

SAMPLE
DO NOT CALL POLICY AND PROCEDURE

It is the policy of [Firm name] to fully comply with all applicable “Do Not Call” laws and regulations regarding wired and wireless telephone communications (whether by live, artificial or prerecorded voice, telephone facsimile machine, computer or otherwise) to any covered telephone line or number. In a good faith effort to so comply and to provide consumers with an opportunity to exercise their “do not call” rights, the Firm hereby establishes, and will implement, the following procedures:

(1) No representative of the Firm shall initiate any telephone solicitation, as defined by law, to any residential telephone subscriber before the hour of 8:00 a.m. or after 9:00 p.m. (local time at the called party’s location).

(2) The Firm shall maintain a “company specific” do not call list and shall promptly honor a request to be placed on the company do not call list within a reasonable time of such request, not to exceed ___ days from the date of said request.¹ Each entry on such “company specific” do not call list shall be retained for at least five (5) years or until the requester makes a further written request to be deleted from said list. The Company specific do not call list shall be readily available in every company office as follows: (describe where/how list can be accessed).

(3) The Firm shall periodically purchase or otherwise obtain from the Do Not Call Administrator, not less frequently than every three months or such lesser time as may be prescribed by law, the applicable National Do Not Call database for the area in which the Firm makes telephone solicitations for the purpose of compliance with the “do not call” provisions of state and federal law. A copy of the National Do Not Call database shall be readily available in every company office as follows (describe where/how list can be accessed).

(4) Prior to making any telephone solicitation, a representative of the Firm shall check both the “company specific” do not call list and either the most recent applicable Do Not Call National database or the Firm’s download of this database to ensure that no call is placed to a residential telephone subscriber listed therein unless (a) the Firm has the subscriber’s prior express permission, evidenced by a signed written agreement which states that the consumer agrees to the contact by the Firm and includes the telephone number to which the call may be placed, (b) the company representative making the call has a personal relationship with the recipient of the call (a personal relationship means that the person called is personally known to the caller), or (c) for all calls prior to January 1, 2005, the Firm has an “established business relationship,” as defined by law, which is such to create an expectation on the part of the consumer that a particular company will call them. An established business relationship with one company may extend

¹The number of days inserted in this blank shall be the shortest period of time within which the company can reasonably respond to the consumer’s request, but under no circumstances more than 30 days.

to an affiliate of that company if the consumer would reasonably expect the affiliate to be included as part of the relationship. The test is the reasonable expectation of the consumer as to which company could call them. An established business relationship means the Firm has closed a transaction or completed a purchase with the telephone subscriber within 18 months prior to making the call or an inquiry or application has been made by the consumer to the Firm or its representatives within three months prior to the making of the call. An application or inquiry must be of such a nature that the consumer would expect to receive a call from the Firm. The representative of the Firm shall also check any applicable "cease-and-desist" list issued pursuant to Real Property Law ' 442-h(2) and shall not call a residential telephone number on the cease-and-desist list.

(5) No representative of the Firm shall use any technology to dial a telephone number for the purpose of determining whether the line is a fax or voice line nor use an automatic telephone dialing system or artificial or pre-recorded message in any call made to a wireless telephone number. The use by any representative of the Firm of any artificial or pre-recorded messages delivered by an automatic telephone dialing system shall identify the Firm and the Firm's telephone number or address. No representative of the Firm shall use any system which blocks the transmission of caller ID information. All representatives of the Firm (whether employees or independent contractors) shall advise the Broker in writing of the fact that such a system is being used.

(6) In order to comply with all applicable do not call laws and the Firm's license law duty to supervise affiliated licensees, each representative of the Firm shall undergo periodic training as to the applicable law regarding telephone solicitations, including a review of the applicable rules regarding do not call restrictions, and shall be subject to discipline, up to and including termination, for any failure to participate in such training and any failure to comply with the Firm's Do Not Call Policy and Procedures, as well as all applicable legal provisions.

(7) In the event of any question regarding the provisions of applicable law or this Do Not Call Policy and Procedure, the representative of the Firm shall promptly contact [specify who should be contacted, e.g., principal broker, office manager, or company counsel, etc.] to obtain clarification.