

REFERRAL ALLIANCE



REFERRAL MEMBER INDEPENDENT CONTRACTOR AGREEMENT

1. **PARTIES.** The parties to this Agreement (“Agreement”) are _____ (Hereafter referred to as “MEMBER”) and Referral Alliance, (hereinafter referred to as “Referral Alliance”).

2. **INTRODUCTION.** The purpose of this Agreement is to establish the terms under which MEMBER shall be affiliated with Referral Alliance’s. REFERRAL ALLIANCE and MEMBER agree as follows:

3. **LICENSE STATE.** REFERRAL ALLIANCE is a licensed Tennessee real estate broker and MEMBER is a real estate licensee in the state of Tennessee.

4. **INDEPENDENT CONTRACTOR RELATIONSHIP.** It is the intention of the parties to establish an independent contractor relationship and not a hiring or employment relationship. MEMBER is authorized solely to engage in the referral of buyers, sellers, lessors and lessees (“Referral Prospects”) for real estate transactions (“Authorized Activities”) consistent with the terms of the REFERRAL ALLIANCE POLICY AND PROCEDURES (“Policy Memorandum”) a copy of which is attached and incorporated by reference. MEMBER shall retain sole discretion and judgment as to the time, manner and means of accomplishing these objectives and REFERRAL ALLIANCE will not direct or control the means by which MEMBER conducts his or her Authorized Activities.

MEMBER will not be treated as an employee for state or federal tax purposes with respect to the Authorized Activities. REFERRAL ALLIANCE will, to the extent it is legally required to do so, report all necessary information to the federal, state and local taxing authorities, including a Form 1099 to report the income of MEMBER earned under this Agreement. REFERRAL ALLIANCE shall not withhold income taxes, social security taxes, disability or unemployment insurance payments, or any other assessments or taxes from referral fees of MEMBER unless required to do so by law. MEMBER agrees and understands that as a self-employed independent contractor, he or she will receive no salary, wages or benefits of any type including, but not limited to, salary, sick pay, severance, health, life, disability, auto, unemployment or worker’s compensation insurance, 401 (k), retirement or other benefits, etc. from REFERRAL ALLIANCE or any related or affiliated entity. MEMBER further does not have to consult with REFERRAL ALLIANCE regarding the scheduling of any time off or vacation and REFERRAL ALLIANCE shall not require MEMBER to keep regular hours in or out of REFERRAL ALLIANCE’s facilities and shall not require MEMBER to perform services in REFERRAL ALLIANCE’s facilities.

5. **ACTIVITIES LIMITED.** MEMBER shall strictly limit his or her activities under this Agreement to the Authorized Activities and shall not engage in any other real estate activities with any other individual or entity for which a real estate license is required. MEMBER hereby agrees to not list or sell properties for sale or lease, or sell or show properties for the purpose of selling or leasing said properties, which activities are strictly prohibited under this Agreement. MEMBER agrees that he or she shall not be entitled to any compensation whatsoever other than the referral fees as set forth in this Agreement and the Policy Memorandum. MEMBER further agrees that during the term of this Agreement he or she will not refer any Referral Prospects to any broker or real estate licensee or company other than REFERRAL ALLIANCE (or by and through REFERRAL ALLIANCE). MEMBER may not conduct any personal activities while using REFERRAL ALLIANCE’s or Coldwell Banker’s name, facilities, or other resources.

While affiliated with REFERRAL ALLIANCE, MEMBER is expressly prohibited from using (i) business cards, stationary or other materials that in any way use the name Barnes Real Estate Services, Inc., or Coldwell Banker (ii) any name of an independently owned Coldwell Banker franchise or that bears the name of any other real estate brokerage company, and (iii) REFERRAL ALLIANCE’s name or logo on any marketing materials, business cards, stationary or other materials that also include any other company’s name, logo or product or service. MEMBER is encouraged to purchase and use REFERRAL ALLIANCE business cards and other materials in order to promote and maintain contact with prospects, friends and relatives. The purchase and use of REFERRAL ALLIANCE Announcement Cards is also recommended.

6. **ANNUAL MEMBERSHIP FEE.**

(a) MEMBER shall pay to REFERRAL ALLIANCE an annual non-refundable membership fee (“Membership Fee”). MEMBER’s initial, pro-rated Membership Fee is due and payable upon becoming affiliated with REFERRAL ALLIANCE. Subsequent annual Membership Fees are due July 1st of each year. The pro-ration will be determined based on the annual Membership Fee divided by 12, and multiplied by the number of months remaining before reaching the July 1st renewal date.

(b) REFERRAL ALLIANCE shall have the right (but not the obligation) to deduct or setoff any fees due it from any sums otherwise due to MEMBER. If MEMBER is in arrears or is delinquent in the payment of the Membership Fee or other fees owed to REFERRAL ALLIANCE, when a referral closes and MEMBER would otherwise be entitled to compensation from REFERRAL ALLIANCE, the MEMBER will be required to pay all outstanding Membership Fees or other moneys owed to REFERRAL ALLIANCE before the compensation on the referral is owed or paid.

(c) The annual Membership Fee is \$200.00 per year as of the date of this Agreement. From time to time, as REFERRAL ALLIANCE deems appropriate, REFERRAL ALLIANCE may increase the Membership Fee by providing written notice to MEMBER 30 days in advance of the renewal date.

7. **DUTIES OF MEMBER** - MEMBER agrees to:

- a. Conduct the Authorized Activities strictly in accordance with this Agreement and the Policy Memorandum, as amended from time to time;
- b. Refer all Referral Prospects in the manner prescribed by REFERRAL ALLIANCE and the Policy Memorandum;
- c. Refrain from engaging in any and all advertising including, but not limited to, internet advertising and direct mail advertisements, without obtaining prior written approval for each such advertising from REFERRAL ALLIANCE;
- d. Not create or impose any liability on REFERRAL ALLIANCE, Barnes Real Estate Services, Inc., , or any of their related entities or any other network brokers;
- e. Register MEMBER's real estate license with REFERRAL ALLIANCE and obtain, at Associate's expense, any licenses or memberships required to perform any of the Authorized Activities or maintain MEMBER's affiliation with REFERRAL ALLIANCE as described herein;
- f. Comply with all laws, rules and regulations, including the real estate licensing laws of the State and those of any other governing agencies or entities;
- g. Adhere to State and federal "Do Not Call" laws, unsolicited fax and e-mail laws, and consumer protection laws;
- h. Complete, at MEMBER's sole cost, all continuing education requirements, if any, as required to maintain MEMBER's real estate license in good standing; and
- i. Read and abide by the Policy Memorandum which, together with this Agreement, shall govern the relationship between MEMBER and REFERRAL ALLIANCE.

8. **DUTIES OF REFERRAL ALLIANCE** - REFERRAL ALLIANCE agrees to:

- a. Make available information designed to improve the prospecting skills of MEMBER;
- b. Provide a system for processing MEMBER's Referrals Prospects;
- c. Coordinate with network brokers for the follow-up necessary to fulfill the terms of this Agreement;
- d. Provide confirming data to MEMBER regarding each referral;
- e. Pay referral fees promptly to MEMBER, upon REFERRAL ALLIANCE's receipt of the fees resulting from a closed referral as provided in the Policy Memorandum. REFERRAL ALLIANCE shall not be liable to MEMBER for any fees not collected by REFERRAL ALLIANCE, nor shall REFERRAL ALLIANCE be obligated to pursue collection of any such fee on behalf of MEMBER

9. **EXPENSES** – REFERRAL ALLIANCE shall not be responsible for any costs or expenses incurred by MEMBER in connection with MEMBER's business. MEMBER shall be solely responsible for all such costs and expenses, which shall include, but are not limited to: (1) all fees and charges MEMBER incurs in keeping MEMBER's real estate license active and in full force and effect; (2) all professional dues and fees; (3) insurance premiums, if any (including any professional liability insurance MEMBER desires to obtain); (4) costs of mailing, telephone and transportation; (5) taxes and fees payable to any federal, state, county or local government agencies; and (6) any other expenses incurred as a result of the Authorized Activities.

10. **REAL ESTATE BOARDS** - MEMBER acknowledge that he or she has been informed by REFERRAL ALLIANCE that REFERRAL ALLIANCE is not a member of any Board of Realtors or multiple listing services.

11. **CONFIDENTIALITY** – The files maintained by either REFERRAL ALLIANCE or MEMBER, or both, and all correspondence, customer lists, papers, documents, computer software, marketing, training, educational, and any other materials, including copies thereof made by or for MEMBER, either furnished to MEMBER by REFERRAL ALLIANCE or otherwise coming into the hands of MEMBER which relate to REFERRAL ALLIANCE business is confidential business information ("Confidential Information") and the sole property of REFERRAL ALLIANCE. MEMBER shall not, directly or indirectly,

interfere with REFERRAL ALLIANCE's rights under any agreements with customers, network brokers, referrals and business relationships. In the event the association between REFERRAL ALLIANCE and MEMBER should expire or terminate for any reason, MEMBER shall promptly return all such Confidential Information to REFERRAL ALLIANCE. MEMBER further agrees, during the term and at all times after termination or expiration of this Agreement, not to directly or indirectly furnish or disclose to any person or entity any Confidential Information without REFERRAL ALLIANCE's prior written consent. After said termination or expiration, MEMBER shall not use any Confidential Information to his or her own advantage or to the advantage of any other person or entity.

12. **LIMITATION ON AUTHORITY** - MEMBER shall have no authority to bind REFERRAL ALLIANCE by any acts, omissions, statements, promises or representations unless specifically authorized to do so in writing by REFERRAL ALLIANCE. REFERRAL ALLIANCE shall not be liable to MEMBER or responsible to other persons or entities for any expenses incurred by MEMBER or for any of MEMBER's acts, except as specifically required by law. Notwithstanding anything to the contrary herein, MEMBER's Authorized Activities shall not include authorization for MEMBER to make any presentations to a corporation or other business entity; however, MEMBER may pursue corporate contacts within his or her personal sphere of influence in an effort to establish a relationship with corporate employees.

13. **INDEMNIFICATION**. MEMBER agrees to indemnify REFERRAL ALLIANCE and hold it harmless from all claims, demands and liability, including costs, attorney fees, and damages of any nature, to which REFERRAL ALLIANCE may be subjected by reason of any conduct, act and/or omission by MEMBER, or misrepresentations or promises made by MEMBER, including, without limitation, acts which may be deemed to be outside the scope of this Agreement.

14. **LEGAL DISPUTES**. In the event a dispute arises between MEMBER and another MEMBER and/or real estate licensee where both MEMBERS claim entitlement to a referral fee, MEMBER agrees that the sole and exclusive procedure for resolving the dispute shall be for REFERRAL ALLIANCE to determine, in its sole and unfettered discretion, whether or not the subject transaction shall have been initiated by MEMBER and if so, the amount, if any, of the fee due to MEMBER. The decision of REFERRAL ALLIANCE with respect to such dispute shall be final and non-appealable and MEMBER agrees to be bound by such decision. Suits or claims for commission, referral fees or other compensation from a real estate transaction may only be brought by REFERRAL ALLIANCE and may only be maintained in the name of REFERRAL ALLIANCE. REFERRAL ALLIANCE shall have the absolute right in its sole and unfettered discretion to determine whether to initiate, maintain, settle or dismiss any claim or suit for a commission, and MEMBER agrees to be bound by any such decision by REFERRAL ALLIANCE. In the event any transaction in which MEMBER is involved results in a dispute, litigation, legal expense, or claim against MEMBER or REFERRAL ALLIANCE, or results from alleged conduct of MEMBER, MEMBER shall cooperate fully with REFERRAL ALLIANCE in its investigation and any legal defense. It is understood by MEMBER that it is REFERRAL ALLIANCE's policy to avoid litigation whenever possible, but should a transaction in which MEMBER is involved be the subject of litigation or dispute, the decision whether or not any such litigation or dispute shall be defended or settled shall be the decision of REFERRAL ALLIANCE, made in its sole and unfettered discretion, which decision shall bind MEMBER. In the event that MEMBER is named individually in a claim or suit arising out of the Authorized Activities, MEMBER shall within 48 hours advise REFERRAL ALLIANCE in writing that such claim or suit has been brought and promptly provide REFERRAL ALLIANCE with a copy of the claim or suit, and all documents in MEMBER's possession regarding the transaction or matter at issue. Whether or not a lawsuit or claim against REFERRAL ALLIANCE or MEMBER arises from the Authorized Activities, MEMBER shall be required to indemnify and hold REFERRAL ALLIANCE harmless from any and all damages and expenses (including attorneys' fees) incurred by REFERRAL ALLIANCE in the defense of such lawsuit or claim.

15. **TERM/TERMINATION**. This Agreement shall continue in full force and effect until terminated by either party hereto. Either party, at will, may terminate this Agreement by notifying the other party in writing of the desire to so terminate. Failure of MEMBER to pay the Membership Fee when due or to keep all legally required licenses current and in good standing shall cause this Agreement to terminate automatically without notice as of the date when such payment is due or such license expires, is revoked, or is canceled.

16. **MISCELLANEOUS PROVISIONS**.

(a) This Agreement shall inure to the benefit of, and shall be enforceable by, REFERRAL ALLIANCE and its successors and assigns. However, this Agreement is based on the personal services of MEMBER, and MEMBER shall not delegate or assign any of his or her rights or duties hereunder without the prior written consent of REFERRAL ALLIANCE.

(b) This Agreement and the Policy Memorandum shall be interpreted and governed by the laws of Tennessee. In the event of any litigation arising from this Agreement or the relationship between MEMBER and REFERRAL ALLIANCE, the sole and exclusive venue for any such litigation shall be in the state courts of Williamson County, Tennessee, with MEMBER and REFERRAL ALLIANCE waiving all defenses and claims of forum non conveniens (i.e. inconvenient forum). If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. IN THE EVENT OF LITIGATION BETWEEN REFERRAL ALLIANCE AND MEMBER, REFERRAL ALLIANCE AND MEMBER KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A JURY TRIAL.

(c) This Agreement (including the Policy Memorandum and any addenda thereto) constitutes the entire Agreement between the Parties. No other warranties, representations, undertakings or promises, whether oral, implied or otherwise, have been made by either party hereto. This Agreement supersedes all prior agreements between the Parties, written or oral. The Policy Memorandum may be modified unilaterally by REFERRAL ALLIANCE upon notice to MEMBER, without the

requirement of any separate agreement in writing. Any such modification shall be prospective only. Except as provided in this paragraph with regard to the Policy Memorandum, this Agreement may not be modified except in writing by both parties.

(d) Member agrees that Barnes Real Estate Services, Inc. Managing Brokers may contact REFERRAL ALLIANCE MEMBER to assist him/her in building referral business.

(e) As a condition of affiliation with REFERRAL ALLIANCE, MEMBER consents and agrees that REFERRAL ALLIANCE may use MEMBER's name and information regarding any transaction involving MEMBER in REFERRAL ALLIANCE's marketing and advertising, including, without limitation, brochures, newsletters, emails, and websites.

MEMBER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT AND THE POLICY MEMORANDUM (and any addenda thereto), HAS READ EACH, AND AGREES TO COMPLY WITH ALL OF THE TERMS AND PROVISIONS CONTAINED THEREIN.

DATED: _____

MEMBER

DATED: _____

REFERRAL ALLIANCE