Broker Duties Disclosure and Acknowledgement Form

The New Mexico Real Estate Commission Rules provide that:

Brokers owe specific broker duties to prospective buyers, sellers, landlords (owners), tenants as set forth in this Part 16.61.19.8. Brokers shall disclose the applicable set of broker duties owed to buyers, sellers, landlords (owners) of rental property and tenants as set forth in this Part 16.61.19.8 prior to the time the broker generates or presents any written document to that party that has the potential to become an express written agreement and obtain from that applicable party written acknowledgement that the broker has made such disclosures. In the case of prospective buyers, sellers, landlord (owners) and tenants to whom the broker is not directly providing real estate services, such disclosure and acknowledgment of receipt shall be made through the broker who is directly providing real estate services to that buyer, seller, landlord (owner) or tenant.

Brokers who do not have access to forms by virtue of membership in a Realtor organization may use this form to fulfill the obligations of the Commission Rule on broker duties disclosure.

A. Brokers owe the following duties to prospective buyers, sellers, landlords (owners) and tenants:

(1) Honesty and reasonable care and ethical and professional conduct;

(2) Compliance with local, state, and federal fair housing and antidiscrimination laws, the New Mexico real estate license law and the Real Estate Commission rules, the New Mexico Uniform Owner Resident Relations Act, and other applicable local, state, and federal laws and regulations;

(3) Performance of any and all written agreements made with the prospective buyer, seller, landlord (owner) or tenant;

(4) Written disclosure of any potential conflict of interest that the broker has in the transaction including but not limited to:

(a) Any written brokerage relationship the broker has with any other parties to the transaction or;

(b) Any material interest or relationship of a business, personal, or family nature that the broker has in the transaction;

(5) Written disclosure of any adverse material facts actually known by the associate broker or qualifying broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act.

B. In addition to the broker duties owed to prospective buyers, sellers, landlords (owners) and tenants as set forth in this Section 16.61.19.8(A), Brokers owe the following Broker Duties to the buyers, sellers, landlord (owners) and tenants to whom the broker is directly providing real estate services, regardless of the scope and nature of those services;

Brokers working as Property Managers for a landlord (owner) are directly providing real estate services to the landlord (owner), not to the tenant:

(1) Assistance to the party in completing the transaction, unless otherwise agreed to in writing by the party to whom the broker is directly providing real estate services, including:

(a) Timely presentation of and response to all offers or counter-offers; and

(b) Active participation in assisting in complying with the terms and conditions of the contract and with the finalization of the transaction;

If the broker in the transaction is not providing the service, advice or assistance described in Paragraphs (a) and (b) of this Subsection B of 16.61.19.8 NMAC, the party must agree in writing that the broker is not expected to provide such service, advice or assistance;

(2) Acknowledgement by the broker that there may be matters related to the transaction that are outside the broker's knowledge or expertise and that the broker will suggest that the party seek expert advice on these matters;

(3) Advice to consult with an attorney regarding the effectiveness, validity or consequences of any written document generated by the brokerage or presented to the party and that has the potential to become an express written agreement.

(4) Prompt accounting for all money or property received by the broker;

(5) Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former principal’s written consent or is required by law;

(6) Written disclosure of brokerage relationship options available in New Mexico;

(7) Unless otherwise authorized in writing, a broker who is directly providing real estate services to a seller/owner shall not disclose the following to the buyer/tenant in a transaction:

(c) That the seller/owner has previously indicated they will accept a sales/lease price less than the asking or listed price of a property;

(d) That the seller/owner will agree to financing terms other than those offered;

(e) The seller/owner's motivations for selling/leasing; or

(f) Any other information the seller/owner has requested in writing remain confidential, unless disclosure is required by law;

(8) Unless otherwise authorized in writing, a broker who is directly providing real estate services to a buyer/tenant shall not disclose the following to the seller/owner in the transaction:

(a) That the buyer/tenant has previously indicated they will pay a price greater than the price submitted in a written offer;

(b) The buyer/tenant's motivation for buying/leasing; or

(c) Any other information the buyer has requested in writing remain confidential, unless disclosure is required by law.

(9) In the event the broker is working for the landlord (owner) as a residential property manager, the broker additionally owes to the landlord (owner) all duties owed under the law of agency.

16.61.19.9. Brokerage relationships

Brokerages working with consumers either as customers or clients may do so through a variety of brokerage relationships. These relationships include but are not limited to a transaction broker relationship, an exclusive agency relationship or a dual agency relationship. For all regulated real estate transactions, a customer or client may enter into an express written agreement to become a client of a brokerage without creating an agency relationship, and no agency duties will be imposed.

A. Transaction broker: a qualifying broker, associate broker or brokerage that provides real estate services without entering into an agency relationship. The transaction broker relationship is a non-fiduciary relationship.

B. Exclusive agency: an express written agreement between a person and a brokerage wherein the brokerage agrees to exclusively represent as an agent the interests of the person in a real estate transaction. Such agreements include buyer agency, seller agency, designated agency, and sub-agency agreements.

C. Dual agency: an express written agreement that modifies existing exclusive agency agreements to provide that the brokerage agrees to act as a facilitator in a real estate transaction rather than as an exclusive agent for either party to the transaction.

By signatures below, the parties acknowledge the receipt of **BROKER DUTIES and BROKERAGE RELATIONSHIP disclosure.**

New Mexico Real Estate Broker:

ServiceLink Auction, LLC_____	_____	_____
New Mexico Brokerage (Printed)	Date	Time
Louis Scott Barnes_____	_____	_____
Broker's Name (Printed)	Date	Time
_____	_____	_____
Broker's Signature	Date	Time

I hereby acknowledge receipt of the broker duties disclosure by the above-named broker.

_____	_____	_____
Customer's (Recipient) Name (Printed)	Date	Time
_____	_____	_____
Customer's (Recipient) Signature	Date	Time