



**NEW MEXICO ASSOCIATION OF REALTORS® — 2024
NOTICE TO UNREPRESENTED BUYER
BROKER DUTIES**



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 and sellers, in this transaction, even if the broker is not representing the buyer(s) 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 seller(s) in this transaction, 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 a 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.



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PART II – BROKER DUTIES

1. BROKERAGE RELATIONSHIP: Seller’s Broker has a Listing Agreement with Seller and is working as:

- Seller’s **Transaction Broker** (Non-Agency Relationship)
- Seller’s **Agent** (Agency Relationship)

2. BROKER DISCLOSURES. (Check all applicable). Broker shall update all disclosures as needed.

A. Seller’s Broker has a **MATERIAL INTEREST OR RELATIONSHIP OF A BUSINESS, PERSONAL, OR FAMILY NATURE IN THE TRANSACTION.** Describe the relationship: _____

B. Seller’s Broker knows of **ADVERSE MATERIAL FACTS ABOUT THE PROPERTY OR THE TRANSACTION, OR ABOUT THE FINANCIAL ABILITY OF THE PARTIES TO THE TRANSACTION TO COMPLETE THE TRANSACTION.** Explain:

C. Seller’s Broker has engaged the following **LICENSED TRANSACTION COORDINATOR (“TC”)** to provide services related to the transaction: _____
TRANSACTION COORDINATORS are licensed real estate brokers who have been engaged by the Seller’s Broker to assist the Seller’s Broker and the Seller in the processing of the transaction, which may include gathering information and paperwork, overseeing, and organizing contractual deadlines, communicating, and coordinating with lenders, title companies, inspectors, and the parties to the Purchase Agreement to facilitate the Closing of the transaction.



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BUYER AFFIRMATION**



USE OF FORM

This form is to be used by a Listing Broker when the Buyer is NOT being represented by any broker in the transaction (not you, the Listing Broker, and not another buyer's broker).

Broker and Brokerage: _____

Listing Brokerage: _____

Qualifying Broker Name and License No.: _____

Property Address: _____



IMPORTANT NOTICE TO BUYER FROM SELLER'S BROKER AND IF APPLICABLE, SELLER'S BROKER'S TRANSACTION COORDINATOR, AND BUYER'S AFFIRMATION

NO REPRESENTATION. By your signature below, you affirm the following:

- **You have elected NOT to work with a buyer's broker in this transaction; AND**
- **You have directed me NOT to represent you in this transaction; AND**
- **You will be representing yourself in this transaction.**

As such, I, as well as any transaction coordinator that I have engaged, am and will be working STRICTLY on behalf of the Seller throughout this transaction.

BROKER DUTIES. I, and any transaction coordinator involved, owe you the Broker Duties listed under **Section A** on Page 1 of this Notice; however, I/we **DO NOT** owe you the Broker Duties listed under **Section B** on Page 1 of this Notice.

NO SERVICES: I/we will present all offers submitted (unless otherwise directed in writing by the Seller) and inform the Seller(s) of any material information you provide to me/us, but I/we will NOT be providing you services in this transaction. Among the services I will NOT be providing are the following (**Please Note: this is NOT an all-inclusive list**):

1. Providing you with opinions or advice;
2. Assisting you in evaluating any counteroffer;
3. Assisting you in drafting an offer or any counteroffer, notices, or other information;
4. Providing you with relevant market information;
5. Providing you with information related to any contractual duty you may have under the Purchase Agreement;
6. Assisting you in meeting any deadline you are required to meet under the Purchase Agreement;
7. Arranging for the completion of any obligations you may be required to meet under the Purchase Agreement; or
8. Providing you with information related to service providers, such as title companies, mortgage companies, insurance companies, attorneys, inspectors, contractors, surveyors, engineers, and others.

ASSISTANCE: If you require assistance, you should retain your own broker or attorney. Nothing herein precludes you from later obtaining a buyer's broker to represent you, later requesting that I, the Listing Broker, represent you (though I make no commitment herein to represent you at a later date) and/or obtaining legal counsel to assist you in the transaction at any time.

BUYER(S)

Buyer Signature _____ Printed Name _____ Date _____ Time _____

Buyer Signature _____ Printed Name _____ Date _____ Time _____

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