

# **West Shores Realty Inc.**

## **Policy and Procedures**

**This manual contains the policies and procedures of West Shores Realty Inc. (“Company”), a licensed California Real Estate Broker. Any and all policies, procedures, rules and/or guidelines referenced herein are always to be adhered to by any real estate licensees and staff affiliated with and/or employed by the Company.**

**The purpose of this manual is to establish a standard of daily conduct which governs the interactions of all licensees and personnel of the Company. This standard strives to ensure that we are always compliant with the laws and regulations enforced by the California Department of Real Estate (“DRE”), which is the regulatory authority that issues real estate licenses, oversees and regulates the activities of licensed real estate brokers and salespeople, and enforces the California Real Estate Law.**

**The policies and procedures referenced herein are subject to change.**

**Any questions or concerns regarding any of the information contained in this manual should be immediately directed to Amir Al-Khayat Jr., the Designated Officer of the Company.**

**Nothing in these Policies and Procedures alters, is intended to**

**alter, nor implies that it has altered the employment at-will relationship between the Company and its employees (and/or independent contractors) in any way.**

**Any violation of the Company's policies and procedures may be grounds for termination and/or other available remedies.**

## **Background Law**

*In the California Real Estate Law, “broker supervision” is covered in California Business and Professions (“B&P”) Codes 10159.2 and 10177(h), and Commissioner’s Regulation (“CR”) 2725. With respect to the latter, CR 2725 outlines “reasonable supervision” and states the following:*

*A broker shall exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:*

- (a) Transactions requiring a real estate license.*
- (b) Documents which may have a material effect upon the rights or obligations of a party to the transaction.*
- (c) Filing, storage and maintenance of such documents.*
- (d) The handling of trust funds.*
- (e) Advertising of any service for which a license is required.*
- (f) Familiarizing salespersons with the requirements of federal and state laws relating to the prohibition of discrimination.*
- g) Regular and consistent reports of licensed activities of salespersons.*

*The form and extent of such policies, rules, procedures and systems shall take into consideration the number of salespersons employed and the number and location of branch offices.*

*A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of brokers and salespersons to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of salespersons licensed to the broker.*

## **Broker of Record**

Amir Al-Khayat Jr. (“Designated Broker”), a California real estate broker, is the “Designated Officer” of the Company as defined by the Real Estate Law. Pursuant to B&P 10159.2, the Designated Officer is responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

Effective January 1, 2019, the Real Estate Law defines “responsible broker” as the real estate broker responsible for the exercise of control and supervision of real estate salespersons under B&P 10159.2, or a licensee subject to discipline under B&P 10177(h) for failure to supervise activity requiring a real estate license. The supervision required under this part or any other law is limited to regulatory compliance and consumer protection.

## **Associate-Licensee**

Any active and licensed real estate Salesperson or Broker employed by and/or affiliated with the Company (and whose license has been provided to the Company) shall be referred to herein as “Associate-Licensee” unless otherwise stated.

## **Independent Contractor/Employee Classification; This may already be covered in a separate Independent Contractor Agreement.**

***Please be advised, under the Real Estate Law, per B&P 10032 (a) All obligations created under Section 10000, and following, all regulations issued by the commissioner relating to real estate salespersons, and all other obligations of brokers and real estate salespersons to members of the public shall apply regardless of whether the real estate salesperson and the broker to whom he or she is licensed have characterized their relationship as one of “independent contractor” or of “employer and employee.” (b) A real estate broker and a real***

***estate salesperson licensed under that broker may contract between themselves as independent contractors or as employer and employee, for purposes of their legal relationship with and obligations to each other. Characterization of a relationship as either “employer and employee” or “independent contractor” for statutory purposes, including, but not limited to, withholding taxes on wages and for purposes of unemployment compensation, shall be governed by Section 650 and Sections 13000 to 13054, inclusive, of the Unemployment Insurance Code. For purposes of workers compensation the characterization of the relationship shall be governed by Section 3200, and following, of the Labor Code.***

***Effective January 1, 2019, per B&P 10018.01, the Real Estate Law defines “retained” as the relationship between a broker and a licensee who is either an independent contractor affiliated with, or any employee of, a broker to perform activities that require a license and are performed under a broker’s supervision.]***

## **Licensed Activity**

**Active/Valid License:** Real estate practitioners are required to maintain a valid California real estate Broker’s or Salesperson’s license in good standing with the DRE while associated with our Company. All real estate licenses issued by DRE are valid for a period of four (4) years. While employed by the Company, all Associate-Licensees shall keep their licenses current, be responsible for the completion of any and all required continuing education in a timely manner, payment of applicable fees, and satisfaction of any license requirements. If your license expires, is suspended by DRE for any reason, or otherwise inactive, you may not engage in any activities on behalf of the Company for which a real estate license is required. Please note, any acts requiring a real estate license conducted by an Associate-Licensee holding an expired, suspended, or otherwise inactive license, is a violation of the Real Estate Law and strictly prohibited by the Company.

**Fictitious Business Name:** When advertising, offering and/or performing licensed

real estate services on behalf of the Company, the only “name” that may be advertised, represented, and/or used in the course of any licensed real estate activity on behalf of the Company is the name licensed by DRE, “West Shores Realty Inc.”, or any *licensed* fictitious business name(s) which might exist for the Company at any time. Any other names advertised, used, and/or represented by an Associate-Licensee on behalf of the Company shall be strictly prohibited. The DRE may enforce compliance in this area per B&P 10159.5 and CR 2731.

**Prohibited Activities:** Any Associate-Licensee acting on behalf of the Company shall (a) not engage in any unlawful act under federal, State or local law or regulation while conducting licensed activity; and (b) at all times be familiar, and comply, with all applicable federal, State and local laws or regulations, including but not limited to, the laws and regulations enforced by DRE, anti-discrimination laws, and laws governing the giving or accepting of referral fees or other consideration which is regulated by both State and federal law; (c) must obtain approval from the Designated Broker in order to participate in real estate activities outside their normal area of expertise and competence; and (d) abide by the Company’s policies and procedures set forth in this manual herein at all times.

Associate-Licensee may not engage in any property management, mortgage loan, or business brokerage activities on behalf of the Company, or something to that effect without written approval from the Broker.

**Restriction on Salesperson Activity:** Pursuant to B&P 10137, no real estate salesperson shall be employed or retained by or accept compensation for activity requiring a real estate license from any person other than the broker under whom he or she is at the time licensed.

Hence, no Associate-Licensee, who is a real estate salesperson, may be employed or retained by, and/or accept compensation for, activity requiring a real estate license from any other person (including corporation, company or firm) other than the Company.

**Broker Associate:** Per B&P 10015.3, the Real Estate Law defines a “broker associate” as a broker retained by a responsible broker who has authority to provide services requiring a real estate license on behalf of the responsible

broker. Unlike a real estate salesperson, a broker-associate may simultaneously work under multiple brokers at one time, or independently under his/her own license, or as an officer-broker of one or more corporations, as long as the activities do not violate the agreement(s) with any of the broker/brokerages and the broker- associate can competently and lawfully perform his/her statutory and requisite duties.

Any broker associate affiliated with the Company must obtain the written approval of the Designated Broker before operating as a “broker associate” with any “outside” brokers or brokerages.

If a broker associate does work independently under his or her own real estate broker license (or as a broker associate for another broker), said activities, advertising, and transactions, must be kept separate from his or her activities for the Company.

**Reporting of Employment/Termination:** In accordance with B&P 10161.8, the Company shall immediately notify DRE of the retention (e.g., affiliation) or termination of any Salesperson or Broker acting in the capacity of a salesperson under the Company (e.g., “broker associate”) in a matter specified by the Real Estate Commissioner. Specifically, CR 2752 requires notification within 5 days. The Designated Broker and Associate-Licensee shall use DRE’s e-Licensing system when possible.

**Broker-Salesperson Relationship Agreement:** Any Associate- Licensee, salesperson or broker acting in the capacity of a salesperson (e.g., “broker associate”), affiliated with the Company shall have a written, fully executed, and dated broker-salesperson relationship agreement with the Company in place at all times which shall cover, among other things, material aspects of the relationship including duties, the supervision of licensed acts, and compensation. DRE may enforce compliance in this area per CR 2726.

## **Payment of Compensation**

All fees, commission and other compensation, earned in the course of licensed

real estate activity on behalf of the brokerage shall be made payable to the Company, and any fees and commissions earned by the Associate-Licensee will be paid and disbursed per the broker-salesperson relationship agreement between the Company and Licensee.

Please note, the payment of commission earned by any Associate-Licensee and to be paid by the Company is conditioned upon the review and written approval of his or her real estate transaction file(s) and/or activities by the Designated Broker and/or designee in accordance with the Company's policies and procedures, transaction file checklist(s) and satisfaction of all compliance requirements.

Pursuant to B&P 10137, no real estate salesperson shall be employed or retained by or accept compensation for activity requiring a real estate license from any person other than the broker under whom he or she is at the time licensed.

It is unlawful for any licensed real estate salesperson to pay any compensation for performing any of the acts requiring a real estate license to any real estate licensee except through the broker under whom he or she is at the time licensed. A licensee may enter into an agreement with another licensee to share that compensation provided that any compensation is paid through the responsible broker and such arrangements are approved by the Designated Broker in advance.

## **Advertising**

Any and all advertising by any Associate-Licensee of the Company shall first be submitted to the Designated Broker for review and written approval. Advertising may include, but is not limited to, business cards, property flyers, websites, social media (e.g., Facebook, Instagram), and any other materials which are published, distributed, circulated or broadcasted by the Associate-Licensee in the course of real estate activity.

The following laws and regulations are enforced by DRE in the area of advertising, and shall be adhered to by all Associate-Licensees of the Company:

### **Background Law on Advertising in Print/First Point of Contact Materials:**

Per B&P 10140.6:

(a) A real estate licensee shall not publish, circulate, distribute, or cause to be published, circulated, or distributed in any newspaper or periodical, or by mail, any matter pertaining to any activity for which a real estate license is required that does not contain a designation disclosing that he or she is performing acts for which a real estate license is required.

(b) (1) A real estate licensee shall disclose his or her name, license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, if that licensee is a mortgage loan originator, and responsible broker's identity, as defined in Section 10015.4, on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting in a manner that requires a real estate license or mortgage loan originator license endorsement in those transactions. The commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number and unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry, and responsible broker's identity.

(2) For purposes of this section, "solicitation materials" include business cards, stationery, advertising flyers, advertisements on television, in print, or electronic media, "for sale," rent, lease, "open house," and directional signs, and other materials designed to solicit the creation of a professional relationship between the licensee and a consumer.

(3) Nothing in this section shall be construed to limit or change the requirement described in Section 10236.4 as applicable to real estate brokers.

(c) This section shall not apply to "for sale," rent, lease, "open house," and directional signs that do either of the following:

(1) Display the responsible broker's identity, as defined in Section 10015.4, without reference to an associate broker or licensee.

(2) Display no licensee identification information.

(d) “Mortgage loan originator,” “unique identifier,” and “Nationwide Mortgage Licensing System and Registry” have the meanings set forth in Section 10166.01.

(e) This section shall become operative on January 1, 2018.

**DRE Advertising Guide to Licensees:** A helpful guide and summary covering the licensing disclosure requirements enforced by DRE, and this Company, in the area of real estate advertising is located on DRE’s website and available here:

<http://www.calbre.ca.gov/files/pdf/forms/re559.pdf>

## **Professional Website and Social Media**

Notwithstanding the Company’s policies on advertising as stated herein, please be advised that if in the course of licensed real estate activity, any Associate-Licensee owns, maintains, and/or controls any website, outside of or separate from the Company’s website, which is used to promote his or her licensed real estate services and activities, and/or publishes, distributes or posts any advertisements through social media and/or other electronic medium, said advertising must disclose the following information at all times:

- (A) The name of the Associate-Licensee.
- (B) The DRE license identification number of the Associate-Licensee in type size no smaller than the smallest type size on the advertisement.
- (C) The licensed name or licensed fictitious business name of the Brokerage West Shores Realty.

Any professional besides a real estate website is prohibited from being co-branded on real estate website.

## **Use of “Team Names” and Related Advertising**

Notwithstanding any of the advertising policies referenced herein, [no Associate-Licensee may use any team name, as defined by B&P 10159.7, on behalf of the Company in the course of licensed real estate activity --- **OR** --- any Associate-Licensee considering the use and/or advertisement of any team name in the course of their licensed real estate activity, must first obtain the written approval of the Designated Broker before using it, and/or prior to publishing, distributing, circulating, and/or broadcasting any advertising (in any form or medium) which displays a team name.

In the event any “team name” poses any potential issues, compliance or otherwise, the Designated Broker will advise the Associate-Licensee to cease all use or advertising of the team name until such time that the Designated Broker can ensure the team name is regulatory compliant.]

### **Background Law on “Team Names”:**

Per B&P 10159.7(a)(3) and (b):

(3) “Team name” means a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for the provision of real estate licensed services. Notwithstanding any other law, the use of a team name does not require that a separate license be issued for that name pursuant to Section 10159.5. A team name does not constitute a fictitious business name for purposes of this part or any other law or for purposes of filing a fictitious business name statement with an application as required by subdivision (a) of Section 10159.5 if all of the following apply:

(A) The name is used by two or more real estate licensees who work together to provide licensed real estate services, or who represent themselves to the public as being a part of a team, group, or association to provide those services.

(B) The name includes the surname of at least one of the licensee members of the team, group, or association in conjunction with the term “associates,” “group,” or “team.”

(C) The name does not include any term or terms, such as “real estate broker,” “real estate brokerage,” “broker,” or “brokerage” or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, that imply or suggest the existence of a real estate entity independent of a responsible broker.

(b) Nothing in this section changes a real estate broker’s duty under this division to supervise a salesperson.

### **Background Law on Team Name Advertising Requirements:**

B&P 10159.6. All of the following apply to use of a team name, as defined in paragraph (3) of subdivision (a) of Section 10159.7:

(a) Notwithstanding subdivision (b) of Section 10140.6, advertising and solicitation materials that contain a team name, including print or electronic media and “for sale” signage, shall include, and display in a conspicuous and prominent manner, the team name and the name and license number of at least one of the licensed members of the team.

(b) The responsible broker’s identity shall be displayed as prominently and conspicuously as the team name in all advertising and solicitation materials.

(c) The advertising and solicitation materials shall not contain terms that imply the existence of a real estate entity independent of the responsible broker.

(d) Notwithstanding Section 10185, a violation of this section is not a misdemeanor.

## **Salesperson-Owned Fictitious Business Name**

Notwithstanding any of the advertising policies referenced herein, [no Associate-Licensee may use a “salesperson-owned” fictitious business name as defined under B&P 10159.5 on behalf of the Company --- **OR** --- any Associate-Licensee considering the use a “salesperson-owned” fictitious business name, which is covered under B&P 10159.5 through 10159.7, must first obtain the approval of the Designated Broker through written contract, signed by the parties, before filing any application to do licensed real estate business under a fictitious business name with the appropriate County Recorder office; submitting the required forms to license the fictitious business name under the Company’s license with the DRE; and/or using or advertising such fictitious business name(s) on behalf of the Company in the course of licensed real estate activity.

## **Code of Ethics - Advertising Rules for Realtors**

*Please be advised that when it comes to advertising requirements, an Associate-Licensee who is a member of the National Association of Realtors (“NAR”) is held to a higher standard than other licensed real estate practitioners who are not members of NAR.*

*The 2019 guidelines are contained in Article 12 of the Code of Ethics and Standards of Practice:*

<https://www.nar.realtor/sites/default/files/documents/2019-COE.pdf>

## **Telemarketing and Do-Not-Call Laws/Registry and Do-Not-Call Websites, Do-Not Fax, etc.**

*Any Associate-Licensee acting on behalf of the Company who solicits the public through telemarketing or other means must first read and understand California Law, the Federal Trade Commission (FTC) rules and the Federal Communications Commission (FCC) rules which affect and govern real estate licensees in this area.*

*Helpful articles for your reference:*

<http://realtormag.realtor.org/sales-and-marketing/feature/article/2003/11/answers-your-national-do-not-call-registry-questions#!#.WycjIt6RonM.email>

<https://www.donotcall.gov/faq/faqbusiness.aspx>

<https://www.donotcallcompliance.com/do-not-call-laws.html>

## **Broker Supervision and Review**

In an effort to ensure regulatory compliance, and to satisfy the statutory and requisite duties of Designated Broker under the Real Estate Law, it is a policy of this Company that all real estate agreements, disclosure, material documents and/or other documents obtained and/or executed in the course of licensed real estate activity, as required, be submitted to the Designated Broker and/or designee compliance manager in a timely manner for review and/or approval.

In connection therewith, submission of transaction documents shall be submitted to the Designated Broker and/or designee within    48    hours of execution, or any other time as required by the Associate-Licensee's broker-salesperson relationship agreement with the Company, whichever is earlier. Said documents shall include, without limitation:

- All documents which may have a material effect upon the rights, duties and/or obligations of a party to the real estate transaction;
- Any documents or other items in connection with a real estate transaction in the possession of or available to the licensee;
- All documents associated with any real estate transaction in which the licensee is a principal;
- Any other documents listed on the Company's applicable transaction file checklist(s) which is/are attached hereto as Exhibit A and made a part hereof. See attached checklist or download from skyslope checklist.

Notwithstanding the above policy, any and all real estate transaction file documents shall be reviewed and approved by the Designated Broker and/or designee **PRIOR to [and/or no later than \_\_\_7\_\_ days before]** the close of escrow and/or consummation of the agreement.

## **Transactions and Practices**

The following policies, procedures, rules and guidelines shall always be adhered to by all Associate-Licensees of the Company :

**Fully Executed Documents/Transaction Checklist:** All Associate-Licensees acting on behalf of the Company shall refer to, use, obtain, cause to be fully executed and/or submit to the Designated Broker the required documents on a per transaction basis in accordance with the Company's applicable transaction file checklist(s) attached hereto as Exhibit A and made a part hereof.

***Required Forms:*** All transaction documents, including but not limited to, agreements, disclosures, templates, forms, notices and the like shall be executed using the Company's approved contracts and forms, [attached hereto as Exhibit B

*or located on agent profile intranet and made a part hereof. In the event any other agreement, disclosure, template, form, notice or freestanding document is used in the course of real estate activity or in any real estate transaction, it must be first reviewed and approved by the Designated Broker prior to use by Associate-Licensee and/or execution of same.*

All required California Association of Realtor forms/templates are to be used.

**DRE License Number on Purchase Agreement/Other Documents:** In accordance with B&P 10140.6(b), any real estate purchase agreement used and/or executed by the Associate-Licensee shall disclose the DRE license identification number of the Company (#01948605) and the DRE license identification number of the Associate-Licensee acting on its behalf. Additionally, it is the policy of this Company that the DRE license number of the Company and/or Associate-Licensee be inputted correctly by the Associate-Licensee on any and all real estate transaction documents and/or forms requiring same.

**Real Estate Transfer Disclosure Statement:** When the Real Estate Transfer Disclosure Statement is required (which is governed by California Civil Code) in connection with the transfer of real property, please ensure the timely delivery to, and execution by, all parties to the real estate transaction, and satisfaction of all statutory duties by the Associate-Licensee relating to the disclosure statement in accordance with California Civil Code 1102 et seq. and 2079. The DRE may enforce compliance in this area per B&P 10176.5.

**Listing Agreement or Other Commission Agreement:** Pursuant to B&P 10176(f), the Real Estate Commissioner may take disciplinary action when a licensee claims, demands, or receives a fee, compensation, or commission under any exclusive agreement authorizing or employing a licensee to perform any acts set forth in Section 10131 for compensation or commission where the agreement does not contain a *definite, specified date of final and complete termination*.

*The required use of Company approved contracts and forms will help ensure that the Company and its Associate-Licensees are compliant in this area.*

**Notice of Real Estate Commissions - Notice Requirement:** Pursuant to B&P 10147.5:

(a) Any printed or form agreement which initially establishes, or is intended to establish, or alters the terms of any agreement which previously established a right to compensation to be paid to a real estate licensee for the sale of residential real property containing not more than four residential units, or for the sale of a mobile home, shall contain the following statement in not less than 10-point boldface type immediately preceding any provision of such agreement relating to compensation of the licensee:

**Notice: The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the seller and broker.**

(b) The amount or rate of compensation shall not be printed in any such agreement.

(c) Nothing in this section shall affect the validity of a transfer of title to real property.

(d) As used in this section, "alters the terms of any agreement which previously established a right to compensation" means an increase in the rate of compensation, or the amount of compensation if initially established as a flat fee, from the agreement which previously established a right to compensation.

**Pest Control Documentation:** If and when a pest control inspection is part of a purchase agreement and/or otherwise performed in connection with any sale or purchase of real property, any pest control inspection and/or completion report(s) shall be delivered to the Buyer(s) and evidence of Buyer's written receipt shall be obtained and retained in the transaction file.

Please be advised, in the event two (2) or more pest control inspection (and/or completion) reports are ordered and/or performed by two (2) or more different

pest control companies (or two (2) or more pest control inspection reports by one (1) company), all pest control inspection (and/or completion) reports must be delivered to the Buyer(s) and evidence of Buyer's written receipt of all reports shall be obtained and retained in the transaction file.

In accordance with CR 2905, the DRE may enforce compliance in this area.

**Delivering of Copies:** In the course of real estate activity, an Associate-Licensee shall deliver any agreement authorizing or employing a licensee to perform any acts for which a license is required, or whenever an Associate-Licensee secures the signature of any person to any contract pertaining to such services or transaction, the Associate-Licensee shall deliver a copy of the agreement to the person signing it as soon as reasonably practicable after the time the signature is obtained. The copy may be provided electronically in transactions pursuant to the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), where the parties have agreed to conduct the transaction by electronic means. The DRE may enforce compliance in this area per B&P 10142.

**Disclosure of Sales Price Information:** Associate-Licensees must ensure that any principal(s) that they are representing (or performing real estate services for) on behalf of the Company receives a final closing statement from the escrow holder at the close of escrow. The DRE may enforce compliance in this area per B&P 10141.

**Retention of Earnest Money Deposit Receipts:** Unless obtained by the Company or the Associate-Licensee in the course of a real estate transaction (which would require the retention of such documents under B&P 10148), it is a matter of best practices that any Associate-Licensee, acting on behalf of the Company, who is involved in the sale or purchase of real property, obtain a copy of the Buyer's earnest money deposit receipt from the escrow holder to be retained in the transaction file. This is especially important on transactions wherein the Associate-Licensee is representing the Buyer as this documentation serves as a

paper trail of the Buyer's trust funds, and handling of same.

## **Disclosure**

It is the policy of this Company that the following disclosures be made in writing to all applicable parties, as soon as possible and/or no later than the time required by any local, State or federal laws governing same. In the event any questions or concerns arise in this area or as required below, please notify the Designated Broker immediately.

**Material Facts and Defects:** Any and all material information, facts and defects known by the Associate-Licensee affecting the property, including without limitation, its value or desirability, and/or any other *pertinent* information known by the Associate-Licensee affecting, or material to, the sale, purchase, exchange, lease or otherwise transfer of real property, shall be disclosed in writing to all parties to a real estate transaction as required by law.

**Conflicts of Interest:** Any conflicts of interest, common ownership, dual agency, affiliated business arrangements, and/or other special, business, blood, or familial relationships involving the Associate-Licensee acting on behalf of the Company in the course of any real estate activity shall always be disclosed in writing to all parties to a real estate transaction as soon as possible.

**Affiliated Business Arrangements:** Due to the fact that the Company owns an in-house escrow division and shares common ownership with other affiliated entities which provide real estate settlement services (as defined by federal RESPA)), all Associate-Licensees must use and cause to be fully executed by the principals, the approved Affiliated Business Arrangement Disclosure [attached hereto as Exhibit B along with the other required templates, forms and disclosures - or - located on the agent profile intranet and made a part hereof. Please be advised that the RESPA-required Affiliated Business Arrangement Disclosure must be retained in the real estate transaction file for five (5) years.

**Dual Agency:** The Real Estate Law, per B&P 10018.11, defines "dual agent" as an

agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. Please be advised that pursuant to B&P 10176(d), the Real Estate Commissioner may take formal disciplinary action against an Associate-Licensee for acting for more than one party in a transaction without the knowledge or consent of all parties thereto. It is the Company's policy that [the Company and/or any of its Associate-Licensees acting on its behalf may not act as a dual agent capacity on any real estate transaction -- **OR** -- the Designated Broker's written approval be first obtained on any real estate transaction wherein the Company may be acting as a dual agent; if approved by the Designated Broker, said disclosure covering the dual agency must be made in writing to, and acknowledged by, all parties, and as soon as possible.]

Please be advised, anytime both agents on a real estate transaction work under the same broker – this is deemed a “dual agency”. Regardless if the seller and buyer have different agents, and/or such agents are working in physically separate office locations, there still may be a dual agency.

**Compensation/Referral Fee:** Any and all compensation, commission or profit to be earned by an Associate-Licensee in connection with his or her licensed real estate services, or lawful referral fee, shall be disclosed in writing to the employer (e.g., Broker, principal(s), etc.) of the Associate-Licensee.

**Secret Profit:** Pursuant to B&P 10176(g), the DRE may take disciplinary action against a licensee if he or she claims or takes any *secret or undisclosed* amount of compensation, commission, or profit or the failure of a licensee to reveal to the buyer or seller contracting with the licensee the full amount of the licensee's compensation, commission, or profit under any agreement authorizing the licensee to do any acts for which a license is required under the Real Estate Law for compensation or commission prior to or coincident with the signing of an agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of the agreement, whether evidenced by documents in an escrow or by any other or different procedure.

**Disclosure Covered in and/or Governed by the California Civil Code:** Please refer to the Company's transaction checklist(s), per Exhibit A, and the Company's approved contracts and forms, per Exhibit B [ - or located on the agent profile

intranet, for information about required documents, notices and disclosure in accordance with applicable local, State and/or federal laws affecting the sale, purchase, lease, exchange or transfer of real property and the statutory duties of California real estate licensees in connection therewith.

## **Retention of Records**

**Property of Broker:** Any and all records pertaining to licensed real estate activity and transactions involving real property are the property of the Company and shall be delivered to the Designated Broker in accordance with the policies and procedures stated herein as well as upon request or termination of the Associate-Licensee's relationship with the Company.

**All Transaction Documents Retained:** All documents obtained and/or executed by the Associate-Licensee acting on behalf of the Company in the course of real estate activity shall be submitted by the Associate-Licensee and retained by the Company including, but not limited to, rejected offers, cancelled files, and electronic or text communications ("EC"). Regarding the latter, any EC which evidences licensed activity, the delivery or exchange of material disclosure, and other important and/or integral information or record, must be retained. Please be advised, B&P 10148, which governs the retention of real estate records, also states that it should not be construed to require a licensed real estate broker to retain electronic messages of an ephemeral nature, as described in subdivision (d) of Section 1624 of the California Civil Code. If you have any questions in this area, please contact the Designated Broker.

**Three-Year Retention Period:** Pursuant to B&P 10148, a real estate broker is required to retain **for a period of three years** all listings, deposit receipts, agreements, broker-controlled escrow documents, cancelled checks, trust records, and *other documents executed by him or her or obtained by him or her* in connection with any transactions for which a real estate broker license is required.

The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated.

**Unlawful Altering, Concealment or Destruction of Documents:** Please be advised

that the DRE may suspend or revoke the license of any real estate broker, real estate salesperson, or corporation licensed as a real estate broker, if the real estate broker, real estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books, papers, writings, documents, or tangible objects that are required to be maintained by this section or that have been sought in connection with an investigation, audit, or examination of a real estate licensee by the commissioner.

### **Principal Transactions**

It is the policy of this Company that the following disclosures be made in writing to all applicable parties, if and when applicable:

In the event any Associate-Licensee of the Company buys or sells real property and/or acts as a principal therein and/or on their own account, he or she must disclose (in writing) that he or she holds a real estate (Salesperson or Broker's) license with DRE. Furthermore, if he or she is NOT acting in a licensed capacity and/or representing himself or herself as a licensee, this should also be made clear and disclosed to all parties in writing.

In the event an Associate-Licensee intends to act as both a licensee and principal on any real estate transaction, he or she must first obtain the written approval of the Designated Broker. If approved, the Associate-Licensee must disclose this status in writing to all parties, as well as disclose any of the following: any potential ownership he or she might have in the subject property being sold; any common ownership (or affiliated business arrangement(s)) he or she might have with any entity that is selling or purchasing the subject property; any special relationships (e.g., blood, familial, business enterprise) with the buyer and/or seller; and/or any possibility that the Associate-Licensee will directly or indirectly acquire a financial or legal interest in the property.

### **[REQUIRES YOUR REVIEW AND EDITS - Storage of Documents]**

[The real estate transaction records shall be kept in the Company's principal office in the State of California and/or stored using electronic storage, which shall be performed and/or maintained in accordance with CR 2729.]

## **2729. Record Retention.**

(a) A real estate broker may use electronic image storage media to retain and store copies of all listings, deposit receipts, canceled checks, trust records and other documents executed by him or her or obtained by him or her in connection with any transaction for which a real estate broker license is required, provided the following requirements are satisfied:

(1) The electronic image storage shall be nonerasable “write once, read many” (“WORM”) that does not allow changes to the stored document or record.

(2) The stored document or record is made or preserved as part of and in the regular course of business.

(3) The original record from which the stored document or record was copied was made or prepared by the broker or the broker's employees at or near the time of the act, condition or event reflected in the record.

(4) The custodian of the record is able to identify the stored document or record, the mode of its preparation, and the mode of storing it on the electronic image storage.

(5) The electronic image storage system contains a reliable indexing system that provides ready access to a desired document or record, appropriate quality control of the storage process to ensure the quality of imaged documents or records, and date ordered arrangement of stored documents or records to assure a consistent and logical flow of paperwork to preclude unnecessary search time.

(6) Records copied and stored under this section shall be retained for three years pursuant to Section 10148 of the Code.

(b) A broker will maintain at the broker's office a means of viewing copies of documents or records stored pursuant to this section. A broker shall provide, at the broker's expense, a paper copy of any document or record requested by the Bureau.

**Electronic Signatures:** Associate-Licensees of the Company may obtain documents in connection with any real estate transaction for which a real estate

license is required containing electronic signatures as long as the Associate-Licensee and Company adhere to the following requirements governed by CR 2729.5 and enforced by the DRE:

**2729.5. Record Retention – Uniform Electronic Transactions Act.**

(a) A real estate broker who obtains documents in connection with any transaction for which a real estate broker license is required when such documents contain an electronic signature pursuant to the Uniform Electronic Transactions Act (Section 1633.1 et seq. of the Civil Code) or the Electronic Signatures in Global and National Commerce Act shall retain a copy of such documents, including the electronic signatures. The broker shall retain a copy of such documents by:

- 1) Causing a paper copy of the document to be made or
- 2) By using electronic image storage media pursuant to Section 2729. The broker may retain copies of such documents at a location other than the broker's place of business.

(b) A broker shall maintain at the broker's office a means of viewing copies of documents or records stored pursuant to this section. After notice, such documents or records shall be made available for examination, inspection, and copying by the Commissioner or his or her designated representative during regular business hours. The broker shall provide, at the broker's expense, a paper copy of any document or record requested by the Bureau.

(c) Nothing in this section shall be construed to permit a broker to avoid compliance with Section 10148 of the Code.

**Trust Fund Handling**

Trust funds are defined as money or other things of value that are received by a broker or salesperson on behalf of a principal or any other person, and which are held for the benefit of others in the performance of any acts for which a real estate license is required. Trust funds may be cash or non-cash items. Some examples are cash, a check used as a purchase deposit (whether made payable to the broker or to an escrow or title company), a personal note made payable to

the seller, or even an automobile's "pink slip" given as a deposit.

**Trust Account - Broker-Controlled Escrow Activities:** The Company maintains a trust account in connection with its broker-controlled escrow division, "West Shores Escrow, a Non Independent Broker Escrow". The trust account is maintained in connection with any and all licensed broker-controlled escrow activities performed, wherein the Company acts as the escrow holder on real estate transactions in which the Company is also acting as the agent for the buyer, seller or both ("dual agent") and performing a service requiring a real estate license. If the Company is not involved in a licensed capacity in expectation or for compensation, then said escrow may not be handled. All transactions are to be conducted in accordance with the laws and regulations enforced by the DRE and pursuant to the exemption in the Escrow Law (i.e., California Financial Code 17006(a)(4)).

Any and all trust funds received, deposited, withdrawn or otherwise managed or controlled by the Company and/or its Associate-Licensees and staff shall be handled in strict accordance with the laws and regulations enforced by DRE.

For reference and as a part of the Company's policy herein, please see a summary of DRE's laws and regulations in the area of trust fund handling which is attached hereto as Exhibit C and made a part herein.

**When Handling Trust Funds:** Any Associate-Licensee or staff person affiliated with and/or employed by the Company shall adhere to the following trust fund handling policies and procedures:

(1) **Funds Received:** Any funds accepted and/or received by the Company, belonging to others in connection with a broker-controlled escrow transaction, shall deposit all those funds into the trust fund account maintained by the Company, as trustee, not later than the next working day following receipt.

NOTE: When it comes to broker-controlled escrows, the escrow holder must deposit trust funds received in ONE business day, whereas brokers receiving funds in connection with non-broker-controlled escrow activities, have three business days to deposit said funds. Additionally, general DRE trust fund handling requirements mandate that any funds, belonging to others in connection with a

transaction, that are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, must be deposited into the Broker's trust fund account.

Specifically, any Associate-Licensee or staff person of the Company who accepts trust funds from others on behalf of the Company shall immediately deliver the funds to the Designated Broker or, if so directed or authorized by the Designated Broker, shall deliver the funds into the custody of the Company's principal or a neutral escrow depository or shall deposit the funds into the broker's trust fund account;

(2) **Funds Deposited:** All funds deposited by the Company and/or its Associate-Licensees or staff into the Company's trust account shall be maintained there until disbursed by the Designated Broker of the Company and/or authorized trust account signatory, and only in accordance with the proper written and signed instructions from the person entitled to the funds;

(3) **No Interest Bearing Account:** The Company shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions governed by DRE's laws and regulations are met, nor, in any event, if the Company advises the party making the request that the funds will not be placed in an interest-bearing account. If any principal or client requests the deposit of any trust funds by the Company into an interest bearing account, the Associate-Licensee or staff person of Company must first consult with the Designated Broker;

(4) **Withdrawals/Disbursements:** Withdrawals made from the Company's trust fund account may only be made by the signature of the Designated Broker through whom the corporation is licensed, and/or one, or more, of the following persons if specifically authorized in writing by the Designated Broker:

(A) A real estate salesperson licensed to the Company.

(B) Another broker acting pursuant to a written agreement with the Company that conforms to the requirements of this part and any regulations promulgated pursuant to this part.

(C) An unlicensed employee wherein the Company has fidelity bond or

insurance coverage equal to at least the maximum amount of the trust funds to which the unlicensed employee has access at any time.

**(5) Records Maintained:** In accordance with the Real Estate Law, and in the course of any trust fund handling, the Company uses and maintains the followings trust account records:

(a) **Control Ledger:** Per CR 2831, the Company keeps a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal, and disbursed.

(b) **Separate Beneficiary Records:** Per CR 2831.1, the Company keeps a separate record for each beneficiary or transaction, accounting for all funds which have been deposited to the Company's trust bank account and interest, if any, earned on the funds on deposit. This record shall include information sufficient to identify the transaction and the parties to the transaction.

(c) **Monthly Trust Account Reconciliation Record:** Per CR 2831.2., the Company performs a reconciliation of the trust fund account wherein the balance of all separate beneficiary or transaction records maintained pursuant to the provisions of CR 2831.1 is reconciled with the record of all trust funds received and disbursed required by CR 2831, at least once a month, except in those months when the bank account did not have any activities. A DRE-compliant record of the reconciliation is maintained.

(d) **Supporting Records:** Receipts, Deposit Slips, Cancelled Checks, Check Stubs, Voided Checks, Check/Receipt Adjustments, Incoming/Outgoing Wire Disbursements, Bank Statements, Outstanding Check List, and Invoices.

**(6) Recording Trust Account Transactions:** The following procedures are required by the Company in order to ensure that its trust accounting is always accurate, complete, and regulatory compliant:

1. Record transactions daily in the trust fund bank account(s) and in the separate beneficiary records.
2. Use consistently the same specific source documents as a basis for recording trust fund receipts and disbursements.
3. Calculate the account balances on all applicable records at the time entries are made.
4. Reconcile the records to ascertain that transactions are properly recorded on both the bank account record and the applicable subsidiary records.
5. Reconcile the trust records to the trust account bank statement on a monthly basis to ascertain that amounts per the bank are in agreement with amounts per the trust fund records.

**(7) Trust Account Shortage:** No Authorized Signatory on the Company Trust Account may make any disbursement which will reduce the balance of funds in the account to an amount less than the existing aggregate trust fund liability of the Company to all owners of the funds.

All trust account disbursements shall be subject to the review, control, supervision, and/or approval of the Designated Broker.

Please be advised that any shortage in a real estate broker's trust account is a serious violation of the Real Estate Law.

Please be advised that in the event of a potential shortage, per CR 2832.1, the written consent of every principal who is an owner of the funds in the account shall be obtained by a real estate broker **prior to** each disbursement if such a

disbursement will reduce the balance of funds in the account to an amount less than the existing aggregate trust fund liability of the broker to all owners of the funds.

**(8) Unexplained Trust Account Overages:** An unexplained overage is defined as funds in a real estate broker's trust account which exceed the aggregate trust fund liability of such account where the broker is unable to determine the ownership of such excess funds. Unexplained trust account overages are trust funds and unless the broker can establish the ownership of such funds, the funds must be maintained in the broker's trust fund account or in a separate trust fund account established to hold such funds.

Please be advised that unexplained trust account overages must never be used to offset or cover shortages that may exist otherwise in the broker's trust account.

It is the policy of this Company that in the event of an unexplained trust account overage, a separate record of the unexplained trust account overage be kept including a separate subsidiary ledger to record the potential trust fund liability. Such records must include the date of recording and the date on which such funds became an unexplained trust account overage. The Company will also perform a monthly reconciliation of such funds in accordance with CR 2831.2.

**(9) Commingling of Funds Prohibited:** Funds belonging to the Company may not be commingled with trust funds. Commingling is strictly prohibited by the Real Estate Law and is grounds for the revocation or suspension of a real estate license pursuant to B&P 10176(e) and CR 2835.

Commingling occurs when:

1. Personal or company funds are deposited into the trust fund bank account.
2. Trust funds are deposited into the licensee's general or personal bank account rather than into the trust fund account. In this case the violation is not only commingling, but also handling trust funds in violation of B&P

10145. It is also grounds for suspension or revocation of a license under B&P 10177(d).

3. Commissions, fees, or other income earned by the broker and collectible from the trust account are left in the trust account for more than 25 days from the date they were earned.

The following exceptions, covered under CR 2835, do not constitute “commingling” for purposes of B&P 10176(e):

(a) The deposit into a trust account of reasonably sufficient funds, not to exceed \$200, to pay service charges or fees levied or assessed against the account by the bank or financial institution where the account is maintained.

(b) The deposit into a trust account of funds belonging in part to the broker’s principal and in part to the broker when it is not reasonably practicable to separate such funds, provided the part of the funds belonging to the broker is disbursed not later than 25 days after the deposit and there is no dispute between the broker and the broker’s principal as to the broker’s portion of the funds. When the right of a broker to receive a portion of trust funds is disputed by the broker’s principal, the disputed portion shall not be withdrawn until the dispute is settled.

(10) **Withdrawal of Escrow Fees:** Any and all escrow fees shall be paid to the Company in accordance with the fully executed broker-controlled escrow instructions and agreements between the parties and successful closing of the broker-controlled escrow transaction (or cancellation fees, if and when the Company is entitled to such fees per the fully executed agreement of the parties, if applicable). In connection therewith, no escrow fees earned shall be left in the Company’s trust account longer than twenty-five (25) days.

(11) **Company Trust Fund Liability:** Funds on deposit in the trust account must always equal the Company’s aggregate trust fund liability. The aggregate trust fund liability at any one time for a trust account with multiple beneficiaries is

equal to the total positive balances due to all beneficiaries of the account at the time. Note that beneficiary accounts with negative balances are not deducted from other accounts when calculating the aggregate trust fund liability.

A trust fund discrepancy of any kind is a serious violation of the Real Estate Law and may be grounds for revocation by the DRE.

To ensure that the balance of the trust account always equals the trust fund liabilities, the Company, and/or its Associate-Licensees and/or staff authorized to be involved in the handling of trust funds, are required to adhere to the following policies and procedures:

a. **Deposits:** Deposit intact and in a timely manner to the trust account all funds that are not forwarded to a neutral escrow or to the funds' owner(s) or which are not held uncashed as authorized.

Please be advised that a licensee is accountable for all trust funds received whether or not they are deposited. DRE auditors have seen numerous cases where trust funds received were properly recorded on the books but were never deposited to the trust account.

b. **Recording Transactions and Maintaining Records:** Maintain adequate supporting papers for any disbursement from the trust account. Record the disbursement accurately in both the Bank Account Record and the Separate Beneficiary Record. The Company must be able to account for all disbursements of trust funds. Any unidentified disbursement will cause a shortage.

c. **Disbursements:** Disburse funds from a beneficiary's account only when the disbursement will not result in a negative or deficit balance (negative accountability) in the account. Many trust fund shortages are caused by disbursements to a beneficiary in excess of funds received from or for account of that beneficiary. The excess disbursements are, in effect, paid out of funds belonging to other beneficiaries. A shortage occurs because the balance of the trust fund bank account, even if it is a positive balance, is less than the broker's liability to the other beneficiaries.

d. **Clearance of Funds:** Ensure that a check deposited to the trust fund account has cleared before disbursing funds against that check. This

applies, for example, when a broker who has deposited an earnest money check for a purchase transaction has to return the funds to the buyer because the offer is rejected by the seller. A trust fund shortage will result if the broker issues the buyer a trust account check and the buyer's deposit check bounces or for some reason fails to clear the bank.

**e. Accurate and Complete Records:** Keep accurate, current and complete records of the trust account and the separate record for each beneficiary. These records are essential to ensure that disbursements are correct.

**f. Reconciliation:** On a monthly basis, reconcile the cash record with the bank statement and with the separate record for each beneficiary or transaction.

**It is always the Company's policy and mission to maintain trust account integrity . In connection therewith, the Designated Broker must ensure that:**

**1. his/her personal or general operating funds are not commingled with trust funds.**

**2. the balance of the trust fund account is equal to the broker's trust fund liability to all owners of the funds.**

**3. the trust fund records are in an acceptable form and are current, complete and accurate.**

**No Trust Account Maintained - Real Estate Sale or Purchase:** In connection with the transfer of real property, it is the policy of this Company that all Associate-Licensees instruct principals, clients or third parties to direct, send or remit any and all trust funds directly to the licensed and authorized escrow holder on any real estate transaction.

In the event any Associate-Licensee, employee or staff person does receive or handle (e.g., "TOUCH") trust funds, all funds are to be accounted for in strict accordance with the Real Estate Law (i.e., B&P 10145/10146 and CR 2830-2835) and other applicable laws.

Due to the fact that the Company does not maintain a trust account in connection with the purchase or sale of real property, any trust funds received by an Associate-Licensee or staff person on behalf of the Company shall be first directed

to the Designated Broker for proper recording of required information.

Examples of situation which would require the use of this record are as follows:

1. earnest money deposits forwarded to escrow.
2. [rents forwarded to landlords].

This record must show the date funds were received, the form of payment (check, note, etc.), amount received, description of property, identity of the person to whom funds were forwarded, and date of disposition.

Trust fund receipts are recorded in chronological sequence, while their disposition is recorded in the same line where the corresponding receipt is recorded.

An exception to this record keeping requirement is provided in Commissioner's Regulation 2831(e), which states that a broker is not required to keep records of checks made payable to service providers, including but not limited to escrow, credit and appraisal services, when the total amount of such checks for any transaction does not exceed \$1,000. However, a broker shall retain for three years copies of receipts issued or obtained in connection with the receipt and distribution of such checks and, upon request of DRE or the maker of the checks, a broker must account for the receipt and distribution of the checks.

**No Advance Fees May Be Collected:** Due to the fact that the DRE enforces specific requirements in this area, and that advance fees are considered "trust funds" under the Real Estate Law, it is the policy of this Company that under no circumstances shall any fee, regardless of form, be claimed, demanded, charged, received, or collected by any Associate-Licensee in advance of any services requiring a real estate license.

**Notify Broker:** Due to the strict statutory and regulatory requirements placed upon supervising brokers and their salespeople in this area, trust fund handling and related compliance are taken very seriously by the Company. Please notify the Designated Broker in the event of any questions, concerns or issues, and/or as required above.

## **Personal Assistants**

It is the policy of this Company that Associate-Licensees are **[or are not]** free to engage the services or utilize an assistant as part of Associate-Licensee's services to the Company, [provided that the following requirements are met:

- Associate-Licensee shall have a written agreement with the assistant which establishes the terms and responsibilities of the parties to the employment agreement, including, but not limited to, compensation, supervision and compliance with applicable law. It must also include a term that the assistant is not an employee of the Company. This agreement shall be subject to the review and approval of the Company. If applicable, Associate-Licensee and assistant must sign any agreement that the Company has established for such purposes;
- If the assistant is not licensed by the DRE, under no circumstances may he or she engage in any activities which require a real estate license under the Real Estate Law, and/or violate any State or federal laws. For helpful and instructive information this area, please review "Guidelines for Unlicensed Assistants who Work in the Real Estate Industry" published by the DRE (which was last revised on 1/5/2018 and is available on DRE's website):  
  
<http://calbre.ca.gov/files/pdf/adv/Guidelines%20for%20Unlicensed%20Assistants%20-%20Updated%202018.pdf>
- [If any non-licensed assistant will be engaging in cold-calling and/or using any scripts in the course of his/her employment with the Associate-Licensee, such activity and scripts shall first be reviewed by the Designated Broker to ensure that no unlawful acts are being performed on behalf of or in connection with the Company. **-OR -** It is the policy of this Company that any non-licensed assistant of any Associate-Licensee not engage in any cold-calling in an effort to prevent any potential "unlicensed activity"];
- If any assistant employed by an Associate-Licensee holds a real estate license with the DRE, his or her DRE license shall be provided to and licensed with the Company in order to ensure compliance unless otherwise agreed;

- [Notwithstanding any of the above, please refer to any terms and conditions regarding same referenced in the broker-salesperson relationship agreement between the Associate-Licensee and Company.]

## **Federal and State Laws Relating to the Prohibition of Discrimination**

Pursuant to the Real Estate Law as well as the policy of this Company, any and all Associate-Licensees, employees or other personnel of the Company shall be aware, understand, and strictly adhere to and avoid any potential violations of the California and federal laws governing the prohibition of discrimination. Under no circumstances shall any Associate-Licensee engage in any discriminatory conduct, as such activities are unlawful under State and federal law, and are grounds for termination from this Company. The Designated Broker will provide training to all staff from time to time on the State and federal laws prohibiting discrimination. This is an area that the Company takes very seriously. If you have any questions or concerns, please notify the Designated Broker immediately.

The following laws must always be adhered to :

### **Federal Law:**

**Fair Housing Act:** Pursuant to Title VIII of the Civil Rights Act of 1968 (“Fair Housing Act”), the Fair Housing Act, as amended, prohibits discrimination in the sale, rental and financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex, familial status, national origin and disability.

Please refer to, be aware and understand any and all applicable federal legislation, including but not limited to, the Federal Fair Housing Act, Americans with Disabilities Act (ADA), and Title VI of the Civil Rights Act of 1964. For more information, please review the following links:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/fair\\_housing\\_act\\_overview](https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview)

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/disability\\_main](https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main)

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/fair\\_housing\\_and\\_related\\_law](https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_and_related_law)

**California Law:** California law protects individuals from illegal discrimination in all aspects of the housing business including but not limited to the rental or leasing, sales, mortgage lending and insurance, advertising, practices such as restrictive covenants, and new construction. Specifically, the law protects individuals by housing providers based on the following: race/color, ancestry/national origin, religion, disability/mental or physical, sex/gender, sexual orientation, gender identity/gender expression, genetic information, marital status, familial status, and source of income.

Please refer to, be aware and understand the applicable California legislation, including but not limited to, the Fair Housing and Employment Laws. For more information, please review the following:

<https://www.dfeh.ca.gov/housing/>

**Commissioner's Regulations:** Please refer to, be aware and understand, CR 2780 - Discriminatory Conduct as the Basis for Disciplinary Action, and 2781 - Panic Selling as the Basis for Disciplinary Action, of the Commissioner's Regulations enforced by DRE. Those regulations can be viewed here: <http://www.calbre.ca.gov/files/pdf/relaw/2018/regs.pdf>

## **Reporting of Required Information to DRE**

It is the policy of this Company that Associate-Licensees report the following required information, and/or changes affecting his or her real estate license and status, to the DRE as follows:

### **Contact Information:**

Per B&P 10162(c):

(1) Every real estate broker and salesperson licensee shall provide to the commissioner his or her current office or mailing address, a current telephone number, and a current electronic mail address that he or she maintains or uses to perform any activity that requires a real estate license, at which the bureau may contact the licensee.

(2) Every real estate broker and salesperson licensee shall inform the commissioner of any change to his or her office or mailing address, telephone number, or electronic mail address **no later than 30 days after making the change.**

Per CR 2715:

Every broker who is acting in the capacity of a salesperson to another broker under written agreement shall maintain on file with the commissioner the address of the business location where he expects to conduct most of the activities for which a license is required and his current mailing address.

A real estate salesperson shall maintain on file with the commissioner his current mailing address, and when applicable, the address of the principal business office of the broker to whom the salesperson is at the time licensed.

It is advised to use DRE's e-Licensing to report and/or make changes in this area, if and when possible.

### **Criminal and/or Disciplinary Charges:**

Per B&P 10186.2:

(a) (1) A licensee shall report any of the following to the department:

(A) The bringing of a criminal complaint, information, or indictment charging a

felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(C) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the conviction, or the disciplinary action.

(b) Failure to make a report required by this section shall constitute a cause for discipline.

Here is a link to the DRE required form to report the above required information:

<http://www.dre.ca.gov/files/pdf/forms/re238.pdf>

## **Reporting of Required Information to Broker**

[Any Associate-Licensee or staff person working for Company shall notify the Company of any changes to his or her contact information on file.]

If any Associate-Licensee of the Company has knowledge, receives, and/or is the subject of any inquiry, claim, complaint, lawsuit, administrative, regulatory or disciplinary action, or other issue brought against him or her by any party or any local, State, federal, governmental or law enforcement agency, said information shall be immediately reported to the Company and/or Designated Broker. Such matters may involve, without limitation, civil, administrative, regulatory, disciplinary and/or criminal actions, issues or charges.

[Any Associate-Licensee of the Company who is also a member of any local, State and/or National Board or Association of Realtors shall immediately report to the Company and/or Designated Broker any inquiry, claim, complaint, or other issues

brought against him or her by such associations.]

Finally, any questions or concerns which may arise in the course of licensed real estate activity or in any real estate transaction, including but not limited to, disputes between the parties, disputes between agents, complaints, disclosure issues, non-compliance, threatening of lawsuits, and/or potential or real violations of the law, shall be reported by the Associate-Licensee to the Designated Broker immediately.

**Failure to report and/or withhold such information or actions may be grounds for termination.**

### **Discharge of Licensee for Violation**

Please be advised, in the event any Associate-Licensee is discharged or terminated by the Company for a violation of any of the provisions of the Real Estate Law prescribing a grounds for disciplinary action, the Company and/or Designated Broker is required to immediately report such action and file a certified written statement of the facts with reference thereto with DRE, per B&P 10178.

### **Prohibition of “Unlicensed” Activity**

Under no circumstances, nor at any time, may any non-licensed representative, employee or other staff person employed by, affiliated with and/or working on behalf of the Company, engage in or perform any acts requiring a real estate license without proper licensure by the DRE.

No Associate-Licensee is permitted to perform any mortgage loan originator activities on behalf of the Company.

Please be advised that unlicensed activity is both a violation of the Real Estate Law and a criminal misdemeanor (with penalties), and that DRE often refers such complaints and activities to the local District Attorney’s Office for review and

potential prosecution.

For more information, please refer to the DRE's online publication entitled, "Updated Guidelines for Unlicensed Assistants - Updated 2018":

<http://calbre.ca.gov/files/pdf/adv/Guidelines%20for%20Unlicensed%20Assistants%20-%20Updated%202018.pdf>

## **State and Federal Referral Fee Activity and Prohibited Conduct**

It is the policy of this Company, that all State (e.g., B&P 10177.4) and federal laws (i.e., RESPA) regulating referral fee activities be strictly adhered to at all times.

Because there is only a small window where referral fees are legal (depending on the parties and type of real estate transaction involved), the performance of such activities shall be strictly regulated by the Company in order to prevent any unlawful or prohibited conduct.

Prior to engaging in any referral fee activity (e.g., actions or arrangements where an Associate-Licensee may receive and/or give a fee, commission or other consideration in exchange for or conditioned upon the referral of business to a settlement service provider or other person), the Designated Broker's written approval must first be obtained.

In connection with any lawful referral fee activity, all Associate-Licensees shall disclose in writing any and all compensation to be received to the principals and/or parties to a real estate transaction in accordance with the Real Estate Law.

For a helpful resource on referral fee activities which highlights the complexities involved and differences between State and federal laws, please refer to a recent article published in the Winter 2016 Real Estate Bulletin by DRE:

[http://www.bre.ca.gov/files/pdf/reb/rebwinter\\_16.pdf](http://www.bre.ca.gov/files/pdf/reb/rebwinter_16.pdf)

## **Debarred Persons:**

In accordance with CR 2725.5, a broker is responsible for screening his or her

employees, both licensed and unlicensed, and regular business associates engaging in any real estate-related business activity on the broker's premises, for compliance with Section 10087. Such broker responsibility includes, but is not limited to, quarterly review of the DRE's online listing of debarred persons and of the listing of disciplinary actions published in the DRE's quarterly Real Estate Bulletin. A broker who becomes aware of violations of Section 10087 is responsible for reporting such violations to the Department.

**Check License Status of Broker/Agent:** It is the policy of this Company that the license status of any agent(s) and broker(s) involved in any sale, purchase, exchange or lease of real property, be reviewed and verified at the outset of a real estate transaction in order to ensure that all parties performing services requiring a real estate license are properly licensed and in good standing with DRE. These efforts will help our Company to best serve and protect our clients from potentially (and unknowingly) engaging with unlicensed parties and/or being subject to the bad acts of certain unscrupulous individuals.

**Check License Status of Escrow Holder:** It is the policy of this Company that the license status of any escrow holder be reviewed and verified with the DRE (responsible for the licensing and enforcement of broker-controlled escrows), California Department of Business Oversight (the "DBO")(responsible for the licensing and enforcement of independent escrow agents) or the California Department of Insurance (the "DOI")(responsible for the licensing and enforcement of title-controlled escrows) at the outset of a real estate transaction in order to ensure that the escrow is properly licensed and in good standing with the appropriate regulatory authority. These efforts will help our Company to best serve and protect our clients from potentially (and unknowingly) engaging with unlicensed parties and/or being subject to the bad acts of certain unscrupulous individuals.

## **Office Meetings:**

The Designated Broker on behalf of the Company shall hold office meetings with Associate-Licensees and staff from time to time. Associate-Licensees are encouraged to attend these meetings as they will typically cover important topics including but not limited to, the Company's policies and procedures, new laws and/or legislative changes, DRE regulatory issues and concerns, Company contracts and forms, real estate trends, potential issues or violations of the law, best practices, and other important discussions which help real estate practitioners stay abreast of the law, current events and new or changing developments in the real estate industry.

**[NOT ENFORCED BY DRE BUT SMART AND BEST BUSINESS PRACTICE - REQUIRES YOUR REVIEW/EDITS!]**

**WIRE FRAUD**

*In order to help prevent wire fraud and navigate the safe delivery of electronic funds transfers, all Associate-Licensees must ensure that the California Association of Realtor's Wire Fraud Advisory form is used and fully executed by the principals on any real estate transaction. Other suggested practices and safeguards in this area include, but are not limited to:*

- Obtain phone numbers and account numbers only from Escrow Officers at the beginning of the transaction;
- Associate-Licensees should discuss warnings of wire fraud with their clients and suggestive tips on how to safeguard their funds at the outset of the transaction;
- Associate-Licensees, Staff and the Company's clients: DO NOT EVER WIRE OR ELECTRONICALLY TRANSFER FUNDS PRIOR TO CALLING TO CONFIRM THE TRANSFER INSTRUCTIONS. ONLY USE A PHONE NUMBER YOU WERE PROVIDED PREVIOUSLY. Do not use any different phone number or account number included in any emailed transfer instructions;
- Clients or licensees should assume fraud in the event they are contacted

by phone or electronic communication by anyone instructing them to send any wire transfer(s) using a different set of wiring instructions than previously given;

-Client should also verify wiring instructions with their financial institutions and/or “receiving” bank to verify that the transaction instruction is legitimate and confirm the bank routing number, account numbers, beneficiary and other codes before transferring funds;

-Avoid sending personal information in emails or texts. Provide such information in person or over the telephone directly to the Escrow Officer; and

-Take steps to secure the system you are using with your email account. These steps include creating strong passwords, using secure Wi-Fi, and not using free services].

### **Grounds for Disciplinary Action Taken by DRE:**

Among other code sections that may be cited, regulated and/or enforced by DRE, the following, while not exhaustive, are specific grounds for disciplinary action which may be taken against a licensee per B&P 10176 and 10177. Please be advised that it is policy of this Company that any and all Associate-Licensees strictly comply with the laws and regulations enforced by the DRE, and avoid or prevent the engagement of any activities which might cause DRE to enforce and/or discipline the Associate-Licensee as follows (without limitation):

### **Grounds for Revocation or Suspension B&P 10176.**

The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false promises of a character likely to influence, persuade, or induce.
- (c) A continued and flagrant course of misrepresentation or making of false promises through licensees.
- (d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.
- (e) Commingling with his or her own money or property the money or other property of others which is received and held by him or her.
- (f) Claiming, demanding, or receiving a fee, compensation, or commission under any exclusive agreement authorizing a licensee to perform any acts set forth in Section 10131 for compensation or commission where the agreement does not contain a definite, specified date of final and complete termination.
- (g) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission, or profit or the failure of a licensee to reveal to the buyer or seller contracting with the licensee the full amount of the licensee's compensation, commission, or profit under any agreement authorizing the licensee to do any acts for which a license is required under this chapter for compensation or commission prior to or coincident with the signing of an agreement evidencing the meeting of the minds of the contracting parties, regardless of the form of the agreement, whether evidenced by documents in an escrow or by any other or different procedure.
- (h) The use by a licensee of any provision, which allows the licensee an option to purchase, in an agreement with a buyer or seller that authorizes the licensee to sell, buy, or exchange real estate or a business opportunity for compensation or commission, except when the licensee, prior to or coincident with election to exercise the option to purchase, reveals in writing to the buyer or seller the full amount of the licensee's profit and obtains the written consent of the buyer or seller approving the amount of the profit.

(i) Any other conduct, whether of the same or of a different character than specified in this section, which constitutes fraud or dishonest dealing.

(j) Obtaining the signature of a prospective buyer to an agreement which provides that the prospective buyer shall either transact the purchasing, leasing, renting, or exchanging of a business opportunity property through the broker obtaining the signature, or pay a compensation to the broker if the property is purchased, leased, rented, or exchanged without the broker first having obtained the written authorization of the owner of the property concerned to offer the property for sale, lease, exchange, or rent.

(k) Failing to disburse funds in accordance with a commitment to make a mortgage loan that is accepted by the applicant when the real estate broker represents to the applicant that the broker is either of the following:

(1) The lender.

(2) Authorized to issue the commitment on behalf of the lender or lenders in the mortgage loan transaction.

(l) Intentionally delaying the closing of a mortgage loan for the sole purpose of increasing interest, costs, fees, or charges payable by the borrower.

(m) Violating any section, division, or article of law which provides that a violation of that section, division, or article of law by a licensed person is a violation of that person's licensing law, if it occurs within the scope of that person's duties as a licensee.

#### **Further Grounds for Disciplinary Action B&P 10177.**

The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's

stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement.

(b) (1) Entered a plea of guilty or no contest to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(2) Notwithstanding paragraph (1), and with the recognition that sentencing may not occur for months or years following the entry of a guilty plea, the commissioner may suspend the license of a real estate licensee upon the entry by the licensee of a guilty plea to any of the crimes described in paragraph (1). If the guilty plea is withdrawn, the suspension shall be rescinded, and the license reinstated to its status prior to the suspension. The department shall notify a person whose license is subject to suspension pursuant to this paragraph of his or her right to have the issue of the suspension heard in accordance with Section 10100.

(c) Knowingly authorized, directed, connived at, or aided in the publication, advertisement, distribution, or circulation of a material false statement or representation concerning his or her designation or certification of special education, credential, trade organization membership, or business, or concerning a business opportunity or a land or subdivision, as defined in Chapter 1 (commencing with Section 11000) of Part 2, offered for sale.

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and

enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

(e) Willfully used the term “realtor” or a trade name or insignia of membership in a real estate organization of which the licensee is not a member.

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked, surrendered, or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, surrender, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in a manner that violates the confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or of a different character than specified in this section, that constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in

an order granting a restricted license.

(l) (1) Solicited or induced the sale, lease, or listing for sale or lease of residential property on the grounds, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools due to the present or prospective entry into the neighborhood of a person or persons having a characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those characteristics are defined in Sections 12926 and 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) or the regulations of the Commissioner of Corporations pertaining thereto.

(o) Failed to disclose to the buyer of real property, in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership interest in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee has a special relationship shall be disclosed to the buyer.

(p) Violated Article 6 (commencing with Section 10237).

(q) Violated or failed to comply with Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code, relating to mortgages.

If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner may not deny the issuance or delay the renewal of a real estate license to, or suspend or revoke the real estate license of, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation. A decision by the commissioner to delay the renewal of a real estate license shall toll the expiration of that license until the results of any pending disciplinary actions against that licensee are final, or until the licensee voluntarily surrenders his, her, or its license, whichever is earlier.

### **National Association of Realtors' ("NAR") Code of Ethics**

*Here is a link to NAR's Code of Ethics in your policy manual as a reference of guidelines and best business practices.*

<https://www.nar.realtor/sites/default/files/documents/2019-COE.pdf>

### **California Regional Multiple Listing Service ("MLS")**

*Here are some links for your reference:*

*CRMLS Rules and Regulations (effective January 1, 2019):*

<https://go.crmls.org/crmls-rules-and-regulations/>

*CRMLS Rules and Regulations Guide (effective May 15, 2015):*

<https://go.crmls.org/crmls-rules-and-regulations-reference-guide/>

## **Training**

*Several Weekly trainings including Shark Academy with topics including (Business plan, Mindset, and Motivation, Office Resources, Communication, Tech Training 101, Buyer Contracts, Seller Contracts, Scripts, Social Media).*

*Mentorship, and Coaching.*

## **Confidentiality of Information**

*No information regarding your brokerage, your clients, Company's policies and procedures, relationships, trade secrets, or terms for negotiation should be shared in any way with any parties, clients, other brokerages or anyone not affiliated with your brokerage. Such information may include but is not limited to files, books, maps publications, technology, records, forms, planning documents, and/or the policy manual herein, and should not be removed from the Company's office and/or shared unless approved by the Designated Broker.*

## **Grounds for Termination**

*Notwithstanding the above provisions of this manual which cover grounds for termination and prohibited activities, when a licensee is terminated by the Company, all future compensation is forfeited, any active listings may be transferred only with a referral agreement stating broker fee or commission split agreed to on initial listing agreement or independent contractor agreement.*

**Acknowledgement:**

I have been given and reviewed the West Shores Realty Inc.'s Broker Office Policy and Procedures Manual on and or access to file on agent profile intranet. I understand that this manual is not to be considered a contract of employment and that my employment with the Company may be terminated at any time, with or without notice and with or without reason.

By signing below, I specifically acknowledge that I have received, thoroughly read and understand the policies and procedures contained herein, agree to abide by and adhere to all terms of this Broker Office Policy and Procedures Manual, including performance of any and all requisite duties and responsibilities while working for West Shores Realty Inc. Failing to abide by the terms of this policy and procedures manual will be viewed and accepted as my voluntary termination.

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Associate-Licensee (Print Name and Sign)

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Date