



# ATLANTA COMMUNITIES REAL ESTATE BROKERAGE

*“Atlanta’s Premier Local Real Estate Brand”*

**Office Policy and Procedure Manual**

# Table of Contents

## **SECTION A Vision Statement, Mission Statement and Non-Discrimination Policy**

A-1	Vision Statement	Page 4
A-2	Mission Statement	Page 4
A-3	Non-Discrimination Policy	Page 4

## **SECTION B Company History, Memberships and Affiliates, Office Hours, Office Security, Phone and Messaging**

B-1	Company History	Page 4
B-2	Memberships and Affiliations	Page 4-5
B-3	Office Hours	Page 5
B-4	Office Security	Page 5
B-5	Phone and Messaging	Page 5-6

## **SECTION C Agreements and Responsibilities**

C-1	New Associates	Page 6
C-2	Independent Contractor Agreement	Page 6
C-3	Availability of Management	Page 6
C-4	Commission Payments	Page 6
C-5	Administrative & Management Staff Support	Page 7
C-6	Timely Receipt of Paperwork and Earnest Monies	Page 7
C-7	Insurance	Page 7-8
C-8	Legal Assistance	Page 8

## **SECTION D Standard Operating Procedures**

D-1	FMLS and GAMLS	Page 8
D-2	Association of Realtors®	Page 8
D-3	Business Cards and Signs	Page 8
D-4	Directional Arrows and Signs	Page 8
D-5	Code of Ethics	Page 8-9
D-6	Legal and Tax Advice	Page 9
D-7	Reporting Problems to Management	Page 9
D-8	Mediation/Arbitration of Disputes	Page 10
D-9	Confidentiality	Page 10
D-10	Advertising and Marketing	Page 10-11
D-11	Company-Wide Group Email Communications	Page 11
D-12	Earnest Monies	Page 11
D-13	Sales Associate Buying and Selling	Page 11-12
D-14	Home Warranty Plans	Page 12
D-15	Property Management	Page 12
D-16	Associate Vacation/Out of Town Coverage	Page 12-13

## **Table of Contents (Continued)**

D-17	Competency	Page 13
D-18	Safety Procedures	Page 13
D-19	Notifications	Page 13

## **SECTION E Agency Policies and Procedures**

E-1	Agency Relationships	Page 13-14
E-2	Timely Disclosure of Agency	Page 14
E-3	Duties to Customers and Clients	Page 14-16
E-4	Agency Agreements/Brokerage Engagements	Page 16-18
E-5	Seller's and Buyer's Responsibility	Page 18
E-6	Duty of Disclosure	Page 18
E-7	Duty of Confidentiality	Page 18-19
E-8	Agency Declaration	Page 19
E-9	Compliance Agreement	Page 19

## **SECTION A – Vision Statement, Mission Statement and Non-Discrimination Policy**

### **A-1 Vision Statement**

For ATLANTA COMMUNITIES REAL ESTATE BROKERAGE, LLC to be the FINAL, ULTIMATE DESTINATION for all PROFESSIONAL REALTORS® in the Metro Atlanta Marketplace.

### **A-2 Mission Statement**

Our strategic mission in this new real estate environment is to lead the growing trend of companies and agents that are redirecting their marketing and advertising dollars to better serve their buyers and sellers at the local level and not on expensive and ineffective national branding campaigns for national companies and franchisors; and to provide the very best “VALUE PROPOSITION” in the industry for our Sales Associates and Associate Brokers.

### **A-3 Non-Discrimination Policy**

It is the law of the land that no person shall be discriminated against on the basis of sex, race, color, religion, national origin, handicap or familial status.

1. Accordingly, it is the policy of this office that no person will be discriminated against in either hiring or firing of personnel on the basis of sex, race, color, religion, national origin, handicap or familial status.
2. Furthermore, it is the policy of this company that the independent contractors (sales associates) will not discriminate in the showing, selling, leasing, advertising or listing of real estate because of sex, race, color, religion, national origin, handicap or familial status.
3. Should a sales associate be accused of discrimination, an investigation will be conducted by the broker, and if the investigation confirms that accusation, the sales associate's actions will be reported to the Georgia Real Estate Commission for further investigation and necessary action.

## **SECTION B - Company History, Memberships and Affiliates, Office Hours, Office Security, Phone and Messaging**

### **B-1 Company History**

Atlanta Communities Real Estate Brokerage, LLC was founded 11/01/2009 by Judson Adamson, Qualifying Broker, when it was decided not to continue a very successful twenty year franchise arrangement with an international real estate franchisor.

### **B-2 Memberships and Affiliates**

Atlanta Communities is a member of or has an affiliation with:

National Association of Realtors®  
Georgia Association of Realtors®  
Cherokee Association of Realtors®  
Northeast Atlanta Metro Association of Realtors®  
Cobb Association of Realtors®  
Atlanta Board of Realtors®  
Paulding Board of Realtors®  
First Multiple Listing Service  
Georgia Multiple Listing Service  
Atlanta Commercial Board of Realtors®  
Cobb County Chamber of Commerce  
DeKalb Board of Realtors®

### **B-3 Office Hours**

Office Hours are:

9:00 a.m. – 5:00 p.m.  
Monday through Friday  
\*Not staffed on Saturdays and Sundays

This office will be closed to observe the following holidays:

New Years Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving  
Christmas Day

All associates are provided with the access codes to the front door of any of the offices. You may access and use any office at any time by using your access code. Any disclosure of this code to parties outside of the Atlanta Communities organization is strictly prohibited.

### **B-4 Office Security**

All office personnel and sales associates who have been issued the office code are responsible to safeguard the office and code. It is the responsibility of the last person leaving the office to insure that all doors are locked and that all lights are turned off. Should the office door code be compromised, the office manager should be notified immediately. This company is not responsible for loss or theft of personal items or any computer equipment, etc. Any such items owned by the sales associate should be covered under their personal homeowner's policy.

### **B-5 Phone and Messaging**

1. Phone Message Procedure  
Every associate will be assigned an extension which will transfer calls to the number of the associate's choosing (cell, home office, etc.).
2. "After-Hours"  
The office has an automated answering service for after hours and on weekends. It will direct calls to the phone number designated by the associate.

## **SECTION C - Agreements and Responsibilities**

### **C-1 New Associates**

If you are a New Associate-"WELCOME TO ATLANTA COMMUNITIES". The office manager will provide you with a detailed list of all paperwork that must be filled out by new associates. Also, a detailed tour of your office will provide information on the location of supplies, sales reporting sheets, earnest money envelopes, listing service forms, copier supplies, office forms and reference materials.

### **C-2 Independent Contractor Agreement**

Upon affiliation with our company, the brokerage and you shall enter into a written agreement as an independent contractor (sales associate or associate broker) setting forth the duties and responsibilities of both parties and outlining your compensation schedule.

### **C-3 Availability of Management**

Atlanta Communities has numerous Brokers that are generally available to all of its sales associates for advice and discussion of real estate matters during normal business hours.

If emergency situations arise after business hours and you are unable to contact a broker, then please leave a message for any one of them and we will get back to you as soon as possible. They may be contacted at the telephone numbers shown on our office directory.

### **C-4 Commission Payment**

Commission checks from the company are generally issued the same business day upon receiving the closing proceeds, the closing statement and any items that are missing or incomplete in the office file. In the event that the commission dollars are received in the form of a personal check, then the commission checks are issued after five business days.

In the event that the company and associate find it necessary to sue for a commission, all expenses (including court costs and attorney's fees) are the obligation of the associate.

Any outstanding invoices will automatically be deducted from the commission check and the agent notified of such.

## **C-5 Administrative and Management Staff Support**

Administrative and Management Staff are in place to provide efficient and professional services to support you and your clients. The following support functions are provided by the support staff:

1. Maintenance of in-house files for listings, sales contracts and closed files. These files are for office and sales associate use and generally should not be removed from the office unless approved by office staff.
2. Associate production records, including income and volume levels.
3. Provisions for Association of REALTORS® Million Dollar volume credit.
4. Maintenance of supply of selected, high volume use forms and promotional items.
5. Business card ordering.
6. Multiple listing service coordination. (Both listing services).
7. Earnest Money record keeping and dispersal.
8. Professional telephone answering and receptionist services.
9. Management support from broker/management team.
10. Efficient processing of "sign calls" directly to listing associates.
11. Availability of office statistics and promotional materials to enhance our competitive edge in the market place.

## **C-6 Timely Receipt of Paperwork and Earnest Monies**

It is the responsibility of the sales associate to turn in all paperwork and earnest monies to the office as soon as practical. This includes, but is not limited to: Listings, contracts, closings, leases, management agreements, etc. The staff at each office is there to assist you in any way they can to make this as efficient as possible. Please work closely with the staff at your office to determine how our systems can best work for you.

## **C-7 Insurance**

Automobile Insurance – As a condition of association with our company, each agent must maintain insurance on all vehicles used in their real estate business and add Atlanta Communities Real Estate Brokerage, LLC as an "Additional Insured". There normally is no charge for this additional endorsement. The minimum acceptable coverages are as follows:

Liability:	\$250,000 each person
Each Accident:	\$500,000

Property Damage: \$100,000 each accident

Errors and Omissions Insurance – The cost of this coverage is included in your \$50.00 per month fee. Each year we review our policy and coverage in order to make sure we have the best value in the marketplace. E & O Insurance covers your liability for most types of negligent action. If you are involved in a dispute and it becomes necessary to file an E & O claim, then you are responsible for the policy deductible (currently \$1,000).

### **C-8 Legal Assistance**

Anytime the possibility or threat of legal action develops please notify management immediately of the situation and together decide on the proper course of action.

In matters of arbitration or alleged violation of the Code of Ethics and/or License Law, the associate and principle broker will determine the need for an attorney.

## **SECTION D - Standard Operating Procedures**

### **D-1 First Multiple Listing Service and Georgia Metro Listing Service**

As a condition of membership in FMLS and GAMLs, all listings must be entered into both databases. The “Rules and Regulations” of FMLS and GAMLs are available for reference at any time.

### **D-2 Association of Realtors®**

As a condition of association with Atlanta Communities, each associate must apply for and be accepted by one of the Boards of Realtors® that the company belongs to. Each associate is required to abide by and adhere to all conditions of membership in their Board and to pay their annual dues in a timely manner.

### **D-3 Business Cards and Signs**

The company has made arrangements with various local vendors for signs and business cards. Agents may, but are not required to, use these vendors. Atlanta Communities logos are provided for any associate wishing to order supplies from other vendors. The administrative staff can assist you in the ordering of your cards and signs.

### **D-4 Directional Arrows and Signs**

When using directional signs, the associates are responsible for knowledge of and compliance with the specific county and subdivision ordinances. “Under Contract” signs may be attached to yard signs when a contract has been accepted by all parties and can be removed and/or replaced by the “sold” sign when the sales closes.

### **D-5 Code of Ethics**



The National Association of REALTORS® Code of Ethics and Standards of Practice are the foundation of operation of Atlanta Communities. Violation of their intent and content is considered serious breach of expected professional conduct and would therefore subject an associate to immediate dismissal. You may access and review the Code of Ethics on our office Intranet [www.insidecommunities.net](http://www.insidecommunities.net) or at <http://www.realtor.org/governance/governing-documents/the-code-of-ethics>

## **D-6 Legal and Tax Advice**

No sales associate or associate broker shall give legal advice to a customer or client in any areas of law not specifically covered in a listing or sales contract. This would specifically prohibit discussion of client's rights under the law to sue, back out of contracts, or to enforce contracts through the courts. The sales associate is, however, authorized to and should explain the paragraphs of the standard listing and sales contract and the actions required by both parties in the agreements.

No sales associate shall give tax advice to a client/customer, specifically, if this advice pertains to IRS laws regarding deductions, exemptions, and/or tax liabilities resulting from the purchase or sales of real estate.

The sales associate is authorized and should provide information to the client/customer regarding the payment, proration, or distribution of real estate property taxes. If a legal or tax question is beyond the scope of real estate practice and training, the sales associate should suggest that the inquiring individual consult an attorney or tax accountant.

## **D-7 Reporting Problems to Management**

The following should be immediately reported to management:

1. Customer/client complaints that you are unable to resolve involving real estate transactions.
2. Automobile accidents while the sales associate or associate broker is participating in real estate brokerage transactions.
3. Criminal charges (with the exception of traffic offenses) and civil lawsuits involving real estate brokerage transactions.
4. Administrative actions which involve the license law, Code of Ethics and/or inefficient operations.
5. Contract default.
6. Threatened legal actions and acts of discrimination.
7. Unresolved disputes between sales associates, within or outside our office.
8. Injuries within the office.

## **D-8 Mediation / Arbitration of Sales Associates Disputes**

Disputes are defined as disagreements among sales associates. These could be over whose right it is to work with a particular customer, or who has the right to a sales commission when more than one sales associate knowingly or unknowingly works with the same customer/client. These could also arise over the amount of the sales commission earned by each sales associate when two sales associates work with the same customer/client.

Inter-Office disputes: All disputes with other companies involving real estate brokerage transactions are to be reported to the management staff for resolution with the sales associate. Every attempt will be made to settle the dispute at the broker level. Should such attempts fail, the broker and associate will determine if Board level arbitration is warranted.

Intra-Office Disagreements: It is not expected that in an active real estate office associates can operate totally devoid of any misunderstanding or disagreements. In the event of a misunderstanding in our office, it is expected that all parties shall be open to the following:

1. To pursue a solution in a non-confrontational manner with a professional respect for the other associates position,
2. To recognize that it is possible that both associates may be “right” from their particular perspective,
3. To accept that there can’t always be unanimity of thought and action, but there can be mutual trust and respect for the other associates.

The Management Team will seek a solution based upon the above premises.

## **D-9 Confidentiality**

All records of this office, as well as conversations between sales associates and between customers/clients and the sales associates, are considered confidential.

No files shall be removed from the office without the permission of management. No other information obtained while working for Atlanta Communities shall be used to the detriment of the company, its staff, or associates.

## **D-10 Advertising and Marketing**

### **General**

It is an **explicit** requirement of the Georgia Real Estate Commission that the principle broker be held responsible for compliance of the company’s sales associates with the rules and regulations of the commission regarding advertising (both personal promotion ads and property ads).

**IT IS THEREFORE REQUIRED THAT ALL ADVERTISING BE APPROVED BY A MEMBER OF THE MANAGEMENT TEAM. PLEASE EMAIL ALL ADVERTISING TO: ADVERTISING@ATLANTACOMMUNITIES.NET FOR APPROVAL.**

The rules applying to advertising and other solicitations generally restrict licensees from knowingly publishing real estate advertising containing any false statements or misrepresentations. In addition, licensees are prohibited from publishing real estate advertising regarding real estate sales unless the owner of the real estate, or an authorized agent of the owner, has consented to the advertising.

### **D-11 Company-Wide Group Email Communications**

Company- wide group email communications are used frequently for the purpose of informing associates of changes in company policy, company happenings, changes in the market, new laws, new financing procedures, etc. In general, company- wide group email communications are used to keep the sales associates informed of all facets of real estate. Please take the time to read all communications that are sent to you from the Atlanta Communities management team.

### **D-12 Earnest Money**

The proper disposition of Earnest Money is a critical aspect of the conduct of our business. There is no designated amount of earnest money that must be deposited with a contract.

Unless otherwise agreed to in writing by all parties to the contract, all checks received by sales associates shall be turned over to the office manager as soon as practical after receipt. An earnest money envelope with data and instructions must accompany all checks. Checks received after office hours or on weekends should be placed in the appropriate place in the reception area. The associate handling the contract is to leave instructions for the staff on how to handle the Earnest Money. It is a provision in our contracts that all Earnest money will be deposited in the escrow account within a specified number of days after the contract is fully executed – this must be complied with in the strictest sense. All cases in which the Purchaser wishes to delay the deposit must be so stipulated in the contract.

Disbursal of earnest money is the responsibility of the broker who will make a determination as to the recipients in accordance with provisions of the license law. In this regard, sales associates should not commit the broker to any decision as to the disposition of the earnest money being held, except that it will be applied to the amount owed by the purchaser when the sales closes.

It is highly desirable to obtain a “Release Agreement” in cases in which the earnest money is being disbursed for reasons other than a closing. All exceptions to this must be approved by the principle broker in accordance with the provisions outlined in the purchase and sale agreement. The office manager will place a copy of all papers relative to disbursal in the file and make a notation as to how disbursal was made.

### **D-13 Sales Associate Buying and Selling**

As required by the Georgia Real Estate Rules and Regulations, sales associates acting as principles (buying and selling), must first advise the principle broker, in writing.

The Licensee must give the Broker a copy of all contracts, closings, documents, etc., involving personal real estate transactions by Licensees.

The Licensee must deposit all earnest money or other trust funds in the company trust account or get the broker's written approval to maintain a personal trust account.

Licensees advertising as principals must comply with all the advertising requirements of the License Laws, Rules and Regulations.

Any associate selling or purchasing their "**PRIMARY RESIDENCE**" is exempt from any commission split with the office. FMLS fees are also waived on this transaction. FMLS requires the Agent Owner Letter signed by the Broker to be submitted with all other required forms upon the closing of said property. An associate is only allowed one primary residence transaction per 12 months. Investment properties do not receive an exemption.

#### **D-14 Home Warranty Plans**

Our company has an affiliation with several home warranty companies which offers coverage on homes during the listing period as well as for one year after closing. It is our policy for the responsible associate to offer a home warranty on every home we list as well as sell. Our experience has been that homes with a warranty not only sell more quickly, but for a higher price. The avoidance of "after-sale" repair problems is a major consideration in using one of the programs.

#### **D-15 Property Management**

Atlanta Communities is not in the business of managing rental property on behalf of landlords. However, our sales associates are allowed to enter into management agreements on behalf of Atlanta Communities under strict guidelines and oversight. If you are currently managing rental property or become involved in managing rental property in the future, please let management know so we can review all the proper procedures with you to make sure everything is compliant with GREC.

#### **D-16 Associate Vacation / Out-Of-Town Coverage**

When a sales associate plans to be out of town for an extended period of time, he/she should make the following arrangements in advance:

- a. Inform the staff of the dates the associate expects to be out of town,
- b. If possible, leave a telephone number where the associate can be reached in an emergency,
- c. Inform the management staff of the name of the office associate who will be caring for business,
- d. Coordinate with the substituting associate how the Message Center calls are to be retrieved,

- e. Determine the basis of compensation to the substituting associate.

### **D-17 Competency**

A licensee should only work in the areas of their expertise, i.e. residential sales, commercial sales, leasing, property management, etc. Make sure you ask for help or refer transactions in situations that you are not completely competent in.

### **D-18 Safety Procedures**

Licensees routinely find themselves in situations where they are alone with clients or customers about whom they have very little information. Please utilize safety procedures on a daily basis in your real estate business. The brokerage can provide you access to numerous personal safety guidelines and tips publications upon request.

### **D-19 Notifications**

Within 30 days the Georgia Real Estate Commission must be notified in writing of changes to your mailing address or home address.

Within 10 days the Georgia Real Estate Commission must be notified in writing of any criminal conviction, notice of sanction by any real estate regulatory body or any state or federal licensing agency, or any notice of the final disposition of a court action involving an unfair trade practice listed in License Law 43-40-25.

## **SECTION E – Agency Policies and Procedures**

### **E-1 Agency Relationships**

The purpose of this section is to establish office policies and procedures relating to our brokerage relationships with other real estate brokers, sellers, landlords, buyers, and tenants. The following definitions relate to such relationships:

1. “**Agency**” means every relationship in which a real estate broker acts for or represents another by the latter’s express authority in a real property transaction.
2. “**Broker**” means any individual or entity issued a broker’s real estate license by the GREC (includes affiliated licensees except where the context would otherwise indicate).
3. “**Brokerage**” means the business or occupation of a real estate broker.
4. “**Brokerage Engagement**” means an express written or oral contract wherein the client promises to pay the real estate broker or agrees that the real estate broker may receive consideration from another for producing a seller, buyer, tenant or landlord ready, able and willing to sell, buy or rent the property.

5. **“Brokerage Relationship”** means the resulting agency formed between the broker and the client as a result of the Brokerage Engagement.
6. **“Client”** means a person who has entered into a brokerage engagement with a real estate broker.
7. **“Customer”** means a person who has not entered into a brokerage engagement with a broker but for whom a broker may perform ministerial acts.
8. **“Dual Agent”** means a broker who has a brokerage relationship with both seller and buyer in the same transaction.
9. **“Limited Agent”** means a broker who, acting under the authority of a brokerage engagement, solicits offers to purchase, sell, lease or exchange real property without being subject to the control of the client except as to the result of the work.
10. **“Ministerial Acts”** means those acts which a broker or affiliated licensee performs for a person which do not require discretion or the exercise of the broker’s or affiliated licensees own judgment.
11. **“Timely”** means seasonable; a reasonable time under the particular circumstances.
12. **“No Agency Broker”** means a broker who solicits offers to purchase, sell, lease or exchange real property without an Agency relationship.

## **E-2 Timely Disclosure of Agency**

1. When acting as the agent of the seller or buyer, the agent must disclose that relationship at the first meaningful, substantive contact with any other party to a potential transaction.
2. Prior to entering into any brokerage engagement, a broker shall:
  - a. Advise the prospective client of the brokerage relationships broker offers; and
  - b. Advise prospective client of any brokerage relationships held by broker which would conflict with any interest of the prospective client; and
  - c. Advise prospective client as to broker’s compensation and whether broker will share compensation with other brokers who may represent other parties to the transaction.
3. An offer of cooperation shall not be made without timely disclosure to the party engaging the broker.

## **E-3 Duties to Customers and Clients as Defined by Brokerage Relationships in Real Estate Transactions Act (BRRETA)**

One of the most fundamental duties of an Agent is the duty of loyalty to their client. This duty requires that he/she act at all times, in accordance with the real estate license law, solely for the interest of the client. A corollary to this duty is that the agent diligently avoid any conflict of interest that might compromise loyalty to the client’s interest.

1. A Broker/Associate performing under the terms of the brokerage engagement is a limited agent, unless otherwise providing in writing. As a limited agent, the broker/associate must exercise ordinary care in performing the brokerage duties. If there is no brokerage engagement, it is presumed that the party is a customer.
2. Whenever a relationship changes, the associate shall disclose that fact and the nature of the new relationship to all parties to the transaction.
3. When engaged by a seller, the agent must:
  - a. Perform the terms of the brokerage engagement with seller;
  - b. Promote the interests of the seller by:
    - (1) Seeking a price and terms acceptable to the seller.
    - (2) Timely presenting all offers to and from the seller (even when the property is under contract.
    - (3) Disclosing to the seller all known materials facts.
    - (4) Advising the seller to obtain expert advice as to material matters beyond the agent's expertise (matters of law, tax, appraisal, future value, etc.)
    - (5) Timely accounting for all money/property in which seller may have an interest by timely submitting all earnest money, deposits, etc. to the closing administrator.
  - c. Exercise reasonable skill and care; and
  - d. Comply with all applicable statues, including fair housing, civil rights, etc.
  - e. When engaged by a seller, the agent must treat all prospective buyers honestly. This includes timely disclose to buyers all material facts pertaining to physical condition of the property which could not be discovered by a reasonable diligent inspection by buyer.
  - f. When engaged by a seller, the agent may provide assistance to the buyer by performing ministerial acts such as preparing offers and conveying them to the seller; locating lenders, inspectors, attorneys, insurance agents, surveyors, schools, shopping facilities, places of worship and all such other like or similar services.
  - g. When engaged by a seller, the agent may show alternative properties to prospective buyer.
4. When engaged by a buyer, the agent must:
  - a. Perform the terms of the brokerage engagement.
  - b. Promote the interest of the buyer by:
    - (1) Seeking property at a price and terms acceptable to the buyer;
    - (2) Timely presenting all offers to and from the buyer, even when the buyer is a party to a contract;
    - (3) Disclosing to the buyers materials facts which the broker has actual knowledge concerning the property;

- (4) Advising the buyer to obtain expert advice as to material matters beyond the broker's expertise;
  - (5) Timely accounting for all money and property received in which the buyer may have an interest.
- c. Exercise reasonable skill and care; and
  - d. Comply with all applicable statutes, including fair housing, civil rights statutes, etc.
  - e. When engaged by a buyer, the agent must treat all prospective sellers honestly and timely disclose to a prospective seller of property which will be financed by a loan assumption or a purchase money note, all material adverse facts actually known concerning the buyer's financial ability to perform the terms of the sale (any buyer's intent to occupy the property as a principle residence).
  - f. When engaged by a buyer, the agent may provide assistance to the seller by performing such ministerial acts as preparing and conveying offers to the buyer; locating inspectors, attorneys, surveyors, and all such other like or similar services.
  - g. When the agent is engaged by a buyer, do not breach any duty by showing properties in which the buyer is interest to other prospective buyers.
5. When the agent functions as a No Agency Broker (Buyer & Seller are both Customers), they must:
- a. Assist both parties in reaching mutually agreeable terms in the purchase and sale of the property.
  - b. Perform ministerial acts for both Buyer and Seller.
  - c. Treat both, Buyer and Seller honestly.
  - d. Timely disclose to a prospective buyer/customer all material adverse facts, actually known pertaining to the physical condition of the property which could not be discovered by a reasonably diligent inspection by buyer or buyer's inspector.
  - e. In the event the transaction is based on a loan assumption or purchase money note, Broker shall timely disclose to seller/customer all material facts actually known by broker concerning buyer's financial ability to perform the terms of the sale.
  - f. Whenever a material relationship becomes known, Broker shall disclose to the Buyer and Seller.

#### **E-4 Agency Agreements / Brokerage Engagements**

At the first substantive/meaningful meeting with a potential buyer or seller the agent must discuss the alternatives of our Agency Relationships. During a listing presentation to a Seller, the "Exclusive Right to Sell" disclosures are to be reviewed.



1. Seller Agency (Buyer as Customer, Seller as Client).

Under a Brokerage Engagement that our firm has with the Seller and under an Agency Election by your Buyer of customer status, the agent as our affiliated licensee, would act as the Agent for the Seller only and consequently would have the duties enumerated under E-3.3 above.

As an example, under Seller Agency, you could not without the express permission of the Seller, disclose to the Buyer that the Seller will accept a price less than the listed price. Specifically, as an Agent for the Seller, agents are obligated to disclose to the Seller:

- a. All offers to purchase the Seller's property;
- b. The identity of all potential Purchasers;
- c. Any facts affecting the value of the property;
- d. Information concerning the ability or willingness of the buyer to complete the sale or to offer a higher price;
- e. The Broker's or your relationship to or interest in a prospective Buyer;
- f. A Buyer's intention to subdivide for re-sale the Property for a profit, and
- g. Any other information that might affect the Seller's ability to obtain the highest price and best terms in the sale of the property.

2. Buyer Agency (Buyer as Client, Seller as Customer).

Under a Brokerage Engagement that our firm has with the Buyer, the agent would act as Agent for the Buyer only and consequently would have the duties to the Buyer enumerated under E-3.4 above.

As an example, under Buyer Agency, the agent could not, without the express permission of the Buyer, disclose to the seller that the Buyer would pay a price greater than the initial offer. Specifically, as an Agent for the Buyer, agents are obligated to disclose to the Buyer such things as:

- a. The willingness of the Seller to accept a lower price;
- b. Any facts relating to the urgency of the Seller's need to dispose of the Property;
- c. The Broker's/your relationship to, or interest in, the Seller or the Property for sale;
- d. Any facts affecting the value of the property;
- e. The length of time the Property has been on the market and any other offer or counter offers that have been made relating to the Property, and
- f. Any other information that would affect the Buyer's ability to obtain the Property at the lowest price and on the most favorable terms.

3. Dual Agent / Designated Agency (Buyer as Client, Seller as Client).

Our company and affiliated licensees may act as a dual agent only with written consent of both the Buyer and Seller. Prior to entering into a Brokerage Engagement, Dual Agency/Designated Agency does not have to be accepted. Informed consent shall be presumed when the Seller has signed an "Exclusive Right to Sell" Brokerage Agreement and the Buyer has signed an "Exclusive Buyer Brokerage Agreement".

However, if the broker and/or affiliated licensees have a material relationship with either client, or if such relationship exists, an additional disclosure of the nature of such relationship must be made.

A material relationship means one actually known of a personal, familiar or business nature between the broker and affiliated licensees and a client which would impair the ability of them to exercise fair judgment relative to another client. In any Dual Agency/Designated Agency transaction in which you have an actually known material relationship with either client, that relationship must be disclosed to all parties.

In a Designated Agency transaction, it is our company policy to assign different licensees to represent the Seller and Buyer. Neither agent may disclose information made confidential by request, except that information allowed or required to be disclosed. (Such as material & financial ability)

4. No Agency Broker (Seller as a “Customer” and a Buyer as a “Customer”. While this type of contemplated transaction technically does not involve an “agency” relationship, i.e. there is no brokerage engagement or representation of either the Buyer or Seller; it is required as proper notification to all parties of the roles and relationships that exist in the transaction.

For example:

1. A transaction in which a FSBO was unlisted (Customer) and our agent sells that home to your Buyer/Customer.

## **E-5 Seller's and Buyer's Responsibility**

The above duties of our Company and Affiliated Licensees in any real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interest. Our agent should encourage both Buyer and Seller to read carefully all agreements to ensure that they adequately express both Buyer's and Seller's understanding of the transaction. Our agent must disclose to both Buyer and Seller that neither the Company nor affiliated Licensees are qualified in legal matters, tax consequences or like professions and that a competent attorney, tax accountant or other professional should be consulted when there are concerns in these, and other, specialized areas.

## **E-6 Duty of Disclosure**

An agent has a duty to disclose to Clients and Customers alike any known material facts concerning the Property and in certain instances the financial capability of the Buyer. Agents have a duty to treat all persons honestly; this responsibility does not depend on the existence of any Agency relationship.

## **E-7 Duty of Confidentiality**

An agent is obligated to safeguard his Principal's confidence and secrets. A real estate Broker, therefore, must keep confidential information that might weaken his principle's bargaining position if it were revealed. This duty of confidentiality plainly does not include any

obligation to withhold from a Buyer known material facts concerning the condition of the Seller's Property or to misrepresent the condition of the Property or withhold information concerning the Buyer's financial ability to complete the transaction contemplated.

### **E-8 Agency Declaration**

As to Buyers: After explanation of the representation alternatives, the Associate is to have the Buyer sign an Exclusive Buyer Brokerage Agreement (Buyer has "Client" status) or a Customer Acknowledgement Agreement (Buyer has "Customer" status).

As to Seller: As part of the listing presentation, review the Exclusive Right to Sell Listing agreement with a discussion of the disclosure provisions. These disclosures are in compliance with BRRETA relative to informed consent for not only listing representation but for dual agency as well.

### **E-9 Compliance Agreement**

Licensee agrees to comply with the following:

1. All license laws, rules and regulations of Georgia Real Estate Commission
2. Company Office Policy and Procedures Manual
3. BRRETA