage transactions requiring a salesperson's or broker's license; and use of disclosure forms and contracts and if a real estate broker, this includes real estate employment agreements under A.R.S. § 32-2151.02, [click here](#).
2. Manage the filing, storing, and maintenance of transaction documents that may have a material effect upon the rights or obligations of a party to a transaction, handling of trust funds, and use of unlicensed assistants by a salesperson or broker.
3. Oversee delegation of authority to others to act on behalf of the broker.
4. Familiarize salespersons and associate brokers with the requirements of federal, state, and local laws relating to the practice of real estate (or the sale of cemetery property or membership camping contracts, if applicable).
5. Review and inspect documents that may have a material effect upon the rights or obligations of a party to a transaction, and advertising and marketing by the employing broker and by all salespersons, associate brokers, and employees of the broker.
6. A Designated Broker shall establish a system for monitoring compliance with statutes, rules and the Employing Broker's policies, procedures and systems.
7. A Designated Broker is responsible for the acts of all associate brokers, salespersons, and other employees acting within the scope of their employment.
8. If an Employing Broker maintains one office, and employs a Designated Broker, no more than one other licensed person, and no more than one unlicensed person, the Employing Broker and Designated Broker are not required to develop and maintain written policies, procedures, and systems as described herein.

9. Licensees are obligated to remain licensed, abide by all laws and rules and abide by the broker's policies and procedures.
10. It shall be the responsibility of the broker, when out of the office for 24-hours or more, or unable to perform normal daily duties, to designate in writing the authority to a licensee under their employ, or to another Designated Broker, to handle the day to day operation of the Company. Each designation may not exceed 30 days. See A.R.S. § 32-2127(D), [click here](#).

## COMPANY POLICIES

### Advertising

This section should cover all advertising media, including the Internet; websites, blogs, and social media.

- Review of advertising for Fair Housing compliance and use of the Fair Housing logo.
- Review of advertising for compliance with federal regulations, ie. Regulation Z and Truth in Lending laws.
- Set standards for social media and advertising.
- A salesperson or broker shall ensure that all advertising identifies in a clear and prominent manner the employing broker's legal name or the dba name contained on the employing broker's license certificate., see R4-28-502, [click here](#).
- All advertising, including, but not limited to, Facebook, LinkedIn, InstaGram, and other forms of social advertising must contain the name of the Employing Broker in the advertising.

Broker review before placement of advertising.

A.A.C. R4-28-502, [click here](#) provides:

- A licensee shall not advertise property in a manner that implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange.
- A licensee advertising their own property for sale, lease, or exchange shall disclose the licensee's status as a salesperson or broker, and as the property owner, by placing the words "owner/agent" in the advertisement.
- A licensee shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A licensee shall not misrepresent the facts or create misleading impressions.
- Pursuant to R4-28-502, a licensee shall ensure that all advertising identifies in a clear and prominent manner the employing broker's legal name or the dba name as contained on the Employing Broker's license record.
  - Note that the Commissioner's Rule references "employing broker's license certificate", however license certificates are no longer issued by the Department. Arizona real estate licensees can locate their license record on the Online Public Database, [click here](#).



- A licensee who advertises property that is the subject of another person's real estate employment agreement shall display the name of the listing broker in a clear and prominent manner.
- Before placing or erecting a sign giving notice that a specific property is being offered for sale, lease, rent, or exchange, a licensee shall secure the written consent of the property owner, and the sign shall be promptly removed upon request of the property owner.
- The licensee acknowledges that the use of an electronic medium, such as the Internet or website technology, that targets residents of this state with the offering of a property interest or real estate brokerage services pertaining to property located in this state, constitutes the dissemination of advertising as defined by A.R.S. § 32-2101(A)(2) and is subject to the same Arizona policies and procedures as all other media.

### **Affiliated Business Agreement (ABA) – RESPA**

This section should include:

- Identification of relationships the Company has established with other companies that require disclosure under the Real Estate Settlement Procedures Act (RESPA) and the form that is required for disclosure.
- The Company policy concerning licensee referrals made to clients or customers, requirement of brokers signature on all forms, including any required disclosure of compensation.
- When the disclosure of a relationship is required.
- Whether individual licensees can enter into ABAs or whether this right is reserved solely to the Company.

Consumer Financial Protection Bureau (CFPB) RESPA Information, [click here](#)

### **Agency Relationships**

This section should clearly describe the Company's policy on agency and disclosure and/or the consent forms to be used. The following are examples of different forms of agency a company may implement:

- The Company represents the seller/landlord exclusively when the Company is the listing agent, but not the selling/leasing agent.
- The Company represents the buyer/tenant exclusively when the Company is the selling/leasing agent, and not the listing agent.
- The Company represents both the seller/landlord and buyer/tenant as a dual agent (Limited Representation Disclosure Form required) when there is only one licensee or two licensees from the same Company.
- Agency is established with the broker, not the Sales Associates.
- The Company will cooperate with a selling/leasing agent from another brokerage that represents the seller/landlord exclusively, or represents the buyer/tenant exclusively.
- The Company Does or Does Not allow "sub-agency."

Pursuant to A.R.S. [§32-2153\(A\)\(2\)](#), the ADRE may sanction a licensee if the licensee has “[a] acted for more than one party in a transaction without the knowledge or consent of all parties to the transaction.”

In transactions involving a commercial lease, representation must be identified and documented as early in the negotiations as possible.

## **Annual 1099 Report and Tax Compliance**

This section should cover:

What IRS and Arizona Department of Revenue (ADOR) forms should be used, and who is responsible for tax liabilities and/or deductions identified by the Employing Broker.

- Who will issue the Independent Contractor 1099 Forms each year?
- Contact information for IRS and ADOR.
- Include information from ADOR about registering for Transaction Privilege Tax, if applicable.
- Whether IRS 1099 Forms will be issued to referral brokers, and other recurring payments and who is responsible for issuing the forms.

## **Anti-Trust Compliance**

This section should include:

- Compliance with the anti-trust laws, describing the conduct of Licensees/Employees and results that are to be avoided. Licensees/Employees must avoid discussion with others, including competing firms regarding commission policies that could be construed to be agreements or conspiracies to fix, establish prices or otherwise restrain competition in violation of state and federal anti-trust laws.
- Caution regarding the distribution of listings exclusively to select and/or closed groups of individuals.
- Federal Trade Commission, [click here](#)

## **Commissions / Compensation**

Compensation means any fee, commission, salary, money, or other valuable consideration for services rendered, as well as, the promise of consideration whether contingent or not.

(A.R.S. § 32-2101(16), [click here](#).)

This section should cover:

### **Payment of Commissions**

- Only licensees can be paid a commission through their employing broker.
- Refer to SPS 2005.08 regarding payment of commission after license expiration or transfer of employment, [click here](#).
- Commissions are paid to the licensee in accordance with the licensee’s commission agreement with the Company.

- When the Designated Broker of the Company will authorize the escrow company to pay commissions on each specific transaction, directly to the licensees on the broker's behalf. Only the Designated Broker shall give written authorization to escrow on all splitting, and/or payments of commissions.
  - Upon direction in writing on each individual transaction, commission checks should be delivered by escrow directly to the Employing Broker along with the closing statement, for Designated Broker verification and documentation.
- What fees will be deducted from the commission, i.e., Errors and Omissions Insurance (E&O).
- What date determines which month the transaction closes, and when commission is earned?
- If commission checks received need to clear the bank before payment to the licensee is made.
- Time from delivery of checks from escrow to delivery of check to licensees.
- Whether Employing Broker allows "Commission Advances". If so, under what terms and processes, including requirement for Designated Broker signature.

Pursuant to A.R.S. §32-2155, [click here](#)

A broker shall employ and pay only active licensees.

A licensee shall accept employment and compensation as a licensee only from the legally licensed broker to whom the licensee is licensed.

If the licensee is licensed through a professional corporation (PC) or a professional limited liability company (PLLC), the employing broker may pay the licensee, and the licensee may receive compensation only through the licensed professional corporation (PC) of which the licensee is an officer and shareholder, or the licensed professional limited liability (PLLC) company of which the licensee is a member or manager.

Note: The PC or PLLC must not pay any licensee other than the licensees named as members of the PC or PLLC. A real estate PC or PLLC is a corporation registered with the Arizona Corporation Commission, and licensed with ADRE.

Refer again to SPS 2005.08 relating to payment of commission after license expiration or transfer of employment, [click here](#).

When a real estate licensee has rightfully earned a commission while in the employee of a broker, and in accordance with their agreement, that broker shall pay the licensee, even though the licensee may have left the employ of that broker.

## **Commission Disputes**

This section should cover:

- How commission disputes between licensees under the Employing Broker are to be handled;

- Whether there must be a written agreement, and what happens when there isn't;
- Will there be an internal arbitration process; and
- Whether the broker will mediate or arbitrate the matter.
- Who pays expenses if unauthorized actions are taken outside of the policy, and what are the consequences.

**Pursuant to A.R.S. § 32-2152(B), [click here](#), the Real Estate Commissioner is precluded from entertaining complaints regarding the earning, splitting, or non-payment of compensation.**

## **Collection of Commissions**

This section should cover:

- Costs of recovering any commissions, and who pays for the costs (ie. Company, licensee, or another party).
- Division of any forfeited earnest money deposit.
- Reduction of commission negotiated by the licensee, permissions required, etc.

## **Compensation Agreement**

This section should cover:

- Licensee compensation - any deduction from commission shall be itemized.
- Compensation paid after termination.
- How bonuses are to be paid and divided.
- How broker will compensate out of MLS area licensees and brokers when accepted offers are presented by an out of MLS area licensee.
- Commission/compensation agreements must be in writing with specificity of the form to be used.

## **Referral and Finder's Fees**

This section should cover:

- Outgoing referral fees must be paid only to a licensed Employing Broker/Company.
- For out-of-state referrals, a copy of referring Employing Broker's license is recommended.
- No fees shall be paid to unlicensed persons or entities.
- How incoming referral fees are handled.
  - Referral fees are payable only to the Company.
  - If and how referral fees will be split with the Company.
  - Whether a form is required to be used with either incoming or outgoing referrals and whether it must be signed by all Designated Brokers involved.
- Whether the Company pays finder fees in the form of a credit or reduction in monthly rent to unlicensed tenants of apartment complexes (A.R.S. § 32-2176, [click here](#))
  - If so, the amount allowed, and forms to use.
  - If any signature of authorization is required.

## **Deferred Commissions**

This section should cover:

- If Employing Broker allows deferred commissions.
- How any deferred commissions received will be paid to sales associates.
- If a beneficial interest can be assigned to a sales associate and under what circumstances.
- How assigned commissions are handled with regard to the Internal Revenue Service, Form 1099's, etc.

## **Shared Commissions Between Licensees in Same Company**

This section should cover:

- Only the Designated Broker shall pay licensees in the Company.
- How shared commissions will be handled.
- Types of agreements that are drawn.
- Whether broker approval is required.
- What happens if a commission is shared without broker approval?
  - Are verbal agreements allowed, etc.
- Shared commissions and referral fees paid to someone outside the Company are to be paid by the Company to the outside Company, not by any licensee to a licensee.

## **Company Compensation Schedule – Rate Schedules**

Determined by each broker independently, this section should cover:

- Compensation splits;
- Errors and omissions insurance deductions, if any, and whether they are related to the licensee's compensation level;
- Compensation paid after termination;
- Division of bonus payments;
- Any minimum acceptable cooperating commission without prior approval of the Designated Broker when representing buyers;
- Any minimum acceptable listing commission without prior approval of the Designated Broker;
- How any bonuses are to be paid;
- Whether amounts owed to the Company by the licensee will be deducted from the commission by the Company.

## **Out of State/Out of Area Co-Brokerage**

This section should cover:

- How brokers will cooperate and compensate out of MLS area brokers when offers are presented.
  - All payments shall go to the cooperating Employing Broker.
- How will commissions be handled?

- Commission agreements must be in writing.

Compliance with A.R.S. § 32-2163, [click here](#), is required when conducting business with an out of state Company. All negotiations in Arizona and with people owning property in Arizona must be conducted through the Arizona broker.

## **Commercial Leasing**

Brokers must make sure all parties of the transaction know who represents them (or doesn't) and document as early in the negotiation as possible.

Pursuant to A.R.S. § 32-2153(A)(2), [click here](#), all licensees must identify and document representation of all parties as early in the negotiations as possible.

## **Data Security**

This section should cover:

- How Company will protect and secure the personal information of licensees and clients within the Company.
- Specific instruction on how licensees should communicate personal information to others, i.e., proof of funds, leases, earnest money checks, etc.
- Physical Documents – How licensees should handle the storing and confidentiality of documents.
- How documents will be handled and stored to preclude any unauthorized third-party from obtaining access, including dual agency transactions.
- **Electronic Files**
  - Requirements that personal information kept in electronic format must be stored in a computer and/or electronic server that is password protected, and backed up.
- **Document retention and destruction**
  - How and when documents containing personal information will be destroyed and/or deleted, unless required to be retained by law or broker policy.

## **Disclosure Policy and Documents**

This section should cover:

### **Affidavit of Disclosure**

- For transactions involving 5 (five) or fewer parcels located in an unincorporated area, should include the use of the Affidavit of Disclosure, pursuant to A.R.S. § 33-422, [click here](#).

### **Buyer Advisory**

- Whether, or under what circumstances, licensee should use a Buyer Advisory
  - If so, form to be used and process, timing, etc., i.e., [click here](#)

### **Lead-Based Paint Disclosure (Sale/Lease)**

- The requirement by the U.S. Department of Housing and Urban Development (HUD) requires that every seller or lessor of residential property built prior to 1978 disclose to the potential buyer/tenant the possibility for, or the existence of lead-based paint on the property.
- That every buyer/tenant is to receive a copy of the pamphlet “Protect Your Family from Lead in Your Home”. Also that every buyer/tenant receive the Lead-Based Paint Disclosure Addendum, available at ADRE’s website.

HUD – Protect Your Family From Lead In Your Home, [click here](#)

Lead-Based Paint Disclosure, [Click here](#)

HUD – About Lead-Based Paint, [Click here](#)

- Buyer initials or signatures are required to acknowledge receipt of notice.
- Buyer initials or signatures are required to acknowledge receipt of notice.
- Sales Associates are required to initial and sign the receipt.

### **Pool Barriers**

- Whether a local pool barrier disclosure is required, if so, the required form.
- Ensuring that the seller complies with provisions of A.R.S. § 36-1681(E) by providing the buyer, lessee, or renter with a notice, approved by the Arizona Department of Health Services (AZDHS), explaining safety education and responsibilities of pool ownership:

AZDHS – Residential Pool Safety Notice, [click here](#)

### **Seller Property Disclosure**

- Whether the Company requires all sellers to complete a Seller Property Disclosure on every listing. If so, any exception i.e., perhaps for new construction not complete at time of listing, estate sales, bank-owned property, family trust, etc., and how to indicate in the purchase contract that the seller is not providing a Seller Property Disclosure).
- How the licensee is to handle any questions that are not answered, appear to be inaccurate, inconsistencies and red flags, or if the seller refuses to complete a Seller Property Disclosure.
- Which form to be used for the Seller Property Disclosure.

## **Duties to Clients and Customers**

### **Fiduciary Duties to the Client**

This section should include:

- The broker's and licensee's responsibilities when acting as agent for a client.
- Duties of confidentiality, accountability, reasonable skill and care, loyalty, obedience (lawful), accounting and disclosure.

### **Duty to Deal Fairly – Obligations to Customers in the Transaction**

This section should include:

Pursuant to A.A.C. R4-28-1101, [click here](#),

- A licensee owes a fiduciary duty to the client and shall protect and promote the client's interests.
- The licensee shall also deal fairly with all other parties to a transaction.
- A licensee participating in a real estate transaction shall disclose in writing to all other parties, any information the licensee possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including:
  1. Any information that the seller or lessor is or may be unable to perform;
  2. Any information that the buyer or lessee is, or may be, unable to perform;
  3. Any material defect existing in the property being transferred; and
  4. The existence of a lien or encumbrance on the property being transferred.
- A licensee shall expeditiously perform all acts required by the holding of a license. A licensee shall not delay performance, either intentionally or through neglect.
- A licensee shall not allow a controversy with another licensee to jeopardize, delay, or interfere with the initiation, processing, or financing of a transaction on behalf of a client. This prohibition does not obligate a licensee to agree to alter the terms of any employment or compensation agreement or to relinquish the right to maintain an action to resolve a controversy.
- A licensee shall not act directly or indirectly in a transaction without informing the other parties in the transaction, in writing and before the parties enter any binding agreement, of a present or prospective interest or conflict in the transaction, including that the:
  1. Sales Associate has a license and is acting as a principal;
  2. Purchaser or seller is a member of the salesperson's, broker's, or designated broker's immediate family;
  3. Purchaser or seller is the salesperson's or broker's employing broker, or owns or is employed by the salesperson's or broker's employing broker; or
  4. Salesperson or broker, or a member of the salesperson's or brokers immediate family, has a financial interest in the transaction other than the salesperson's or broker's receipt of compensation for the real estate services.



- A licensee shall not accept compensation from or represent more than one party to a transaction without the prior written consent of all parties.
- A licensee shall not accept any compensation, including rebate or other consideration, directly or indirectly, for any goods or services provided to a person if the goods or services are related to or result from a real estate transaction, without that person's prior written acknowledgement of the compensation.
- The services that a licensee provides a client or a customer shall conform to the standards of practice and competence recognized in the professional community for the specific real estate discipline in which the salesperson or broker engages.
- A licensee shall not undertake to provide professional services concerning a type of property or service that is outside of the licensee's field of competence without engaging the assistance of a person who is competent to provide those services, unless the licensee's lack of expertise is first disclosed to the client in writing and the client subsequently employs the licensee.
- A licensee shall exercise reasonable care in ensuring that the licensee obtains information material to a client's interests and relevant to the contemplated transaction and accurately communicates the information to the client. A licensee is not required to have expertise in subject areas other than those required to obtain the salesperson's or broker's license.
- A licensee shall take reasonable steps to assist a client in confirming the accuracy of information relevant to the transaction.
- A licensee shall not:
  1. Permit or facilitate occupancy in a person's real property by a third party without prior written authorization from the person; or
  2. Deliver possession prior to closing unless expressly instructed to do so by the owner of the property or property interest being transferred.
- A licensee shall recommend to a client that the client seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of a property.

Pursuant to A.A.C. R4-28-802, [click here](#),

- Upon execution of any transaction document a licensee shall, as soon as practical, deliver a legible copy of the signed document and final agreement to each party signing the document.
- During the term of a listing agreement, a licensee shall promptly submit to the licensee's client all offers, whether verbal or in writing, to purchase or lease the listed property.

- Upon receiving permission from the seller or lessor, the licensee acting on behalf of the seller or lessor may disclose to all offerors or their agents the existence and terms of all additional offers on the listed property.
- The licensee shall submit to the client all offers made prior to closing and is not released from this duty by the client's acceptance of an offer unless the client instructs the licensee in writing to cease submitting offers or unless otherwise provided in the listing agreement, lease, or purchase contract. The licensee may voluntarily submit offers to the seller or lessor regardless of any limitations contained in the listing agreement and may submit offers after the listing agreement is terminated.

## **Customer Care (Duties to Clients and Non-Clients)**

### **Representing Clients**

This section should cover:

- What the licensee's responsibilities are when acting as an agent, to be present during all showings, inspections, document signings, and escrow closings.
- What the licensee's responsibilities are to keep clients informed.
- Whether these responsibilities are required in new home searches and transactions.

### **Client Contact and Appointments**

This section should cover:

- Expectations with regard to professional courtesies.
- How difficult relationships should be handled and whether and under what conditions clients may be reassigned by the Broker to another licensee.
- How the licensee should handle the inability to keep an appointment.

## **Obligations to the Non-Client (Duty to Deal Fairly)**

This section should include:

- The broker's/licensee's obligation to disclose in writing to all other parties:
  - Any information that materially and adversely affects the consideration to be paid by any party to the transaction.
  - That the seller/lessor is, or may be, unable to perform.
  - That the buyer/lessee is, or may be, unable to perform.
  - Any material defect existing in the property being transferred.
  - The possible existence of a lien or encumbrance on the property being transferred.
  - That the broker/licensee is the principal or has a financial or beneficial interest in the property.
  - That the broker/licensee is related to one of the principals.
  - That the broker/licensee has a conflict of interest.

## **Electronic Digital Signature**

- What electronic/digital signature companies are used.

## **Employees (Office Staff)**

This section should cover:

- Benefits
- Insurance
- Paid Time Off
- Holidays
- Enforced Absences, i.e., Jury Duty, Military service
- Office Hours
- Personnel Files
- Salary and Wage Policy
- Payment of Salaries/Wages
- Payroll Deductions
- Performance Review
- Disciplinary Action
- Harassment Policy
- Unlicensed Assistant Policy
- All Employer/Employee Disclosures/Disclaimers

## **Equipment**

This section should include:

- What security measures must be taken.
- Who is allowed to use company computers.
- What can the computers be used for, i.e., business vs. personal – sharing of passwords.
- Does the company have email service, or are licensees responsible for their own email service.
- Does the company have a policy on the name of email service to be used, i.e., the use of a trademark, ie. “REALTOR®”.
- How is the

## **Equal Opportunity Employer**

This section should include:

- An affirmative statement concerning equal opportunities at the Company

## **Fair Housing**

This section should include:

- A statement concerning compliance with State and Federal Fair Housing Acts.
- Clear instructions on compliance with the State and Federal Fair Housing Laws.
  - A licensee shall not discriminate against a person for race, color, religion, sex, national origin, disability, or familial status.
  - A licensee shall not make, print or publish any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin.
- Note that real estate licensees affiliated with a trade association may be bound to additional guidelines or considerations.

Examples of where to find Fair Housing laws and rules:

- HUD - Fair Housing Act, [Click here](#)
- Arizona Attorney General - Fair Housing (Housing Discrimination), [Click here](#)

## **Harassment**

This section should include:

- A statement that is consistent with the Company's commitment to provide equal employment opportunities. The Company will not tolerate any form of harassment, including sexual harassment or harassment on the basis of age, disability, race, national original, religion or any other protected class or category.
- How harassment claims should be reported.
- How harassment claims will be investigated or handled.

## **Independent Contractor or Employee (Agreement)**

This section should include;

- The licensee's standing as an Independent Contractor or Employee; including types of activities that may affect the licensee's standing as perceived by the Internal Revenue Service, Arizona Department of Revenue or the Arizona State Compensation Fund.
- Whether a written Independent Contractor Agreement (ICA) with the Company is required.

NOTE: For federal tax purposes, the Internal Revenue Code (I.R.C. §3508) provides a statutory classification for qualified real estate licensees that allows their treatment as self-employed "statutory non-employees" for federal income and employment tax purposes. If the salesperson is "statutory non-employee," the broker is not required to withhold federal taxes. To qualify for this "statutory non-employee" status, the real estate licensee must:

1. Be licensed as a real estate agent;
2. Receive substantially all compensation based on sales or other output, rather than the number of hours worked;
3. Have a written contract with the brokerage firm that provides that the licensee will not be treated as an employee for federal tax purposes; and
4. If a broker's agents are independent contractors, licensees cannot be required to perform any duties, obligations or have any responsibilities, per company policy, that are not required by law.

## **Insurance**

This section should include:

### Automobile

- Who is responsible for providing transportation, and who pays expenses
- The Company's minimum insurance requirements and what the limits of coverage are
- Any indemnification/hold harmless clauses the Employing Broker may require
- Company requirements, if any, to be an additional insured on licensee's policy
- Company's requirements, if any, for higher limits or additional coverage if clients are in the vehicle

### Errors & Omissions (E&O) / Complaints

- Who is responsible for paying the premiums or, if pro-rated, what the licensees share may be. Who absorbs the deductions or any increase in the deductible or premium.
- Licensee should be cautioned that there are circumstances where E&O may not provide coverage, i.e., **intentional** misrepresentation, fraud, commercial environmental issues, transactions where licensee acts as a principal.
- Does the Company's E&O coverage include licensee owned properties?
- What are the requirements for coverage, what type of property does this include (residential, land, commercial, property management, business opportunities). Is there a difference in the fee and who is responsible for payment?
- Does Company's E&O coverage include unlicensed assistants hired by other than Employing Broker?
- What are the legal and complaint procedures with regard to the following:
  - Client/customer complaint letters
  - Attorney letters
  - Production of letters for subpoenas
  - Lawsuit subpoena
  - ADRE complaints
  - IRS revenue tax levy
  - Judgments/garnishments

The following should be included:

- Claims or litigation
- E&O insurance license agreement
- Indemnification from licensee
- Severance from Company

### **Health and Life Insurance**

- Who will be financially responsible for the licensee's health and life insurance

### **General Liability Insurance**

- The brokerage position concerning General Liability Insurance for licensees
- Should licensees carry individual coverage, and if so, how much
- If the Company permits property management, does the Company require liability insurance from owner – should the Company be listed as additional insured.

## **Licensee Activity**

This section should include licensee issues relating to office affiliation:

### **Address Changes – Personal Information**

- Brokers and licensees must notify ADRE within 10-days of a change of residence/ mailing address, personal information, including email address and within 10 days of a criminal conviction or judgment.
- Broker requirements for being notified of the above.
- The Broker must notify ADRE of any change or abandonment of a business location within ten days, pursuant to R4-28-302(G), R4-28-303(E)

### **Alcohol/Illegal Drug Use**

- Company policy regarding alcohol in the workplace or Company sponsored activities
- Prohibition against illegal drug use
- Company policy regarding use of medical marijuana

### **Areas of Expertise and Unauthorized Real Estate Activities**

- What is the Company position on working outside of area of expertise?
- What does Company require as far as education for areas of expertise, or designation, if any, i.e., CCIM for commercial
- Does Company allow its licensees to be principals in separate LLC's for working as a vendor on properties. If so, what are disclosure requirements to the Company and to consumers.
- Company policy regarding areas of practice that licensees are not authorized to participate in without prior approval of the broker, for example;

- Sales, leases, exchanges and property management, commercial, industrial, multi-family, agricultural or vacant properties
- Short sale
- REO or bank owned
- Business opportunities
- FHA or VA owned properties
- Attorney-in-fact/acting on buyer's or seller's behalf
- Unsubdivided lands
- License selling/leasing/buying own real estate – fix and flip
- Contracts allowing for assignment during escrow period

Pursuant to A.A.C. R4-28-1101(H): A licensee shall not undertake to provide professional services concerning a type of property or service that is outside the licensee's field of competence without engaging the assistance of a person who is competent to provide those services, unless the licensee's lack of expertise is first disclosed to the client in writing and the client subsequently employs the licensee.

### **Disputes between licensees**

- Any written agreement or policy concerning how the dispute is to be resolved.
- Whether the matter will be mediated or arbitrated, and if so, by whom.
- If unable to mediate an acceptable resolution, who will determine the outcome.
- What happens if a licensee refuses to cooperate or fails to comply with any ordered or agreed upon conduct or discipline.
- Whether notice of a dispute must be given to the Employing Broker, including when and how such notice is to be provided.
- If a lawsuit is filed, who is responsible for judgments, damages, losses, costs, expenses, etc., incurred by Employing Broker/Company in the defense of lawsuits
- Consequences for non-compliance with policies/agreements.

### **Earnest Money and Other Trust Monies**

- The amount and type of earnest money deposit must be clearly identified in the offer to purchase and shall be made payable, or wired to a specific escrow/title company or the Employing Broker trust account.
  - No postdated checks can be accepted.
- Removal of all personal account numbers and personal information from a check before forwarding a copy to a listing agent.
- The receipt for earnest money from the escrow/title company, must be turned into the broker or the authorized branch manager immediately upon receipt.
- All earnest money must be handled in accordance with the terms of the contract and according to ADRE statutes.
- Company policy on retainer agreements and monies paid by client and monies held by Employing Broker.
- When will monies held, if not refundable, be released to sales associate.
- All refundable monies must be deposited to Employing Broker's Trust Account (not operating account).

- Notice that improper handling of earnest money may be grounds for immediate dismissal of a licensee. Improper handling of earnest money could include;
  - Failing to deposit earnest money by the specified time
  - Commingling
  - Falsely representing that earnest money has been deposited

### **Hiring/ Severing**

- A licensee is not effectively hired by a broker until the broker approves of the license transfer to Company via ADRE website.
- A licensee may sever from Company without broker approval.
  - What is required by the Company at the time of severance?

### **Licensee Expenses**

- E&O insurance
- Automobile insurance
- Office space & equipment (computers and software, phones, long distance calling, 800# service; postage, i.e., Fed Ex, UPS, USPS, fax, copiers, etc.
- Clerical/assistant support
- Advertising
- Liability insurance
- Taxes, FICA, etc.
- Health insurance (availability of health or life insurance, possible sources)

### **License Renewals**

- What continuing education requirements are necessary?
- License renewal period should be addressed.
- Recommendations of education can be suggested, i.e., additional and specific CE or GRI, etc.
- Reminder – only the licensee may complete their CE hours and upload to ADRE for license renewal.

**ADRE license renewal information:** [Click here](#)

### **Leases (See also Property Management)**

- Broker's definition of property management
- What are the broker's requirements to allow a licensee to practice property management?
- How to handle the leasing information (personal financial information) and the protection of that information
- What documents are required for the broker file – where broker files are located
- What disclosures should be made to the tenant
- What forms should the licensee use
- Company must have a clear policy regarding trust accounts, and the submission to the broker for the monthly trust account three-way reconciliation.



## **Listings**

- Deadlines for turning in paperwork for Designated Broker approval.
- Any additional documents the Designated Broker requires.

## **Multiple Listing Service (MLS) / Other Listing Websites**

- Who is responsible for dues associated with listing websites and when are they paid.
- What listing websites are used.

## **Offer / Multiple Offers**

This section should include:

- A description of how contracts are to be presented, and that they must be presented in a timely manner.
- What will happen when licensee is not available and cannot timely present/respond to a contract.
- How multiple offers should be handled

## **Open Houses**

- If Company open house signs must be used
- If and under what circumstances licensees other than the listing agent can hold open houses
- Any other policies regarding the operation of open houses, including safety procedures.

## **Personal Safety**

- Licensee personal safety
- Company policies for safety
- Building security/alarms/office closing procedures
- Work injuries/hazardous conditions

## **Pre-Possession and Post Possession**

- Any pre-possession and post possession agreements between Sellers and Buyers shall be in writing
- That licensees must recommend to their clients to seek appropriate counsel (including tax, legal, insurance, etc.) concerning risks associated with pre-possession or post possession
- Whether Broker approval is necessary before pre-or post-possession, and what forms and/or form versions a licensee shall use

## **Professional Affiliations**

- Whether membership in a business or trade association is required or recommended and if so, which associations or organization and who is responsible for dues or fees

## **Prospecting**

- Telemarketing – Do Not Call List
  - Before making calls to consumers do you or your company verify the number you're calling is not registered on the National Do Not Call Registry? Here are some FAQ's from the Federal Trade Commission (The government agency that protects consumers). More information is available with the FTC, [click here](#).
  - Note that the Arizona Office of the Attorney General also has telemarketing guidelines that must be adhered to, [click here](#).
  - Failure to follow guidelines could result in penalties.

## **Sales Financing Alternatives**

- The Employing Broker's policy concerning an offer which proposes to wrap, carry, or subordinate a loan which contains alienation and acceleration clause.
- What a licensee, whether a seller's or buyer's agent, should do when presented with or asked to draft an offer including one of these financing clauses and whether particular forms must be utilized.
- Whether the Employing Broker requires a special review of the contract to see that proper form and verbiage have been used.
- What are the consequences of a licensee proceeding with one of these contracts without first consulting the Designated Broker.

## **Signs**

- What are requirements for content on all signs
- Any restrictions or policy about signs such as, signed authorization from owner prior to placing signs on property
- Whether or not signs are provided by Company or licensee
- Whether the Company handles sign installation or licensee
- When signs are to be placed and removed

## **Special Programs**

- What training is required on government programs
- Whether licensees are allowed to discuss programs with clients

## **Submission of Documents**

- ARS 32-2151.01(G) – the time period required for broker review and initials on documents

- What is the policy of the Company regarding the timeframe for submission of all documents to broker – including Amendments and other contrast documents

### **Teams**

- Team name criteria to be approved by broker
- “Teams” within the Arizona real estate industry are not officially recognized entities in Arizona Statutes or Rule.
- Broker’s policy concerning Teams, Personal Assistants (licensed or unlicensed)
- Office space/equipment
- Company liability
- Permissible and prohibited activities
- Compensation
  - All compensation for licensed Team members must be paid by the Employing Broker, (A.R.S. §§ 32-2155(A), 32-2153(A)(7)).
  - Withholding tax
  - Worker’s compensation
  - Unlicensed Assistants - Team leader supervision/responsibility and the broker
- Licensees who elect to be a team shall draft an agreement between themselves
- Licensees must include the terms of dissolution clearly spelled out in the agreement
- What is the Company’s policy regarding the broker’s acknowledgment and approval of Team agreement between team members
- ADRE does not monitor the status/classification of unlicensed assistants as independent contractor or employee with the IRS or Labor Board.

### **Termination Policy**

- What happens when a licensee terminates association with the Company -or- when the Company terminates the licensee
- Review all the licensee’s pending business and determine who will handle the transactions
- Requirements for agreement concerning compensation and assignment of escrow companies
- Disposition of Company property upon the severance/termination of a licensee from the company including any keys, key cards, documents, proprietary/confidential materials, etc.
- Company policy/practice concerning release or non-release of listings, referrals, etc.
- Severance is not effective under licensing laws until the ADRE receives the notice of severance

### **Unlicensed Assistants**

Does Company allow unlicensed assistants?

- If so, under what conditions?

- Are agreements required?
- Must broker review and sign agreements?

Review ADRE's **Substantive Policy Statement SPS No. 2017-01**, [click here](#)

**Description of Practice/Procedure:** In looking at the issue of unlicensed assistants, various aspects must be considered, including what activities the individual will perform and how the individual is paid.

**Definition:** An Unlicensed Assistant is an unlicensed individual hired by an Arizona licensed real estate broker or salesperson as an assistant, who is not engaging in any activity for which a real estate license is required.

**Definition:** Compensation means any fee, commission, salary, money or other valuable consideration for services rendered or to be rendered as well as the promise of consideration whether contingent or not (A.R.S. § 32-2101(16)).

An unlicensed assistant cannot be compensated on any basis that relies on the ultimate sale or closing of a property. The employing broker or designated broker is responsible for addressing in its written policies and procedures who is responsible for hiring and compensating unlicensed assistants. The employing broker is responsible for all activities of licensed individuals within the brokerage pursuant to Arizona Revised Statutes and Rule. All inclusions of the unlicensed assistant in advertising or marketing must indicate the individual as being "unlicensed" (A.R.S. § 32-2165(A)).

**An unlicensed assistant may:**

- Under the direct supervision of an Arizona licensee, perform the following tasks, which include, but are not limited to:
  - Personal errands for the licensee
  - Clerical/administrative tasks including filing, copying, mailing, scanning, answering phones, forwarding calls or transcribing callers' information for licensee
  - Using technology as a tool to complete tasks assigned by a licensee, which are not activities otherwise requiring a real estate license
  - Preparing marketing materials approved by the Designated Broker
  - Delivering documents
  - Assist at an open house with a licensee present
  - Set or confirm appointments for:
    - A licensee to list or show property
    - A buyer with a loan officer
    - A property inspector to inspect a home
    - A repair/maintenance person to perform repairs/maintenance
    - An appraiser to appraise property
  - Transmitting only instructions or information to clients, contractors, inspectors, appraisers and maintenance/repair people as completed and dictated by a licensee.
  - Unlocking a home for a licensee so that the licensee can show a client the property or preview the property (No discussion about the property).

**An unlicensed assistant *shall not* perform the following activities:**

- Originate documents
- Perform a walk-through inspection or Tenant Vacate Inspection
- Provide advice, pricing, or opinions of value to a consumer
- Provide advice or negotiate with anyone regarding a property or transaction
- Assist in the preparation of documents with a consumer
- Hold/host an open house without a licensee being present
- Collect or offers, attempts or agrees to collect rent for the use of real estate
- Assist or direct in the procuring of prospects calculated to result in the sale, exchange, leasing or renting of real estate pursuant to A.R.S. 32-2101(48)(i) unless exempt under A.R.S. 32-2121(A)(10). **Be advised that the exemption in A.R.S. 32-2121(A)(10) is very fact specific and limited in scope.**
- Attend closing with a consumer without a licensee being present

***An unlicensed assistant may transfer monies or be a signatory on a property management trust account only when the unlicensed assistant:***

- Is in the direct employ of the broker, and
- Is a bona fide officer, member, principal or employee of the property management firm pursuant to A.R.S. § 32-2174(C) and employing broker pursuant to A.R.S. § 32-2101(24).

***An unlicensed assistant is otherwise not permitted to withdraw monies from the broker's trust account.***

Pursuant to A.R.S. 32-2165(B) A person who performs acts that require a license under this chapter, other than a broker's or salesperson's license, without being licensed as prescribed by this chapter is guilty of a class 5 felony.

### **Vacations/Out of Town**

- What licensees are expected to do when they leave town, are on vacation, or unavailable.
- Who is required to be notified?
- Under what circumstances will the Company designate a substitute
- Is a written agreement required when another licensee fills in?

### **Maintenance of Transaction Files**

This section should include:

- Any lists of documents required in transaction files, including sales, new home sales, land sales, listings, etc. This is a good place to establish checklists or references to the most current checklist required by the Company
- Required timing for each document required, such as timing required to submit to the Designated Broker/manager for review and approval
- What documents require broker's initials or signature
- How rejected offers are to be handled – must be turned in to Designated Broker, and retained by Designated Broker for one year.

- Whether listing agents are expected to verify listing information prior to submitting to MLS, or other online listing database
- What documents are required in the file for cancelled transactions
- How files involving a transaction where a licensee is a principal in the transaction are to be handled
- Access to files – who has access and where files are to be kept

Pursuant to A.R.S. 32-2151.01, [click here](#), the Employing Broker's record keeping requirements are to keep records of all real estate, cemetery, time-share or membership camping transactions handled by or through the Employing Broker.

The Designated Broker may implement any electronic real estate transaction management (TM) program for internal standardization of document storage, so long as the document storage program adheres to the guidelines mandated by statute, rules, and SPS 2010.01, [click here](#).

The Employing Broker shall maintain each real estate purchase contract or lease agreement and the transaction folder in which it is kept in a chronological log, or other systematic manner that is easily accessible by the commissioner or the commissioner's representatives, and adhere to the following:

Keep employment records, including copies of employment status, for all current and former employees.

Keep records of each transaction and all employment records for a period of at least five (5) years from the date of termination of the transaction or employment.

The records shall be open at all reasonable times for inspection by the commissioner or the commissioner's representatives.

The records shall be kept in the employing broker's principal office or licensed branch office in this state or at an off-site storage location in this state if the broker provides prior written notification of the street address of the off-site storage location to ADRE.

Keep copies of earnest money receipts, confirming that the earnest money has been handled in accordance with the transaction, closing statement showing all receipts, disbursements and adjustments, sales contracts and, if applicable, copies of employment agreements.

All licensees shall promptly place any cash, checks or other items of value received as payment in connection with a real estate transaction in the care of the Designated Broker or deposit to escrow company.

A broker shall not grant any person authority to withdraw monies from the broker's trust fund account unless that person is a licensee under the broker's license, (except as allowed by section 32-2174 regarding property management accounts).

In addition to the requirements of A.R.S. §§ 32-2151.01, 32-2174, A.A.C. R4-28-802 provides, the broker shall retain true copies of all receipts and disbursements, or copies of executed and

delivered escrow closing statement that evidence all receipts and disbursements in the transaction.

## **Property Management**

This section shall include:

- Adhere to: all laws, regulations, and guidelines strictly adhered to and enforced.
- Broker approval: Licensees should have the Designated Broker's written approval authorizing licensee to become a property manager. Designated Broker is responsible for all property management activities.
- Education for Property Managers: Specific Property Management education is suggested for all licensees prior to managing properties.
- Broker policy for Designated broker approved standard forms and clauses, including property management agreements, lease agreement, addendums, and landlord disclosures.
- Security/Confidentiality: All files and accounting documentation must be secured, held confidential at all times (triple lock system).
- Record keeping: All files and accounting documentation are subject to internal and Department of Real Estate audits without notice.
- ALTA: Strict compliance with and knowledgeable of the provisions of the Arizona Landlord/Tenant Act as same may be amended from time to time.
- Disclosure for Agency: licensees must advise prospective tenants of the agency relationship to the owner/landlord on any property managed, prior to showing the property. Disclosure(s) of agency shall be in writing and signed by all parties – designated form to be used.
- Showing: A licensee should accompany all prospective tenants to properties. Under no circumstance, should a prospective tenant be given keys to or possession of a property without first being approved for occupancy under a fully executed rental or lease agreement.

Broker should have written policy that no cash may be accepted on any transaction for any reason.

Deposit of funds: All monies (checks, money orders, cashier's checks) should be delivered to broker's office immediately, or within 24 business hours. Please note that state law requires all earnest money MUST be deposited next business day, and all other monies not subject to dispute (rents, etc.) MUST be deposited within 3 business days.

- Licensee Personal Properties: Any transaction in which a licensee is a principal: a) must have broker's prior written consent, b) NO MONIES for lease/rent of a licensee's personal property can be in broker's Trust Account c) ALL monies must be held by principal or in a separate trust/fiduciary account. There shall never be any commingling of clients' funds, i.e., no overdrawn balances.  
(NOTE: i.e. - A separate account is required for any broker-owned, corporate-owned or Agent-owned/rented properties.)

- Rental Application Policy and Credit Reports: Employing Broker should include rental application policies and, if credit reports are involved, policies must adhere to Federal Fair Credit Reporting Act. A licensee/property manager (whether an employee or independent contractor) should not be authorized to generate, review, e-mail, fax and/or handle a credit report for a client or prospective client, except as permitted and directed in writing by the Employing Broker. Under no circumstances may any Associate (whether an employee or independent contractor) generate a credit report on himself/herself, or on any other person not applying for a property leased through the brokerage. A rental application and signed acknowledgment of rental criteria should be completed and credit reports run on every single applicant over the age of 18 for any rentals over 30 days – no variation or exceptions due to Fair Housing laws. The actual credit report can NEVER be given to anyone, including applicant or owner.
- Security Deposits: Including pet deposit may not exceed 1-1/2 times the rent per state law. A potential tenant may voluntarily offer more than 1-1/2 times in pre-paid rent, **not** deposits; however, this must be in writing in the lease that the tenant is voluntarily offering this amount. Broker should have policy regarding the statement of accounting/monies refunded to tenant as prescribed by state law by i.e., 14 business days.

## Sales

This section should include:

- Transaction records for closed sales and leases must be kept for five (5) years
- Records for transactions that are rejected must be kept for one (1) year (A.R.S. § 32-215.01 and A.A.C. R4-28-802)
- What records must be kept (including copies of earnest money receipts; closing statements showing receipts, disbursements, and adjustments; purchase and lease contracts, addenda, listing agreements)
- In transactions where a binding contract results, the broker must also retain all prior rejected offers for at least five (5) years (A.R.S. § 32-2151.01(J) )
- Procedures and timing for turning in documents to the broker
- That the Designated Broker or authorized associate broker review each listing agreement, purchase or nonresidential lease agreement or similar instrument within ten business days of the date of execution, pursuant to A.R.S. § 32-2151.01(G).
- Additional requirements or documents that must be turned in prior to a licensee being paid a commission

## Transaction Management

This section should include:

- If Company uses a transaction management platform, identify how licensees and employees will use the platform.



- Any specific procedures for utilizing Company transaction management (TM) platform or TM services

### **Trust Accounts:**

This section should include:

- Whether Company has a trust account
- If Company maintains a trust account, what procedures should licensees follow to submit checks to trust account
- Because of sensitivity of the handling of trust funds, it is recommended that the broker understand the information on the ADRE website –

Arizona Department of Real Estate – Auditing FAQs, [click here](#)

Pursuant to A.R.S. § 32-2151(B), the following minimum requirements apply to each broker's trust fund account:

The broker shall make deposits to trust fund accounts by deposit slips. Receipts or other documents shall identify each transaction, the date and the amount of each deposit and the names of parties involved in the transaction represented by the deposit and monies shall be used only for the purpose of which the monies were deposited.

The broker shall retain a complete record of all monies received in connection with a real estate transaction in the main or branch office of the designated broker in this state or at an off-site storage location in this state, if the broker provides prior written notification of the street address of the off-site storage location to the department.

A broker's records shall be kept according to generally accepted accounting principles and shall include a properly descriptive receipts and disbursements journal and client ledger.

The broker shall keep any computerized records in a manner allowing reconstruction in the event of destruction of electronic data. The broker shall maintain a trust fund account bank reconciliation and client ledger balance on a monthly basis and shall remove any interest earned on a trust fund account at least once every twelve months.

A Designated Broker shall not permit advance payment of monies belonging to others to be deposited in the Designated Broker's person account or to be comingled with personal monies. It is not considered comingling if, when establishing a trust fund account, a Designated Broker deposits monies not exceeding three thousand dollars (\$3,000) to keep the account open or to avoid charges for an insufficient minimum balance.

## **Weapons:**

This section should include:

- A Company may want to include a weapons policy. However, notably, Arizona law permits private business owners to prohibit weapons from being brought onto their property, whether signs are posted or not. Failure to obey the request could result in a charge of trespassing.

*Thanks to Real Estate Industry Partners in Residential, Commercial, Property Management, Land, and the Real Estate Educators for your time and commitment to updating the 2017 version of the ADRE Model Broker's Policy and Procedures Manual.*

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