

# Chapter **1**



## How to Get Started in your Real Estate Career

### Chapter 1 Goals:

- Understand different sectors that are affected directly or indirectly by the real estate industry
- Understand basic principles which guide the process of real estate
- Recognize how and why real estate market changes occur
- Explain the real estate broker and real estate agent (salespeople) relationship
- Explain how a broker and agents commission is calculated
- Explain different ways an agent or broker can get paid
- Know the different methods that can be used to effectively practice real estate and learn methods to make more sales
- Recall the various skills needed to be a top real estate agent

# Chapter 1: How to Get Started in Your Real Estate Career

## Key Terms

|  |  |   |
|--|--|---|
| 100 percent commission<br>agent partnership<br>associate licensee<br>broker<br>buyer's market<br>California Association of Realtors<br>caravan | comparables<br>daily planning<br>diversity-training programs<br>e-pro certification program<br>gross domestic product (GDP)<br>independent contractor<br>inventory<br>multiple listing service (MLS) | must-buy buyer<br>must-sell seller<br>option arm mortgage<br>seller's market<br>subprime lending<br>upside down<br>will-buy buyer<br>will-sell seller |
|--|--|---|

## Chapter Overview

Real estate professionals play a unique role in one of the most influential industries in the overall economy.

In this chapter, you will learn:

- The importance of the real estate market in the overall economy
- The different economic sectors that are affected by the real estate market
- How to begin a career in real estate
- The real estate broker and agent relationship
- The various skills needed to be a successful real estate agent

## The Real Estate Market

### Economic Importance

Real estate is engrained in every aspect of human life. It encompasses where people live, work, eat, and play. It affects everyone from homeowners to renters, from workers to local governments, and impacts everything from small businesses to large corporations, from factories to farms.

For this reason, many economists argue that the condition of the nation's real estate market is the greatest indicator of the state of the overall economy.

The United States economy is predicated on consumer spending. According to the Federal Reserve, consumer spending accounts for 68% of the nation's gross domestic product (GDP). **Gross domestic product** is the total value of the overall economy including all the goods and services produced. The more consumers spend, the more money that circulates in the economy, which leads to more taxes being paid and more growth being generated.

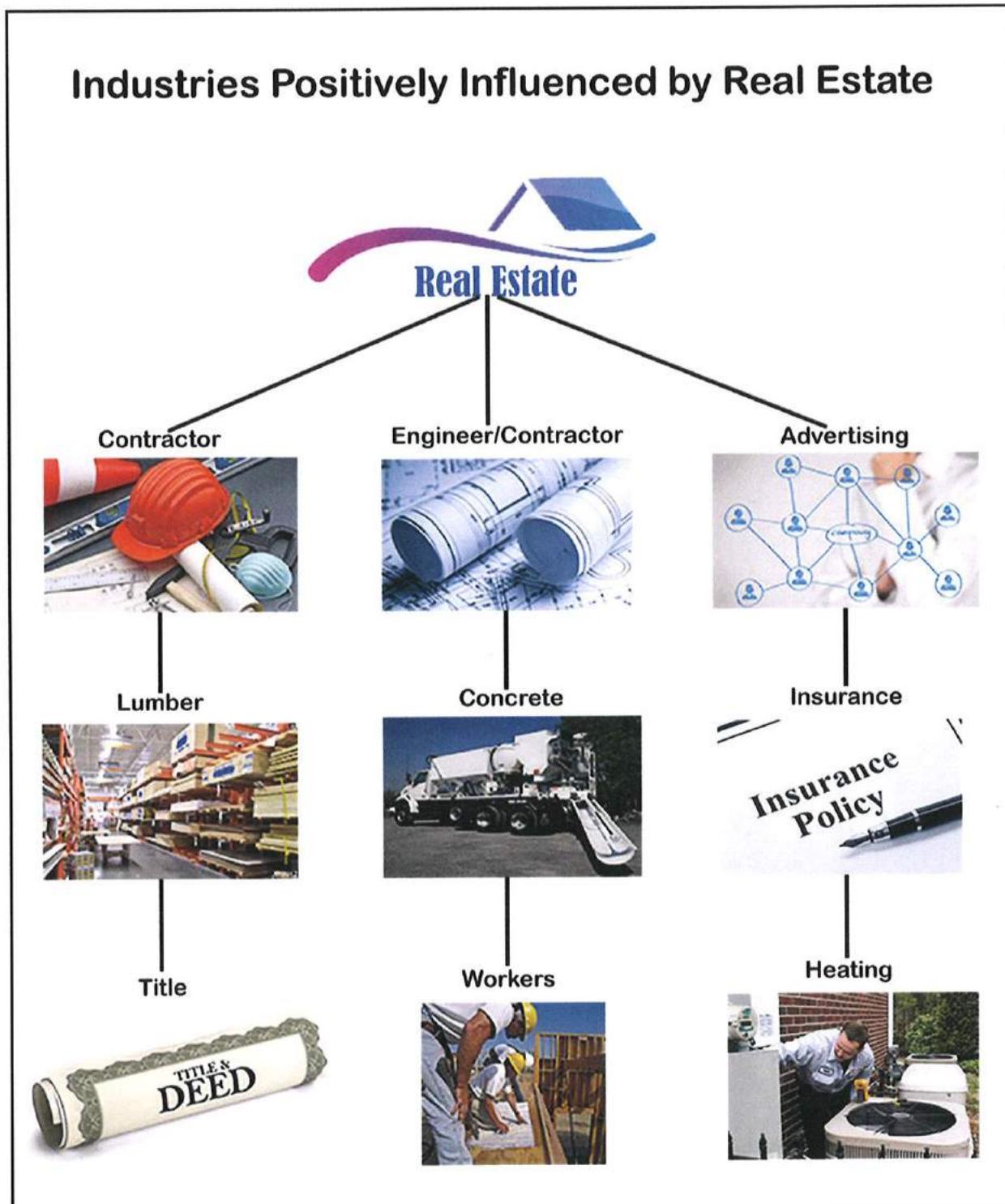
A real estate purchase is typically the most important and expensive financial decision that a consumer will ever make. Consequently, the real estate market constitutes an enormous share of consumer spending in the United States. Therefore, when local real estate markets are strong and consumers are able to buy property, more money is contributed to the overall economy.

The real estate industry also generates more jobs, growth, and revenue than any other professional industry. It directly and indirectly supports countless other industries.

### Industries Influenced by the Real Estate Market:

- Advertising
- Air conditioning
- Aluminum
- Appliance
- Appraisal
- Architecture
- Awning
- Bed and bath
- Cabinetry
- Carpeting
- Ceramic
- Cleaning services
- Concrete
- Construction
- Contracting
- Crane service
- Drywall
- Electrical equipment
- Equipment maintenance
- Escrow
- Excavating
- Fencing
- Flooring
- Lending
- Lumber
- Maintenance
- Mold removal
- Moving services
- Municipal services
- Nursery
- Paint
- Pest control
- Plaster
- Plastic
- Plumbing fixtures
- Pools and spas
- Portable toilets
- Printing
- Property management
- Remodeling
- Road construction
- Roofing
- Sales
- Seal coating
- Security
- Septic systems

- Furniture
- Glass
- Hardware
- Heating
- Home inspection
- Insulation
- Insurance
- Internet services
- Iron
- Landscaping and lawn care
- Lawn equipment
- Legal
- Service providers
- Steel
- Stucco
- Surveying
- Tile
- Title insurance
- Tools
- Trucking
- Walls coverings
- Waste removal
- Windows



## California Association of Realtors

The **California Association of Realtors** is a real estate trade association that works in service of real estate professionals and consumers. It:



- Provides real estate forms, training, and market data
- Lobbies on behalf of the real estate industry and its professionals
- Promotes real estate policy, such as affordable housing programs and the deregulation of mortgages
- Promotes home ownership

## Property Value Factors

The real estate market is a stratified marketplace in which property values within the same neighborhood vary significantly. Different property features such as size, amenities, year built, design, and desirability play a big part in the stratification of the market.

There is also no definitive way to determine a property's value. Property values are determined by a host of factors, from the average sold price per square foot, to the type of financing a buyer uses, to the reasons for which a seller wishes to sell.

Typically, an agent uses recently sold, similar properties ("comparables") and current market conditions to begin this determination.



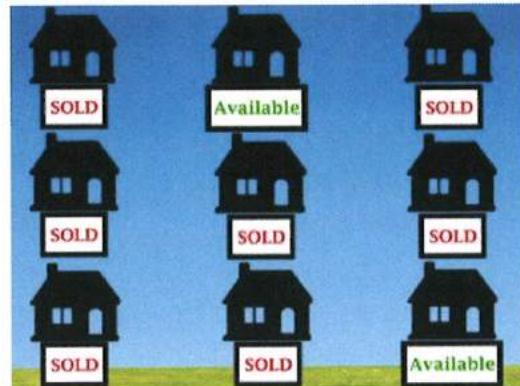
A **multiple listing service (MLS)** database compiles all real estate properties that are currently listed, pending, or have recently sold. This database serves as a one-stop resource for real estate agents to estimate the value of property based on recently sold comparables.

Property values are also driven by real estate market conditions. The supply and demand of the market is based on the number of available real estate properties (known as **inventory**) in relation to the consumer demand for those properties.

When there is an abundance of available properties and a limited number of buyers who are actively seeking to purchase real estate, there is a low demand and large supply. Under these conditions, property values decrease and it is buyers who have more leverage. This is known as a **buyer's market**.

When there is an overabundance of buyers competing for a limited inventory of properties, there is a high demand for a lower supply. This buyer competition gives a seller leverage to sell his or her property at a higher price. Therefore, it is known as a **seller's market**.

There will always be temporary periods in which property values plateau or decrease.



As a general trend, however, property values always increase due to inflation, population growth, and less inventory for more people.

## Real Estate Market Collapse

Local, state, federal, and world economic markets are interconnected. The success or failure of one market has the ability to affect the landscape of another, particularly when it is one as large as the real estate market.

This was made clear in 2008 when the real estate market collapsed. Many factors contributed to the collapse, including:

- a. *Easy Credit.* Prior to 2008, increasing property values were compelling consumers to buy. Banks and lending institutions subsequently made consumer access to credit easier, which led more consumers to purchase property at an accelerated rate.
- b. *New Financing Programs.* In the early 2000s, lenders developed new loan programs in an attempt to lure consumers into purchasing real estate and taking out mortgages. These “creative financing” alternatives to standard loan programs were often risky.
- c. For example, banks started offering an **option arm mortgage** that had never been used on a grand scale before. It gave borrowers four monthly payment options: a minimum payment, an interest-only payment, a principal and interest payment, or a negative amortization payment. Many borrowers were lured into taking out such a mortgage, as they believed they could continue making the minimum payments indefinitely. However, when the mortgage’s introductory “honeymoon” period expired, borrowers were forced to make the full principal + interest monthly payments. Many borrowers could no longer afford their homes and a wave of foreclosures hit the market, leading to a drastic decrease in property values.

**d. Property Values Increased Too Fast.** Prior to the market's collapse, property values were increasing. This – coupled with lenders providing easy credit and risky, new financing programs – led more consumers to buy into the market. This caused property values to rise at a rate that was too fast for sustainable, long-term growth.

**e. Subprime Lending.** Prior to the early 2000s, subprime lending was restricted to very few applicants. (**Subprime lending** refers to providing loans for “at risk” borrowers who may not be able to repay the loan.) In an attempt to increase profits, however, bigger banks began approving subprime borrowers with low introductory rates and with little to no down payment required. They approved borrowers even while understanding that a significant percentage of them would default. These big banks then offered to sell the borrowers’ mortgage notes to smaller lenders before the interest rate readjusted. Believing that property values would continue to rise, these less experienced lenders bought them.

The initial warning signs of the real estate collapse began in 2006 when an increasing number of subprime borrowers began defaulting on their mortgages. Loans that were initiated on the premise of a minimum or no down payment soon led to an influx of borrowers who were “upside down” on their mortgage. Also known as being “under water”, “**upside down**” refers to when a borrower’s loan amount is higher than the value of his or her property. Many borrowers willingly forfeited their properties due to this.

**f. Investment Bank Leveraging.** Historically, lenders have provided loans to borrowers with the intention of collecting interest. In the early 2000s, however, investment bankers began acquiring more influence in the banking community. They challenged the standard lending approach by originating loans with the intent to *sell* them. This essentially changed the real estate lending business from an interest *collection* business to a loan *selling* business. Consequently, banks that originated such loans no longer cared about the quality of their mortgage notes because they knew that smaller, less experienced lenders would purchase them.

**g. Construction Loans.** When property values were on the rise, banks began providing easy capital to developers in the form of construction loans. Banks believed that property values would continue to rise and were willing to risk their capital in order to obtain interest on such loans. When the market crashed, however, many construction loan companies lost significant amounts of money and defaulted on their loans.

**h. Rating Services.** In the early 2000s, mortgage security investment firms were highly profitable. Many well-known rating agencies (i.e. Standard & Poor’s,

Moody's, Fitch) gave these investment firms high ratings due to their high earnings. However, the rating agencies focused their ratings system on earnings, rather than the quality of the products that led to those earnings. As the profits of many investment firms came from selling false products – such as adjustable rate programs, option arm loans, or little or no down payment programs – the firms were given a higher rating than they deserved. Therefore, the rating agencies' ratings provided a false sense of security for consumers who wished to buy from those investment firms. This subsequently caused more consumers to use these firms.

- i. *Second Loans.* When property values began to rise, many borrowers began taking out second mortgages on their homes. Borrowers leveraged second loans to pay off debt, start new businesses, or make home improvements. With a large amount of borrowers being approved for second loans – and thus, being faced with increased expenses – the risk of default and/or foreclosure by a large number of people greatly increased.

All of these factors – combined with the fact that the United States economy was already beginning to contract – led to the collapse of the real estate market.

Property values subsequently depreciated. Market confidence dropped to near record lows. Business investment came to halt. The industries that depended upon the real estate market suffered, if they did not collapse themselves. Economic development stalled. Unemployment rose. Consumer spending – in the real estate market and the economy overall – dropped.

This ultimately rippled outward to cause a worldwide economic collapse.

As economic recovery slowly took shape, consumers changed their approach to real estate transactions. Nowadays:

- Buyers and sellers are more skeptical and discerning of real estate agents. They will ask more questions in regards to how experienced a real estate agent is and/or how many similar properties they have sold or helped buy.
- Many buyers and sellers now prefer the expertise of teams and/or partnerships rather than single real estate agents

The 2008 recession is a stark reminder of the importance of the real estate market in the success of the overall economy and in consumers' lives.

## **Beginning Your Real Estate Agent Career**

Success as a real estate agent does not come easy. With a payment structure that is strictly commission-based, agents may find it difficult to close deals and obtain a commission check at the beginning of their careers. Because of this, an estimated 50% of agents go inactive within a year and only 25% of agents make above the national average.

An agent's first experiences in real estate will likely determine his or her success. That is why the initial steps he or she takes to build a career are so important.

### **The Importance of a Broker**

One of the most important steps in establishing a real estate career is finding the right real estate **broker**. Agents are required to work with a broker. The quality of the partnership can be the difference between "*I am working* in real estate" and "*I worked* in real estate".

A real estate broker is the party that acts as an intermediary on behalf of buyers and sellers. Real estate brokers are typically represented by salespersons.

### **Employment Status**

Every brokerage has at least one broker of record. Agents who enter into a formal agreement with the broker are referred to as **associate licensees**. A real estate broker and an agent must have a valid written agreement in order to work with each other.

A broker supervises an agent's activities. He or she provides assistance to ensure that an agent closes deals successfully, and is ultimately responsible for any errors made by the agent.

Agents are not a broker's employees however. Rather, licensed agents are considered to be independent contractors. An **independent contractor** is an individual that provides services to another party on a per job basis.



**INDEPENDENT CONTRACTOR AGREEMENT  
WITH BINDING ARBITRATION OPTION  
(Between Broker and Associate-Licensee)**  
(C.A.R. Form ICA-BA, Revised 4/15)

This Agreement, dated \_\_\_\_\_, is made between \_\_\_\_\_ ("Broker") and \_\_\_\_\_ ("Associate-Licensee").

In consideration of the covenants and representations contained in this Agreement, Broker and Associate-Licensee agree as follows:

1. **BROKER:** Broker represents that Broker is duly licensed as a real estate broker by the State of California, doing business as \_\_\_\_\_ (firm name), a sole proprietorship, a partnership, or a corporation. Broker is a member of the Association(s) of REALTORS®, and a participant to the Listing Service(s). Broker shall keep Broker's license current during the term of this Agreement.
2. **ASSOCIATE-LICENSEE:** Associate-Licensee represents that: (i) he/she is duly licensed by the State of California as a real estate broker, real estate salesperson, and (ii) he/she has not used any other names within the past five years, except \_\_\_\_\_ . Associate-Licensee shall keep his/her license current during the term of this Agreement, including satisfying all applicable continuing education and provisional license requirements.
3. **INDEPENDENT CONTRACTOR RELATIONSHIP:**
  - A. Broker and Associate-Licensee intend that, to the maximum extent permissible by law: (i) This Agreement does not constitute an employment agreement by either party; (ii) Broker and Associate-Licensee are independent contracting parties with respect to all services rendered under this Agreement; and (iii) This Agreement shall not be construed as a partnership.
  - B. Broker shall not: (i) restrict Associate-Licensee's activities to particular geographical areas, or (ii) dictate Associate-Licensee's activities with regard to hours, leads, open houses, opportunity or floor time, production, prospects, sales meetings, schedule, inventory, time off, vacation, or similar activities, except to the extent required by law.
  - C. Associate-Licensee shall not be required to accept an assignment by Broker to service any particular current or prospective listing or parties.
  - D. Except as required by law: (i) Associate-Licensee retains sole and absolute discretion and judgment in the methods, techniques, and procedures to be used in soliciting and obtaining listings, sales, exchanges, leases, rentals, or other transactions, and in carrying out Associate-Licensee's selling and soliciting activities; (ii) Associate-Licensee is under the control of Broker as to the results of Associate-Licensee's work only, and not as to the means by which those results are accomplished; (iii) Associate-Licensee has no authority to bind Broker by any promise or representation; and (iv) Broker shall not be liable for any obligation or liability incurred by Associate-Licensee.
  - E. Associate-Licensee's only remuneration shall be the compensation specified in paragraph 8.
  - F. Associate-Licensee who only performs as a real estate sales agent, shall not be treated as an employee for state and federal tax purposes. However, an Associate-Licensee who performs loan activity shall be treated as an employee for state and federal tax purposes unless the activity satisfies the legal requirements to establish an independent contractor relationship.
  - G. The fact the Broker may carry workers' compensation insurance for Broker's own benefit and for the mutual benefit of Broker and licensees associated with Broker, including Associate-Licensee, shall not create an inference of employment. (Workers' Compensation Advisory: Even though a Real Estate salesperson may be treated as independent contractors for tax and other purposes, the California Labor and Workforce Development Agency considers them to be employees for workers' compensation purposes. According to that Agency: (i) Broker must obtain workers' compensation insurance for a real estate salesperson and (ii) Broker, not a Real Estate sales person, must bear the cost of workers' compensation insurance. Penalties for failure to carry workers' compensation include, among others, the issuance of stop-work orders and fines of up to \$1,000 per agent, not to exceed \$100,000 per company.)
4. **LICENSED ACTIVITY:**
  - A. All listings of property, and all agreements, acts or actions for performance of licensed acts, which are taken or performed in connection with this Agreement, shall be taken and performed in the name of Broker. Associate-Licensee agrees to and does hereby contribute all right and title to such listings to Broker for the benefit and use of Broker, Associate-Licensee, and other licensees associated with Broker.
  - B. Broker shall make available to Associate-Licensee, equally with other licensees associated with Broker, all current listings in Broker's office, except any listing which Broker may choose to place in the exclusive servicing of Associate-Licensee or one or more other specific licensees associated with Broker.

Broker's Initials ( )

Associate-Licensee's Initials ( )

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ICA-BA 4/15 (PAGE 1 OF 5)



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- C. Associate-Licensee shall provide and pay for all professional licenses, supplies, services, and other items required in connection with Associate-Licensee's activities under this Agreement, or any listing or transaction, without reimbursement from Broker except as required by law.
- D. Associate-Licensee shall work diligently and with his/her best efforts to: (i) sell, exchange, lease, or rent properties listed with Broker or other cooperating Brokers; (ii) solicit additional listings, clients, and customers; and (iii) otherwise promote the business of serving the public in real estate transactions to the end that Broker and Associate-Licensee may derive the greatest benefit possible, in accordance with law.
- E. Associate-Licensee shall not commit any unlawful act under federal, state or local law or regulation while conducting licensed activity. Associate-Licensee shall at all times be familiar, and comply, with all applicable federal, state and local laws, including, but not limited to, anti-discrimination laws and restrictions against the giving or accepting a fee, or other thing of value, for the referral of business to title companies, escrow companies, home inspection companies, pest control companies and other settlement service providers pursuant to the California Business and Professions Code and the Real Estate Settlement Procedures Acts (RESPA).
- F. Broker shall make available for Associate-Licensee's use, along with other licensees associated with Broker, the facilities of the real estate office operated by Broker at and the facilities of any other office locations made available by Broker pursuant to this Agreement.
- G. **PROHIBITED ACTIVITIES:** Associate-Licensee agrees not to engage in any of the following Real Estate licensed activities without the express written consent of Broker:

Property Management;  Loan Brokerage  Business Brokerage;

However, if Associate-Licensee has a Real Estate Broker's License, Associate-Licensee may nonetheless engage in the following prohibited activity(ies) only:

provided that (1) such prohibited activities are not done under the Broker's License, (2) no facilities of Broker (including but not limited to phones, fax, computers, and office space) are used for any such prohibited activities, (3) Associate-Licensee shall not use any marketing, solicitation or contact information that include Broker's name (including business cards) for such prohibited activities, (4) Associate-Licensee informs any actual or intended Principal for whom Associate-Licensee performs or intends to perform such prohibited activities the name of the broker under whose license the prohibited activities are performed, and (5) if Associate-Licensee is performing other permitted licensed activity for that Principal under Broker's license, then Associate-Licensee shall inform any actual or intended Principal for whom the prohibited activities are performed that the prohibited activities are not performed under Broker's license.

#### 5. PROPRIETARY INFORMATION AND FILES:

- A. All files and documents pertaining to listings, leads and transactions are the property of Broker and shall be delivered to Broker by Associate-Licensee immediately upon request or termination of this Agreement.
- B. Associate-Licensee acknowledges that Broker's method of conducting business is a protected trade secret.
- C. Associate-Licensee shall not use to his/her own advantage, or the advantage of any other person, business, or entity, except as specifically agreed in writing, either during Associate-Licensee's association with Broker, or thereafter, any information gained for or from the business, or files of Broker.

#### 6. SUPERVISION: Associate-Licensee, within 24 hours (or ) after preparing, signing, or receiving same, shall submit to Broker, or Broker's designated licensee: (i) all documents which may have a material effect upon the rights and duties of principals in a transaction; (ii) any documents or other items connected with a transaction pursuant to this Agreement in the possession of or available to Associate Licensee; and (iii) all documents associated with any real estate transaction in which Associate-Licensee is a principal.

#### 7. TRUST FUNDS: All trust funds shall be handled through the Broker's trust account and in compliance with the Business and Professions Code, and other applicable laws.

#### 8. COMPENSATION:

- A. **TO BROKER:** Compensation shall be charged to parties who enter into listing or other agreements for services requiring a real estate license:  
 as shown in "Exhibit A" attached, which is incorporated as a part of this Agreement by reference, or  
 as follows:

Any deviation which is not approved in writing in advance by Broker, shall be: (1) deducted from Associate-Licensee's compensation, if lower than the amount or rate approved above; and, (2) subject to Broker approval, if higher than the amount approved above. Any permanent change in commission schedule shall be disseminated by Broker to Associate-Licensee.

- B. **TO ASSOCIATE-LICENSEE:** Associate-Licensee shall receive a share of compensation actually collected by Broker, on listings or other agreements for services requiring a real estate license, which are solicited and obtained by Associate-Licensee, and on transactions of which Associate-Licensee's activities are the procuring cause, as follows:  
 as shown in "Exhibit B" attached, which is incorporated as a part of this Agreement by reference, or  
 other:

Broker's Initials ( )

Associate-Licensee's Initials ( )

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ICA-BA 4/15 (PAGE 2 OF 5)

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- C. PARTNERS, TEAMS, AND AGREEMENTS WITH OTHER ASSOCIATE-LICENSEES IN OFFICE:** If Associate-Licensee and one or more other Associate-Licensees affiliated with Broker participate on the same side (either listing or selling) of a transaction, the commission allocated to their combined activities shall be divided by Broker and paid to them according to their written agreement. Broker shall have the right to withhold total compensation if there is a dispute between associate-licensees, or if there is no written agreement, or if no written agreement has been provided to Broker.
- D. EXPENSES AND OFFSETS:** If Broker elects to advance funds to pay expenses or liabilities of Associate-Licensee, or for an advance payment of, or draw upon, future compensation, Broker may deduct the full amount advanced from compensation payable to Associate-Licensee on any transaction without notice. If Associate-Licensee's compensation is subject to a lien, garnishment or other restriction on payment, Broker shall charge Associate-Licensee a fee for complying with such restriction.
- E. PAYMENT:** (i) All compensation collected by Broker and due to Associate-Licensee shall be paid to Associate-Licensee, after deduction of expenses and offsets, immediately or as soon thereafter as practicable, except as otherwise provided in this Agreement, or a separate written agreement between Broker and Associate-Licensee. (ii) Compensation shall not be paid to Associate-Licensee until both the transaction and file are complete. (iii) Broker is under no obligation to pursue collection of compensation from any person or entity responsible for payment. Associate-Licensee does not have the independent right to pursue collection of compensation for activities which require a real estate license which were done in the name of Broker. (iv) Expenses which are incurred in the attempt to collect compensation shall be paid by Broker and Associate-Licensee in the same proportion as set forth for the division of compensation (paragraph 8(B)). (v) If there is a known or pending claim against Broker or Associate-Licensee on transactions for which Associate-Licensee has not yet been paid, Broker may withhold from compensation due Associate-Licensee on that transaction amounts for which Associate-Licensee could be responsible under paragraph 14, until such claim is resolved. (vi) Associate-Licensee shall not be entitled to any advance payment from Broker upon future compensation.
- F. UPON OR AFTER TERMINATION:** If this Agreement is terminated while Associate-Licensee has listings or pending transactions that require further work normally rendered by Associate-Licensee, Broker shall make arrangements with another associate-licensee to perform the required work, or Broker shall perform the work him/herself. The licensee performing the work shall be reasonably compensated for completing work on those listings or transactions, and such reasonable compensation shall be deducted from Associate-Licensee's share of compensation. Except for such offset, Associate-Licensee shall receive the compensation due as specified above.
- 9. TERMINATION OF RELATIONSHIP:** Broker or Associate-Licensee may terminate their relationship under this Agreement at any time, with or without cause. After termination, Associate-Licensee shall not solicit: (i) prospective or existing clients or customers based upon company-generated leads obtained during the time Associate-Licensee was affiliated with Broker; (ii) any principal with existing contractual obligations to Broker; or (iii) any principal with a contractual transactional obligation for which Broker is entitled to be compensated. Even after termination, this Agreement, inclusive of Paragraph 12, shall govern all disputes and claims between Broker and Associate-Licensee connected with their relationship under this Agreement, including obligations and liabilities arising from existing and completed listings, transactions, and services.
- 10. AUTOMOBILE:** Associate-Licensee shall maintain automobile insurance coverage for liability and property damage in the following amounts \$ \_\_\_\_\_ / \$ \_\_\_\_\_. Broker shall be named as an additional insured party on Associate-Licensee's policies. A copy of the endorsement showing Broker as an additional insured shall be provided to Broker.
- 11. PERSONAL ASSISTANTS:** Associate-Licensee may make use of a personal assistant, provided the following requirements are satisfied. Associate-Licensee shall have a written agreement with the personal assistant which establishes the terms and responsibilities of the parties to the employment agreement, including, but not limited to, compensation, supervision and compliance with applicable law. The agreement shall be subject to Broker's review and approval. Unless otherwise agreed, if the personal assistant has a real estate license, that license must be provided to the Broker. Both Associate-Licensee and personal assistant must sign any agreement that Broker has established for such purposes.
- 12. AGREEMENT TO ARBITRATE AND DISPUTE RESOLUTION:**
- A. DISPUTE RESOLUTION PROCESS:** (1) Broker and Associate-Licensee agree to timely notify the other person and mediate all disputes and claims between them arising from or connected in any way with this Agreement before resorting to arbitration or court action. (2) If any dispute or claim is not resolved through mediation, or otherwise, Broker and Associate-Licensee may mutually agree to submit disputes involving commissions for property transactions to binding arbitration by the procedures and rules set forth in the California Code of Ethics and Arbitration Manual, a copy of which is available at the following link: [www.car.org/legal/calcarules/](http://www.car.org/legal/calcarules/).

Broker's Initials ( \_\_\_\_\_ )

Associate-Licensee's Initials ( \_\_\_\_\_ )

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ICA-BA 4/15 (PAGE 3 OF 5)

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- B. BINDING FINAL ARBITRATION:** All claims or disputes between Broker and Associate-Licensee, not resolved pursuant to Paragraph 12A, shall be submitted to binding arbitration in accordance with Paragraphs 12 B-G. Broker and Associate-Licensee, on behalf of him or herself and any assistants employed by Associate-Licensee, mutually agree to use confidential individual binding arbitration, instead of going to court, for any disputes or claims now in existence or that may exist in the future (i) that Associate-Licensee may have against Broker, his/her affiliates, and/or their current or former employees, and (ii) that Broker and/or his/her affiliates may have against Associate-Licensee his/her affiliates, and/or their current or former employees. Such claims would include, without limitation, any concerning the initiation of the work relationship, the pay or other compensation for the work performed, breach of contract, expenses, any claims by Broker or Associate-Licensee for violations of applicable law or regulations, the decision by Broker or Associate-Licensee to end the assignment, any claims for conversion and/or breach of fiduciary duty, as well as any claims that arise from or relate to Broker's classification of Associate-Licensee as an independent contractor rather than an employee. Such claims do not include disputes or claims which either Broker or Associate-Licensee may have against a Broker client, customer or other brokerages, or vice versa, including cross claims between Broker or Associate-Licensee in conjunction with such disputes. This Agreement to Arbitrate shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq.
- C. ARBITRATION RULES:** Except for those claims resolved by Paragraph 12A, all other claims covered by Paragraph 12B shall be arbitrated pursuant to the then-current JAMS' Expedited or Comprehensive Arbitration Rules and Procedures which are available at [www.jamsadr.com](http://www.jamsadr.com) (under the Rules/Clauses tab) or [www.car.org/legal/calarrules/](http://www.car.org/legal/calarrules/). Notwithstanding any contrary provisions in those rules, however, Broker will pay all costs of the Arbitration that are in addition to or in excess of the amount that a party would need to pay if he/she filed a case in a court of law. Each party shall bear his or her own attorney fees and costs, except that the arbitrator may award a party attorney fees or costs if such an award is authorized by an applicable law or contract. Broker and Associate-Licensee agree that the arbitration will be conducted by a single arbitrator in the JAMS office (as applicable) closest to the county of the Broker's office with which the Associate-Licensee is or was associated (unless otherwise agreed).
- D. NOTICE AND TIMING; APPLICABLE LAW; FINDINGS:** The aggrieved party must file and give written notice of any claim to the other party no later than the expiration of the statute of limitations (deadline for filing) that the law prescribes for the claim. Otherwise, the claim shall be void and deemed waived. The Arbitrator shall apply the substantive law (and the law of remedies, if applicable) of the applicable state, or federal law, or both, as applicable to the claim(s) asserted including applicable California real estate law. In the event of a dispute, the arbitrator shall decide which substantive laws shall apply. The Arbitrator is authorized to award any remedy allowed by applicable law. The Arbitrator shall issue a written and signed statement of the basis of his or her decision, including findings of fact and conclusions of law.
- E. CLASS ACTION WAIVER:** (1) Broker and Associate-Licensee agree that any and all claims pursued against each other will be on an individual basis, and not on behalf of or as a part of any purported class, collective, representative, or consolidated action. Both Broker and Associate-Licensee hereby waive their right to commence, become a party to or remain a participant in any group, representative, class collective or hybrid class/collective or group action in any court, arbitration proceeding, or any other forum, against the other. The parties agree that any claim by or against Broker or Associate-Licensee shall be heard in arbitration without joinder of parties or consolidation of such claim with any other person or entity's claim, except as otherwise agreed to in writing by Broker and Associate-Licensee. This Class Action waiver shall supersede any contrary agreements, statements or rules in the JAMS Rules. (2) The waiver of Class Action claims and proceedings is an essential and material term of this arbitration agreement in this Paragraph 12, and the parties agree that if it is determined that the waiver in this Paragraph 12E is prohibited or invalid in its entirety in a case in which a class action, representative action or similar allegations have been made, then the remainder of Paragraph 12 shall also be void. If, however, some, but not all, of the waivers are found to be unenforceable for any reason in a case in which class action, representative action or similar allegations have been made, the Associate-Licensee's individual claims shall be decided in arbitration. Any class action, representative action or similar action as to which the class action waiver in this Paragraph 12E is found to be unenforceable shall be decided in court and not in arbitration.
- F. CONFIDENTIALITY:** Broker and Associate-Licensee agree that all proceedings before the arbitrator will remain confidential between the parties, including but not limited to any depositions, discovery, pleadings, exhibits, testimony, or award. The confidentiality will not apply to any court proceeding in which either party seeks to confirm, correct, or vacate an arbitration award.
- G. ASSOCIATE-LICENSEE UNDERSTANDS ARBITRATION AND WAIVER AGREEMENT:** Associate-Licensee represents and warrants that he/she understands the meaning and effect of the arbitration and waiver agreements in this Paragraph 12 and has been provided a reasonable time and opportunity to consult with legal counsel regarding this agreement to arbitrate. Associate-Licensee hereby agrees to the provisions of these Paragraphs 12 A-G (initial): **ASSOCIATE-LICENSEE ( )**

Broker's Initials ( )

Associate-Licensee's Initials ( )

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ICA-BA 4/15 (PAGE 4 OF 5)

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**13. OFFICE POLICY MANUAL:** If Broker's office policy manual, now or as modified in the future, conflicts with or differs from the terms of this Agreement, the terms of the office policy manual shall govern the relationship between Broker and Associate-Licensee.

**14. INDEMNITY AND HOLD HARMLESS; NOTICE OF CLAIMS:**

- A. Regarding any action taken or omitted by Associate-Licensee, or others working through, or on behalf of Associate-Licensee in connection with services rendered or to be rendered pursuant to this Agreement or real estate licensed activity prohibited by this agreement: (i) Associate-Licensee agrees to indemnify, defend and hold Broker harmless from all claims, disputes, litigation, judgments, awards, costs and attorney fees, arising therefrom and (ii) Associate-Licensee shall immediately notify Broker if Associate-Licensee is served with or becomes aware of a lawsuit or claim regarding any such action.

- B. Any such claims or costs payable pursuant to this Agreement, are due as follows:

Paid in full by Associate-Licensee, who hereby agrees to indemnify and hold harmless Broker for all such sums, or  
 In the same ratio as the compensation split as it existed at the time the compensation was earned by

Associate-Licensee Other:

Payment from Associate-Licensee is due at the time Broker makes such payment and can be offset from any compensation due Associate-Licensee as above. Broker retains the authority to settle claims or disputes, whether or not Associate-Licensee consents to such settlement.

**15. ADDITIONAL PROVISIONS:**

**16. DEFINITIONS:** As used in this Agreement, the following terms have the meanings indicated:

- A. "Listing" means an agreement with a property owner or other party to locate a buyer, exchange party, lessee, or other party to a transaction involving real property, a mobile home, or other property or transaction which may be brokered by a real estate licensee, or an agreement with a party to locate or negotiate for any such property or transaction.
- B. "Compensation" means compensation for acts requiring a real estate license, regardless of whether calculated as a percentage of transaction price, flat fee, hourly rate, or in any other manner.
- C. "Transaction" means a sale, exchange, lease, or rental of real property, a business opportunity, or a manufactured home, which may lawfully be brokered by a real estate licensee.

**17. ATTORNEY FEES:** In any action, proceeding, or arbitration between Broker and Associate-Licensee arising from or related to this Agreement, the prevailing Broker or Associate-Licensee shall be entitled to reasonable attorney fees and costs.

**18. ENTIRE AGREEMENT:** All prior agreements between the parties concerning their relationship as Broker and Associate-Licensee are incorporated in this Agreement, which constitutes the entire contract. Its terms are intended by the parties as a final and complete expression of their agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This Agreement may not be amended, modified, altered, or changed except by a further agreement in writing executed by Broker and Associate-Licensee.

**Broker:**

(Brokerage firm name)

By

Its  Broker/ Office manager (check one)

(Print name)

**Associate-Licensee:**

(Signature)

(Print name)

(Address)

(Address)

(City, State, Zip)

(City, State, Zip)

(Telephone)

(Telephone)

(Fax)

(Fax)

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Published and Distributed by:  
 REAL ESTATE BUSINESS SERVICES, INC.  
*a subsidiary of the California Association of REALTORS®*  
 525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by

Date

ICA-BA 4/15 (PAGE 5 OF 5)

**INDEPENDENT CONTRACTOR AGREEMENT (ICA-BA PAGE 5 OF 5)**

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## Independent Contractor vs. Employee

Common law rules are used to determine whether a worker is an independent contractor or an employee. In order to discern a worker's status, one must examine the relationship between the worker and the business. The main premise to consider is the degree of control and independence in the relationship. Evidence falls into three categories:

1. **Behavioral Control.** Determines whether a business has the right to direct and control the type of work required by the worker, and how it is accomplished.
2. **Financial Control.** Determines if a business has the right to direct or control the financial and business aspects of a worker's job, including:
  - The extent to which a worker is reimbursed for business expenses
  - The extent to which a worker invests in the facilities and/or tools used to perform required services
  - The extent to which a worker makes his or her services available to the relevant market
  - How the business pays the worker
  - The extent to which a worker can make a profit or incur a loss
3. **Relationship of the Parties.** Determines the evidence of an existing relationship between parties, including:
  - Written contracts describing the relationship that both parties intended to create
  - The employee-type benefits that the business provides (i.e. insurance, pension plan, vacation, or sick pay)
  - The permanency of the relationship
  - The extent to which services performed by a worker are a key aspect of a company's regular business

In summary:

- An independent contractor provides goods or services to another party under terms specified in a contract, whereas an employee works under the general direction of an employer.
- An independent contractor is paid on a commission, whereas an employer pays an employee a salary or hourly wage.
- An independent contractor's "employer" does not have to pay withholding or social security taxes on his or her behalf, whereas an employee's employer does.
- An independent contractor is responsible for him- or herself, whereas an employee is required to follow the direction of an employer.

An agent's status as an independent contractor allows him or her to avoid paying federal withholding taxes. However, he or she pays for her own health insurance and social security taxes.

A broker is not responsible for providing unemployment payments. Although not required by law, it is advisable for brokers (even those in small offices) to offer worker's compensation. Worker's compensation can prevent substantial losses in the event of an agent's negligence or misconduct.

## Finding a Broker

An agent should choose a broker who is experienced and offers assistance in building the agent's career. A good broker:

- Has other successful real estate agents
- Offers a fair commission structure
- Upholds ethical standards
- Specializes in a specific category of real estate
- Offers comprehensive training programs and materials
- Will assist in an agent's quest of becoming a successful real estate agent

During an interview, a broker will ask a potential agent about his or her experience, sales volume, work ethic, the type of real estate he or she wishes to engage in, and his or her goals. As there are many costs associated with employing an agent, a broker must ensure that the agent either has the experience or the willingness to become a successful part of the brokerage.

However, a broker's interview of an agent is just as much an agent's interview of the broker. An agent should be thorough in his or her questions to understand what the brokerage would provide him or her.

### Questions to Ask a Broker During the Interview

- How many real estate agents currently work at the office?
- How long does the average agent work at the office?
- What is the average annual sales volume for the brokerage?
- Who is the top agent and how much volume do they produce?
- What is the commission structure?
- Does the commission structure change as an agent closes more sales or brings in a higher volume of business?
- How is an agent expected to obtain new business?

- Do agents have the opportunity to engage with phone leads and walk-in customers?
- Does the brokerage offer a mentorship program?
- What type of training does the brokerage offer?
- Who is responsible for paying for the cost of training?
- Does a broker or another agent assist a new agent in their initial transactions?
- Does the brokerage assist with agent transactions?
- What fees is an agent required to pay? (i.e. membership fees, association fees, MLS fees, realtor fees)
- Does the brokerage do any advertising? (i.e. Internet, newspaper, magazines, yellow pages, radio, TV)
- Is an agent responsible for paying for a portion of the advertising?
- Does the brokerage provide email addresses, websites, forms, signs, and/or business cards?
- Is there a desk fee to work at the brokerage? If so, what does the fee cover?
- How many pages is an agent allowed to print at the office without being charged? What is the cost per page after surpassing the maximum?
- Are there any special software programs that an agent is required to use at the brokerage?
- Are there any ongoing expenses associated with working at the brokerage? (i.e. parking, conference room fees)
- Does the brokerage carry errors and omissions insurance (E&O)? Is an agent required to pay a portion of the cost of the insurance?
- Is an agent allowed to conduct business and advertise under his or her “doing business as” (DBA) name?

## Commission Structure

Real estate agents and brokers are paid commissions on every real estate transaction that they close.

There is no standard fee or commission. While agents typically charge a principal anywhere between 1-3% of a property's final sale price, the commission amount is dependent on the negotiations between the buyer, seller, and agent.

Some agents may charge a flat fee instead of a percentage of the property's final sale price. These are called discount or cut-rate brokers.

Others may provide individual, “a la carte” services so that sellers can choose and pay for only the services he or she needs. The individual services a broker may offer include:

- Listing a subject property on MLS

- Marketing a subject property
- Referring sellers or buyers to a subject property
- Creating property marketing materials
- Creating sales contracts
- Taking professional photos of a subject property

For example, a seller may enlist the help of a broker to market his or her property, while listing the property and hosting open houses on his or her own.

There are also instances in which an agent may charge an hourly fee instead of a commission. For example, a seller may pay an agent an hourly rate to show his or her property in an open house. This option still allows a seller to market his or her property as “for sale by owner”.

Discount, pay-per-service, and pay-by-the-hour brokers are typically not as effective for closing a sale. This is because the property owner is ultimately responsible for the sale of his or her own property. Real estate sales are a business of relationships. It is difficult for a seller to compete with experienced professional agents without existing relationships or previous experience in real estate sales. Therefore, “sale by owner” situations may not sell properties as fast, as effectively, and/or for as high a price as a professional agent would.

The commission split between an agent and a broker is determined by their written agreement. Typically, agents make 50-90% of the total fee charged by a broker. Brokers technically get paid the commission by the seller/buyer, takes a cut, and then distributes the rest to the agent.

Some brokerages provide a **100 percent commission** structure. This means that an agent keeps 100% of a transaction’s commission. In this situation, the broker collects a flat fee from the agent in return for using the broker’s brokerage.

100 percent commission offices typically do not provide the customary training of standard commission offices. Therefore, this kind of structure is more beneficial for experienced agents who already know their way around the market.

## Agent Partnerships

Many real estate agents team up to form agent partnerships. An **agent partnership** is an agreement where two or more agents work together to achieve a common goal of buying or selling more real estate on behalf of clients. The goal is to combine knowledge, expertise and resources to achieve that common goal. Such an agreement can be either a huge advantage or a huge disadvantage for an agent.

Among the advantages are:

- *Wider Network.* Each agent has his or her own network of buyers, sellers, and other real estate professionals. A partnership combines these networks, maximizing the volume of available transactions and the chances of finding the appropriate buyer or seller for each transaction.
- *Strengths/Weaknesses.* Each real estate agent has unique strengths and weaknesses. One agent may have a knack for convincing buyers to purchase properties, while another may excel at marketing. A partnership can combine the strengths of individual agents, while compensating for their potential weaknesses.
- *Motivation.* A partnership can provide motivation to stay focused, help find better ways of closing business, and keep each other positive during “drought” periods.
- *Time.* A real estate partnership allows fellow agents to assist each other when one agent on the team is busier than the other(s). Partnerships can hold more open houses, promote more properties, and spend more time assisting buyers in finding houses.
- *Efficiency.* As real estate partnerships have more agents involved per transaction, they can be more efficient at closing deals.
- *Income.* Having multiple agents with diverse skills working together leads to higher efficiency, which allows partnerships to buy and sell homes faster and at higher prices.

Conversely, a partnership can be detrimental to an agent’s real estate success if it is not balanced and one agent ends up contributing more time and effort than the other agent in the partnership. An agent must make sure to choose another agent shares the same goals, expectations, and level of dedication before entering into a partnership.

Partnerships should also have a written agreement that indicates the parties involved, the commission split, and when the partnership will expire.

## **Required Skillsets for Real Estate Agents**

A successful real estate agent must have a unique combination of skills. Agents who have a multidimensional skillset will have a distinct advantage over other agents and be able to sell more effectively.

## Real Estate Knowledge

Having a comprehensive understanding of the real estate market is paramount to an agent's success. An agent must be well-versed in the world of real estate, from broad market trends to transactional details.

An agent should familiarize him- or herself with the local market's unemployment rate, growth rate, inflation, deflation, and other economic factors. An agent should also understand the local area, including the locations of major boulevards, schools, parks, shopping centers, transportation locations, food markets, and other vital services. An agent should know which properties are for sale, which recently sold, and which may be listed soon.

An agent must also understand the ins and outs of real estate contracts and the steps involved in closing a transaction.

Knowledge of other fields that are related to real estate can also improve an agent's chances of success.

- *Finance.* Nearly all buyers use some form of financing when purchasing a home and it is an agent's responsibility to determine the likelihood that a buyer will be approved. Therefore, an agent should be familiar with buyer qualifications for loans.
- *Construction.* A basic understanding of construction can help an agent sell a home that requires extensive re-modeling.
- *Marketing and Advertising.* An agent must have a firm understanding of marketing and advertising in order to obtain more clients and effectively list properties.
- *Real Estate Appraising.* An agent must understand how property values are calculated in order to fight for the best deal for his or her client. It is helpful for agents to understand appraisals, including how to find the general cost of specific items (i.e. flooring, paint quality, architecture, quality of property, molding), the cost per square footage, and how certain streets affect property value.
- *Caravan.* A **caravan** is an organized group of real estate professionals that view homes with one another. The purpose of this is to invite as many buyer agents as possible with the idea that one or more of the agents will have a suitable buyer for the property being listed.

An agent should do appropriate research to ensure that he or she is providing a client with the most up-to-date and accurate information. Effectively articulating knowledge

to potential clients allows an agent to gain their trust and maximizes his or her chances of convincing a client to retain his or her services.

Conversely, errors or an agent's lack of confidence in efficiently maneuvering a transaction may result in the loss of a client's confidence. Real estate transactions are among the most important decisions a client will ever make. An agent's mistakes could ultimately jeopardize a transaction.

## **Personality**

Personality is one of a real estate agent's most important assets. An agent is selling real estate, but he or she is also selling him- or herself. The way an agent dresses, speaks, and acts – particularly for a first impression or meeting – is very important in real estate.

### **Confidence**

It is essential for an agent to appear competent, confident, and approachable in order to make buyers and sellers feel comfortable about the prospect of working with him or her. Confidence is also essential for properly representing a client's interests to other agents and principals.

An agent will also deal with his or her fair share of rejection. Individuals who cannot handle rejection or are easily intimidated by others will have a difficult time being successful in real estate.

### **Passion**

An agent must be genuinely excited about real estate and passionate about helping clients make an extremely important life decision. A positive attitude can go a long way towards putting buyers in the right mood to make a deal.

### **Self-Motivation/Self-Discipline**

Although agents work with a broker, they are essentially their own bosses.

Therefore, a successful agent must be a self-starter with a strong sense of self-motivation and self-discipline. He or she must make and manage his or her own schedule; pursue clients and grow his or her network; and both obtain and close his or her own deals. An agent must put pressure on him- or herself and deliver. In short, an agent can only rely on him- or herself to achieve a successful career.

This flexibility and freedom can be liberating for the right kind of person. An individual who struggles to self-motivate or does not possess a strong sense of ambition, however, may not make a successful agent.

### **Driven By Success**

Real estate is a results-driven field. If an agent cannot close deals and make commissions, he or she cannot build a successful career. Unfortunately, obtaining and closing deals can be difficult for a new agent.

That is why a new agent must have the mindset to persevere through the initial difficulties presented by the profession. His or her goal should be simple: close the first deal. Closing a successful first deal is a strong motivator that can be used to leverage other deals. Subsequent deals lay the foundation for a successful career. Therefore, an agent must be driven by success to succeed.

An agent's environment affects his or her thoughts, confidence, and the future reality he or she wishes to achieve. An agent should only associate with positive, successful individuals and cut out those things that do not contribute to his or her success.

### **Flexibility**

Agents must conform their schedules to the schedules of their clients. Most consumers work normal hours (9 AM–5 PM), which means an agent will most likely work some night and weekend hours. An agent should be prepared to be available during these odd hours and to make adjustments to his or her schedule.

## **Real Estate Specialties**

The majority of real estate transactions are residential.

Even if an agent intends on specializing in non-residential real estate (i.e. commercial, industrial), it is recommended that he or she use residential real estate as the foundation for starting a career. The higher the volume of potential transactions, the higher the likelihood that the agent will close business. Once an agent has successfully closed residential business, he or she can move on to work with larger transactions and different specializations.

Other real estate specialties include:

- *Commercial Real Estate.* Deals with retail stores, shopping centers, warehouses, office buildings, medical facilities, and mixed-use buildings.

- *Industrial Real Estate.* Deals with factories, and land used for mineral mining and oil drilling/excavation. Once among the more common real estate specialties, industrial real estate is an ever-decreasing portion of the market. There are very few sales, although they are typically lucrative when they arise.
- *Auction Sales.* Auction sales are a less common specialty for agents. After the real estate market collapse in 2008, auctions gained a larger percentage of the overall market, as banks needed a way to quickly turn over a large portion of their foreclosures.
- *Business Opportunity Investment.* Deals with the sale of businesses that include the transfer of real estate. Examples include hotels, motels, restaurants, bars, and nightclubs. Business opportunity investments are rare, so very few agents engage in this specialization.
- *Farm Real Estate.* With the rapid development of cities, farm real estate sales are becoming a much smaller percentage of the overall market. Most established farms continue to use the same land and they rarely sell.
- *Land Sales.* Developers with the intention of developing property generally initiate land sales. They occur under the umbrella of residential, commercial, industrial, and agricultural real estate.
- *Counseling.* Experienced real estate agents may council other real estate agents or provide advice to buyers and sellers on a case-by-case basis. They charge clients on an hourly basis.
- *Leasing Agent.* Leasing agents assist property owners in obtaining tenants to fill vacant residential units, storefronts, and other rental properties. A leasing agent gets paid on the gross receipt of rent collected by the property owner.
- *Manufactured Home Sales.* Manufactured/mobile homes fill a large void in affordable housing. Some real estate agents deal specifically in these sales.
- *Mortgage Loans.* Real estate agents can help buyers obtain financing by assisting them in preparing mortgage documents and getting qualified individuals approved for loans.
- *Property Management.* Deals with managing a property on behalf of its owner. This includes: collecting rent from tenants, keeping appliances and property mechanics in working order, fielding questions and concerns from the property owner and tenants, evicting tenants who have defaulted on payments, and drafting contracts for new tenants. It is common for real estate agents who are property managers to also facilitate the buying and selling of real estate.

- *Subdivision.* Developers are in constant need of undeveloped land to implement their subdivision plans. The real estate agents who specialize in finding this type of land must be familiar with local regulations and codes.
- *Time-shares.* Although time-shares made up an expanding portion of the real estate market in the early to mid-2000s, less of these types of sales exist today.

## Planning

### Long-Term Plan

Every real estate agent has dreams for his or her career. A plan transforms those dreams into achievable goals. A plan becomes a blueprint for success by creating realistic expectations, strategies, and deadlines by which to achieve courses of action. A plan keeps an agent accountable to necessary tasks.

The busier an agent is, the more important planning becomes.

An agent should create a daily, weekly, and monthly plan. A daily plan should incorporate various tasks that will achieve the goals of the weekly and monthly plans.

A real estate agent should divide his or her duties into four main categories:

1. *Finding new clients.* This includes holding meetings with prospective clients, marketing, and strategizing about how to increase client volume.
2. *Presentations and showings.* This includes conducting open houses, presentations, tours, and other activities.
3. *Studying the local real estate market.* This includes recently sold properties, new listings, and price changes in the market.
4. *Personal affairs.*

Finding the correct balance between the above four categories is crucial to becoming a successful real estate agent.

### Daily Planning

**Daily planning** is the building block for a real estate business. What an agent does every day will affect his or her short- and long-term goals.

An agent should always be on a schedule and stick to it as closely as possible.

A set schedule equals set results. An agent must manage his or her time effectively and hold him- or herself accountable to that time.

A helpful piece of advice is: “Don’t look up at the mountain, look down at the mountain.” This means that an agent should tackle the hardest, most important tasks first, rather than save them until the end of the day. Finishing time-consuming or difficult tasks early in the day will fuel a sense of accomplishment and allow more flexibility in the event that an agent’s schedule changes later on.

Without external pressure from a boss, an agent is able to take extended coffee or lunch breaks, surf the Internet, read the paper, and socialize whenever he or she chooses. However, an agent should aim to hold him- or herself to the same standard as a salaried employee. An agent must pretend like a boss is watching and they are “on the clock”. This mentality helps avoid wasting valuable time.

Nevertheless, there will inevitably be setbacks and wasted time throughout the day. For example, agents may have to contend with traffic, client cancellations, or longer than intended meetings. An agent must learn to adjust his or her schedule when changes occur and ensure that all tasks are finished.

At the end of each workday, an agent should take the time to prepare the following day’s daily plan. This way, he or she knows exactly what needs to be done at the start of the next day.

| <b>Daily Planner</b> | Date: _____ |
|----------------------|-------------|
| 8:00 am              |             |
| 9:00 am              |             |
| 10:00 am             |             |
| 11:00 am             |             |
| 12:00 pm             |             |

|         |  |
|---------|--|
| 1:00 pm |  |
| 2:00 pm |  |
| 3:00 pm |  |
| 4:00 pm |  |
| 5:00 pm |  |
| 6:00 pm |  |
| 7:00 pm |  |
| 8:00 pm |  |
| 9:00 pm |  |

## **Preparation & Practice**

### **Preparation**

Preparation is critical to building a foundation in real estate.

## Understanding the Principal

Each real estate transaction presents a unique set of circumstances and type of principal that the agent must deal with. An agent's ability to recognize the wants and needs of a prospective buyer or seller is key to becoming a successful real estate agent.

A principal's job, financial situation, lifestyle, and goals drastically affect what type of client they are. This, in turn, affects an agent's strategy for convincing the principal to use the agent's services and the strategy an agent uses to close a deal.

An agent who spends time getting to know his or her clients and building a strategy that is tailored to the clients' needs will have a higher likelihood of closing a deal.

A seller's motivation to sell and a buyer's motivation to buy will also influence an agent's strategy.

- A **must-buy buyer** is a buyer who has an urgent need to buy a home. For instance, the buyer may have just moved into the neighborhood or he or she needs to purchase due to an expiring 1031 exchange. A 1031 exchange is a method for taxpayers who have earned income to defer capital gains temporarily to exchange it for another property. The exchanged properties must be like kind—that is to say of the same nature. For example, a taxpayer who earned their income from the sale of real property must exchange it for another real property. It cannot be used to purchase stocks.
- A **must-sell seller** is a seller who has an urgent need to sell his or her home. For example, such a seller may no longer be able to afford the property's mortgage payments or he or she may need to relocate to another city for a new job. A must-sell seller may list the property at below market value in an effort to do so more quickly.
- A **will-buy buyer** is a buyer who wants to buy a home in the future, but has no urgent need to do so in the short-term.
- A **will-sell seller** is a seller who will sell his or her property, but only for the highest property value. A will-sell seller may list his or her property above its value simply to gauge the real estate market or to see if anyone on the market may be interested in buying.

## Preparing for the Principal

An agent should prepare basic, accurate information for conversations with potential or existing clients. This will make an agent appear professional and knowledgeable and help convince a client to choose him or her as their agent.

An agent should have the following prepared prior to meeting with clients:

- *Comparables.* Recently sold properties and their price, square footage, and location.
- *Listings.* Which properties are currently available on the market.
- *Market Knowledge.* The status of the real estate market and other economic data, including real estate growth, unemployment rates, and wages.
- *Intangibles.* Professional assets, such as being punctual, concise, and “on point”, and knowing how to read different situations. An agent’s biggest source of new business – referrals -- comes as a direct result of business intangibles.

## Pitching

An agent’s ability to articulate his or her real estate knowledge and to answer client questions in a professional, convincing way is critical. One of the best ways for an agent to practice is through role-playing.

Role-playing involves an agent imagining potential situations that may arise with a client and rehearsing how he or she will respond. An agent can role-play showings, contract signings, phone calls, presentations, or general questions that he or she may be asked.

With consistent practice, an agent will sound convincing and begin to feel confident. That confidence will make clients feel comfortable with trusting the agent for a real estate deal.

An agent should practice speaking in front of a mirror or record him- or herself. It may seem odd at first, but the exercise can be an invaluable lesson for an agent. By understanding how he or she looks and sounds and by altering certain behaviors, an agent can appear more convincing to potential clients.

For example, practicing in front of a mirror may lead an agent to discover that that his or her hand gestures are distracting. Listening to a recording of his or her voice may reveal verbal habits that the agent was previously unaware of, such as tone, enunciation, pauses in language, or the use of filler words (i.e. um, ahh, uhh, ya).

An agent should critique him- or herself and answer this question honestly: “Would I hire me?”

## Training

Training in real estate is a constant and never-ending process. There is always something an agent can improve upon, from sales technique, to marketing ability, to knowledge of a constantly changing real estate market.

One of the major reasons that real estate agents fail in their career is due to not receiving the necessary training. Real estate books and videos can offer helpful overviews of the real estate industry and standard practice. However, the best training comes from learning from others and real world experience.

## Mentorship

The key to being successful in real estate is to be surrounded with successful people. An agent should aim to learn from experienced, like-minded individuals whose skills are superior to his or her own.

Top real estate agents have attempted both successful and failed strategies; observed various economic cycles and market trends; and have a wealth of firsthand client experience. They have spent years perfecting their craft and can provide invaluable knowledge to a new agent.

Mentorship programs involve a new agent following a more experienced agent to signings, open houses, meetings, and other professional events. This allows new agents to learn how real estate procedures are put into practice. They can use an experienced agent's breadth of experiences to their advantage, particularly in understanding the level of dedication required to be a successful agent.

Oftentimes, established agents at the same brokerage are willing to serve as a mentor because they receive free assistance from the new agent.

## Working as a Real Estate Assistant

New agents may choose to gain real estate experience by working as an assistant to an already established agent.

Nearly 20% of real estate agents have assistants. An assistant becomes an extension of the agent. He or she completes the tasks that an established agent no longer has time for, including:

- Handling phone calls, emails, and vital communications
- Preparing real estate forms
- Preparing comparables and market data
- Installing signs and lockboxes

- Finding real estate on MLS
- Holding, or assisting with holding, open houses
- Qualifying prospective buyers
- Following up with agents who attended showings
- Preparing property flyers



**PERSONAL ASSISTANT CONTRACT**  
 (Between Associate-Licensee and Licensed or Unlicensed Assistant)  
 (C.A.R. Form PAC, Revised 6/12)

This Agreement, dated \_\_\_\_\_, is between \_\_\_\_\_ ("Associate-Licensee") and \_\_\_\_\_ ("Assistant").

Assistant desires to work for Associate-Licensee, and Associate-Licensee desires to use the services of Assistant. In consideration for the covenants and representations contained in this Agreement, Associate-Licensee and Assistant agree as follows:

1. **ASSOCIATE-LICENSEE** is a California real estate licensee with a salesperson's, or broker's license. Associate-Licensee is licensed under \_\_\_\_\_ ("Broker") or \_\_\_\_\_ (if checked) works for him/herself.
2. **ASSISTANT REAL ESTATE LICENSE:** Assistant \_\_\_\_\_ does, \_\_\_\_\_ does not, hold a California real estate license. If Assistant does hold a real estate license, the license must be furnished to Broker immediately upon execution of this Agreement.
3. **EMPLOYER-EMPLOYEE RELATIONSHIP:** Assistant shall be an at-will employee of Associate-Licensee. This means either party may terminate this Agreement at any time with or without cause. As Assistant's employer, Associate-Licensee shall be responsible for compliance with all applicable local, state and federal laws including not limited to minimum wage and overtime pay, timekeeping requirements, income and employment tax withholdings, worker's compensation coverage and compliance with employment discrimination including harassment law. If Associate-Licensee and Assistant desire to enter into a different type of working relationship, such as independent contractor, a separate written agreement must be used. The classification of any person who performs services for an Associate-Licensee as an independent contractor has significant legal consequences for both the Associate-Licensee and the person who performs the services and can result in severe penalties and other adverse consequences if a person is misclassified as an independent contractor. Associate-Licensee and Assistant are advised to seek legal and accounting advice before considering classifying Assistant as an independent contractor.
4. **DUTIES:** Assistant shall assist Associate-Licensee in fulfilling Associate-Licensee's obligations under the Independent Contractor agreement (C.A.R. Form ICA, attached) between Associate-Licensee and Broker. Assistant shall comply with all obligations of Associate-Licensee imposed under the terms of that agreement and any office policy established by Broker. Associate-Licensee shall monitor the work and results of Assistant. If Assistant does not have a real estate license, Assistant shall not engage in any activity for which a real estate license is required. (Assistant may become more familiar with these limitations by reading the "DRE Guidelines for Unlicensed Assistants.") In addition, and more specifically, Assistant shall perform the following activities:

5. **COMPENSATION AND BENEFITS:**

- A. **Base Compensation:** Assistant's base compensation is \$ \_\_\_\_\_ per hour payable in equal bi-weekly installments every other \_\_\_\_\_ (insert day of the week).  
**OR** (If checked) Assistant's base compensation is \$ \_\_\_\_\_ per hour payable in equal semi-monthly installments on the 15th (or \_\_\_\_\_) and last (or \_\_\_\_\_) day of the month.  
**OR** (If checked) Assistant's base compensation is shown in Exhibit \_\_\_\_\_ attached hereto and incorporated as a part of this Agreement by reference.
- B. **Expenses:** Assistant shall be reimbursed for reasonable business expenses incurred by Assistant in performing Assistant's duties under this Agreement.
- C. **Advances:** Assistant shall not be entitled to any advance payment from Associate-Licensee upon future compensation, unless specified in a separate written agreement for each such advance. If Associate-Licensee elects to advance funds to Assistant pursuant to a separate written agreement, Associate-Licensee may deduct the amount advanced from any future paycheck due Assistant as specified in the separate written agreement.
- D. Deductions authorized by Assistant or required by law (including but not limited to FICA, Medicare and Federal and State income tax) will be withheld from Assistant's pay.
- E. **Compensation Review:** Associate-Licensee shall review Assistant's base compensation annually. Associate understands and agrees that any such review is not an express or implied commitment to increase such compensation nor is there any express or implied commitment to maintain Assistant's compensation at any particular level in the future.
- F. **Timekeeping:** Associate-Licensee shall record Assistant's time on a daily basis including starting time, ending time and the beginning and ending time for all meal periods.
- G. **Vacation Policy:** Assistant shall be eligible to accrue vacation at the rate of \_\_\_\_\_ hours per pay period. The maximum unused vacation benefits Assistant may have at any one time shall equal two year's worth of vacation (or a total of \_\_\_\_\_ hours) OR as specified in Exhibit \_\_\_\_\_ attached. If Assistant's earned but unused vacation reaches the maximum accrual amount, Assistant will cease to accrue additional vacation time until Assistant uses enough vacation to fall below the maximum accrual amount. All accrued and unused vacation will be paid to Assistant upon termination of this Agreement as required by law.

Associate Licensee's Initials ( ) ( )

Assistant's Initials ( ) ( )

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Reviewed by \_\_\_\_\_ Date \_\_\_\_\_

PAC REVISED 06/12 (PAGE 1 OF 3)

**PERSONAL ASSISTANT CONTRACT (PAC PAGE 1 OF 3)**

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 [www.zipLogix.com](http://www.zipLogix.com)



**6. PROPRIETARY INFORMATION AND FILES:**

- A. Assistant acknowledge that as a result of Assistant's employment created by this Agreement, Assistant may given access to, make use of, create, acquire and/or add to non-public proprietary, confidential information of a secret, special and/or unique nature and value to Broker, including without limitation Broker's internal systems, procedures, manuals, confidential reports, client lists and client information, methods, strategies and/or techniques used by Broker, the equipment and methods used and preferred by Broker's clients, the fees paid by clients and any and all other confidential information of Broker (hereafter collectively and individually "Confidential Information"). Assistant further recognizes and acknowledges that all of Broker's Confidential Information which is now or may hereafter be in their possession is the property of Broker and that protection of this Confidential Information against unauthorized disclosure or use is of critical importance to Broker in order to protect Broker from unfair competition. As a material inducement to Associate-Licensee to enter into this Agreement, Assistant covenants and agrees Assistant will not at any time, either while this Agreement is in force or after it is terminated without the prior written consent of Broker make any independent use of such Confidential Information, or disclose the same, directly or indirectly, to any other person, firm, corporation or other entity, for any reason or purpose whatsoever, except as may be required by law provided that Assistant shall cooperate with Broker in taking all necessary and appropriate steps to assure the protection of such Confidential Information from unauthorized use or disclosure outside of any action, proceeding, inquiry or investigation, or except to the extent that any such Confidential Information shall be in the public domain other than by reason of Assistant's breach of this paragraph 6.
- B. All Confidential Information including without limitation files and documents pertaining to listings, leads, transactions and the operation of Broker's real estate brokerage are property of Broker. Assistant shall, on the termination of this Agreement for any reason, immediately surrender to Broker all such Confidential Information including without limitation all documents and files whether in paper or electronic format.

**7. INSURANCE:**

- A. **AUTOMOBILE:** Assistant shall maintain automobile insurance coverage for liability and property damage in the following amounts \$ \_\_\_\_\_ /\$ \_\_\_\_\_, respectively. Associate-Licensee and Broker shall be named as additional insured parties on Assistant's policies. A copy of the endorsement showing the additional insured parties shall be provided to Associate-Licensee.
- B. **WORKER'S COMPENSATION:** Associate-Licensee's Worker's Compensation carrier is \_\_\_\_\_ . The contact information for this carrier is as follows: Address: \_\_\_\_\_ , Telephone: \_\_\_\_\_ .

**C. ERRORS AND OMISSIONS INSURANCE:** Associate-Licensee represents that (check one):

- (i) Assistant is covered by errors and omissions insurance obtained by Broker.
- (ii) Assistant is covered by errors and omissions insurance obtained by Associate-Licensee.
- (iii) Assistant is not covered by errors and omissions insurance.

**8. COMPLIANCE WITH APPLICABLE LAWS, RULES, REGULATIONS AND POLICIES:** Assistant agrees to comply with all local, state and federal laws and regulations, and any office policy and procedures to which Associate-Licensee is subject as a result of engaging in real estate activity.**9. NOTICE OF CLAIMS:** Assistant shall immediately notify Associate-Licensee or Broker in writing if Assistant is served with or becomes aware of any lawsuit, claim or proceeding relating to Associate-Licensee or Broker's brokerage business or the performance of this Agreement.**10. DISPUTE RESOLUTION:** Associate-Licensee and Assistant agree to mediate all disputes and claims between them arising from or connected in any way with this Agreement before resorting to court action. If any dispute or claim is not resolved through mediation, or otherwise, Associate-Licensee and Assistant may agree to submit the dispute to arbitration at, and pursuant to the rules and bylaws of, the Association of REALTORS®.**11. OTHER TERMS AND CONDITIONS AND ATTACHED SUPPLEMENTS:**

- Broker and Associate-Licensee Independent Contractor Agreement (C.A.R. Form ICA)
- Broker/Associate-Licensee/Assistant Three Party Agreement (C.A.R. Form TPA)
- Broker Office Policy Manual (or, if checked, \_\_\_\_\_ available in Broker's office)
- BRE Guidelines for Unlicensed Assistants
- California Association of REALTORS® Real Estate Licensing Chart

**12. ATTORNEY FEES:** In any action, proceeding, or arbitration between Associate-Licensee and Assistant arising from or related to this Agreement, the prevailing Associate-Licensee or Assistant shall be entitled to reasonable attorney fees and costs.**13. ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement between the parties. Its terms are intended by the parties as a final, complete, exclusive, and integrated expression of their agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This Agreement may not be amended, modified, altered, or changed except in writing signed by Associate-Licensee and Assistant. If any provision of this Agreement is held invalid and legally unenforceable, the parties agree that such provision shall be deemed amended to the extent necessary to render it and/or the remainder of this Agreement valid and enforceable. Even after termination, this Agreement shall govern all disputes and claims between Associate-Licensee and Assistant connected with their respective obligations under this Agreement, including obligations and liabilities arising from existing and completed listings, transactions and services.

Associate Licensee's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

Assistant's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

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Reviewed by \_\_\_\_\_ Date \_\_\_\_\_



### Diversity Training

The changing demographics of the United States make it increasingly important for agents to seek minority clients. Furthermore, the growing number of foreign buyers in the country – particularly in California – makes it imperative to study the various types of people who are entering the real estate market.

The National Association of Realtors offers **diversity-training programs** to help agents learn proper etiquette for doing business with various cultures.

## Technology and Real Estate

The rise of the Internet and smartphones has made real estate and technology synonymous in today's market. In the past, buyers and sellers would turn to magazines, newspapers, and other media formats to find properties. This practice, while still used today, is becoming increasingly less common.

Nowadays, an increasing number of consumers begin property searches online through popular real estate websites (i.e. trulia.com, realtor.com). In fact, over 60% of property sales and purchases now originate on the Internet. Smart phones and constant connectivity also bring consumers closer to the action.

Anecdotal evidence and studies have shown that buyers who use the Internet buy real estate much more quickly. The average buyer who uses the Internet to find a property spends roughly two weeks finding a home or agent he or she is interested in, whereas a buyer who does not use the Internet takes approximately seven weeks.

This consumer demand has subsequently changed the way agents conduct business.

- 99% of real estate agents have high speed internet readily available
- 40% use a laptop to keep track of daily business affairs
- 90% have access to MLS
- 10% send electronic newsletters
- 50% claim the Internet gives them an advantage

At minimum, an agent must now be able to:

- Navigate Word, Excel, and other introductory level software programs
- Send, receive, and respond to emails
- Use MLS
- Create and print a list of comparables
- Create attractive flyers

Agents who are technology savvy and up-to-date have a higher chance of being successful. An **e-pro certification program** is a two-day course that teaches agents how to use real estate technology to grow their business. It can be taken in-person or online.

The following equipment is helpful for agents in the modern real estate market:

### **Netbook**

A netbook is smaller version of a laptop. Its small size and weight make it ideal for busy agents who are constantly on the move. A netbook possesses the same features as a full-size laptop or computer. It can be used to prepare listing and purchase contracts, search the MLS, send emails, and present information to clients at showings.

### **Smartphone**

Once considered a luxury item, a smartphone is now a critical tool for conducting real estate business. Similar to a netbook, a smartphone allows agents to work on the go. Among its applicable features are:

- Managing contacts and addresses
- Note taking
- Calculator
- Internet
- Email
- MLS capability (although some smartphones do not have ability to use certain applications)
- Data transfer from phone to computer
- Alarm + Reminders
- GPS
- Use of a keyboard through a plug-in
- Camera / Camcorder

### **Wireless Printer**

A wireless printer allows an agent to print paperwork on the go, typically in his or her car. Such printers can connect to a smartphone or a netbook. This means that an agent can deliver a contract or a report to a client right away. This promotes convenience and professionalism.

## **An Agent's Realm**

### **Home Office**

As most of an agent's business hours are spent on the go, an agent is rarely at his or her broker's office. Therefore, an agent must have a reliable home office at which to do paperwork, prepare contracts, and manage his or her business outside of normal business hours.

A home office should have a computer, printer, scanner, fax and copy machine, and high-speed Internet access.

### **Car**

A real estate agent is constantly on the move with delivering contracts, showing properties, and taking client meetings. Doing the job without a reliable car is nearly impossible.

An agent's car must be clean, well maintained, and readily available at all times. A full size, four-door model is ideal as it allows an agent to comfortably take prospective buyers to and from properties.

An agent's car should also have room for the following items:

- A "For Sale" sign with stake
- Tools (i.e. hammer, screwdriver, nails, screws, nuts, bolts, pliers)
- Tape measure
- Mortgage calculator
- Business cards
- Telephone directory
- Flashlight
- Real estate forms
- Pens and pencils
- Maps of local real estate market (i.e. shopping centers, schools, parks)

### **Business Cards**

An agent comes across countless people on a daily basis. A business card is one of the best ways for an agent to get his or her name "out there".

A business card should include an agent's name, phone number, email address, license number, and the company he or she works for. It is also recommended that an agent

have a small picture on the business card so that fellow agents and potential clients can remember him or her.

## **Appearance**

An agent's appearance can create lasting impressions. It can influence the way a client feels about the agent and his or her ability to close a deal. Those who respect themselves by maintaining a professional appearance earn more respect in return.

Agents should exude success, class, and professionalism. They should dress well by wearing clean, business to business-casual attire. If an agent is unsure about the dress code for a particular situation, it is always better to overdress than to underdress.

Agents should maintain good hygiene. Men agents should be cleanly shaven. Women agents should employ tasteful makeup.

Agents should take care of their bodies. They should also keep up a healthy physical appearance and stay in shape by exercising. Exercise also gives an agent more energy to keep up with the fast-paced real estate lifestyle.