



NEW MEXICO ASSOCIATION OF REALTORS®

BROKER DUTIES - 2021

PART I – BROKER DUTIES



Per New Mexico law, Brokers are required to perform a specific set of applicable Broker Duties. Prior to the time the Broker generates or presents any written documents that has the potential to become an express written agreement, he/she must disclose such duties and obtain written acknowledgement that the Broker has made such disclosures.

SECTION A:

All Brokers in this transaction owe the following broker duties to ALL buyers, sellers, landlords and tenants in this transaction, even if the broker is not representing the buyers, sellers, landlords and tenants

in the transaction:

1. Honesty and reasonable care and ethical and professional conduct;
2. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules 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/relationship of a business, personal or family nature that the broker has in the transaction; or
 - C. Any written agreement the Broker has with a Transaction Coordinator who will be providing services related to the transaction.
5. Written disclosure of any adverse material facts actually known by the 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.

SECTION B:

In addition to the above duties, Broker(s) owes the following Broker Duties to the buyers, sellers, landlords and/or tenants in this transaction to whom the Broker(s) is/are directly providing real estate services, regardless of the scope and nature of those services.

1. Unless otherwise agreed to in writing by the party, assistance to the party in completing the transaction including;
 - A. timely presentation of and response to all written offers or counteroffers; 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 1A or 1B of this Subsection, the party must agree in writing that the broker is not expected to provide such service, advice or assistance. The broker shall disclose the existence of such agreement in writing to the other brokers involved in the transaction.
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. Advise 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 option available in New Mexico:
 - A. **Exclusive agency:** an express written agreement between a person and a brokerage wherein the brokerage agrees to exclusively represent as an agent the interest of the person in real estate transaction;
 - B. **Dual agency:** an express written agreement that modifies existing exclusive agency agreements to provide that the brokerage agrees to act as facilitator in real estate transaction rather than as an exclusive agent for either party;
 - C. **Transaction Broker:** The non-fiduciary relationship created by law, wherein a brokerage provides real estate services without entering into an agency relationship.
7. Unless otherwise authorized in writing, a broker who is directly providing real estate services to a seller shall not disclose the following to the buyer in a transaction:
 - A. that the seller has previously indicated he/she will accept a sales price less than the asking or listed price;
 - B. that the seller will agree to financing terms other than those offered;
 - C. the seller's motivation for selling/leasing; or
 - D. any other information the seller 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 service to a buyer shall not disclose the following to the seller in the transaction:
 - A. that the buyer has previously indicated he/she will pay a price greater than the price submitted in a written offer;
 - B. the buyer's motivation for buying; or
 - C. any other information the buyer has requested in writing remain confidential, unless disclosure is required by law.

BUYER(S), SELLER(S), LANDLORD(S) AND/OR TENANT(S): PLEASE ACKNOWLEDGE RECEIPT BY INITIALING BELOW.



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PART II - OTHER REQUIRED DISCLOSURES

Broker shall update these and all other required disclosures as needed.

If any of the following apply, attach Broker Duties Supplemental Disclosure NMAR Form 2100 or other disclosure document.

1. ☐ Broker has a written brokerage relationship with any other party(ies) to the transaction.
2. ☐ Broker(s) has any **CONFLICT OF INTEREST** (including any material interest or relationship of a business, personal, or family nature in the transaction).
3. ☐ Broker(s) knows of **ADVERSE MATERIAL FACTS** about the Property or Transaction.
4. ☐ Broker(s) has a written agreement with a **TRANSACTION COORDINATOR** who will be providing services related to the transaction. **BROKER DUTIES:** TCs who have no interaction with the Broker's Customer or Client and/or other parties or brokers involved in the transaction, owe Broker Duties 1-5 in Section A on Cover Page I. TCs who work directly with the Broker's Customer or Client and/or other parties or brokers in the transaction, owe Broker Duties 1-5 of Section A and 5, 7 and 8 of Section B. TCs: _____
5. ☐ **PROPERTY MANAGEMENT ONLY. TO TENANT:** If Broker is working as a residential property manager Broker is working as the agent of the owner of the Property. In the commercial property management context, broker is working with the owner of the Property in the following capacity: ☐ AGENT ☐ TRANSACTION BROKER ☐ OTHER. If "OTHER", explain: _____

APPLICABLE PARTY

PARTY IS A ☐ SELLER ☐ BUYER ☐ LANDLORD (OWNER) ☐ TENANT

Name	Signature	Date	Time
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Name	Signature	Date	Time
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Broker Name	Brokerage Name Office	Phone
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THE FOLLOWING IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
BROKERS ARE NOT PARTIES TO THIS PURCHASE AGREEMENT.

BUYER'S / TENANT'S BROKER(S)

 Buyer's / Tenant's Broker Name		Buyer's / Tenant's Broker's NMREC License No.	
If different, Buyer's / Tenant's Broker's Qualifying Broker's Name		Buyer's / Tenant's Broker's Qualifying Broker's NMREC License No.	
Buyer's / Tenant's Brokerage Firm	Office Phone	Fax	
Buyer's / Tenant's Brokerage Address	City	State	Zip Code
Email Address		Cell Number	
Broker ☐ is ☐ is not a REALTOR®			

 Buyer's / Tenant's Broker Name		Buyer's / Tenant's Broker's NMREC License No.	
If different, Buyer's / Tenant's Broker's Qualifying Broker's Name		Buyer's / Tenant's Qualifying Broker's NMREC License No.	
Buyer's / Tenant's Brokerage Firm	Office Phone	Fax	
Buyer's / Tenant's Brokerage Address	City	State	Zip Code
Email Address		Cell Number	
Broker ☐ is ☐ is not a REALTOR®			

SELLER'S / LANDLORD'S (OWNER) BROKER

 Seller's / Landlord's Broker Name		Seller's / Landlord's Broker's NMREC License No.	
If different, Seller's Broker's Qualifying Broker's Name		Seller's / Landlord's Broker's Qualifying Broker's NMREC License No.	
Seller's / Landlord's Brokerage Firm	Office Phone	Fax	
Seller's / Landlord's Brokerage Address	City	State	Zip Code
Email Address		Cell Number	
Broker ☐ is ☐ is not a REALTOR®			

 Seller's / Landlord's Broker Name		Seller's / Landlord's Broker's NMREC License No.	
If different, Seller's / Landlord's Broker's Qualifying Broker's Name		Seller's / Landlord's Broker's Qualifying Broker's NMREC License No.	
Seller's / Landlord's Brokerage Firm	Office Phone	Fax	
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