**Effective on January 1, 2019.**

RPA Page 1 Paragraph 2.B requires the names of each agent, their status as dual agents and their license numbers be included in the confirmation along with the same information regarding the Brokerage.

**2. AGENCY:**

**A. DISCLOSURE:** The Parties each acknowledge receipt of a  “Disclosure Regarding Real Estate Agency Relationships” (C.A.R. Form AD).

**B. CONFIRMATION:** The following agency relationships are confirmed for this transaction:

**Seller’s Brokerage Firm** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ License Number \_\_\_\_\_\_\_\_\_\_

Is the Broker of (check one):  the Seller; or  both the Buyer and Seller. (dual agent)

Seller’s Agent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ License Number \_\_\_\_\_\_\_\_\_\_

Is (check one):  the Seller’s Agent. (salesperson or Broker associate)  both the Buyer’s and Seller’s Agent. (dual agent)

**Buyer’s Brokerage Firm** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ License Number \_\_\_\_\_\_\_\_\_\_

Is the Broker of (check one):  the Buyer; or  both the Buyer and Seller. (dual agent)

Buyer’s Agent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ License Number \_\_\_\_\_\_\_\_\_\_

Is (check one):  the Buyer’s Agent. (salesperson or Broker associate)  both the Buyer’s and Seller’s Agent. (dual agent)

**C. POTENTIALLY COMPETING BUYERS AND SELLERS:** The Parties each acknowledge receipt of a  “Possible Representation of More than One Buyer or Seller - Disclosure and Consent” (C.A.R. Form PRBS).

**IF YOUR BROKER IS A DUAL AGENT, THEN YOU’RE A DUAL AGENT.** It does not matter that there is another agent from your Office in the transaction. Dual agency is determined by the brokerage firm. If there is only one brokerage firm, then all agents are dual agents. In other words, if the brokerage firm box is checked for dual agency, then all 4 agent boxes must also be checked for dual agency.

On zipForms this will happen automatically. However, if the transaction is being conducted in hard copy then agents must be careful to fill out the agency confirmation correctly. Otherwise, you risk misrepresenting your agency relationship – a potentially very costly mistake.

***What is a dual agency?***

Anytime both agents work under the same KW Office that is a dual agency. Be careful here because even if the Seller and Buyer have different agents, there still may be a dual agency. The key inquiry is whether the listing and Buyer’s agents are working within the same brokerage. If they are, it’s a dual agency.

***What are the duties of dual agent with regard to confidential information*?**

Currently, the agency form gives little guidance to a dual agent who is in possession of a client’s confidential information. It merely states that a dual agent may not disclose to the Buyer that the Seller will accept a price less than the listing price or disclose to the Seller that the Buyer will pay a price greater than the price offered without express permission.

However, effective January 1, 2019, under the real estate clean-up law, the agency form states, in addition to the above duties, that a dual agent will *not* disclose:

* Confidential information, including facts relating to the Buyer’s or Seller’s
* Financial position
* Motivations
* Bargaining position, or
* Other personal information that may impact price