



**Quality Service Realty, Inc.**  
*"A different way to buy or sell your home"*

## **POLICY MANUAL**

## TABLE OF CONTENTS

Page	Topic
4	Mission Statement
4	Statement of Business Principles
5	Equal Employment Opportunity Policy
5	Policy Against Sexual Harassment
6	Independent Contractor/Employment Agreement
7	Use of Personal Assistants
9	Office Hours
9	Holidays and Holiday Hours
9	Office Opening and Closing Procedures
9	Smoking Policy
10	Training Program and Schedule
10	Sales Meetings/Property Inspections
10	Inquiries/Visits by Government Officials
10	Subpoenas and Summonses
10	Licensee Safety
12	Functions of Unlicensed Office Personnel
13	Payments to Unlicensed Persons
13	Policy Considerations and Teams
15	Sample Brokerage Relationship Policies
18	Cooperation and Compensation Policy
19	Agency Disclosure Policy
20	Mandatory Buyer Agency Events
20	Strongly Recommended Buyer Agency Events
21	Agency and Confidentiality
22	Fair Housing Policy
23	Antitrust Policy
24	Listing Procedures
32	Buyer Qualification Policy
34	Sale Contract Policy
41	Advertising Policy
43	Risk Reduction Policy
49	Social Media Policy
54	Record Retention and Destruction Policy
61	Do Not Call Policy
62	Acknowledgement and Agreement

## MISSION STATEMENT

It is the mission of **QUALITY SERVICE REALTY, INC.**, to profitably and ethically provide high quality professional real estate services to the home buying, home selling, leasing and real estate investing public.

## STATEMENT OF BUSINESS PRINCIPLES

The following principles form the basis for executing the mission statement of **QUALITY SERVICE REALTY, INC.** Licensees, management and staff of the company work as a team to accomplish the mission statement and will abide by these principles.

1. **PROFESSIONALISM:** Professionalism at **Quality Service Realty, Inc.**, means approaching the business with ethical conduct toward our customers and clients. Abiding by the **REALTOR® CODE OF ETHICS** forms the basis of that standard. Secondly, continuing training and education keep us informed and at the peak of awareness for customer and client. Each licensee and employee of **Quality Service Realty, Inc.**, is pledged to these ideals.
2. **INTEGRITY:** Simply put, honesty in all business dealings is the best way to get and keep business over the long term. Simple honesty also forms the basis for the best business protection we can get. It is a simple, effective, efficient and cost-effective risk reduction method.
3. **PROFITABILITY:** **Quality Service Realty, Inc.**, is in business to make profits in the course of its ordinary activity. Each licensee and staff member has a responsibility to the company to contribute to its profitability, whether it be in terms of direct production of revenue or careful expenditure of company funds.

This Office Policy Manual for **Quality Service Realty, Inc.**, is designed to guide each licensee and staff member in the most important areas of company activity. If a matter is not covered, bring it to the attention of the President/Owner for possible inclusion in future revisions. If a matter is covered, the agent or staff member is expected to act according to this Manual. Failure to act in accord with company policy will be taken into account in future evaluations and/or retention of the licensee or staff member.

**QUALITY SERVICE REALTY, INC.**, welcomes each new licensee and employee to the business of professional, ethical and profitable real estate sales and leasing.

## **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

It is **QUALITY SERVICE REALTY, INC.**, policy to provide equal employment opportunities without regard to race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, gender identity, or unfavorable discharge from military service, to all qualified employees and applicants for employment. This policy applies to all areas of employment, job assignment, training, promotion, transfer, compensation, discipline and discharge. The company abides by all federal, state and local laws regarding employment practices, including, but not limited to the Americans with Disabilities Act.

## **POLICY AGAINST SEXUAL HARASSMENT**

Any harassment of an associate, whether licensee, employee or applicant, because of race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, gender identity, or unfavorable discharge from military service is clearly prohibited and will not be condoned. Sexual harassment is one particular form of discrimination which is illegal and violates the company's longstanding equal employment opportunity policy. **QUALITY SERVICE REALTY, INC.**, maintains a strong policy prohibiting any form of sexual harassment.

No licensee, employee, staff member, customer or vendor, male or female, may sexually harass an employee, licensee or other person associated with the company by:

1. Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexually suggestive nature; or
2. Making submission to or rejection of such conduct the basis for employment, continued employment or any other employment decision affecting the employee; or
3. Creating an intimidating, hostile or offensive working environment by such conduct.

Any licensee or employee who has been found to have sexually harassed another licensee or employee will be subject to appropriate discipline up to and including discharge from association or employment.

This policy applies equally to any work-related sexual harassment by or to both men and women employed by or associated with the company or who deal with the company in our business, and it is not limited to supervisor/employee or manager/licensee relations or to conduct occurring on premises or during working hours.

Any licensee or employee who believes that he/she is being or has been sexually harassed by another licensee or employee should promptly take one or more of the following steps:

1. If appropriate, discuss the situation directly with the person whom you feel is harassing you, and politely request that the person cease harassing you because you feel you do not

like or welcome his/her conduct. You might also add that if such conduct does not cease altogether, you will take further steps under this procedure. (If the person involved is a customer or client, please refer the complaint to senior management instead.)

2. If you believe that some adverse employment consequence may result from your discussions with that person, or if the harassment continues, go to a higher level of supervision including any senior executive of the company. You may be required to state in writing the specific details of the harassing behavior including date, time, place and witnesses, if any.
3. An investigation of any complaint will be undertaken immediately. All complaints will be handled in a prompt, confidential manner insofar as the investigation permits. There will be no adverse action directed toward any complaining licensee or employee or witness as a result of making or supporting the complaint, unless there clearly was bad faith.

### **INDEPENDENT CONTRACTOR/EMPLOYEE AGREEMENT**

Quality Service Realty, Inc., has a policy of associating with its licensees as independent contractors or statutory non-employees (independent contractors). Each licensee will be required to sign the Quality Service Realty, Inc., Salesperson (Sponsoring Broker- Sponsored-Licensee Contract) agreement setting out the relationship as an independent contractor. While the exact terms of the relationship are covered in the contract, a few reminders about being an independent contractor follow.

1. **Income Taxes:** All income taxes, federal and state, are the responsibility of the licensee. The company does not withhold or pay Social Security taxes on commission earnings. Self-employment tax must be paid by the licensee.
- \*2. **Unemployment Taxes:** As an independent contractor, the licensee is not covered under state or federal unemployment laws. Independent contractor real estate licensees acting under an agreement such as the Quality Service Realty, Inc., form and compensated by commission, are exempt from the unemployment laws by Florida statute. Accordingly, Quality Service Realty, Inc., does not pay unemployment taxes on the earnings of its licensees.
- \*3. **Worker's Compensation:** As with unemployment taxes, an independent contractor real estate licensee signing an independent contractor agreement like the Quality Service Realty, Inc., form and compensated by commission are exempt from the worker's compensation laws by Florida statute. Given this statute, Quality Service Realty, Inc., does not cover licensees under its worker's compensation insurance policy. A licensee should check that her/his insurance, particularly health and accident insurance, is adequate.
4. **Automobile Insurance:** Each licensee should carry adequate automobile insurance to protect not only the licensee but also the customer or client. In today's legal climate,

liability coverage of \$\_\_\_\_\_ per person/\$\_\_\_\_\_ per accident should be obtained. Any lesser amounts could cause unnecessary exposure of personal assets. Consult carefully with your insurance agent. The licensee must name Quality Service Realty, Inc., as an additional insured and provide the company with a certificate reflecting that status.

Each licensee is reminded that state law requires that every person in an automobile is required to wear a seat belt. Children and small adults should not sit in the front passenger seat. Airbags are known to release with such force that injury or death is possible for children and small adults.

5. Expenses: As an independent contractor, each licensee is expected to be in business for herself/himself. Generally, the expenses of that business will be the responsibility of the licensee. Quality Service Realty, Inc., will provide the following items and/or pay for the following expenses:

**(NOTE: The company or managing broker should determine the expenses which it is willing to provide or pay and delineate the major items here. Some of these expenses may include office space, newspaper advertising, business cards, yard signs, telephone expense, stationery, etc.)**

The licensee will be expected to pay for all other expenses, including these particular items:

**(NOTE: Here, the company should list the typical expenses borne by licensees. Some of these expenses may be things such as business cards, personal car or yard signs or personal advertising.)**

This list of expenses paid by company or licensee may be amended by the company from time to time by appropriate publication to all licensees.

### **USE OF PERSONAL ASSISTANTS**

It is common in the real estate business for high producing licensees to use specific persons, both licensed and unlicensed, as their assistants. Quality Service Realty, Inc., encourages the appropriate use of personal assistants as a tool for high earning licensees to be even more productive. Several caveats are in order from the perspective of the company. Many of the distinctions are based on whether a licensed or unlicensed assistant is used. Quality Service Realty, Inc., policies on the use of personal assistants are as follows:

1. **EMPLOYEE v. INDEPENDENT CONTRACTOR:** Whether licensed or unlicensed, the licensee must decide whether to associate with the personal assistant (hereafter "PA") as an employee or independent contractor. Remember, that if the PA is licensed the employment or independent contractor agreement will be between Quality Service Realty, Inc., and the PA.

Serious issues of the right of control, method of payment and direction of the work exist if the licensee chooses to have an independent contractor PA. Quality Service Realty, Inc., strongly urges the licensee to consult with her/his tax consultant and/or attorney to determine the proper procedures in making this choice. If independent contractor status is chosen, all of the issues mentioned above regarding withholding, unemployment taxes, worker's compensation and automobile insurance will be dealt with in the independent contractor agreement between the Quality Service Realty, Inc., and the PA. The form of independent contractor agreement used by Quality Service Realty, Inc., will be signed by the PA unless the licensee with whom the PA works indicates otherwise.

If employee status is chosen for a licensed PA the employment agreement will be between Quality Service Realty, Inc., and the licensed PA with related costs and expenses being charged back to the licensee with whom the PA works. The licensee should be aware that for an unlicensed PA all employment taxes, withholding reports, unemployment tax reports, worker's compensation insurance and reports and W-2 forms are the responsibility of the agent. Quality Service Realty, Inc., will not be a party to the arrangement between the licensee and the unlicensed PA and will not be responsible for any employment activities of the licensee.

2. **UNLICENSED PERSONAL ASSISTANTS:** The policy of Quality Service Realty, Inc., is that unlicensed personal assistants **WILL NOT UNDER ANY CIRCUMSTANCES** perform licensed real estate activities as defined in the Real Estate License Act ("License Act") (Section 1-10). The licensee associating with the PA is strictly responsible for maintaining this policy. If an unlicensed PA does any licensed activities, the licensee puts herself/himself in jeopardy of disassociation. The Illinois Department of Financial and Professional Regulation ("IDFPR") has taken a position as to the types of things unlicensed office personnel may and may not do. Please review Section 1450.740 of the License Act rules to familiarize yourself with these items. The policy of Quality Service Realty, Inc., is that unlicensed personal assistants fall into the same category as unlicensed office personnel.

The licensee is further advised that unlicensed persons may not be paid any fees or commissions for any licensed activities done (Sections 10-15(a) and 20-20(a)(38)). The company will not split commissions with an unlicensed person.

3. **LICENSED PERSONAL ASSISTANTS:** By definition, a licensed PA can perform licensed activities. The license of the PA must be held by Quality Service Realty, Inc., and any payments for the real estate business must come from Quality Service Realty, Inc. The licensed PA will be in violation of the License Act (Section 10-5(b)) if any compensation for doing licensed activities is accepted from anyone except the sponsoring broker with whom the PA is associated. Please review the section of "Functions of Unlicensed Office Personnel" to determine the difference between "clerical" functions and "licensed activities."

The easiest and cleanest way to accomplish this end is for the licensee to split commissions as they are earned with the licensed PA in whatever proportion the two

parties negotiate. The amount of the split between the PA and the agent should be specific and regular and should not vary per transaction. The company requires written agreements between the company and both licensees to delineate the relationship and also requires the PA and licensee to enter into a written agreement defining the relationship and specifying the compensation arrangement.

### **OFFICE HOURS**

Quality Service Realty, Inc., regular office hours are \_\_\_\_\_ a.m. to p.m. Monday through Friday. Office hours on Saturday are \_\_\_\_\_ a.m. to p.m. Sunday will be \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m. Changes may occur periodically and notices will be posted in the office.

### **HOLIDAYS AND HOLIDAY HOURS**

Quality Service Realty, Inc., will post the holidays on which the office will be either closed or open but with an abbreviated schedule at the beginning of each year. Any such schedule will be posted subject to change.

### **OFFICE OPENING AND CLOSING PROCEDURES**

**(NOTE: A general description of procedures to open and close the office should be inserted here. Things such as locking doors, turning off computers and copiers, setting thermostats, etc. could be included.)**

### **SMOKING POLICY**

Smoking is prohibited in any office of Quality Service Realty, Inc., including private offices, conference rooms, rest rooms and areas not normally accessible to the public. Smoking is only permitted outdoors in an area that is located at least 15 feet away from the door to the building.

### **TRAINING PROGRAM AND SCHEDULE**

**(NOTE: Training of licensees and staff is a critical risk reduction technique. Whether the training is accomplished through a franchise, an independent vendor, one-on-one or with an in-house program it is a company decision. A company should insert its education/training philosophy, programs and schedule in this section.)**

### **SALES MEETINGS/PROPERTY INSPECTIONS**

**(NOTE: Likewise, regular sales meetings and inspection of listings are ideal forums for training & education as a risk reduction technique. A schedule and procedure for sales meetings/property inspections, as appropriate for the company, should be inserted here.)**

### **INQUIRIES/VISITS BY GOVERNMENT OFFICIALS**

Any inquiry by a government official, whether by telephone, letter or in person, should immediately be forwarded to the managing broker. In the absence of the managing broker, the



name of the official and agency or department he/she represents should be obtained. Then, the president or other officer or designated representative of the company should be contacted. If none of these persons is available, the person receiving the inquiry should immediately contact the company's attorney by phone and request that she/he come to the office. Unless presented with a valid search warrant signed by a federal judge or a judge of the county in which the office is located, the person receiving the inquiry should not allow any representative from a local, state or federal office to see any files or any information maintained in the office without first contacting a representative of the company, nor should the person ever answer any questions of such a representative official unless the company's attorney is present.

### **SUBPOENAS AND SUMMONSES**

If a process server appears in the office with a subpoena or summons for the company, any employee or licensee should accept it. Once accepted, it should immediately be turned over to the managing broker. The managing broker should immediately contact the president or other officer of the company. In the absence of any of these persons, the managing broker should contact the company's attorney. If the process server asks for a specific person, only that specific person may accept the subpoena or summons. If that person is not in the office, the person receiving the inquiry should not volunteer any information about the person requested and should not give out home phone numbers or home addresses, even if asked. Refer the inquiry to the managing broker immediately.

### **LICENSEE SAFETY**

It is critically important that a licensee be aware of safety risks inherent in any business. The residential real estate business presents certain safety risks because of the time of day and week when much of the business is conducted. Quality Service Realty, Inc., has the following safety policies, guidelines and suggestions:

1. If the licensee does not know a customer, try to arrange a meeting at the office or other public place. Another alternative would be to do a basic internet search of the name of the individual(s).
2. NEVER meet a prospect at a vacant house ALONE. ALWAYS take another person with you. DO NOT meet the prospect after dark.
3. ALWAYS let the office or someone at your home know where you will be when showing property, especially, to prospects you are first meeting.
4. When on the showing, DO NOT go to dark areas, basements, garages, or areas without multiple exits. Allow the prospect to view those areas on his/her own and stay in an area which allows for quick exit.
5. ALWAYS drive your own car. DO NOT let a prospect you do not know drive your car. Preferably, meet the prospect at the office, tell the office your destination and expected time of return and drive separate cars to the showing.

6. **USE COMMON SENSE.** If something doesn't feel right or look right, trust your instincts and remove yourself from the situation.
7. Whether to use self-defense techniques and how to handle a crisis if it occurs are personal decisions. Think about your choices in advance.
8. View safety videotapes and talk to your local police. Remember, no commission is big enough to justify personal risk!!
9. Concealed Firearms. The Company (does/does not) allow concealed firearms to be carried on its premises by persons licensed to carry concealed firearms in Illinois. This policy applies to all persons on the premises, including employees and licensees of the Company.

The prohibition set forth above extends to all places where employee or licensee conducts business for or on behalf of the Company, including the Company's offices, clients' offices or residences, showings, broker tours, open houses, listing presentations, sales meetings, trade meetings and conventions or other Company-sponsored events.

10. Any employee or licensee assigned to show an owner's property shall observe any prohibition of the carrying of concealed firearms posted on the property (in the case of commercial property) or of which the employee or licensee otherwise becomes aware (in the case of residential property).

### **FUNCTIONS OF UNLICENSED OFFICE PERSONNEL**

The policy of Quality Service Realty, Inc., regarding the functions and use of unlicensed office personnel follow the License Act rules promulgated by FREC. The general policy is that unlicensed office personnel (secretaries, assistants, personal assistants, receptionists, accounting personnel, etc.) are to be used in a support role to the main real estate business function of the company. UNDER NO CIRCUMSTANCES will unlicensed office personnel be allowed to engage in licensed activities.

"Engaging in licensed activities" means doing any of the acts for which a license is required as defined in the License Act (Section 1-10).

Further defining this area is Section 1450.740 of the License Law rules. This section explicitly allows for the use of unlicensed clerical personnel to support licensed activities but strictly limits their ability to perform licensed activities.

The Rule governing unlicensed PAs states that the unlicensed PA may:

1. answer the telephone, take messages, and forward calls to a licensee;
2. submit listings and changes to a multiple listing service;
3. follow up on a transaction after a contract has been signed;

4. assemble documents for a closing;
5. secure public information from a courthouse, sewer district, water district, or other repository of public information;
6. have keys made for a company listing;
7. draft advertising copy and promotional materials for approval by a licensee;
8. place advertising;
9. record and deposit earnest money, security deposits, and rents;
10. complete contract forms with business and factual information at the direction of and with approval by a licensee;
11. monitor licenses and personnel files;
12. compute commission checks and perform bookkeeping activities;
13. place signs on property;
14. order items of routine repair as directed by a licensee;
15. prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;
16. act as a courier to deliver documents, pick up keys, etc.;
17. place routine telephone calls on late rent payments;
18. schedule appointments for the licensee (this does not include making phone calls, telemarketing, or performing other activities to solicit business on behalf of the licensee); *emphasis added*
19. respond to questions by quoting directly from published information;
20. sit at a property for a broker tour which is not open to the public;
21. gather feedback on showings;
22. perform maintenance, engineering, operations or other building trades work and answer questions about such work;
23. provide security;
24. provide concierge services and other similar amenities to existing tenants;
25. manage or supervise maintenance, engineering, operations, building trades and security; and
26. perform other administrative, clerical, and personal activities for which a license under the Act is not required.

An unlicensed PA may not:

1. host open houses, kiosks, or home show booths or fairs;
2. show property;
3. interpret information on listings, titles, financing, contracts, closings, or other information relating to a transaction;
4. explain or interpret a contract, listing, lease agreement, or other real estate document with anyone outside the licensee's company;
5. negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee; or
6. perform any other activity for which a license under the Act is required.

### **PAYMENTS TO UNLICENSED PERSONS**

Quality Service Realty, Inc., maintains a strong policy that no unlicensed person will be paid for any real estate activity requiring a license. The License Act (Sections 10-15(a) and 20-20(a) (38)) makes clear that an unlicensed person may not be paid for engaging in licensed activities.

## **POLICY CONSIDERATIONS AND TEAMS**

Before setting up a "shop within a shop," in other words a "team," you might consider a few legal principles and some important issues to address when considering the practice of real estate brokerage using teams.

### **What Is a Team?**

While not defined within the License Act, for discussion purposes, a "team" is a functional unit operating within a real estate brokerage office comprised of one or more real estate licensees and one or more administrative personnel.

### **The License Act Applies**

One simple rule to remember is that the License Act applies to all licensees licensed to a sponsoring broker, whether they are part of a team or not.

- The sponsoring broker will remain ultimately responsible for the oversight of the team and all of its licensed members.
- A licensee must work for only one sponsoring broker. Thus, if a licensee is a team member, he/she will be sponsored by the same sponsoring broker as that of the "team captain" and not by the "team captain."
- The sponsoring broker and not the "team captain" must pay every licensee on a team.
- Each licensee on a team must have a written independent contractor or employment contract with the sponsoring broker.
- The team must not be a separate corporation or entity within the sponsoring broker's corporation. This would require another sponsoring broker, and licensees may only work for one.

NOTE: This is not to be confused with a licensee's ability to set up a single shareholder, unlicensed corporation for the purpose of receiving that licensee's compensation. See Section 10-20(e) of the License Act and Section 1450.745 of the Rules under the License Act. Remember, only one licensee can receive compensation through that corporation.

### **Agency Issues**

Designated agency, covered in Article 15 of the License Act, applies to teams. As a result, if one team member represents the seller and one team member represents a buyer, they are not automatically dual agents, but can be designated agents for each party.

- If this is the case, confidential information of opposing parties must be protected from team members on the opposite side of the transaction.
- Office policies and procedures should address agency issues that arise within the team.

- If the team practices disclosed dual agency, written disclosure and consent must be obtained before team members act as dual agents.
- If the head of the team or team captain is named as the designated agent on all brokerage agreements then there will be dual agency.
- The sponsoring broker should analyze how the team is holding itself out to the public.
- If your company or the team is saying to the public that the team represents everyone (both sides) then even if your office policy is designated agency, this may create dual agency requiring disclosure and consent of the parties. The bottom line questions to ask are whether you are protecting opposing parties confidential information and what are you representing to the public? (Here decide what the office policy will be).

### **Advertising and the Use of Team Names**

If the team has a "team name" which is used in advertising without using the name of the brokerage company, it would be within the discretion and the responsibility of the sponsoring broker to register that name with the appropriate governmental authority and the DBPR and FREC as an assumed name or d/b/a of the sponsoring brokerage company. Neither the team as a unit nor any of the team members should have authority to register a "team name" that is different than the sponsoring broker's business name.

- If the brokerage company is a franchise, then the company name and the franchise affiliation must appear in all ads. So, if a team name is included in the ad along with the company name and the franchise affiliation, no special registration of the team name is necessary.
- If the team name appears in an ad and the company name is also included, no additional registration of the team name is needed.
- If the team name is being used in lieu of the brokerage company name, then registration of the team name by the sponsoring broker is required.

If the brokerage is a sole proprietorship, the assumed business name would be registered by the sponsoring broker in the counties in which the company does business.

If the brokerage is a corporation, the assumed name would be registered by the sponsoring broker with the Florida Secretary of State's Office.

Once the assumed name is properly registered, it must also be placed on file with FDPR or FREC.

### **Independent Contractor v. Employee**

The sponsoring broker must consider whether licensed team members should be treated as independent contractors or employees under the Internal Revenue Code, the Fair Labor Standards Act and other applicable laws.

- If the team member is a licensee, that member could be treated as an independent contractor under statutory provisions of the Internal Revenue Code or under the “traditional test” for independent contractor.
- If a licensed team member is a statutory non-employee, this might be true for tax purposes only; and for other purposes the licensee might be a common law employee. For example, the Florida workers’ compensation laws might apply, for which the sponsoring broker would be responsible.
- In either case, a licensed team member must have a written contract with the sponsoring broker.
- Unlicensed team members will be employees. Either the sponsoring broker or the team could compensate an unlicensed team member. The sponsoring broker will want to ensure who is responsible for paying the employee and for complying with all applicable employment requirements, such as withholding and workers compensation.

### **SAMPLE BROKERAGE RELATIONSHIP POLICIES**

*(Note: The following pages provide samples of alternative brokerage policies. The Company should only be adopting one of these policies, or a variation thereof.)*

**1. SELLER/BUYER AGENCY - Designated Agency  
(Disclosed Dual Agency Authorized)**

Quality Service Realty, Inc., adopts this written policy identifying and describing the relationships in which the licensees of Quality Service Realty, Inc., may engage with sellers, landlords, buyers or tenants. As used in this policy, the word "Company" means Quality Service Realty, Inc.

The Company represents sellers, buyers, landlords and tenants through written exclusive representation agreements (listing agreements or property management agreements) or written buyer (and/or tenant) agency agreements or other written agreements for brokerage services with sellers (and/or landlords) or buyers (and/or tenants).

The Company adopts the additional policy of appointing one or more designated agents as agents for clients pursuant to provisions in the License Act (known as "designated agency"). A designated agent shall be an affiliated licensee of the Company who is appointed in writing to be the agent of a client to the exclusion of all other affiliated licensees of the Company. The appointment of a designated agent will be made in a listing agreement, buyer agency agreement, other written agreement for brokerage services or other written notice to the client. The managing broker(s)\* is/are authorized by this policy to make the appointment of designated agents on behalf of the Company.

In the event that a licensee personally represents both the seller and buyer or both the landlord and tenant in a particular transaction, that licensee shall be a disclosed dual agent and is required to comply with the provisions of the License Act governing disclosed dual agents and the Company's policy regarding disclosed dual agents herein.

In the event that the designated broker of the Company or any of its managing brokers learn confidential information about either party to a transaction or if such broker is consulted by any licensee involved in the transaction, such broker will be a disclosed dual agent. Such broker will also be a disclosed dual agent if the broker supervises the licensee for one side of the transaction and personally represents the other side of the transaction.

If acting as a disclosed dual agent under this policy, the dual agent in the transaction must have the consent of all parties to the transaction. The designated agent must secure the signatures of sellers and buyers or landlord and tenant on a Consent to Dual Agency form before acting as a dual agent. In addition, the parties must initial the section confirming their consent to dual agency in the Real Estate Sales Contract or a lease.

If acting as a disclosed dual agent, the dual agent will be an agent for both the seller and buyer or the landlord and tenant as defined by Florida law. The dual agent will have the duties and obligations of both a seller's agent and a buyer's agent or landlord and tenant's agent as

specified by law. The designated agent should be guided by the duties set forth in the Consent to Dual Agency form. The disclosed dual agent's role is limited in some respects.

The Company will also work with unrepresented buyers (and/or tenants) to sell or lease its listings. Licensees may perform ministerial acts, as defined in Article IV of the License Act, for unrepresented buyers. In any such situation written notice should be given to the buyer by the designated agent indicating that the designated agent does not represent the buyer. This should be done at a point in time prior to the buyer disclosing any confidential information to the designated agent but in any event no later than the preparation of an offer to purchase or lease.

The Company will not act as a subagent and does not authorize its licensees to act in any subagency capacity.

The Company (**CHOOSE ONE**) (**authorizes**) or (**does not authorize**) its affiliated licensees to enter into written agency agreements on behalf of the Company.



## **COOPERATION AND COMPENSATION POLICY**

Subagency cannot be offered through a multiple listing service under Florida law. Quality Service Realty, Inc., cooperates and compensates cooperating licensees. Typically, these are buyers' agents as a result of the designated agency laws in Florida. However, this does not preclude compensation to a cooperating agent who has some other agreement with a buyer as to the role of the cooperating licensee.

In all cases, before entering into an agreement, the listing agent must disclose to the seller:

1. The Company's policy regarding dealing with cooperating and compensating licensees as set forth above. The listing agent will disclose to the client the amount that will be paid to cooperating licensees' offices (per the REALTOR<sup>®</sup> Code of Ethics); and
2. Any potential for Quality Service Realty, Inc., to be a disclosed dual agent, if company policy allows disclosed dual agency.

These disclosures must be made under provisions of the License Act and REALTOR<sup>®</sup> Code of Ethics.

## **AGENCY DISCLOSURE POLICY**

Quality Service Realty, Inc., maintains a policy promoting discussion of agency relationships at the first reasonable opportunity with a customer or a client.

Florida law requires a licensee to disclose to a customer the fact that you are not acting as their agent. Written disclosure must be given to a customer, any person who has not entered into an agreement to be represented, that you are not acting as their agent. This includes prospective sellers, buyers, landlords and tenants. The disclosure must be given to the person at a time intended to prevent the disclosure of confidential information but, in any event, no later than the preparation of an offer to purchase or lease.

The Company recommends that disclosure be made as follows:

1. If you are acting as a seller's agent then oral disclosure must be made at the time the prospective buyer begins to disclose personal or financial information to the licensee. Written disclosure must be made no later than the beginning of the preparation of an offer to purchase. Use the form entitled Notice of No Agency Relationship.
2. If you are acting as a buyer's agent then oral disclosure should be given to the seller no later than the time of the first showing. Written disclosure must be given to the seller no later than the presentation of an offer to purchase. Use the form entitled Notice of No Agency Relationship.

These disclosures are required only if you are representing a buyer or seller and working with a prospective buyer or seller who is unrepresented.

In light of the increasing emphasis in the industry on agency relationships, Quality Service Realty, Inc., prefers and urges that each agent discuss agency relationships with customers and clients at the earliest possible time in the relationship to avoid later misunderstandings. All licensees must disclose not later than the time periods required by the License Act and the rules promulgated thereunder.

In cases of potential dual agency, remember that in order to act as a dual agent, you must obtain the signatures of the sellers and prospective buyers on the Consent to Dual Agency form before beginning to act as a dual agent and the parties initial on the Confirmation of Consent to Dual Agency Section in the purchase contract no later than at the contract signing. This requirement applies to dual agency in leasing as well, unless the licensee represents the landlord only.

### **MANDATORY BUYER AGENCY EVENTS**

It is the policy of Quality Service Realty, Inc., that any licensee working in the following circumstances **MUST** only act as a buyer's agent and may not act as a dual agent.

1. The licensee is buying property for her or himself, or any entity in which he or she will have an ownership interest.
2. The licensee is working with the licensee's immediate family, that is, spouse, mother, father, brother, sister, children, any of their spouses or any entity owned fully or partially by any of these persons.

### **STRONGLY RECOMMENDED BUYER AGENCY EVENTS**

It is the policy of Quality Service Realty, Inc., that any licensee working in any of the following circumstances is strongly urged to work only as a buyer's agent and not as a dual agent.

1. The licensee is working with any relative by blood or marriage not in the licensee's immediate family as defined above.
2. The licensee is working with a close friend, business associate or long term past customer or client.
3. The agent is working with an entity in which any of those listed in #1 or #2 have an ownership interest.

## **AGENCY AND CONFIDENTIALITY**

One of the most important statutory duties of a licensee is to maintain the confidentiality of the client, whether buyer or seller. The License Act defines confidential information. It includes information made confidential by written instruction from the client and information made confidential by the statute. The License Act notes that a licensee should treat confidential information provided by the client that may reasonably be expected to have a negative impact on the client's real estate activity. Licensees should pay particular attention not to make unauthorized or offhand comments about a client's situation or a client's property in a way which could be considered a violation of the duty of confidentiality. In particular, four areas are considered of particular importance. They are:

1. The lowest price or terms a seller is willing to accept.
2. The highest price or terms a buyer is willing to pay.
3. The motivation of either party to enter into the transaction, i.e. job change.
4. Previous offers and counteroffers of either party.

In some markets, sellers are in distressed or "underwater" situations with their home loans. If there is no lawsuit yet on file to foreclose, this information might still be confidential to the seller. However, if the seller must have lender approval to consummate a short sale, the listing agent will need to disclose this information to the buyer's side so the listing agent will need to get consent from the seller to disclose seller's distressed position.

If disclosed dual agency is offered, it is particularly important for the dual agent to realize that she/he must hold confidential the information of both buyer and seller, regardless of which party the particular agent is working with at that time.

**(NOTE: If disclosed dual agency is offered, confidentiality provisions for office procedures must be instituted. The following is one example of some areas of procedures to adopt.)**

In offering disclosed dual agency, the Company and all of its associates must be sensitive to confidential information within the office and among the associates of the Company. The following procedures and policies are intended to protect the confidentiality of the Company's clients.

1. Associates should not discuss confidential information of the client between or among themselves.
2. Comments at sales meetings should not reveal confidential information of the client without the client's permission.
3. Office files of listings and pending sales are confidential and may not be accessed except by authorized staff and the particular licensee involved in the listing or transaction.
4. Fax transmissions are confidential. Office staff will place faxes in envelopes or fold them so as not to reveal contents to persons other than to whom the fax is addressed.

5. Telephone messages with confidential information will be distributed in an envelope or be folded to protect the confidential information.
6. Caution should be used not to disclose confidential information in using social media.
7. Direct clients to send all e-mail communications directly to the e-mail address of their designated agent.
8. Contracts, offers, counteroffers or other transactional documents will be delivered to the person addressed in envelopes. Persons other than the addressee are not authorized to open any such envelope.

Please refer to the attachments to the policy manual which refer to "Buyer Agency Do's and Don'ts", and "Disclosed Dual Agency Do's and Don'ts."

### **FAIR HOUSING POLICY**

Quality Service Realty, Inc., believes that fair housing policies are not just the law of the land but simply the right thing to do. Quality Service Realty, Inc., maintains a strong policy upholding all federal and state fair housing laws and Article 10 of the REALTOR Code of Ethics, including review and adherence to NAR's Fair Housing Declaration.

Accordingly, Quality Service Realty, Inc., prohibits any licensee or staff member from discriminating against any person in the provision of any of the Company's services because of the person's race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, familial status, military status, sexual orientation, pregnancy, gender identity, unfavorable discharge from military service, or any other class protected by local fair housing ordinances in areas in which the company does business. The parties agree to comply with all applicable federal, state and local fair housing laws.

Among the prohibited practices which are against this policy and the law are:

1. Refusing to show, sell or rent based on a person being a member of a protected class.
2. Different treatment/disparate treatment to persons of a protected class.
3. Steering: A person shall not encourage or discourage another from moving into any area because of the race, color, religion, sex, handicap, marital status, familial status, ancestry, age, military status, sexual orientation, or order of protection status.
4. Discriminatory advertising that "expresses" a preference for buyers or tenants of a particular race, color, religion, sex, handicap, marital status, familial status, national origin, ancestry, age, military status, sexual orientation, pregnancy, gender identity, or order of protection status.

5. Harassment (i.e., coercion, intimidation, threats or interference with a person's fair housing rights or because a party is abiding by fair housing law).
6. Applying more burdensome criteria to applicants of protected classes.
7. Blockbusting/Panic Peddling: A person is prohibited from inducing or attempting to induce another to sell or rent a property by making any express or implied representations regarding the entry or prospective entry into a neighborhood of a person or persons of any particular race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, gender identity, or unfavorable discharge from military service, or any other class protected by Article 3 of the Illinois Human Rights Act. The parties agree to comply with all applicable federal, state and local fair housing laws

Licensees and staff should be aware that persons with AIDS are considered handicapped and "familial status" means families with children under the age of 18 years, an individual who is pregnant or an individual in the process of obtaining legal custody of a person under the age of 18 years.

### **ANTITRUST POLICY**

Quality Service Realty, Inc., maintains a strong policy against any antitrust involvement by the Company, its licensees or employees. Few obligations can be taken more seriously than those in this area. Quality Service Realty, Inc., requires each person associated with the Company to participate in antitrust education and acknowledge his/her understanding of these principles. Two areas are the primary antitrust focus.

1. **PRICE FIXING:** Price fixing means any agreement, setting, consent to, suggestion or implication with a competitor regarding a fee to charge. This includes fees charged to the public, fees split among brokers and fees paid to agents. "Agreement" can be overt, covert, express or implied. It is very broad and can even be suggested or implied by casual conversation with any competitor.

Accordingly, Quality Service Realty, Inc., its licensees and staff are prohibited from discussing with any competitor, including an individual licensee, any aspect of the fees the Company charges or how total fees are split. Quality Service Realty, Inc., determines its charges based on the Company's own independent internal analysis of its expenses, its revenue, its desired profit level and its choice of the type and level of service it desires to provide.

In any discussion with a member of the public about our charges (such as a listing appointment), the only acceptable answer about why the Company charges what it does is the foregoing explanation. Do not be drawn into a discussion about Company fees as "the standard rate," "the Association rate," "the typical rate" or the like. If questions arise about other Company's fees, suggest that the potential client call several competitors and ask about their rates.

2. **BOYCOTTING COMPETITION:** It is also a violation of federal law to make any agreement, express or implied, with a competitor to boycott or otherwise not deal with a third party competitor. For example, assume Discount Realty opens up an office. Then assume Bob Broker, an agent with Big Bucks Broker, and Alice Agent, a licensee with Just As Big Broker are having lunch one day and discuss the competitive impact of Discount Realty. Bob and Alice agree that Discount is a danger to their large listing portfolios and further agree that individually they will not show Discount's listings because "Something has got to be done about that price-cutting monger." This simple agreement with two agents is an illegal boycott. Even if it were implicit and not overt, it could be construed as an illegal boycott.

Quality Service Realty, Inc., prohibits any licensee or staff member from making any agreement or suggestion with a competitor, including an individual licensee, that he/she or the Company will not deal with a third broker or licensee, whether it be a listing company, buyer's brokerage, discount broker or any other broker or licensee whatsoever.

Each licensee and staff member of Quality Service Realty, Inc., is required to view the NAR video on antitrust, read the NAR information at [www.realtor.org/law-and-ethics/complying-with-federal-regulations/antitrust](http://www.realtor.org/law-and-ethics/complying-with-federal-regulations/antitrust).

## **LISTING PROCEDURES**

Quality Service Realty, Inc., accepts listings and seeks to build an inventory of available merchandise for sale to buyers of homes and investment real estate. It offers the merchandise directly to the public and by cooperating with other licensees.

Listings not only represent "the merchandise on the shelf" but also present a significant area of risk. Traditionally many of the claims filed against real estate licensees involve claims of misrepresentation or fraud. It is at the listing level that many of these claims originate. As a listing company, it is imperative that Quality Service Realty, Inc., develop clear policies to reduce the risk of later claims from oversights and exposures at the time of listing. The following policies apply to all listings taken by Quality Service Realty, Inc.

### **1. TYPES OF LISTINGS**

In accord with the REALTOR<sup>®</sup> Code of Ethics Quality Service Realty, Inc., urges the exclusive listing of property, unless it is contrary to the best interests of the owner. Open listings may be accepted only with consent of a manager or broker of the company. Net listings are not accepted as such would be a violation of ethical standards. A net listing is one in which the owner agrees to let the agent keep any sale proceeds over a "net" price the owner wants for the property.

## 2. COMMISSION POLICIES

**(NOTE: Whatever commission policies a company has should be specified here or in an attachment or addenda to the Policy. A company should consider covering the following areas:**

- a. Rates and prices charged for services to the public. Examples of areas to consider, depending on the company's selection of agency policy and business practice, are:**
  - (1) Charges to sellers for listings.**
  - (2) Charges to buyers for representation.**
  - (3) Charges to owners for leasing.**
  - (4) Charges to clients for consulting.**
  - (5) Charges for any other services it renders.**
- b. Compensation offered to buyer's agents.**
- c. Compensation offered to the company's licensees.)**

## 3. OTHER LISTING TERMS:

**(NOTE: A company should specify any policies it has as to other terms in a listing contract such as length of listing, length of protection period, i.e. time after end of listing term in which a commission is owed if a buyer procured by broker purchases property, if any, whether and for what length of time exclusions from the listing contract will be accepted and who in the company has authority to accept the listing on behalf of the sponsoring broker.)**

#### 4. DISCLOSURE OF ADVERSE MATERIAL FACTS

Florida statutes require the disclosure to any customer all latent material adverse facts pertaining to the physical condition of the property that are actually known or which should have been known by the licensee. Latent adverse material facts are defined as facts actually known by the licensee related to the physical condition of the property not reasonably ascertainable by a diligent inspection of the property by the customer.

#### 5. RESIDENTIAL REAL PROPERTY DISCLOSURE FORMS

The Residential Real Property Disclosure Form is a detailed statement by the seller of his/her knowledge of the condition and features of the property. Quality Service Realty, Inc., has a policy of urging sellers to complete the form and to provide them to buyers in compliance with the state statute. A licensee should provide a blank disclosure form to the seller and request the disclosure form be completed on every listing unless the property is exempt from disclosure under state law. It is in the best interest of the seller to complete a disclosure form because it can avoid future misunderstandings with a buyer as to what the seller's knowledge of the condition of the property was at time of listing and because it is required by State law. If the seller questions the property or the transaction is exempt from disclosure refer the seller to his/her own attorney.

In addition, it is a valuable risk reduction tool for Quality Service Realty, Inc., and assists the Company in complying with its obligations to disclose adverse material facts. By the seller making accurate, factual statements as to his/her knowledge of the property, later controversies as to "who said what" can be minimized.

A listing agent should be careful to make sure that the seller and not the listing agent complete the Disclosure form and keep it current. If the information becomes inaccurate because the property's condition has changed, a seller could have liability for allowing known inaccurate information to be given to buyers. Once the form is complete the agent needs to make sure that it is delivered to prospective buyers before they prepare an offer to purchase.

Some sellers may refuse to sign a Disclosure form. If a seller declines to complete a disclosure form he/she should be referred to his/her own attorney to determine if the transaction or the property is exempt from disclosure. Quality Service Realty, Inc., **WILL NOT** accept a listing for which a seller refuses to complete a disclosure form unless the property or transaction is exempt.

In completing the disclosure form, the seller her/himself **MUST** fill in the form. A Quality Service Realty, Inc., agent **MAY NOT** complete the form on behalf of a seller. The responsibility to complete the form under Florida law is on the seller and not on the listing agent. If an agent completes the form, much of the benefit of this risk reduction technique is lost.



In general, the listing agent may rely on the statements of the seller. Article 15 of the License Act provides that the licensee owes no duty to conduct an independent inspection of the property for the benefit of the customer and owes no duty to independently verify the accuracy of any statement made by the client.

However, a listing agent may not ignore any suspect items on the disclosure form just because the seller completed it. If a listing agent, in his/her reasonable judgment and expertise, suspects that a statement is not accurate, the agent should seek further information from the seller. An example might be a seller who states that there has been no water in a basement in which there are obvious water stains and cracks. An agent's best course is to seek further information from the seller as to the exact nature of their statements and if the seller persists in inaccurate statements then either refuse to take the listing or withdraw as the listing agent. If an agent needs assistance with this type of problem they should contact their managing broker.

## 6. LEAD BASED PAINT

Particular note should be paid to lead-based paint disclosures. Current FHA regulations require that a special lead-based paint disclosure form be signed by all parties to a contract with FHA financing BEFORE entering into the contract if the transaction involves a property built prior to 1978. Also, a federal law which took effect late in 1996 requires certain disclosures on properties built prior to 1978 about the hazards of lead-based paint and requires that the buyer be given the opportunity for inspections for lead-based paint in the sale contract. Under lead-based paint regulations, licensees do have a duty to make sure the seller completes a disclosure form and provides a pamphlet.

## 7. RADON AWARENESS ACT

Agents Quality Service Realty, Inc., should have a general knowledge about the existence of the Florida Radon Awareness Act and that the provisions impose duties on sellers of real property. In short, before a buyer becomes bound on a contract to purchase real estate the seller is required to provide a pamphlet entitled "Radon Testing Guidelines for Real Estate Transactions" and the Florida Disclosure of Information on Radon Hazards. The language of the latter is set forth by statute. The pamphlet is provided by the Florida Emergency Management Agency Division of Nuclear Safety and can be found on that agency's Web site.

Nothing in the Act requires a seller to test for radon or to engage in "mitigation activities." The Act excludes certain types of transactions, which are summarized as follows: transfers made pursuant to court order, transfers resulting from foreclosure, transfers by fiduciaries of estates, transfers among co-owners, transfers pursuant to estate or interstate succession, transfers made by relocation companies (if the relocation company has the required documents from the original seller) and transfers to or from a governmental entity. Licensees need to be aware of this required disclosure so they can inform their seller clients.

Radon disclosures are now sometimes required for rentals in residential lease transactions. The form does not have to be provided in every residential lease transaction; only those where a radon test has been done, a radon hazard is indicated and the owner has not remediated using an IEMA licensed contractor. It is important to note that the radon disclosure requirement only covers the second floor and below of residential dwelling units.

## 8. ACCURACY OF LISTING INFORMATION

Several "traps" that might create liability exist in taking a listing. These are covered below. Each Quality Service Realty, Inc., licensee should take careful note of these hazard areas and be particularly diligent in handling these issues.

- a. **ROOM COUNTS:** Quality Service Realty, Inc., licensees must be careful to accurately represent the number of rooms, bedrooms and bathrooms in a property. Generally, questions of whether an area constitutes a room, bedroom or bathroom are resolved by determining whether an appraiser would count the area as such. For example, basement rooms which are below grade are not generally considered rooms, bedrooms or bathrooms for appraisal purposes. Another example is that a room normally must have a closet to be considered a bedroom. Also, "walk-through" rooms are not usually considered separate bedrooms. These ambiguous areas can be denoted by a symbol such as a "+" sign after the room count (e.g. 8+ rooms, 4+ bedrooms) or highlighted in remarks for the property or other descriptive information.
- b. **ROOM SIZES:** The licensee should personally measure each room. **DO NOT** take room sizes from a former listing company's form. Be cautious about taking room sizes from plans. There may have been construction changes not reflected on the plans. Measure room sizes to feet and inches. **(NOTE: Many MLS systems do not allow input of room sizes to feet and inches. In such case, round inches to the nearest foot, e.g., 7 feet 7 inches rounds to 8 feet but 7 feet 5 inches rounds to 7 feet.)** If you have not measured yourself or will not measure, be sure to cite the source of your information so it is clear that it did not come from you.
- c. **EXCLUSIONS/INCLUSIONS:** A licensee should pay particular attention to inclusions and exclusions in the sale of the property and verify the seller's intention. For example, if an owner checks off that the master bedroom draperies will not be sold with the house, the licensee should verify that this is the seller's intent and then make clear in any promotional material mentioning draperies that the master bedroom draperies are excluded. Also, it is very important to make sure the exclusion is expressly specified in the contract. The listing information sheet is not usually incorporated into the terms of the contract. Thus, a licensee should not rely on the listing information sheet to control the contract but must make sure that the exact understandings of the parties are reflected in the sale

contract. Also, it is a good idea to suggest that seller actually remove excluded items before marketing the property for sale if possible.

- d. **LOT SIZE:** Lot size and acreage should only be determined from an accurate survey, the owner's real estate tax bill or the county tax records. The licensee should NOT attempt to measure lot size on her/his own.
- e. **TAXES:** Taxes should be determined from county tax records or the owner's tax bill. The licensee should not rely on the statements of the owner as to tax amounts. If there is a question regarding reassessment between time of contract and time of closing, refer the client to their attorney to negotiate contract language when necessary.
- f. **MODERNIZATION INFORMATION:** Often, good selling features about a property are the updates or upgrades made by the owner. In order to accurately advertise these items, Quality Service Realty, Inc., requires that the owner verify any information given to us before it can be used in any promotional material on the listing.

Items such as "new" roof, "new" air conditioner, "new" furnace, "new" bathroom, "new" kitchen, etc. are misnomers because of the difficulty in defining what "new" means. Substantiation of the information means the owner must supply Quality Service Realty, Inc., with receipts, canceled checks or other proof of payment of upgraded or rehabbed items. Once provided, then Quality Service Realty, Inc., will accurately advertise and promote these good selling features with language like "New roof, 2012", "New furnace, 2010", "Kitchen remodeled, 2006".

If it is not possible to substantiate modernized features, they can be advertised or promoted as "Newer" or "Recent", as in "Newer furnace" or "Recently remodeled bathroom".

- 9. **SIGNATURES:** Florida requires written listing agreements to be signed by "the parties." In addition, Quality Service Realty, Inc., desires that listing agreements be enforceable in every possible situation to ensure that the company and agent will be paid under the terms of the listing agreement. Because of these factors, licensees must secure listing agreements with the signatures of all sellers or the duly authorized representative of all sellers before the listing will be promoted or advertised in any way. Licensees should be particularly aware in the several situations below.
  - a. **SPOUSAL SIGNATURES:** A spouse\* must ALWAYS sign a listing agreement unless certain conditions exist, as follows:
    - (1) A waiver of marital rights given by the non-signing spouse exists and a copy is provided to Quality Service Realty, Inc.

- (2) A quitclaim deed made to the signing spouse has been executed and recorded by the spouse not signing and a copy is provided to Quality Service Realty, Inc.,
- (3) A prenuptial agreement waiving the non-signing spouse's rights exists, a copy of the prenuptial agreement has been given to Quality Service Realty, Inc., and legal counsel for Quality Service Realty, Inc., has consulted with a title company to determine the validity of the prenuptial agreement.
- (4) A court order provides otherwise.

**\* A "spouse" as used in this Section includes a partner in a civil union.**

Most often, these questions come up when the property is titled only in the "selling" spouse's name and the "non-selling" spouse claims that he/she has no interest in the property. Typical situations are a widowed person who has remarried or a divorced person who has remarried. The spouse not on the title ALWAYS has a potential homestead interest under Florida law and MUST sign the listing agreement unless one of the four exceptions noted above exists.

- b. **PROPERTY IN ESTATE:** When property is in an estate, ALL heirs AND spouses must sign. If a Personal Representative (Executor or Administrator) has been named, it is possible that the Personal Representative has authority to sell the property. The licensee must secure a copy of the part of the will or court order which empowers the Personal Representative to sell property. The power of sale granted the Personal Representative by a will may not be acceptable to a title company until the time to file a will contest has expired, which is six months after the first publication of notice of Letters Testamentary being issued. Management or legal counsel for Quality Service Realty, Inc., will consult with a title company to determine if the power to sell in the will is acceptable.
- c. **TRUSTEES:** If a property is held by a trust, the trustee will normally be empowered to sell. However, the licensee must secure a copy of the part of the trust which empowers the trustee to sell because some trusts require the signatures of more than one trustee to sell as in the case of an individual and corporate trustee (bank). The trustee's spouse does not sign the listing agreement because the trustee is acting in a representative capacity.
- d. **SELLER INCAPACITATED:** If a seller is not mentally competent to sell, and no acceptable Power-of- Attorney exists, a guardian must be appointed by the court and the guardian must obtain a court order to sell the property. Until such time, the property cannot be sold even if a child, sister, niece, nephew, etc. is also on the title. Also, if a property is jointly owned in this fashion, the spouse of the "second signer" (child, sister, niece, nephew, etc.) must also sign the listing contract. It is possible that a properly drawn Durable Power of Attorney may provide a means to sell this type of property. However, before relying on the Durable Power of Attorney, a title company should be consulted to determine

whether the company will insure the title based on the existing Durable Power of Attorney. Also, refer to the paragraph on Powers of Attorney, below.

- e. **DIVORCES:** A person, including a partner in a civil union, is NOT legally divorced until a court so orders. A person "in the process of divorce" cannot sign the listing agreement alone. The spouse must also sign, regardless of whether the spouse is living on the premises or the couple has a "legal separation." Once divorced, the person may sign alone. However, if the county records continue to show the property in both names, the licensee must secure a copy of that part of the divorce decree which awards the property to the signing spouse for Quality Service Realty, Inc., files.
  - f. **POWERS-OF-ATTORNEY:** A Power-of-Attorney is acceptable for signature on a listing contract. However, not all powers-of-attorney authorize the sale of real estate. A copy of a recordable Power-of-Attorney authorizing the sale of real estate must be secured for the files of Quality Service Realty, Inc. Florida law requires a Power-of-Attorney for the sale of real estate to be recorded.
10. **SELLER NET PROCEEDS CALCULATIONS:** It is the policy of Quality Service Realty, Inc., to calculate estimated net proceeds for sellers as often as appropriate. The first estimate should be given on the listing call or as soon as possible after listing the property. Even though some information may not be available, such as exact loan balances or prepayment penalties, the licensee should use all existing information to prepare as accurate an estimate as possible and note any missing information.

When information becomes available, estimated net proceeds should be recalculated. This is particularly appropriate when an offer is presented and when each new offer or counteroffer is received.

Many reasons exist for using seller net calculations. First, it is an important service to a client. Secondly, it is important for Quality Service Realty, Inc., to know whether it is likely that there are sufficient proceeds to pay off the indebtedness on the property and the real estate commission. Finally, the company must know whether the seller of the property can deliver marketable title. If the indebtedness exceeds the listed price, immediate discussions must occur with the seller and the lenders to determine whether the property can be sold with clear title given the level of indebtedness.

Please see your managing broker for a format to use in determining estimated seller net proceeds and if you believe you have a short sale listing.

11. **LOCK BOX PROCEDURES:** Quality Service Realty, Inc., encourages the use of lock boxes on all listings as a safe, secure, efficient tool in marketing property. Specific permission from the owner must be obtained on each listing before installing a lock box.

12. **OPEN HOUSE PROCEDURES:** The "how-to" of holding open houses, etc., is covered elsewhere in Quality Service Realty, Inc., training programs and manuals. However, Quality Service Realty, Inc., maintains a policy that owners be informed of their responsibilities in consenting to open houses. Licensees must strongly recommend to owners that they take common sense precautions with any valuables in the house during the time of the open house. This includes removal of all jewelry boxes, collectibles of value, (sentimental or dollar value), small audio or video equipment or other items which may be of value. Owners should also be informed that their homeowner's insurance company is the responsible party for any losses from an open house.

As in all other areas, a licensee may not act carelessly or recklessly. If for no other reason, a licensee must be diligent in conducting an open house to maintain good business relations and rapport with the owner.

13. **INTERNAL VERIFICATION PROCEDURES:** QUALITY SERVICE REALTY, INC., maintains a system of checking and verifying both listing agreements and documents and sale contracts and documents for accuracy, enforceability and compliance with the License Act and the rules issued pursuant to the Act. Each licensee is expected to cooperate fully and promptly with any requests for verification, further information or correction of any oversights in the documents.

For other related policies, see the section on Risk Reduction Policies.

### **BUYER QUALIFICATION POLICY**

When acting as an agent of the buyer, qualifying the buyer is a critical step in completing a property transaction. Quality Service Realty, Inc., strongly recommends that each licensee become knowledgeable through company training and offered continuing education programs about properly qualifying a buyer as to her/his financial ability to purchase a property. Financial qualification has two major parts, as follows.

#### **1. LOAN QUALIFICATION**

If working as a licensee of the buyer, the licensee has duty to act diligently for her/his client. In this case, the client is the buyer. The buyer client has a right to expect that the licensee will diligently determine whether a buyer can qualify to purchase a certain type of property. These, steps may include:

- a. Completion of a financial qualification form. This form should be in sufficient detail and sufficiently accurate that the buyer is reasonably sure of qualification. If a licensee is not sure of her/his level of skill to complete such a form, the licensee should get further education and training and immediately call a sales manager or lender to assist.
- b. Consultation with the buyer and a lender to determine financial ability to qualify for a loan and the amount of the loan.

Remember, that if you are working as a disclosed dual agent of the seller and the buyer your qualification of the buyer will benefit both clients but that you must keep confidential information of each client to yourself.

## 2. ESTIMATED CLOSING COSTS

The second type of financial qualification which accompanies loan qualification (and in many cases is a part of loan qualification) is estimating closing costs. Duties exist to diligently and accurately estimate closing costs. Quality Service Realty, Inc., has a policy of strongly encouraging its licensees to become educated through company and/or board/association training and education about estimating closing costs.

Do not use rules of thumb such as 2-5% of the purchase price. The spread of costs is too great in such estimates to be sufficiently accurate. For a first-time buyer with little cash, a one-half percent difference in closing costs can mean the difference between purchasing and not purchasing.

Do not use computerized closing cost estimating programs unless previously approved and authorized by Quality Service Realty, Inc. The programs may or may not take local costs and variations into account. In addition, the programs which allow for local costs may require that the licensee input the costs. If the licensee desires to use such a program, management of Quality Service Realty, Inc., will approve its use and review the local costs being input.

Lender closing costs are generally reviewed in loan qualification procedures. One note of caution is in order. Some lenders unbundle services and charge for each service. These so-called "extra" costs are in addition to origination fees and points. They may include charges for "processing fee", "underwriting fee", "lender's closing fee" (apart from title company closing fee), "notary fees", "document preparation fee", "courier fee", etc., totaling \$500.00 or more on a single closing.

Whether representing a buyer or a seller, a lender should be asked what her/his "extra" fees are at the time closing costs are estimated and not at time of commitment or closing.

Although Quality Service Realty, Inc., emphasizes accurately and diligently estimating closing costs, it is the policy of Quality Service Realty, Inc., that we do not prepare final closing statements. The preparation of final closing statements may require contract interpretation and thus result in allegations of the unauthorized practice of law.

## **SALE CONTRACT POLICY**

### **1. SALE CONTRACT COMPLETION**

As a member of the FLORIDA REALTORS ASSOCIATION, Quality Service Realty, Inc., uses the standard contract form and riders available through Simplicity. The agent may only complete the contract form that is commonly used in the community with business or factual information. Beyond that, if the client wants to change the language of the contract provisions or add other than the standard form riders, the client must do so themselves or through their attorney. If the client has a question concerning the legal effect or impact of contract language they should be referred to their attorney. The licensee may answer questions about the contract and riders based on their experience and what the customs and practices in the community may be. It is the policy of Quality Service Realty, Inc., that no licensee shall prepare or complete a legal document for a client or customer other than the standard sales contract form or standard riders to the contract. This does (or does not) include leases.



## 2. SALE CONTRACT TERMS

Several areas of contract terms are traps creating risk for the unsuspecting agent. Quality Service Realty, Inc., maintains policies regarding these areas to reduce risk and heighten awareness. These are covered below.

- a. **EARNEST MONEY:** Several concerns regarding earnest money are involved. First is the "how much" issue. The Company cannot maintain a policy which requires any specific amount of earnest money as the company and licensee are not parties to the contract. However, if you represent the seller, the advice to the seller will be that sufficient earnest money is very important in that it shows how "earnest" a buyer is. The company has seen many cases where low earnest money (1-2% of offer price or less) has resulted in a buyer simply defaulting on the contract and forfeiting the low amount of earnest money, banking on the fact that it is unlikely that a seller would sue. There have also been many cases where sufficient earnest money (4-7% of the offer price or more) has kept an anxious buyer in a contract to closing because of the prospect of losing a substantial amount of earnest money.

If you represent the buyer, the classic approach to buyer representation might suggest to provide the lowest possible earnest money in every case. However, the licensee is cautioned that this may not serve the best interests of the buyer in all cases. For example, because earnest money indicates how "earnest" a buyer is, or how "strong" an offer is, a buyer may be at a competitive disadvantage if low earnest money is offered in a situation where the buyer's offer is competing with one or more other offers. As in all other situations, if you represent the buyer, your job is to give the buyer the best of the licensee's and company's expertise, advice and talent which may include advice which on first impression does not follow the "typical" rules.

A second earnest money issue deals with what can be accepted as earnest money. Florida rules define "escrow moneys" which includes earnest money, as "all moneys, promissory notes or any other type or manner of legal tender or financial consideration..."

The policy of Quality Service Realty, Inc., is that only cash, checks or money orders are accepted as earnest money without further permission from the parties. The company's policy regarding the rule is that items such as postdated checks are not acceptable. The company will not hold checks even if postdated. Any money given to Quality Service Realty, Inc., will be deposited to the Company escrow account immediately upon an accepted contract and not later than the next business day after acceptance as provided for in the License Act rules. Agents must promptly transmit funds to the broker for deposit.

A corollary issue occasionally arises regarding acceptance of a credit card or line of credit check (Visa, MasterCard, American Express, home equity loan). While it is arguable that these "checks" are negotiable, Quality Service Realty, Inc., takes a conservative position regarding these instruments and strongly discourages their use. The primary reason for this policy regards the difficulty in determining whether this instrument has "cleared". There is no easy way to determine whether the line of credit

has been exhausted or overdrawn and upon presentation, will be rejected. In addition, a lender may require that such balances be paid off before loan approval or closing.

- b. **INCLUSIONS AND EXCLUSIONS:** As covered in the section on Accuracy of Listing Information, the contract is the primary method to determine what is being sold with the property. Do not rely on the listing agreement or listing information sheet as to the inclusions and exclusions in a transaction. These documents are not normally made a part of the contract.

This area is of great importance for risk reduction purposes. Personal property inclusions and exclusions cause a great number of the disputes in a sales contract and can be expensive for an unwary licensee.

Some common problem areas the company is familiar with are as follows:

- (1) Loose laid carpet that resembles tacked down carpeting.
- (2) Draperies, curtains, window treatments, etc., especially as to which may be excluded (e.g. master bedroom draperies which match the bedspreads).
- (3) Stoves/ranges (check contract for inclusion in printed matter).
- (4) Portable dishwasher.
- (5) Refrigerator (Even if built-in.).
- (6) Burglar alarms (Be sure to determine whether leased or owned and whether any continuing service fees apply.).
- (7) Outside mailbox and post (Typically "fancy" or ornate mailboxes and posts which a seller may want to remove.).
- (8) Swimming pool equipment and pool equipment.
- (9) Porch swing.
- (10) Bathroom mirrors.
- (11) Farm equipment.
- (12) Riding lawn mower.
- (13) Fireplace equipment and/or screen.
- (14) Gas lights or BBQ's (Be sure to check whether these are paid off.).
- (15) Above ground pool.
- (16) Hot tub or spa.
- (17) Swag lights.
- (18) Book shelves (Watch shelves where brackets are attached and wood shelves are not.).
- (19) Special shower heads.
- (20) Playhouse/treehouse.
- (21) Special or ornate door knockers.
- (22) Water softener (Check whether leased or owned.).
- (23) Central vacuum equipment (hoses, nozzles, etc.).
- (24) Stained glass (Even though usually attached, can sometimes have sentimental value to seller who intends to remove.).
- (25) LP gas tanks (Check whether leased or owned.).
- (26) Fireplace logs.
- (27) Ben Franklin stove.

- (28) Solar or alternative energy systems.
- (29) Fireplace inserts (May or may not be attached.).
- (30) Satellite dish and converter boxes/units.
- (31) Under counter appliances (Microwave, coffee maker, can opener, radio).
- (32) Basketball hoop.
- (33) Garage door opener controls.

This list certainly does not address all of the possible problems. For example, the company is also aware of a seller who removed a flagstone walk which was obviously attached to the property. Be aware of the potential hazards in this area and act with caution, making sure inclusions and exclusions are clear in the contract. Licensees are cautioned not to use simple statements in the address section of the contracts stating "per MLS sheet" or "per MLS #XXXX." These can create confusion as to what MLS sheet and when the MLS sheet was run.

- c. "AS-IS" CONTRACTS: Often, listings may be offered in "as-is" condition. This term is unclear, at best. The policy of Quality Service Realty, Inc., is to refer the parties to legal counsel for acceptable language to memorialize the "as-is" agreement.

In addition, the Florida Residential Real Property Disclosure Act is clear that an "as-is" sale does not relieve the seller of the obligation to accurately disclose all material facts of which he/she has knowledge relating to the physical condition of the property. Also, the fact that the parties agree to an "as-is" sale does not change the agent's disclosure obligations to answer the questions on the form completely to the best of their actual knowledge.

### 3. SALE CONTRACT NEGOTIATION

The techniques and principles of sale contract negotiation (the "how-to") are covered in the Company's training programs. Each licensee is encouraged to take full advantage of these resources to improve her/his skill in this area vital to success in this business.

Aside from sale contract negotiation techniques, Quality Service Realty, Inc., maintains policies which are directed to the legal and ethical aspects of contract negotiation. These are listed below.

#### a. PRESENTATION OF OFFERS

In accord with the Code of Ethics and License Act, Quality Service Realty, Inc., requires the agent to present all offers to the seller until closing and all counter offers to the buyer, regardless of how many offers received and regardless of the order in which the offers were received. The only exception to this would be when the client has provided direction to the contrary. If this is the case, make sure the client's direction is clearly set forth in writing and placed in their file or archived online. Quality Service Realty, Inc., urges any licensee involved in a multiple offer situation to contact management to review the proper procedures.

The Company will always be guided by lawful instructions of the client in any multiple offer situation. While the Company believes that these procedures protect the client, the client may choose to give the Company other lawful instructions. The licensee should discuss with the client, whether seller or buyer, the customary procedures for handling multiple offers so that the client may determine whether the client wishes to give the licensee or Company different instructions.

### **OPTION 1**

In the event of multiple offers on one property, Quality Service Realty, Inc., follows a policy, subject to client direction, of notifying all offers that his/her offer is in competition with other offers as well as giving that person the opportunity to change the offer. The notification shall take place only after multiple offers actually exist and not when the listing agent may have knowledge of other offers being written or possibly being written.

An exception to this policy exists if the seller has a currently effective counter offer in possession of a buyer. In that event, the agent will not disclose the competition to the second or later offeror until the seller has had the opportunity to examine the second offer. This gives the seller the ability to determine whether he/she desires to revoke her/his counter offer to the first offeror to negotiate with the second offeror.

The licensee should not reveal any terms of the offer to any other party including expiration time of the offer, price, closing dates, earnest money amounts, financing types, amounts or dates or other terms.

### **OPTION 2**

In the event of multiple offers on one property, Quality Service Realty, Inc., follows a policy, subject to client direction, of silence to all offerors as to whether other offers are in existence. Quality Service Realty, Inc., believes that each offeror has the opportunity to put his/her "best foot forward" in making the offer.

If another licensee, whether from Quality Service Realty, Inc., or another company, asks the listing agent to "let me know if another offer comes in Quality Service Realty, Inc., has a general policy of not acknowledging such requests. If other offers come in, the licensee should advise the client that inquiries of this nature have been made and ask the client whether those requests should be followed up.

If multiple offers exist and the listing agent has written one of those offers, the policy of Quality Service Realty, Inc., in such circumstance is that the listing agent may not present any of the offers. In this case, a managing broker (or other Quality Service Realty, Inc., licensee if management is not available) must be

asked to present the multiple offers.

If a listing agent has already presented an offer from another agent and a customer or client of the listing agent asks to write a competitive offer, the policy of Quality Service Realty, Inc., is that the listing agent must ask the managing broker or other Quality Service Realty, Inc., licensee to write the offer for the listing agent's prospective buyer. The listing agent's prior knowledge of the first offer could be seen as influential or biased if the listing agent's prospective buyer should be successful in negotiations.

In general, whenever the listing agent has knowledge of an offer presented, or could use information he/she has to the detriment of one of the competing parties, Quality Service Realty, Inc., strongly recommends that a third-party licensee, such as a managing broker or other licensee, be appointed to assist in the negotiations.

A final issue regarding presentation of offers regards whether an oral offer must be presented. The REALTOR Code of Ethics and the License Act require that, unless otherwise directed by the Seller, all offers be presented to the seller.

In accord with agency obligations of disclosure and loyalty and in the spirit of the Code, Quality Service Realty, Inc., has a policy of giving the seller client all material and relevant information of which the licensee has knowledge. In accord with this policy, if a buyer insists on an oral offer, the company believes that the seller is entitled to that information.

The Company recognizes that such an oral contract is unenforceable under the laws of Illinois. However, it is prudent to tell the seller what the licensee knows, that is, an oral offer was made by this party and it is unknown whether the party will ultimately be willing to commit the offer to writing. At this point, a seller may choose to make a written offer to sell and thereby initiate the contract process him/herself.

- b. **TIMING OF PRESENTATION:** Quality Service Realty, Inc., also strongly supports and maintains a policy to present all offers and counter offers as quickly as possible. The REALTOR Code of Ethics and License Act provide the standards in this area. License Act uses the term "timely" as to tendering offers and counter offers and the Code states offers must be submitted "as quickly as possible."

The policy of Quality Service Realty, Inc., is that these terms are to be interpreted to mean "immediately" or "as soon as reasonably possible". As an example, a listing agent's receipt of an offer should immediately generate a telephone call to the owner to determine when the seller is available for presentation of the offer. Once contacted, the seller can then instruct the listing agent as to when to present the offer. The critical point is that Quality Service Realty, Inc., believes that the listing agent **MUST** make a diligent

effort to contact the seller immediately upon receipt of the offer - not an hour later, not when the licensee finishes lunch, not after the licensee shows property.

In the case of a buyer agency, the same principles apply with equal weight. The buyer is the client and must be treated with the same high levels of professionalism as a seller who is a client.

This is an extremely simple yet very important risk reduction technique. Every Quality Service Realty, Inc., licensee should consider this of prime importance. The obvious danger in not taking this issue seriously is that the offeree can revoke/withdraw her/his offer at any time prior to delivery of a valid acceptance. Quality Service Realty, Inc., does not want to be in a position of defending an action where an offer was withdrawn before a seller was contacted or diligent efforts to contact the seller were not made.

These issues are common, daily events which the licensee should learn to handle with skill and ease. The licensee's ability to understand and deal with these issues will act as a significant risk reduction method and contribute to a licensee's successful practice of the real estate business.

#### 4. UNAUTHORIZED PRACTICE OF LAW (UPL) ISSUES

Quality Service Realty, Inc., has a policy that allows its sponsored licensees to assist its clients when they are negotiating contracts using their professional expertise in market conditions and negotiating skills in order to advise their clients. If there is a form purchase contract that is commonly used in the community, then licensees can complete business and factual information for their clients, or for customers on behalf of Quality Service Realty, Inc., clients. Licensees shall not (i) advise as to the legal status of any contractual agreement except to indicate whether it has been accepted and signed; (ii) explain the meaning of any contractual provision; and (iii) draft contract language for the parties to a purchase or lease transaction. Licensees will recommend the advice of legal counsel to their clients and customers just as they would recommend other experts in matters that require particular expertise and/or licensure.

### **ADVERTISING POLICY**

The specific procedures for advertising properties with Quality Service Realty, Inc., are found in other training materials. These procedures, such as where and when properties are advertised are subject to change. The policies stated here primarily regard the legal and risk reduction aspects of advertising.

The following policies apply to all property listed with Quality Service Realty, Inc.

1. Quality Service Realty, Inc., adheres strictly to the License Act and rules regarding advertising.

2. No property will be advertised in any way, including placing a sign on the property without a signed written listing agreement on file with the broker (managing broker). The listing agreement in the hands of the licensee is not sufficient. If a listing agent has a listing he/she wants to advertise, the original, a fax, or electronic version of the original must be in the hands of the managing broker.
3. One party listing agreements (also called "one-time listings") will not be discussed, orally or in writing, with any person outside of Quality Service Realty, Inc., licensees unless a signed one-party listing agreement is obtained.
4. A listing which is due to expire by the publication date of a newspaper or magazine ad will not be inserted into the ad unless a written extension of the listing is received by the managing broker before the deadline for placing the ad.
5. No price changes or other substantive changes to the listing will be advertised unless a written change of the price or other appropriate information is received by the managing broker before the deadline for placing the ad.
6. Information on features of the property will not be advertised as "new" unless substantiated by written receipts or other evidence of payment from the owner showing the date the work was done. If the verification is received, it will be advertised with the appropriate date. If the verification is not received, the listing agent must use other words such as "newer" or "recent" to describe the feature.

Licensees should take special care to follow these same rules in the use of "special feature" sheets. If a licensee does not follow this policy regarding any information sheets or other documentation/advertising the agent prepares, the licensee will be solely liable for any errors or omissions which later cause any losses.

7. "For Sale" signs and lock boxes will be removed immediately upon request of the owner or expiration or withdrawal of a listing.
8. According to the REALTOR Code of Ethics, prior to closing, only the sold sign of the listing broker is allowed on the listing, unless the listing agent consents otherwise. It is the policy of Quality Service Realty, Inc., that the seller's permission must also be obtained. It is also the policy of Quality Service Realty, Inc., that if the company is the cooperating broker a sold sign may be placed at the property after the closing with the written permission of the buyer. Per the Code of Ethics, either the listing broker or the cooperating broker may claim to have sold the property in advertising and representations to the public.
9. Personal advertising by individual agents is encouraged. Any personal advertising must be approved by the managing broker. The License Act and rules require that the sponsored licensee include the company name if the sponsored licensee's name is used. This policy covers all types of licensee advertising, including personal sign riders, business cards, car signs, homes magazine ads, classified ads, direct mail solicitations,

specialty items (key chains, pens, pads, etc.), newsletters, farming materials, neighborhood newsletters, billboards, Internet advertising, etc. This list does not include all possible types of licensee advertising. One possible problem may exist in the use of a licensee's first name only in advertising. While the rules do not specifically address this issue, Quality Service Realty, Inc., believes that the rule's and Code's use of the term the licensee's "name" means the full name of the person and not just a first name, initials, or a first name with last initial. Without the full name, the public cannot identify the person doing the advertising. Use of first names, initials, or first name with last initial only in licensee advertising is not allowed.

10. The managing broker designated as such by the sponsoring broker with DBPR may use that term in advertising of any kind. A managing broker designated as such with DBPR must use the term "managing broker" in all advertising except broker yard signs.
11. Any advertising containing financial terms of the offering must comply with federal Truth-in-Lending laws, found at 12 C.F.R. Part 1026 and also known as Regulation Z. Regulation Z requires that all of the terms of the financing be stated if any of the "triggering terms" are used. "Triggering terms" are terms such as the amount of down payment ("10% down"), the amount of any payment ("Only \$550 per month"), the period of repayment ("30 year loan available") or the number of payments ("Only 48 monthly payments").

If any of these terms are used, the following disclosures are required:

- a. Amount or percentage of down payment.
- b. Terms of repayment.
- c. Annual Percentage Rate, stated and calculated as such.

Use of any interest rate in advertising is not allowed. Only the Annual Percentage Rate, stated and calculated as such is allowed. Therefore, a property cannot be advertised as having a "7% assumable VA loan."

Not all terms trigger Regulation Z disclosure. Some examples of terms which can be used without triggering Regulation Z disclosure are "No down payment", "Financing Available" or "Special Financing", "Assumable Loan".

12. The Internet or some other form of electronic advertising may be used for advertising purposes. Keep in mind that all advertising rules and regulations apply to any material that a consumer might reach that is not behind any "firewall" or in a password protected area. In other words, anything not protected by password entry is advertising. As a result, the company name must be included and information must be accurate and timely. On the other side of the "firewall" or after a consumer enters a password protected area, the licensee should follow brokerage relationship procedures outlined in this Manual starting on page 14.



13. Commercial e-mail messages are also governed by the Federal CAN-SPAM Act. For CAN-SPAM requirements see Attachment A to this Manual.
14. See the Social Media section in this Manual regarding Advertising and the use of social media in accordance with this Company's policies.

## **RISK REDUCTION**

Quality Service Realty, Inc., advocates and encourages the concept of risk reduction. A significant majority of the claims filed against real estate agents and brokers allege some type of misrepresentation or fraud. The trend of the law in the real estate industry is for more and more disclosure. Accordingly, Quality Service Realty, Inc., has the following policies regarding risk reduction and disclosure.

1. **COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS:** As an agent of Quality Service Realty, Inc., each person assumes the obligation of strict compliance with all laws, rules and regulations which govern real estate licensees in the State of Florida.
2. **COMPLIANCE WITH THIS POLICY MANUAL:** As an agent of Quality Service Realty, Inc., each person agrees to comply with all policies as stated in this manual and its additions, changes and amendments as from time to time published by management of the company. Failure to comply with the policies herein subject the licensee or staff member to disciplinary action which may include termination of association with the company.
3. **PHYSICAL CONDITION OF THE PROPERTY:** In accord with the REALTOR Code of Ethics, the Florida Real Estate License Act, the License Act rules and Florida common law, the policy of Quality Service Realty, Inc., is to disclose to all appropriate parties any known material physical conditions or defects of a property which are latent or not readily observable. This applies whether Quality Service Realty, Inc., is the listing agent, or buyer's agent.

Physical conditions on the property may include water in the basement, foundation cracks, drainage problems, defects in any of the major systems of the property (electrical, plumbing, heating, cooling), environmental conditions on or near the property, roof problems, etc.

4. **PSYCHOLOGICAL "STIGMAS" ON THE PROPERTY:** These include whether a homicide or other felony, or a suicide occurred on the premises or if an occupant or former occupant of the real property has or had AIDS or any HIV positive condition. The "psychological impact" statute in Florida provides that no cause of action may be brought against a real estate licensee for failure to disclose to a buyer or other transferee of real property that the real property was a psychologically impacted real property. Although this statute protects a licensee for failure to make a disclosure, it does not prohibit disclosure. Likewise, the Code of Ethics does not require disclosure in situations

where state law defines these factors as not material. (As mentioned above, Florida statutes do provide that these facts are not material.)

The 1988 amendment to the Fair Housing Act includes a person with AIDS, HIV, or other related illness as a handicapped person. The Act likely prohibits a licensee or broker from disclosing that the occupant or the former occupant of a dwelling suffered or suffers from AIDS. Therefore, it is the policy of Quality Service Realty, Inc., that a licensee should not make an unsolicited comment that the current or former occupant has or had AIDS. Further, if an inquiry is made by the buyer as to whether the occupant has AIDS, the licensee shall not respond to such a question. The licensee should state to the effect "it is the policy of Quality Service Realty, Inc., not to answer that type of question one way or the other since it is not material and may violate the Fair Housing Act." If the buyer persists, the licensee shall state, "if that information is important to you, you must determine that information for yourself."

Because of the practical problems of the inevitable "disclosure" of these factors (often by the neighbors), the policy of Quality Service Realty, Inc., is to discuss with the seller-client the inevitability of this disclosure and to recommend disclosure of psychological factors other than AIDS, HIV, or related illnesses that may have an impact on a purchaser's decision to buy. Recent violent crimes or suicides are specific examples of such events. If, after this discussion, the seller-client instructs the company not to disclose these factors, the company will comply with such request and rely on the protection of the Florida statute or after consultation between the managing broker and the licensee to terminate the listing agreement.

If a licensee of the company represents the buyer and has knowledge about a stigma that does not relate to an HIV/AIDS situation, the buyer's agent should disclose the information to the buyer client in serving the buyer client's best interest. The licensee should have actual knowledge. Also, buyers can be directed to the Florida State Police website for a list of registered sex offenders.

5. **DOCUMENTATION OF DISCLOSURE:** As is apparent, Quality Service Realty, Inc., advocates full disclosure in appropriate circumstances. However, all the disclosure in the world does no good if it cannot be proven. While it would be ideal to have every single disclosure as to every material item disclosed to the parties in writing with their acknowledgment of the disclosure, such is not usually possible.

It is the policy of Quality Service Realty, Inc., that a copy of the Residential Real Property Disclosure Report be put in each file. In addition, the licensee should document in his/her own personal notes and files each item which is disclosed in a transaction.

This simple policy can reduce risk and potentially save many thousands of dollars. It assumes that the licensee has a regular, systematized method of organizing and keeping files. This is vitally important to a good documentation procedure.

While the Company does not require a licensee to use any one method, it does provide standardized files/folders/envelopes/computerized files for licensees to use in each transaction. Licensees are strongly encouraged to use this organization system as it has been developed to keep track of details, act as a transaction checklist and risk reduction method.

Disclosure is great, but documentation of the disclosure is the glue that seals the cracks.

6. **USE OF EXPERTS & "RECOMMENDATIONS":** QUALITY SERVICE REALTY, INC., maintains a strong policy that an agent not go beyond her/his area of expertise regarding a transaction. The company strongly recommends that a licensee advise the use of an expert in situations where appropriate, including the use of an attorney by a client. For example, if questions arise with a buyer about the adequacy of the electrical system, the licensee should advise that a building inspector, engineer or licensed electrician be consulted.

However, an equally strong policy exists in **NOT** recommending any particular inspector, engineer, electrician or other expert. While advising that **AN** expert be used is a good risk reduction technique, the benefits of this technique may be lost if a specific expert is recommended. Recommendation of a specific expert could lead to liability if the expert fails to do his/her job and the agent was negligent in recommending that person.

The policy of Quality Service Realty, Inc., is to give the names of three experts in each field whenever asked for a recommendation. Do not fall into the trap of responding to a customer/client saying "Yeah, but which one do you really recommend?" The licensee should be firm in having the customer/client make the choice.

Some licensees have found a helpful tool in keeping several sample reports from various building/mechanical inspectors, engineers, roofers, etc. When the customer/client asks for a recommendation, the licensee gives the customer/client the samples and suggests that they choose the style and cost of the expert which fits their style and needs the best.

A related issue is ordering the report. The policy of Quality Service Realty, Inc., is that the licensee should not order the report if at all possible. The Company recognizes that certain situations require the licensee to place the order, but, in general, the licensee should have the customer/client place the order. This removes the Company and licensee from any involvement in the selection process and reduces the liability of possible negligence in "recommendation" of an expert.

7. **REPRESENTATIONS:** Statements made by you about a property whether in person, in writing or electronically will be considered as representations by you. Make sure that you know whether those representations are accurate. If the information comes from third party then so indicate when making that statement. For example, "According to XYZ school this resident is located in their school district."

8. **TRAINING:** As stated in other parts of this manual, training and education are integral parts of any risk reduction and professionalism program. All licensees are expected to complete the company's initial training program and are strongly encouraged to take advantage of company, board and association education programs.
9. **USE OF LEGAL COUNSEL:** Whenever a licensee believes she/he requires legal assistance, the managing broker should be contacted. The company has legal counsel for appropriate legal questions and problems. In addition, the Florida REALTORS® provides a free Legal Hotline for legal educational information for those registered by the company or the designated broker. The earlier a legal question or problem is brought to the attention of management, the earlier the problem can be solved. The Company's position is that wisely spent legal fees early in a problem can save many thousands of dollars if a formal complaint or lawsuit arises.
10. **UNAUTHORIZED PRACTICE OF LAW (UPL) ISSUES: QUALITY SERVICE REALTY, INC.,** has a policy of referring experts when a particular license and/or expertise is needed. Licensees will avoid UPL in the following areas:
- Interpretation of lease or purchase contract provisions between buyers and sellers or landlords and tenants;
  - Drafting any substantive language in lease or purchase contracts between buyers and sellers or landlords and tenants;
  - Advocating, appearing on behalf of, drafting and signing appeal documents for a taxpayer in a property tax appeal matter. Licensees may act as expert witnesses to help the taxpayer support his valuations in a property tax appeal matter and may consult with the taxpayer as to valuations and comparable information prior to the appeal.
- Keep in mind that Quality Service Realty, Inc., is allowed to revise documents to which the company is a party. Licensees should check with their managing broker before making any changes to these types of documents. An exclusive right to sell agreement is an example of one such document.
11. **ERRORS AND OMISSIONS INSURANCE:**

**Option 1:**

Quality Service Realty, Inc., carries errors and omissions insurance in the amount of \$\_\_\_\_\_ with a deductible of \$\_\_\_\_\_. (**NOTE: Fill in the appropriate amounts of your policy.**) All licensees and staff of the Company are covered by the policy. The policy is paid by (**NOTE: The company should insert here the method of payment for the policy, whether by the Company, on a cost sharing basis with the agents, by the licensees or some other arrangement.**)

Errors and omissions insurance generally covers the negligent acts of the insured. It does not cover all possible damages for which the Company could be liable. For example, no errors and omissions insurance covers punitive damages or managing or selling properties you own. For other exceptions, contact the managing broker for a copy of the policy.

Errors and omissions insurance does cover defense costs, that is, the legal fees involved in defending a claim against the Company or licensee subject to any pertinent deductible. This is very valuable coverage.

The policy of Quality Service Realty, Inc., is that each licensee must notify the managing broker as soon as the agent is aware of a possible claim against the licensee/broker. "Possible claim" means the potential of a disagreement which could lead to a lawsuit against the Company or licensee. It is only in this way that the Company can properly invoke the errors and omissions coverage, if necessary.

### **Option 2:**

While the Company does not carry errors and omissions coverage, each agent should consider doing so. Such individual coverage is available through a program sponsored by the Florida REALTORS® and underwritten by CNA (as well as from other carriers). The licensee should contact the broker (sales manager) for details on securing such coverage.

Errors and omissions insurance generally covers the negligent acts of the insured. It does not cover all possible damages for which the agent could be liable. For example, no errors and omissions insurance covers punitive damages or managing or selling properties you own.

Errors and omissions insurance generally covers defense costs, that is, the legal fees involved in defending a claim against the company or agent, subject to any pertinent deductible. This is very valuable coverage.

The policy of Quality Service Realty, Inc., is that each licensee must notify the broker (managing broker) as soon as the licensee is aware of a possible claim against the agent/broker. "Possible claim" means the potential of a disagreement which could lead to a lawsuit against the Company or agent. It is only in this way that the Company can properly defend itself against the possible claim.

12. **COMPLAINT HANDLING PROCEDURES:** One of the simplest and most cost effective risk reduction methods is a good complaint handling process. Accordingly, Quality Service Realty, Inc., establishes the following procedures for handling complaints.
  - a. If the complaint comes to a licensee involved in a transaction, the licensee will initially be the primary contact person to handle the complaint with management assistance. At a minimum, the licensee should immediately notify the managing

broker of the complaint. The managing broker will then make a determination as to whether the licensee should continue to handle the complaint or whether the complaint should be handled by a designated management representative.

- b. If the complaint comes in without specifying a licensee, the managing broker will handle the complaint. If a specific management person is requested (such as "I want to speak to the President!"), the person answering the call should courteously direct the call to the requested person, if available, or the managing broker in the requested person's absence. The caller should **ALWAYS** be assisted in some way. The person taking the call should not say "Oh, she isn't here right now." or "You'll have to call him later." or "Please call her office." It is very important to handle an aggravated or upset caller with the utmost courtesy and care.
- c. Whoever takes the complaint, the key factor in handling the call is to **LISTEN** to the caller's complaint. The most appropriate and helpful thing the call handler can do is give the person filing the complaint a full and fair airing of his/her grievance. Many times, simple listening to the complaint does much to alleviate the caller's frustration. Sometimes, being listened to is all the person really wants. **ACTIVE LISTENING** is critical.
- d. Usually, the most successful way to handle the initial complaint call is to validate the caller's concerns. In general, it is best not to challenge the caller or become defensive. **GET THE FACTS!!** Simply try to get all necessary information from the caller's perspective, even if the complaint handler knows it may not be 100% accurate. Remember to document the conversation in writing. Make notes or write a memo about the conversation as soon as possible.
- e. Usually the call can be ended by assuring the caller that the matter will be investigated. The complaint handler should tell the caller what he/she can expect. For example, "Mr. Smith, I would hope you understand that I need to do some research. I will look into the matter, discuss it with Suzie and get back to you by Tuesday." The caller should always be told what the complaint handler will do and by when. **THEN DO IT!!**

## **SOCIAL MEDIA**

### **(Governing the use of e-mail, Internet and Social Networking Tools)**

Quality Service Realty, Inc., (Company) policy is that Company owned computers and Company provided access to e-mail and the Internet are to be used principally for business purposes. **(Personal use of agents'/employees' own equipment and access secured on your own are covered by this policy when used for business purposes. When using your personal equipment and access secured on your own remember that you are always licensed and thus subject to regulation whenever you are discussing your business, even when using personal e-mail, the Internet or social networking tools.)** The Company recognizes that

limited personal use of e-mail, the Internet, and social networking tools (such as Facebook<sup>®</sup>, Twitter<sup>®</sup>, Linked In<sup>®</sup>, YouTube, Pinterest or “blogging”) can be a benefit to licensees, employees and other authorized users.

The use of technology in our business is changing at a very rapid pace. Therefore, this policy will not only provide guidance with regard to the use of the Internet, e-mail and social networking tools in the businesses of licensees/employees of the Company but also general principles to be followed in using future technologies and communication. Note that this policy applies when licensees/employees are using e-mail, the Internet, and social networking in an effort to advance their real estate brokerage business while using Company, personal or a third party’s equipment. The Company directs its licensees/employees to follow the basic limits listed below; along with more specific requirements outlined in this chapter of the Policy Manual.

## General Requirements

1. Licensees/employees must take care to protect their client's confidential information at all times. This includes in the licensee/employee's use of the Internet, certain e-mail messages and social networking tools.
2. Licensees/employees must be courteous and professional at all times, especially when representing the Company. This includes the licensees/employees' use of the Internet, e-mail and social networking tools. Licensees/employees shall not make defamatory or derogatory remarks about clients in their electronic communications. They will not engage in "cyber-bullying" or any similar behavior which may disturb our clients or those with whom our agency interacts.
3. Licensees/employees must take care to be truthful when advertising or making other representations. This includes those statements made or advertising placed through use of e-mail, the Internet, your personal Website or social networking tools.
4. Licensees/employees are encouraged to seek the advice of their managing broker or the Office Internet Consultant if they have questions or concerns regarding the use of the Internet, e-mail or social networking tools before publishing any information that could be questionable.

## Use of the Internet, e-mail or social networking tools while at the office of the Company or on Company equipment.

Use of e-mail, the Internet and social networking tools by agents and employees is subject to the following guidelines:

1. Licensees/employees may use e-mail, the Internet and social networking tools in connection with conducting their business on behalf of the Company.
2. Licensees/employees may not use e-mail, the Internet or social networking tools for personal use except during break times, lunch time, and before and after normal working hours so as not to interfere with licensees'/employees' duties for the Company.
3. Licensees/employees may not use e-mail, the Internet or social networking tools for non-work related private business.
4. Licensees/employees may not use e-mail, the Internet or social networking tools to participate in football, basketball or other sports pools or leagues, or to gamble.
5. Licensees/employees may not use e-mail, the Internet or social networking tools to conduct political activities (unless expressly authorized to do so as part of agent's/employee's duties to the Company).



6. Licensees/employees may not use e-mail, the Internet or social networking tools to visit any pornographic sites.
7. Licensees/employees should not use e-mail, the Internet or social networking tools to discuss the business policies or practices of the Company with any person outside the Company without first clearing that with your managing broker. Licensees/employees may discuss policies/practices of the Company with a client or prospective client, but only through “private” e-mail and not through the use of social networking tools.
8. Licensees/employees may not use e-mail, the Internet or social networking tools to transmit any defamatory, offensive, harassing, disruptive, or derogatory statements or images that offend on the basis of race, religion, ethnicity or national origin, sexual orientation, political beliefs or disabilities.
9. Licensees/employees may not use e-mail, the Internet or social networking tools to distribute chain letters, search for alternative employment, transmit jokes, or participate in Internet discussion groups (unless such discussion groups relate directly to licensee’s/employee’s job).
10. Licensees/employees may not use e-mail, the Internet or social networking tools in any manner that is prohibited by law or otherwise illegal.
11. Licensees/employees may not use e-mail, the Internet or social networking tools to upload, download or transmit, without the Company’s managing broker’s permission, copyrighted, trademarked or patented materials, trade secrets, or confidential, proprietary or private information or materials, except to the extent that they are used by a licensee/employee in connection with a transaction.
12. Licensees/employees should not use e-mail or social networking tools in any manner that would advocate that the Company adopt or that would indicate that the Company has a position or policy in place that is anticompetitive or which would otherwise violate state or federal antitrust laws.

The Company reserves the right to monitor, access, retrieve, read and (for legitimate business purposes) disclose all communications by or to licensee/employee with or without notice to licensee or employee. Accordingly, licensees/employees have no right to or expectation of privacy in the use of e-mail, the Internet or social networking tools on equipment owned by the Company. The Company has no obligation to ensure against authorized access to your e-mail or Internet use.

## Advertising

1. When licensees/employees are advertising properties using e-mail, the Internet or social networking tools they shall abide by all provisions contained in the License Act, its rules, and the REALTOR® Code of Ethics. Examples are including the Company name and information that makes the message truthful and complete in all advertising and not a blind ad.
2. Licensees/employees will comply with Federal CAN-SPAM requirements when using e-mail, the Internet or social networking tools to transmit electronic commercial messages. (See Attachment A of this manual for CAN-SPAM compliance requirements).
3. Licensees/employees will not use deceptive key words, meta tags or other devices to deceptively drive traffic to an Internet site.
4. Licensees/employees will make sure that all advertising information given via e-mail, the Internet or social networking tools is current and accurate. Information should be checked periodically for accuracy and freshness.
5. Licensees/employees will comply with all Fair Housing laws or regulations (federal, state, local and ethical) when using e-mail, the Internet or social networking tools in their businesses. (See p. 20 of this manual for fair housing policy).
6. Licensees/employees will discuss with client(s) the advertising/marketing to be done on their behalf including the use of e-mails, the Internet and social networking tools to market properties. Licensees/employees must note if there is any objection to marketing via use of these methods and if so, avoid such marketing methods.

## Collection of Information

1. Licensees/employees may not collect consumer information through the use of e-mail, the Internet or social networking tools unless the agent/employee:
  - Tells the consumer they are doing so;
  - Tells the consumer what they will be doing with the information gathered; and,
  - Tells the consumer how they are protecting the information.

### E-mailing

1. Licensees/employees are required to follow the provisions set forth in Section 1450.720 in the Administrative Rules under the License Act as from time to time amended.
2. Licensees/employees are also required to follow the provisions set forth in the federal CAN-SPAM Act as from time to time amended.
3. Licensees/employees should make sure they double-check any text they are sending or posting via e-mail and to whom it is being sent before they hit the “send” button.
4. Licensees/employees are required to print those e-mails that deal with specifics of a transaction or authorization to perform a service or task and to place those printed copies in the appropriate transaction files.

### Blogging

1. Licensees/employees may participate in “blogging” in relation to their business as a real estate licensee so long as they follow all the policies and procedures set forth in this manual with regard to the use of e-mail, the Internet and social networking tools.
2. If licensees/employees wish to establish a blog, they should contact their managing broker or the Office Internet Consultant identified on p. \_\_\_\_ of this manual. When establishing a blog, licensees/employees should work with the Office Internet Consultant on posting “terms and conditions” that will apply to the blog.

### Copyright and Protected Information

1. Licensees/employees shall not copy, frame or otherwise use information received or viewed through e-mail, the Internet, or social networking tools without the express written consent or other appropriate authority from the owner of the information. If permission is given with certain conditions then follow those conditions. Document the conditions when possible for your files.
2. Licensees/employees must recognize that the Company owns the copyright to Company information contained on its web site or in other printed materials. Republishing or copying of this information for other than use in a transaction requires consent of the licensee/employee’s managing broker (or the designated “Office Internet Consultant” identified on page \_\_\_\_ of this manual) so long as the information includes the following: copyrighted or © by Quality Service Realty, Inc., If licensees/employees have any questions about intended use or how to show the copyright, contact the managing broker or the

Office Internet Consultant.

### Linking

1. Licensees/employees shall review the content of any Internet site to which they might link. Licensees/employees shall obtain the consent of the site owner before linking.
2. For any questions, the agent/employee should consult with the Company's "Office Internet Consultant," as identified on page \_\_\_\_\_ of this manual.

### Designated Office Internet Consultant

1. The Company designates \_\_\_\_\_ its Office Internet Consultant to whom all questions regarding the business use of e-mail, the Internet or social networking tools should be directed.
2. Licensees/employees should contact the Office Internet Consultant to report suspected illegal, unethical or inappropriate use of e-mail, the Internet or social networking tools by other licensees/employees.

## **RECORD RETENTION AND DESTRUCTION**

### **SCOPE**

This Record Retention and Destruction Policy applies to all records generated in the course of Quality Service Realty, Inc., (the Company)'s operation, including original documents, reproductions, and electronic documents.

### **PURPOSE**

The purpose of this section is to ensure that that necessary records and documents of the Company as well as any Non-Public Information ("NPI"), as further defined herein, of customers or clients are adequately protected and maintained and to ensure that records that are no longer needed by the Company or are of no value are discarded or destroyed at the proper time and in the proper fashion. This policy is also intended for the purpose of aiding licensees/employees of the Company in understanding their obligations in retaining electronic documents—including e-mail, Web files, text files, sound, movie, and picture files, PDF documents and Microsoft Office or other word processing documents or other formatted files.

1. The information that is covered in this section includes, but is not limited to, physical records or electronic documents of the Company or that meets the definition of NPI, including but not limited to information that is either stored or, formatted as, or shared via electronic mail, Instant Messaging, Web files, social media (including social medial sites that are considered "private" or "password

protected”), text files, sound and movie files, PDF documents, Microsoft Office (or any other word processing program), or any other formatted files.

2. All the Company agents and employees should familiarize themselves with the retention topic areas that follow this introduction.
3. This section is intended to supersede all existing document retention policies and ensure that retention and destruction practices are consistent throughout the Company.
4. This Policy is further intended to avoid or limit unnecessary accumulation of Email Messages, including attached documents and materials, that are not needed (or no longer needed) for business, regulatory or other reasons.
5. Federal and state laws require the Company to maintain certain types of records for particular periods. Failure to maintain such records could subject you and the Company to penalties and fines, obstruct justice, spoil legal evidence, and/or seriously harm the Company’s position in litigation.
6. Unless you have been notified by the Company, if you believe that (1) such records are or could be relevant to any future litigation, (2) there is a dispute that could lead to litigation, or (3) you or the Company is a party to a lawsuit, you MUST PRESERVE such records until the Company’s legal counsel determines that the records are no longer needed.

## **DEFINITIONS**

1. Retained Electronic Data (hereafter, Electronic Data): Any and all information, in whatever format, collected and/or stored by the Company. This includes, but is not limited to, demographic, financial, transactional, marketing and related information. This could include database records, web pages, email messages or messages delivered by other social media platform (including any corresponding attachments), reports, images, videos, and voicemail to name a few. It does not include information not stored, for example live phone calls.
2. Metadata: Information about the Content, not the Content itself. For example, records relating to who placed a call to whom or who sent an email to whom. That is, not the content of the call, but only the information about the call, like when it occurred and the parties’ numbers involved. Another example is records relating to web site visits. That is, not the content of those web sites, but data related to the access, when it took place, what Internet addresses were involved, etc.
3. Contracts: Whether a hard copy or electronic, will include all purchase contracts, leases, listing or representation agreements with a seller or landlord and representation agreements with a buyer or tenant.

4. Non-Public Information (“NPI”): Any information provided by a customer or client on a form or application, information about a customer’s or client’s transactions, or any other information about a customer which is otherwise unavailable to the general public. NPI includes first name or first initial when used with the last name coupled with any of the following: social security number, driver’s license or state issued ID number, credit or debit card number, or other financial account number.

## **ADMINISTRATION**

Included in this section is a Record Retention Schedule, Record Destruction Policy and Clean Desk Policy that is approved as the initial maintenance, retention and destruction policies for records of the Company. The managing broker is the designated individual for Quality Service Realty, Inc., in charge of the administration of these policies and the implementation of processes and procedures to ensure that they are followed. The managing broker is also authorized to: make modifications to the policies from time to time to ensure that they are in compliance with local, state and federal laws and includes the appropriate document and record categories for the Company; monitor local, state and federal laws affecting record retention and destruction; annually review the record retention and destruction program; and monitor compliance with these policies.

## **RETENTION POLICY**

1. All Records and Electronic Documents must be maintained in accordance with applicable laws and regulations (and contractual provisions) governing record retention. Any Record or Electronic Document containing NPI must be stored on encrypted devices and never on personal devices. All devices, data, and files containing NPI must have password-protection or encryption.
2. The Record Retention Periods (see the Record Retention Schedule) apply regardless of the record’s medium or method of transmission; the content of the record determines how long the record will be maintained.
3. Licensees/employees are responsible for classifying records, including Email Messages they send or receive according to the content. The sender of the Email message is responsible for retaining the message or information, unless the Sender is outside the Company, in which case the recipient is responsible. The sender should use the subject lines on the Email Message to help both the sender and the recipient identify and file messages, however, in no case shall an email message’s subject line contain NPI.
4. Licensees/Employees should refer to the Record Retention Schedule for information concerning the minimum retention periods for specific types of documents.
5. Email containing NPI may only be handled over the Company’s true business domain email account and address. Private licensee/Employee email is prohibited for handling

business issues. Email messages should not be destroyed before the prescribed Email Retention Period has expired. Email messages shall not be retained for longer than the prescribed period without first contacting the managing broker. Licensees/Employees should not selectively delete or discard Email Messages or other electronically transmitted or stored documents that would normally be retained for a longer period of time because they believe that the documents might be harmful to any licensee/employee or to the Company.

6. The Administrator will review the appropriateness of the retention periods periodically and recommend modifications, as necessary, to ensure regulatory compliance.

7. Any exceptions to this Policy may be made only after consultation with legal counsel. Any licensee/employee who believes that circumstances warrant such a deviation should promptly contact his or her managing broker.

8. Any destruction or disposal of any record provided for in this Retention Policy shall only be in accordance with the Destruction Policy contained herein.

### **CLEAN DESK POLICY**

All Licensees/Employees shall:

- Maintain a neat work environment during business hours:
  - Store non-essential items when not in use
  - Do not leave handwritten notes containing NPI outside of related files
  - Securely store all files, documents and electronic media containing NPI when away from workstation for extended absence (i.e. lunchtime, break, meeting, vacation, outside office hours)
  - Take all items to be destroyed to locked shredding bin when away from workstation for more extended absence (i.e. lunchtime, break, meeting, vacation, outside office hours)
  - Whiteboards, planners, notepads or other items containing NPI must not be viewable from window or doorways, must be secured when employee is away for extended absence (i.e. lunchtime, break, meeting, vacation, outside office hours)
  - Close paper and electronic files containing NPI and lock workstations when employees are away from their desks
- At the end of the work day, all files, documents, portable devices, and electronic media containing NPI should be locked in a desk, file cabinet, or secure room overnight

### **RECORD DESTRUCTION POLICY**

With regard to the permanent retention or destruction of Records, including any Electronic Data or Electronic Documents, which contain NPI, the following shall apply. If any Record shall contain NPI and said Record is to be permanently retained, then it shall be stored on encrypted, password-protected servers or other electronic media or in locked, physical files, access to which is restricted to the managing broker. If any Record shall contain NPI and said Record is to be destroyed then as to any physical Record, it shall be shredded (cross-cut or “confetti”) as to any

electronic Record it shall be permanently deleted from any and all files, folders, programs, or other electronic platforms where it may be stored and if any storage device itself is to be destroyed then it shall be wiped such that any information contained on said device is rendered permanently inaccessible.

## **RECORD RETENTION SCHEDULE**

### **TRANSACTIONAL RECORDS**

<b>Record Type</b>	<b>Retention Period</b>
Sales or Transaction Records except Contracts	5 years for sales or transaction records
Contracts and Related Correspondence (including any proposal or direction that resulted in the contract and all other supportive documentation)	10 years after expiration or termination for all contracts and related correspondence
Incident Reports and Claims (settlement cases)	7years
All Required Disclosures	5 Years

### **CORRESPONDENCE AND INTERNAL MEMORANDA**

**General Principle:** Most correspondence and internal memoranda should be retained for the same period as the document they pertain to or support. For instance, a letter pertaining to a particular contract would be retained as long as the contract (10 years after expiration).

Correspondence or memoranda that do not pertain to documents having a prescribed retention period should generally be discarded sooner. These may be divided into two general categories:

1. Those pertaining to routine matters and having no significant, lasting consequences should be discarded **within two years**. Some examples include:
  - Routine letters and notes that require no acknowledgement or follow-up, such as notes of appreciation, congratulations, letters of transmittal, and plans for meetings.
  - Form letters that require no follow-up.
  - Letters of general inquiry and replies that complete a cycle of correspondence.
  - Letters or complaints requesting specific action that have no further value after changes are made or action taken (such as name or address change).
  - Other letters of inconsequential subject matter or that definitely close correspondence to which no further reference will be necessary.
  - Chronological correspondence files.



Please note that copies of interoffice correspondence and documents where a copy will be in the originating department file should be read and destroyed, unless that information provides reference to or direction to other documents that must be kept for traceability.

2. All correspondence in transaction files should be retained for 5 years.
3. Those pertaining to non-routine matters or having significant lasting consequences should generally be retained permanently.

## **ELECTRONIC DOCUMENTS**

1. **Electronic Mail.** Subject to the other terms and policies contained herein, not all Email needs to be retained, depending on the subject matter. All of the Company's Email Message information is categorized, each with distinct retention guidelines:

- a. **Transactional Email Correspondence (inbox, sent mail) (5 years)**

Transactional Email Correspondence covers information (sent or received) that relates to client/customer interaction in a transaction. When direction is given or received in an email in regards to a transaction it needs to be placed in a transaction folder, electronic or hard copy, and should be retained for 5 years. The Licensee/Employee is responsible for Email retention of General Correspondence.

- b. **Ephemeral & Personal Email Correspondence (retain until read, destroy promptly)**

Ephemeral Email Correspondence is by far the largest category and includes personal Email messages, requests for recommendations or review, Email messages related to updates and status reports.

- c. **Instant Messages (5 years)**

When used as a form of business communication, Instant Messages (sent or received) create business records that are subject to all legal retention regulations of other formats, like Email messages or snail-mail correspondence.

- d. Email or Instant Messages can be printed to include a hard copy in the file in which case the electronic version can be deleted or can be retained electronically for the period indicated.

## **General Guidelines for Electronic Mail:**

- Staff and Licensees/Employees of the Company will strive to keep all but an insignificant minority of their Email related to business issues.
- Staff and Licensees/Employees of the Company will not store or transfer Company-related Email on non-work-related computers except as necessary or appropriate for Company purposes.
- Staff and Licensees/Employees of the Company will take care not to send confidential/proprietary Company information to outside sources.

## **2. Electronic Documents.** Including Microsoft Office Suite, PDF files, or other word processing files. Retention also depends on the subject matter.

- **PDF Documents.** The length of time that a PDF file should be retained should be based upon the content of the file and the category under the various sections of this Policy. PDF files the Licensee/Employee deems vital to the performance of his or her job should be printed and stored in the agent/employee's workstation or in an electronic file.
- **Text/formatted files.** The Company will conduct annual reviews of all text/formatted files (e.g. Microsoft Word documents) and will delete all those it considers unnecessary or outdated. After five years, all text files will be deleted from the network and the staff/agent/employee's desktop/laptop. Text/formatted files the licensee/employee deems vital to the performance of their job should be printed and stored in that person's workspace.

## **POLICY REVIEW**

This Policy shall be reviewed every three years, or earlier as necessary to ensure conformity with the applicable laws and regulations.

## **REPORTING**

Concerns regarding adherence to this Policy in any given instance should be reported to the managing broker.

## **CONCLUSION**

Quality Service Realty, Inc. is committed to strict compliance with all laws and ethical standards by all of its licensees/employees. Any questions regarding issues raised by this section should be directed to the managing broker.

## **DO NOT CALL**

### **General Statement**

1. As you are probably aware, the Federal Trade Commission (“FTC”) adopted regulations under the Federal Telephone Consumer Protection Act (“Act”) adopting a national Do Not Call Registry (“DNC Registry”). The FTC and the Federal Communications Commission (“FCC”) are charged with adopting rules to implement the Act and handling complaints concerning violations of the Act. This policy is adopted by SSS, REALTORS® to provide guidance for members of the Company in connection with compliance with the Act and the DNC Registry.
2. The policy of the Company is that the Company, all of its sponsored licensees, and any of its employees and representatives, will comply with the Act and DNC Registry.
3. The Company reserves the right to amend or modify this policy at any time as may be determined necessary by the Company.

### **General Rule**

1. Sponsored licensees of the Company, employees of the Company, and any other representatives of the Company shall not make any telephone calls to any telephone number listed on the DNC Registry or the Company Do Not Call List (“Company DNC”) (as explained below) unless one of the following exceptions applies:
  - (a) You are currently working with the consumer;
  - (b) Within the last 18 months you have represented the consumer in a real estate transaction;
  - (c) The consumer has made an inquiry concerning real estate brokerage services or inventory within the last three months;
  - (d) The consumer is a personal friend or acquaintance of the caller; or
  - (e) Written consent has been obtained from the consumer to call a specific number(s).
2. PLEASE BE AWARE THAT EVEN IF AN EXEMPTION APPLIES, INCLUDING CURRENTLY WORKING WITH A CONSUMER, THE CONSUMER CAN REQUEST EITHER ORALLY OR IN WRITING THAT THEY NOT BE CALLED AND THAT REQUEST MUST BE HONORED. FURTHER, THAT NUMBER MUST BE PLACED ON THE COMPANY DNC.
3. Do not make any calls to numbers listed on the Company DNC without written permission from the consumer to call that specific number.

## **Access to DNC Registry and Company DNC**

1. (No sample language can be provided for this section as each brokerage company will need to establish its own desired method of allowing sponsored licensees, employees, or other representatives of the Brokerage Company to access the DNC Registry, or at least certain area codes, on the brokerage company's website as well as the Company DNC on the website. Brokerage companies may come up with whatever options they believe are effective in making this information available to the sponsored licensees, employees, and other representatives of the company. In establishing the methodology for accessing these lists, the brokerage company must remember that the requirements to comply with the Act and the DNC Registry are entity requirements, that means requirements of the brokerage company, and are not specifically directed at the agents, employees, and representatives of the brokerage company.)
2. Any person making a call to a consumer whose telephone number is not on the DNC Registry and which consumer requests that they not be called again shall immediately report that request to \_\_\_\_\_ (fill in a name or procedure for relaying the request) for inclusion on the Company DNC.
3. If a consumer's name appears on the DNC Registry but they fall under one of the exemptions referred to above, and that person requests, either orally or in writing, that their number not be called again, that request must immediately be reported to \_\_\_\_\_ (fill in a name or procedure for relaying the request) for inclusion on the Company DNC.
4. Before making a call to a consumer, you should check with the DNC Registry and the Company DNC as provided for in this policy.
5. The DNC Registry will be updated every 31 days.
6. Phone numbers placed on the Company DNC will remain there for a period of five (5) years. The Company DNC will be updated at least every thirty (30) days.
7. The information on the DNC Registry and Company DNC shall not be sold, transferred, or used for any purpose other than determining whether a cold call or telemarketing call can be made to a specific telephone number.

## **Making Sales Calls**

1. No sales calls shall be made except in accordance with this policy.
2. If you will be making calls to consumers, you must:
  - (a) Disclose on every sales call your name, name of the Company, and the telephone number or address where you or the Company may be contacted.

- (b) Describe the services you are offering.
  - (c) Make calls only after 8:00 a.m. and before 9:00 p.m. (local time at consumer's location).
  - (d) You may not misrepresent, harass, intimidate, annoy, or use obscene language in any such call.
3. The Company prohibits you from contracting with or using third party or outside calling services without first obtaining permission from the Company.
  4. It is impermissible for any licensee/employee of the Company to make calls using automated dialers and a pre-recorded message without the express written consent of the person being called.

### **Record-Keeping and Record Retention**

1. Documents containing the express written consent of the consumer to call specific numbers shall be retained in the Company's files. If you do not have a file with regards to a specific consumer, a copy of that consent shall be forwarded to \_\_\_\_\_ (fill in name or procedure for forwarding and retention of documentation).
2. Provide copies of any scripts that you may be using in telemarketing and cold calling to \_\_\_\_\_ (insert name).
3. If you are requested not to call a number, then follow up with written confirmation to \_\_\_\_\_ (name of appropriate party) of the request so the phone number can be placed on the Company DNC.
4. If a telephone number is inadvertently made to a consumer whose number appears on the DNC Registry and you are so advised of that during the telephone call, then prepare a written report to the administrator of the Company DNC advising them of that fact.

### **Questions**

1. Frequently asked questions and answers are available both on the websites of the Florida Association of REALTORS®. Acquaint yourself with those questions and answers with regards to the making of calls under specific circumstances.
2. If you have other questions concerning the policy or compliance with this policy, consult with or direct your questions to \_\_\_\_\_ (name or position of person to contact within your Company).
3. If you have questions concerning access to the DNC Registry or the Company DNC, contact or direct your inquiries to \_\_\_\_\_ (name or position of person to contact within your Company).

4. Some common scenarios that you may be faced with and the Company policy on those scenarios are as follows:
- (a) If a For Sale by Owner (FSBO) has their telephone number on the DNC Registry, then you should not be calling that consumer unless you have a bona fide buyer prospect for the subject property. In the course of the conversation, do not try to steer the conversation to issues regarding your listing of the property unless the owner makes inquiry concerning that possibility. If the FSBO requests not to be called in the future, then notice should be given to \_\_\_\_\_ (appropriate person) so that number can be placed on the Company DNC.
  - (b) Do not contact individuals who simply visit an open house of yours. If you wish to contact guests who come to an open house that you are conducting, you must include in the guest register a space allowing the guest to specifically indicate that they can be called and to indicate the phone number that can be called.
  - (c) If you have a contact on your web site from a consumer, please ask them to specifically indicate whether they can be called and, if so, at what number. This can be accomplished by e-mail or by a point to click on your website.
  - (d) If your cell phone indicates a call from an unknown number, do not call that number without checking the DNC Registry and the Company DNC except to indicate that your cell phone had indicated a call from that number and that you were responding to determine what was needed. If there is an indication that no assistance is required, then the call should be broken off at that point, without discussing your brokerage services or inventory.
  - (e) (Other examples of company policies on particular fact situations can be added by your company in this area).

### **Responsibility**

1. The Act and the DNC Registry are entity based provisions. This means that the Company will generally be the party against which a complaint will be filed or a suit brought for violation of the Act, the DNC Registry or the Company DNC.
2. Fines under the Act can be up to \$40,000 per incident or private litigation can be brought by an individual resulting in fines plus attorney's fees, costs, and any actual damages.

## **ACKNOWLEDGMENT AND AGREEMENT**

The undersigned licensee or employee of Quality Service Realty, Inc., acknowledges receipt of a copy of Quality Service Realty, Inc., Office Policy Manual.

This Office Policy Manual is not a contract of employment. The Company reserves the right to modify, amend, or change this policy manual in any manner at any time.

As a condition of his/her association or employment with Quality Service Realty, Inc., the licensee or employee agrees to abide by the policies of Quality Service Realty, Inc., as presently adopted and as amended in the future by publication from management of any changes.

Failure to abide by Quality Service Realty, Inc.'s policies as adopted and amended may be grounds for disciplinary action of the licensee or employee, including termination of association or employment.

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Licensee or Employee

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Date