

**BROKERAGE RELATIONSHIP POLICY
FOR
COLDWELL BANKER MOUNTAIN PROPERTIES
BROKERAGE FIRM**

785 Main Avenue
Durango, CO 81301
Employing Broker: KAYDEN C. HYSON

I. GENERAL PROVISIONS & DEFINITIONS

- A. In order to better serve the public, the Brokerage Firm has adopted this broker relationship policy for our business. This policy shall apply to all licensed natural persons in our Brokerage Firm who have a Colorado real estate license (“Licensees”). It shall be given and explained to each Licensee and shall be read, agreed to and signed by each Licensee.
- B. The Brokerage Firm and the Employing Broker are committed to providing professional brokerage service for all sellers and buyers that we elect to serve.
- C. This Brokerage Firm consists of the “**Employing Broker**” and other Licensees who associate under the license of the Employing Broker. Unless expressly stated otherwise in this Policy, the term Employing Broker shall also refer to a “**Managing Broker**” if the Employing Broker has delegated some or all of the Employing Broker’s duties to one or more Managing Brokers pursuant to Colorado real estate license law.
- D. The “**Company**” and the “**Brokerage Firm**” mean the same thing in this policy and are defined to include all Licensees and the Employing Broker. If the Brokerage Firm is part of, or becomes, part of a franchise, the Brokerage Firm only refers to our franchise office(s), as a single entity, and not those owned by other franchisees.
- E. Any provision of this agreement which applies to a Licensee, shall also apply to two or more Licensees who work as a “**Team**.” Such a group of Licensees shall be considered a Team if any of the following apply: (1) they fit the definition of a “Team” as that term is defined in Colorado Real Estate Commission Rules; or (2) if the Employing Broker considers the group, in his or her sole and absolute discretion, a Team.
- F. The term “**Customer**” shall have the same meaning which it has under Colorado license law.
- G. A “**Client**” is a party to a real estate transaction with whom the Licensee has a brokerage relationship as defined by Colorado law, because such party has engaged or employed the broker as either an agent or a transaction-broker.
- H. A “**One-Licensee Transaction**” shall mean a transaction in which one Licensee or one Team from the Brokerage Firm is involved in the transaction and no other Colorado real estate licensees from this Brokerage firm or other brokerage firms

are involved in the transaction. It shall have the same meaning as the term “**In-Company Transactions – One Broker**” used in the Real Estate Commission Approved forms.

- I. An “**In-Company Transaction**” shall mean a transaction in which the Brokerage Firm, through different Licensees who are not part of the same Team, is working with both the seller and the buyer in a brokerage capacity. It shall not mean a transaction in which the seller is a Client and the buyer is a Customer, and it shall not mean a transaction in which the buyer is a Client and the seller is a Customer, if this policy permits the Brokerage Firm and its Licensees to work in such capacities. In this policy, an In-Company Transaction shall have the same meaning as the term “**In-Company Transactions – Different Brokers**” used in the Real Estate Commission Approved forms and shall not include One-Licensee Transactions.
- J. If a Client or Customer asks to have a copy of this policy, any Licensee, after informing the Employing Broker, shall provide that person with a current copy.
- K. Licensees shall comply with all Colorado and Federal Fair Housing Laws, regardless of the broker relationship in which they serve.
- L. If the Brokerage Firm assists landlords or tenants with the leasing of real property then references to a seller selling property shall also refer to a landlord leasing property and references to a buyer buying property shall also refer to tenants renting property.

II. WORKING WITH SELLERS AS LISTING BROKER

- A. **Initial Broker Relation Status:** Licensees may allow sellers who wish to engage their services to do so as either a designated **seller’s agent** or a designated **transaction-broker**¹.
- B. **Seller Listing Procedures:**
 - 1. Seller must execute a written listing agreement utilizing the Company approved form. Unless otherwise specified, the Company approved form is the appropriate Exclusive Right-to-Sell Colorado Real Estate Commission (“CREC”) form. “Pocket” or other listings that are not in written form on the Company approved form are prohibited, unless approved in writing by Employing Broker.

¹ Effective January 1, 2020, the Colorado Division of Real Estate and the Colorado Real Estate Commissioners implemented Real Estate Commission Rule 6.7 that allows transaction-broker to act as either (a) a Transaction-Broker for both Consumers to the transaction or (b) a Transaction-Broker for one Consumer in the transaction and treating the other Consumer as a Customer. As of the drafting of this policy, the regulators have not promulgated guidance in their rules or positions statements about what determines whether the broker must choose (a) or (b), how the broker documents the choice between (a) or (b), and what the consequences are of the choice between (a) or (b). As these questions are addressed by the regulators, Brokerage firm will abide by the regulators’ direction as it evolves.

2. The “**Designated Seller’s Broker**,” shall be the Licensee who obtained the listing and who executed the listing on behalf of the Brokerage Firm.

3. All listing agreements shall specify whether the Brokerage firm will offer any compensation of buyer-side brokerage firms. If such compensation is offered, then the listing agreement will identify the amount or percentage of compensation offered to buyer-side brokers.

4. If the Designated Seller’s Broker is part of a Team, then the designation and brokerage relationship shall apply to all members of the Team. All members of a Team at the time the listing is taken shall be indicated in the listing contract. If, prior to listing a property, a Licensee enters into a brokerage relationship with a seller using a written disclosure, without a written agreement, such Licensee is the designated broker for that seller. The Employing Broker reserves the right to substitute or add other designated brokers, as appropriate, which shall be disclosed to the seller, or to the seller and the buyer in the event of a One-Licensee or In-Company Transaction.

C. Addressing Choices for One-Licensee Transactions:

1. When the Designated Seller’s Broker is a transaction-broker, and sells their own listing, then the designated broker shall work with both the seller and the buyer as a transaction-broker.

2. When the designated broker is an agent, then the Designated Seller’s Broker shall address the choices to be made for In-Company Transactions – One Broker, currently section 4.3 of the Colorado Real Estate Commission’s Exclusive Right-to-Sell Listing Contract, by striving to address the choices to be made for In-Company Transaction – One Broker by **not** checking box 4.3.1.2 so that Broker shall work as a transaction-broker on One-Licensee transactions.

D. Disclosure Obligations to Buyers who are not Clients: Designated Seller’s Brokers shall make the disclosure to buyers who are not their Clients on the appropriate Colorado Real Estate Commission approved form, the “**Buyer’s Disclosure**” in this Policy. Such disclosure shall match the selection made on the Licensee’s listing contract as indicated in section C above.

If a Designated Seller’s Broker has listings where the election within section 4.3.1 is inconsistent, then they shall address the disclosure obligations to buyer Customers with the Employing Broker on a case-by-case basis. Designated brokers shall make the disclosure at the point in time required by Colorado Real Estate Commission Rule 6.5.

E. Working with Buyer-Side Brokers: When Licensees list sellers on behalf of the Employing Broker, Licensees will communicate with sellers about the various options for sellers or Brokerage Firm potentially compensating brokers who work

with buyers (“buyer-side brokers” in this policy). If a seller chooses to pay a buyer-side broker or negotiates to have the Brokerage Firm pay a buyer-side broker, then the amount or percentage of compensation shall be indicated in the listing agreement.

F. **Duties:** When acting as a Designated Seller’s Agent, Licensees shall have the duties identified in C.R.S. § 12-10-404. When acting as a Designated Transaction-Broker, Licensees shall have the duties identified in C.R.S. § 12-10-407.

III. WORKING WITH BUYERS ON BUYER LISTINGS

A. **Initial Broker Relationship Status:** Licensees may allow buyers who wish to engage its services to do so as either a designated **buyer’s agent** or a designated **transaction-broker**.

B. **Buyer Listing Procedures:**

1. Brokerage Firm encourages Licensees to obtain a written buyer listing agreement with clients utilizing the Company approved form prior to taking the buyer on a tour of property. If a Licensee does not so obtain a written buyer listing agreement, then Licensee must obtain a Company approved written compensation agreement with the buyer (a “Buyer-side Broker Compensation Agreement”) prior to Licensee taking the buyer on a tour of the Property. Unless otherwise specified, the Company approved buyer listing agreement is the appropriate Exclusive Right-to-Buy Colorado Real Estate Commission (“CREC”) form. The preceding requirements of a written agreement do not apply when a Licensee is working with a seller as a Client and the buyer is a Customer.

2. The “**Designated Buyer’s Broker**” shall be the Licensee who obtained the buyer listing and who executed the buyer listing on behalf of the Brokerage Firm.

3. All buyer listing agreements shall specify the amount or percentage of compensation the Licensee requires to perform the services under the buyer listing agreement.

4. If the Designated Buyer’s Broker is part of a Team, then the designation and brokerage relationship shall apply to all members of the Team. All members of a Team at the time the buyer listing is taken shall be indicated in the buyer listing contract. If a Licensee enters into a brokerage relationship with a buyer through means other than a buyer-side listing agreement, then such Licensee is the designated broker for that buyer, together with the other licensees on designated broker’s team. The Employing Broker reserves the right to substitute or add other designated brokers, as appropriate, which shall be disclosed to the buyer, or to the seller and the buyer in the event of a One-Licensee or In-Company Transaction.

C. Addressing Choices for One-Licensee Transactions:

1. When the Designated Buyer's Broker is a transaction-broker, and assists a buyer in the purchase of an unlisted property, then the Designated Buyer's Broker will seek to clarify and disclose the nature of the relationship between the broker and the seller.
2. When the designated broker is an agent, and assists a buyer in the purchase from a seller who does not have a listing broker, then the Designated Buyer's Broker shall address the choices to be made for In-Company Transactions – One Broker, currently section 4.3 of the Colorado Real Estate Commission's Exclusive Right-to-Buy listing contract, by striving to address the choices to be made for In-Company Transactions – One Broker by checking **box 4.3.1.2** in section 4.3.1 so that Broker shall **not** work as a transaction-broker on One-Licensee transactions.

D. Disclosure Obligations to Sellers Who are not Clients (FSBO Sellers): Designated Buyer's Brokers shall make the disclosure to sellers who are not their Clients on the appropriate Colorado Real Estate Commission approved form, the "**Seller's Disclosure**" in this Policy. Such disclosure shall match the selection made on the Licensee's buyer listing contract as indicated in section C above. Designated brokers shall make the disclosure at the point in time required by Colorado Real Estate Commission Rule 6.5.

E. Duties: When acting as a Designated Buyer's Agent, Licensees shall have the duties identified in C.R.S. § 12-10-405. When acting as a Designated Transaction-Broker, Licensees shall have the duties identified in C.R.S. § 12-10-407.

IV. ONE-LICENSEE TRANSACTIONS

A. Relationship.

1. Transaction-Broker/Transaction-Broker. On a One-Licensee Transaction in which the Licensee initially agreed to work with the seller as a transaction-broker and initially agreed to work with the buyer as a transaction-broker, that Licensee will assist the buyer and the seller as a transaction-broker.
2. Other One-Licensee Transactions. On other One-Licensee transactions, the brokerage relationship with which the one Licensee shall work with the buyer and the seller shall be determined by the interaction of the choices made in the "In-Company Transactions-One Broker" sections of the seller listing agreement (if there is such a listing agreement) and the buyer listing agreement (if there is such a buyer listing agreement). Notwithstanding careful planning, unanticipated conflicts of interest might arise for the designated broker. If there is such a conflict, the one Licensee will inform the Employing Broker who will address the conflict on a case-by-case basis. Among the solutions to this conflict is that the

Employing Broker may designate different Licensees to work with the seller, the buyer, or both of them.

3. For a One-Licensee transaction, the Licensee will not maintain an agency relationship with both seller and buyer, nor will the Licensee act with one party as an agent and the other party as a transaction-broker.

4. On One-Licensee Transactions, the Employing Broker shall act as a transaction-broker.

B. **Special Relationships.** A Licensee may have a special relationship with either a seller or buyer in a transaction which may make it difficult for the Licensee to act neutrally between buyer and seller (a “**Special Relationship**”). Such Special Relationships are addressed in Article IX below.

C. **Notice of Change of Status.** If a designated Licensee changes their status with a buyer or seller, then that designated Licensee shall inform the seller, buyer or both of them of the change of status as provided in Colorado Real Estate Commission Rule 6.9.

D. **Duties of a Transaction Broker:** When acting as a Transaction Broker, Licensees shall have the duties identified in C.R.S. § 12-10-407.

V. IN-COMPANY TRANSACTIONS

A. **General Rule.** The Brokerage Firm may have a designated Licensee working as a single agent for a seller and a different designated Licensee working as a single agent for a buyer in the same real estate transaction without creating dual agency for the Employing Broker, or a dual agency for any Licensee employed or engaged by that Employing Broker. Except as expressly provided below in this Article V, in the event of such an In-Company Transaction:

1. The Designated Seller’s Broker shall remain the designated broker for the seller;

2. The Designated Buyer’s Broker shall remain the designated broker for the buyer; and

3. Both Licensees shall be supervised by the Employing Broker who shall act as a transaction-broker.

B. **Exception.** In the event of an In-Company Transaction in which the Employing Broker is a designated broker for the seller or the buyer, then:

1. If this Brokerage Firm has a Managing Broker who is a different person than the Employing Broker, and the Employing Broker and Managing Broker are not working with the opposite sides of a transaction, then:

- a. The Licensee designated as the seller's broker shall remain a Designated Seller's Broker;
 - b. The Licensee designated as the buyer's broker shall remain a Designated Buyer's Broker; and
 - c. The transaction shall be supervised by the Managing Broker if the Employing Broker is a Designated Licensee for the transaction, or the transaction shall be supervised by the Employing Broker if the Managing Broker is a Designated Licensee for the transaction.
2. If this Brokerage Firm does not have a Managing Broker who is a different person than the Employing Broker, and the Employing Broker is serving as a designated broker on an In-Company Transaction, then Employing Brokers are encouraged to take listings indicating in the listing agreement that in the event that the other party (buyer or seller) in a transaction is working with a designated broker in the Brokerage Firm, Broker shall act as a transaction-broker for the transaction. If the Employing Broker has done so, then the Employing Broker shall act as a transaction-broker and the other licensee shall maintain the brokerage relationship which they established with their client. If the Employing Broker has not done so, the Employing Broker may appoint another Licensee in the office to serve as the supervising broker for such transaction. (This alternative procedure is discouraged.)
3. If this Brokerage Firm has an Employing Broker and a Managing Broker who are different persons, and one works with the seller and the other works with the buyer, then they shall both assist the buyer and seller as designated transaction-brokers.

VI. HANDLING OF CONFIDENTIAL INFORMATION

- A. The following information is confidential between a designated broker and their Client:
 1. The seller or landlord is willing to accept less;
 2. The buyer or tenant is willing to pay more;
 3. Information regarding motivating factors for the parties;
 4. Information that a party will agree to other financing terms;
 5. Material information about a party not required by law to be disclosed;
 6. Facts or suspicious which may psychologically impact or stigmatize a

property;

7. All information required to be kept confidential pursuant to sections 12-10-404(2), 12-10-405(2) and 12-10-407(3), C.R.S.

Examples of confidential information are the Client's relocation, divorce, or pending foreclosure. Confidential information does not include information which a Licensee is required to disclose by law. Confidential information does not include information which the Client authorizes a designated broker to disclose. For example, as a means of attracting offers, the seller may wish to inform the market that the seller is motivated.

- B. In general, designated brokers should handle communication within the office in a way which is mindful of the potential that other Licensees in the office may represent buyers and sellers who have an interest adverse to Clients of the designated broker. Under designated brokerage, the law specifically prohibits the sharing of confidential information, unless the Client has authorized such disclosure.
- C. Designated brokers shall not disclose such confidential information to other Licensees in the Brokerage Firm. Licensees in the Brokerage Firm shall not seek out such confidential information from designated brokers or from any Brokerage Firm file.
- D. Each Client shall have a separate file maintained by the Client's designated broker on behalf of the Employing Broker. Access to the file is restricted to the designated broker and the Employing Broker. No one else shall have access to, or view that file without the prior approval of the Employing Broker.
- E. Designated brokers shall inform Clients that other Licensees in the Brokerage Firm may be working with the other side of the transaction so that Clients should direct all communication (letters, fax, e-mail) which is sent to the Brokerage Firm to the Client's designated broker.
- F. Licensees, other than the Employing Broker, shall not review communication from Clients which is not directed to that Licensee. Designated brokers may reveal confidential information to the Employing Broker without changing or extending the designated brokerage relationship beyond the designated broker.

VII. **FILE MAINTENANCE.** Designated broker shall maintain files (digital, physical, or a combination of both digital and physical documents) for each client they serve on behalf of Broker and Brokerage Firm. The file, its contents, and information related thereto shall be property of the Company.

In light of designated brokerage, a designated broker may have a brokerage relationship with a client who has an interest adverse to another client of the Brokerage Firm. Except

for licensees on the designated broker's Team, and except for licensed back-office staff of the Brokerage Firm, a designated broker shall not provide access to any file he or she maintains to other licensees of the Brokerage Firm without first reviewing the file to determine whether any confidences of the subject client will be revealed to the licensee receiving the file.

VIII. COVERAGE ARRANGEMENTS

- A. **Identification of Covering Licensee.** When a designated broker is unable to satisfy his or her duty of care to Clients, or chooses to delegate such duties, he or she shall make temporary arrangements to have other Licensees cover the designated broker's obligations to Clients. Examples include some situations when the designated broker goes on vacation, is sick, disabled, or arranges to have another Licensee in the Company sit an open house or show a buyer properties. (Yet the vacation or sickness of a designated broker does not necessarily mean that the designated broker is unable to honor his or her obligations to clients. For many of a designated broker's duties, the broker may be virtually present without being physically present.) In situations where the designated broker is unable to satisfy his or her duty of care, the designated broker shall make arrangements with another Licensee, or other Licensees, to cover the business of the designated broker. Such other Licensee shall be referred to as a "**Covering Licensee**" in this Policy. The designated broker shall inform the Brokerage Firm and Clients of the identity of the Covering Licensee. The Employing Broker, in his or her sole and absolute discretion, may identify a different Covering Licensee for some or all of the designated broker's Clients.
- B. **Confidentiality.** Notwithstanding the termination of any covering arrangement, the Covering Licensee shall honor its continuing duty of confidentiality pursuant to C.R.S. § 12-10-409(2)(b)(II).

IX. SPECIAL RELATIONSHIPS

- A. **Purchasing Company Listings**
 1. **Property Where Buyer Is Not Seller's Designated Broker.** Licensees may purchase properties listed by the Brokerage Firm where the purchasing Licensee is not the seller's designated broker. If the Employing Broker is the buyer, then the Employing Broker shall address the conflict on a case-by-case basis.
 2. **Property Where Buyer Is Seller's Designated Broker.** In general, the Brokerage Firm discourages Licensees from purchasing properties in which the Licensee is the Seller's designated broker. The potential conflict of interest from switching the Client relationship to a relationship in which the Licensee and seller are both principals is too likely. Licensees are encouraged to either make the "buy or not to buy for their own account"

decision before they attempt to list a potential seller's property. Exceptions to the general rule identified in the preceding sentence can be made on a case-by-case basis only by the Employing Broker, in writing, and only if Licensee complies with the Real Estate Commission's position on use of "Licensee Buy-Out Addendum" (currently a portion of Commission Position 14 on Broker Buying Property).

B. Selling (as the Seller) to a Buyer Client

1. **Property Where Seller Is Not Buyer's Designated Broker.** Licensees may sell their own properties to Clients of other designated brokers in the Company. If the Employing Broker is the seller, then the Employing Broker shall address the conflict on a case-by-case basis.
2. **Property Where Seller is the Buyer's Designated Broker.** In general, the Brokerage Firm discourages Licensees from selling their own property to that Licensee's Clients. The potential conflict of interest from switching the Client relationship to a relationship in which the Licensee and buyer are both principals is too likely. Licensees are encouraged to either make the decision to sell before they attempt to list a potential buyer. Exceptions to the general rule identified in the preceding sentence can be made on a case-by-case basis only by the Employing Broker, in writing.

C. Listing a Property Owned By a Licensee: When a Licensee sells a property owned by that Licensee in which:

1. The Licensee expects to receive compensation from the sale; or
2. The property is listed in a multiple listing service of which the Brokerage Firm or the Employing Broker is a member; or
3. The Licensee uses any resources of the Brokerage, which resources shall include, but not be limited to, the logos, trade names or email domain of the Brokerage Firm,

then the Licensee must list the Property with the Brokerage Firm. When so doing, Licensees are encouraged to list the property with another licensee in the Brokerage Firm so that Licensee shall be a principal and have no brokerage relationship with a buyer of the listed property. Pursuant to Colorado real Estate Commission Rule 6.17 B, when a contract is formed, the seller shall include a provision in the contract which states that the seller has a Colorado real estate license and is selling the property for his or her own account.

D. Listing a Property Owned By a Relative of Licensee: When a Licensee sells a property owned by a relative of that Licensee, Licensee shall disclose to the other

party the exact relationship that the licensee has to the relative prior to the formation of the contract.

E. **Other Special Relationships.** A Licensee may have a special relationship with either a seller or buyer in a transaction which may make it difficult for the Licensee to act neutrally between buyer and seller in a One-Licensee Transaction (a “**Special Relationship**”). Such special relationships may occur, for example, when the Licensee has a listing relationship with a builder who provides a high number of referrals to the Licensee. Another example might be where one side to the transaction is a close family member. If a Licensee has a special relationship with one principal to a transaction, then the Licensee and Employing Broker will address the potential conflicts of interest, at the time the One-Licensee transaction begins, on a case-by-case basis, informed by Colorado Real Estate Commission Position 16 on “Acting as a Transaction Broker or Agent in Particular Types of Transactions.” Among other options, the Employing Broker may designate a different Licensee or Licensees to work with either the seller and/or the buyer. Another option may be for the Licensee who has the Special Relationship to subsidize a consultation between the party with whom that Licensee does not have a Special Relationship and an attorney.

X. MISCELLANEOUS

A. **Writings.** Any form of communication which leaves a record (such as e-mail) which is retrievable by a Licensee or the Brokerage Firm shall be considered written notice in this Policy.

B. **File.** Any references to a file in this Policy shall include a physical file or records stored electronically, or the combination of both of them.

C. **Assistance Does Not Force Designation.** In the absence of a written designation, a Licensee who assists a Client of another Licensee in the Brokerage Firm, shall not be considered a designated broker for such Client unless and until the assisting Licensee has provided assistance which requires a real estate Licensee and such assistance was more than a ministerial task (See Real Estate Commission Rule 6.8), or unless the Covering Licensee becomes aware of confidential information of the client. So, for example, Licensees who are part of the central staff of the Brokerage Firm, and Licensees who assist more than one designated broker in the Brokerage firm, shall not necessarily be considered designated brokers of the assisted Clients of the Brokerage Firm. If there is a written designation of a Licensee to serve as a substitute or additional designated broker for a Client, then the Client shall be so informed in writing.

D. A Licensee may be designated to work with the seller on one property and work with a buyer on other properties. A Licensee may be designated to work with the seller on one property and work with a buyer on the same property (i.e. a One-Licensee Transaction).

* * * * *

By signing below, and through my initials on each page preceding this page, I acknowledge that my Employing Broker has given and explained this policy to me, and that I have read and understood it.

Licensee

Date

This Company Broker Relationship Policy has been prepared for COLDWELL BANKER MOUNTAIN PROPERTIES based upon the Frascona, Joiner, Goodman, and Greenstein, P.C. Master Broker Relationship Policy. While this Company Broker Relationship Policy is the exclusive property of COLDWELL BANKER MOUNTAIN PROPERTIES, Frascona, Joiner, Goodman, and Greenstein, P.C. will create substantially identical, if not identical, Broker Relationship policies for other real estate brokers. This policy is based upon the state of Colorado real estate license law as of January 2025. Changes in statutes, Real Estate Commission rules, Real Estate Commission forms, and precedent may necessitate changes to this policy. Periodically the Employing Broker should confer with legal counsel to keep Policy up to date.