

Office Technology Policy Manual Guide[©]

This **Office Technology Policy Manual** contains the technology policies and procedures

of: _____

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Office Technology Policy Manual Guide

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Associate Web Site Checklist

I. CHAPTER 1 - PREFACE

A. Purpose of the Office Technology Policy Manual Guide

The Office Technology Policy Manual Guide is not an attempt by the Wisconsin REALTORS® Association to suggest appropriate technology policies for Brokers to incorporate into their offices. Rather, it is designed as a tool to assist Brokers who are drafting or revising Office Technology Manuals. The goal of this Guide is to identify areas and topics that might be considered for inclusion in your office technology policies, and what type of language could be used in developing a written technology policy for the office. Brokers using this Guide are solely responsible for determining the types of provisions which appropriately reflect their individual office technology policies. Information technology specialists and private legal counsel should review the Broker's Office Technology Policy Manual prior to implementation.

B. Why an Office Technology Policy Manual?

1. Wis. Admin. Code § RL 17.08 states that Brokers shall provide all Associates with a written statement of procedures under which the office and Employees shall operate with respect to handling leases, listing contracts, offers to purchase and other documents relating to transactions.
2. It clearly sets forth the respective rights and responsibilities of the Broker and Associate relative to the use of technology in the office.
3. It will help maximize the effectiveness of technology tools available to Associates and it will minimize the risk of liability which may result from the improper use of these tools.
4. Finally, it will help increase profitability by focusing energy on production, rather than on efforts to set and/or clarify office policies and procedures.

C. How to Implement an Office Technology Policy

1. Each Associate should receive a written or electronic copy of the Office Technology Policy Manual (evidenced by a written or electronic receipt for the Broker's records). The following is a sample of the type of language which may be used in a written receipt:

I acknowledge that I have received and read the _____
_____ (company name) Office Technology Policy Manual and understand its provisions. I understand that the Manual includes summaries of and references to real estate license law procedures and requirements and office technology policies that I am obligated to observe. I understand that failure to comply with license law, Code of Ethics or office technology policy requirements may result in discipline or termination. I understand that the Broker reserves the right to amend and change the policies and/or procedures expressed in the Manual at any time.

Date: _____

(Associate Signature)

An electronic receipt could take the form of an acknowledgement sent from an e-mail address used exclusively by a particular Associate. The e-mail receipt could include the following statement in the body of the e-mail:

I acknowledge that I have received and read the _____
_____ (company name) Office Technology Policy Manual and understand its provisions. I understand that the Manual includes summaries of and references to real estate license law procedures and requirements and office technology policies which I am obligated to observe. I understand that failure to comply with license law, Code of Ethics or office technology policy requirements may result in discipline or termination. I understand that the Broker reserves the right to amend and change the policies and/or procedures expressed in the Manual at any time.

2. The contents should be reviewed in staff meetings and in other appropriate situations with sufficient detail to provide a complete understanding. In addition, many Associates will require additional training to assist them in the use of the office's technology systems and achieve increased productivity.

3. All new Associates should be trained on the policies set forth in the manual.

4. Associate use of technology should be carefully monitored, including regular review of compliance with Web site policies and appropriate monitoring of Associate and Employee use of company e-mail systems.

D. Organization of the Office Technology Policy Manual Guide

The Office Technology Policy Manual Guide consists of a discussion of legal and technology issues followed by model language and checklists for e-mail and Internet policies. The discussion of legal and technology issues is primarily a reference tool which may include sample manual language to illustrate the points being made under various topics. The sample language used in the discussion of legal and technology issues will also appear in the e-mail and Web site sections. The checklists assist in the implementation of the Office Technology Policy Manual. Brokers may start with the overview and the two checklist sections when creating or reviewing their own office technology policies. Note that the model language and checklists will have to be modified to reflect each Broker's technology systems, technology practices and other business practices.

E. Definitions

1. Internet Dictionaries

Certain terms used in this manual are defined below. For definitions of other terms consult the following Web sites (many others can be found on the Internet.)

whatis.com	http://whatis.techtarget.com/
Online Dictionary of Computing	http://foldoc.doc.ic.ac.uk/foldoc/index.html
PCWebopedia	http://www.pcwebopaedia.com
AARP	http://www.aarp.org/comptech/learning/terms.html
Glossary of Internet Terms	http://www.matisse.net/files/glossary.html
webopedia	http://www.webopedia.com/

2. Terms Used in the Internet Company Policy Document

"Broker" refers to the individual or entity under whose license the Associates of a company practice.

"Office Technology Policy Manual Guide" refers to this document offered by the Wisconsin REALTORS[®] Association for use by its members as a tool for developing company technology policy manuals. The Office Technology Policy Manual Guide is subject to the copyrights of the Wisconsin REALTORS[®] Association.

"Consumer" refers to the clients or customers receiving real estate and related services from the Broker or the Broker's Associates.

"Associate" refers to any person providing real estate and related services on behalf of the Broker.

"Employee" is any person working for the Broker, other than an Associate, who is directly or indirectly supporting the Broker's real estate services to Consumers.

"Third-Party" is an individual or entity other than Consumers, Associates and Employees.

“Intranet” Is a private network inside a company or organization that uses the same kind of software that you would find on the public Internet, but that is only for internal use.

As the Internet has become more popular, many of the tools used on the Internet are being used in private networks. For example, many companies have web servers that are available only to Employees. Note that an Intranet may not actually be an Internet -- it may simply be a network.

“POP”(1) Short for Post Office Protocol, a protocol used to retrieve e-mail from a mail server. Most e-mail applications (sometimes called an e-mail client) use the POP protocol. There are two versions of POP. The newer version, POP3, provides a message store that holds incoming e-mail until users log on and download it. POP3 is a simple system with little selectivity. All pending messages and attachments are downloaded at the same time.
(2) Short for Point of Presence, a telephone number that gives you dial-up access. Internet Service Providers (ISPs) generally provide many POPs so that users can make a local call to gain Internet access.

II.

CHAPTER 2 - TECHNOLOGY LAW ISSUES - REAL ESTATE PRACTICE

A. Electronic Commerce Legislation

At the time of publication e-commerce legislation was included in the State Budget Bill. For a copy of the current legislative proposal and a WRA memo on the proposal (or the e-commerce act after passage) go to the e-commerce page which is found in the "REALTOR[®] Resources" tab on the WRA's home page at wra.org.

B. Agency Disclosure

Wisconsin Statute section 452.135 prohibits any broker from providing brokerage services to a party unless the broker has provided the party a written agency disclosure form. RL 24.07(8) requires brokers in residential transactions to ask the party receiving the disclosure to acknowledge receipt in writing. Brokerage services are often broadly defined as any actions for which a real estate license is required. Showing a property for sale, providing specific market data based on the needs and desires expressed by a consumer, engaging in some level of negotiations, etc., are typically described as brokerage activities. Today, it is not unusual for these services to be provided through a series of e-mail communications or by an automated Web site's response to a consumer's request for specific property information or other brokerage services. Given the fact that the agency disclosure duties arguably may arise when a broker begins to identify specific properties for a prospective buyer or tenant, or discusses the terms of purchase by e-mail or over an automated Web site, what options exist for a real estate licensee to provide the agency disclosure when necessary?

1. Brokerage Services to a Customer - E-Mail

When brokerage services are provided by e-mail, the first e-mail rising to the level of brokerage services should include an agency disclosure, either pasted at the end of the e-mail or as an attachment. The party should be asked to respond acknowledging that they received the message in order to satisfy the requirements of RL 24.07(8). A copy of this e-mail and response should be retained as would any other transaction document. Until the license law is revised to reflect electronic commerce principles, it would be prudent to request acknowledgement in writing should a face-to-face meeting occur. If the customer does not choose to acknowledge in writing Associate should retain records of the agency disclosure, the request for acknowledgement and documentation of the customer's refusal.

2. Brokerage Services to a Customer - Internet Sites

Any Web page that provides consumers the opportunity to specify their real estate needs and which responds with a selection of appropriate properties/transaction terms should include an agency disclosure on the page that gathers the party's information. A prominent link to the agency disclosure with a heading indicating that consumers should review the agency disclosure and acknowledge receipt would be appropriate. Possible

methods for the consumer to indicate receipt would include to "click" on a box indicating receipt (recorded by the Web site) or to send an e-mail back to the Broker. Until the license law is revised to reflect electronic commerce principles, it would be prudent to request acknowledgement in writing should a face-to-face meeting occur. If the customer does not choose to acknowledge in writing, Associate should retain records of the agency disclosure, the request for acknowledgement and documentation of the customer's refusal.

3. Brokerage Services to a Client

Because a seller, buyer or tenant client cannot receive brokerage services without a signed agency agreement, agency disclosure is addressed when the agency agreement is signed by the party. When Wisconsin's e-commerce legislation becomes law it will allow electronic signatures on e-mailed agency agreements. Hopefully consumers will readily accept the use of electronic signatures in the context of a real estate agency agreement when that option is available.

4. Technology Policy Manual Language – Agency Disclosure

Every e-mail or Web page that returns property information/transaction terms in response to a customer request should contain the following link and the link should take the customer to the following agency disclosure information

a. Link

Agency Disclosure - Please Review and Provide Written Acknowledgement of Receipt

b. Agency Disclosure

A copy of the agency disclosure form should be provided, preferably in a format which allows the form to be filled-in. A copy of the agency disclosure is attached as Appendix A.

C. Copyright law

1. Works Protected.

Copyright protection is available for "works of authorship." These works include:

- Literary works. Novels, poetry, newspaper and magazine articles, computer software, software manuals, training manuals, manuals, catalogs, brochures, ads (text), and compilations such as business (MLS) directories.
- Pictorial, graphic, and sculptural works including photographs, posters, maps, paintings, drawings, cartoon characters, paintings, and works of fine art.
- Movies, television shows, videos, etc.
- Music and sound recordings.
- Compilations such as the information in a Multiple Listing Service.

2. Who Can Claim Copyright?

Copyright protection exists from the time the work is created. The copyright in the work immediately becomes the property of the author who created the work. Only the author or

those deriving their rights through the author can rightfully claim copyright. In example of the MLS, the MLS has the legal right to determine how the MLS data is copied, modified, distributed, etc.

The 1976 Copyright Act generally gives the owner of copyright the exclusive right to do - and to authorize others to do - the following:

- * To reproduce the work;
- * To modify the work;
- * To distribute copies of the work to the public by sale or other transfer of ownership, or by rental or lease;
- * To display the copyrighted work publicly; etc.

3. Infringement.

Anyone who violates any of the exclusive rights of a copyright owner is an infringer. For example, a broker found a scenic picture, scanned the copyrighted photograph, altered the image by using editing software, and inserted the altered version of the photograph on the broker's homepage. Assuming the broker used the photograph without permission, the broker infringed on the photographer's copyright by violating the photographer's reproduction right (scanning the photograph), the modification right (altering the photograph), and the distribution and display rights (including the photo on the broker's Web site). Another example would be a broker who takes MLS compilation information and uses it without permission or uses it in a manner inconsistent with the reproduction guidelines established by the MLS in the MLS rules and regulations.

4. Notice of Copyright

The use of a copyright notice is no longer required under U.S. law, although it is often beneficial. Because prior law did contain such a requirement, however, the use of notice is still relevant to the copyright status of older works.

5. Penalties

A copyright owner can recover actual or, in some cases, statutory damages (which can be as high as \$100,000 in some cases) from an infringer. In addition, courts have the power to issue injunctions (orders) to prevent or restrain copyright infringement.

6. Technology Policy Manual Language – Web Site Copyright Notices.

The following language is an example of the copyright paragraph which should be included in the Broker's and any Associate's Web Site's terms of use agreement.

Limited License for Personal and Non-Commercial Use Only; Printing of Site Content. The Content of this Site (Content) is copyrighted by (Broker) or other persons and entities that provide information to the Site. Users of this Site are granted a limited nonexclusive license to use the Site and its Content for personal and non-commercial use only. Users may print or copy Content from this Site that is copyrighted or owned by (Broker) provided that such copies are not modified or revised in any manner and include proper notices indicating that the Content is copyrighted or owned by (Broker) (such as "Copyright © [Insert Year] (Broker)"). In addition, any Content which comes from pages of this Site that contain disclaimers must be printed or copied with the disclaimer included in its entirety. In

the event a User wishes to print Content from this Site, or other sites linked to from this Site, that is copyrighted or owned by a person or entity other than the (Broker), the User must obtain permission from the appropriate owner to do so. Except as permitted in this Agreement, Content may not be reproduced, sold, transferred, modified, redistributed, retransmitted, published, or exploited for any purpose without the express written permission of the (Broker) or appropriate owner of the information.

If you would like to reprint Content from this Site for purposes other than those permitted in the Agreement, please send a request to (manager at Broker). Please include in your request as much information as possible including your intended use of the Content. If you would like to republish the content in an article or publication, please indicate the title and byline of the article and the publication it will appear in. In order for requests to be considered, all requests must include your name, address, phone number and e-mail address.

D. The Development Agreement

Real estate Brokers or Associates who hire a person to create, host or maintain a Web site must have a development agreement with the developer to clarify who owns the Web site, the standards that must be met in developing, operating and maintaining the Web site and several other legal issues. One example of the type of issue every Broker's and Associate's development agreement must contain is a prohibition against the developer reproducing Content that is owned by the Broker, an Associate or any other third parties (an MLS or other data source). Competent legal counsel should review the development agreement prior to execution.

Development agreements are beyond the scope of this Manual but a good summary of the issues which must be addressed can be found in the following articles.

<http://www.scl.org/members/emagazine/vol11/iss4/web-site-dev.htm>

http://www.yourlegalcorner.com/Internet_Alert/oct2000.html

<http://www.perkinscoie.com/resource/ecomm/webdevagmt.htm>

<http://www.gigalaw.com/articles/deutsch-2000-09-p1.html>

Sample development agreements can be found at:

http://www.allbusiness.com/form_docs/LEGAL180.doc

<http://www.kslaw.com/library/articles.asp?196>

E. Domain Names

1. What is a Domain Name?

Imagine that everybody in the world used their Social Security number or their telephone number instead of their name. If names didn't exist, you'd be forced to invent them, or you'd never be able to identify your closest friends, let alone casual acquaintances you'd met only a couple of times! Domain names were invented to fill a similar need on the Internet. Most computers connected to the Internet are identified by a unique number called an IP address (for instance, 234.208.12.129). IP addresses are neither intuitive (they don't correspond to a geographical location) nor easy to remember (you can prove that by glancing away from this page and then trying to quote the example IP address above!) If you type the IP address into the URL bar of your browser you will be taken to

the Web site it relates to. As well as being hard to remember, however, IP addresses are also fixed (i.e. if you change Web hosting companies you'll need to get a new IP address for your site). Domain names offer a more intuitive way to name and find a Web site. Each domain name replaces a string of meaningless numbers (an IP address) with a simple word or expression.

2. The Structure of a Domain Name

Let's look in more detail at a domain name, using the WRA's domain name as an example. The WRA's site domain name is wra.org. - you can check this easily by looking at the URL or location bar of your browser. "org" (often .com) is the top domain under which the WRA's domain name is registered. There are many different top domains out there, from commercial (.com) through to non-profit (.org) and even country-specific top domains such as France (.fr) and Italy (.it). Every domain name is registered under a top domain of some kind. The top domain is often known as the domain extension.

"wra" is the sub-domain of the Association's domain name. This is the part of the domain name that you choose before you register a domain name. The top domain and sub-domain together make up what people call a domain name. The Association's site's domain is "wra.org." One of the best things about domain names is that they are unique. No two Web sites share domain names. This is because all domain names are recorded in a central database, and each record in the database must be unique. This is also what makes some domain names quite valuable.

3. Registration.

When we talk about "owning" a domain name, we are really talking about the exclusive right to use that name. It is not possible to own a domain name outright, and you will likely have to pay a periodic renewal fee to keep this "right to use" your domain name. Also, since you don't own the name itself, under certain circumstances a court can take your right to use a domain name away from you. For example, if your domain name uses another company's trademark, the trademark rights of the other company would have priority over the registered domain name.

If your company is looking for a domain name, there are several services which help you to research what domain names are available. Some sites will even let you provide three key words which it will use to search all of the variations of those key words which are available. One of these search tools can be found at:

<https://home.verio.com/lookup/index.cfm?plancode=dp1>

F. FAIR HOUSING LAW

1. Use of Demographic Information.

One of the challenges of providing information by e-mail and of creating a content-rich Web site is determining whether any of the content being sent, residing on the site or linked to from other sites may violate, or create the potential for a violation, of fair housing laws. Wis. Statute section 452.23(1) prohibits a broker from making any disclosure which

constitutes unlawful discrimination in housing under § 106.04. Wis. Statute section 106.04(2) provides:

(2) DISCRIMINATION PROHIBITED. It is unlawful for any person to discriminate:

(d) By advertising in a manner that indicates discrimination by a preference or limitation.

(ad) "Advertise" means to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing or rental of housing.

(h) "Discriminate" means to segregate, separate, exclude or treat a person or class of persons unequally in a manner described in sub. (2), (2m) or (2r) because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry.

In other words, if a broker separates out protected class information from a larger database, and either e-mails or displays the information on a Web site, the potential for a fair housing violation exists. Interestingly enough, buyers are not restricted from analyzing a neighborhood based on protected class information. Therefore, it is not illegal for a broker to display or link to larger databases of information that include, among other topics, information that addresses protected class issues. However, to ensure that sellers, landlords and real estate licensees do not utilize the database for illegal or unethical purposes, a disclaimer similar to the one below should be considered. A link to the disclaimer would ordinarily be placed on the page where the licensee or consumer would access the demographic data or attached to an e-mail delivering the demographic data.

2. Disclaimer Regarding Use of Demographic Data Relating To Persons Protected Under Fair Housing Law

Under Wisconsin Statute 106.50 it is unlawful for any person to, among other things, advertise in a manner that indicates discrimination by a preference or limitation.

"Discriminate" means to segregate, separate, exclude or treat a person or class of persons unequally because of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry.

"Advertise" means to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing or rental of housing. Therefore, it is unlawful in connection with a housing transaction to provide any person with information which separates demographic information into categories based upon classes of persons protected under fair housing law. Because buyers are not legally prohibited from making neighborhood/location decisions based upon demographic information, buyers may utilize Web sites or other sources of demographic information. Real estate licensees, sellers or landlords may not participate in any distribution or analysis of information which has been separated by protected classes.

3. Equal Opportunity Advertising Practices.

E-mail signatures and Web pages should reflect the company's Equal Opportunity policy. Associates with residential practices may include the phrase "Equal Housing Opportunity." Associates who do not have a residential practice may include the phrase "Equal Opportunity Broker."

G. Jurisdiction

The fact that the Internet transmits a company's Web site to every state and country raises an interesting legal issue dealing with jurisdiction. In a nutshell, a real estate broker must ask the question whether they are subject to the laws of states and countries reached by the broker's Web advertising (every state, every country). It's unlikely that a broker would be subject to the jurisdiction of another state simply for posting a Web site on the Internet. However, when a Web site (along with a certain amount of e-mails, phone calls and other advertising) generates significant sales in a state outside Wisconsin, there is a greater likelihood that a broker may hear from regulators or courts claiming that they have jurisdiction over the broker based on the "minimum contacts" theory.

Another key factor in determining whether a broker may face jurisdiction issues is the extent to which the Web site is interactive. Jurisdiction claims for passive sites (information delivered to consumer only) are not likely. However, when a broker's site is interactive (as any good real estate Web site will be) jurisdiction claims become much more likely. Because a broker's site will typically ask a buyer about the type of property the buyer is looking for and respond with information on specific properties, brokers must be concerned with potential jurisdiction claims from other states.

How does a Broker reduce the risk of out-of-state jurisdiction claims? Limiting interactivity is effective but not practical. Disclaimers in the Web site's terms of use policies which provide that the Web site is intended for residents of Wisconsin only and indicating that the venue for any litigation is the Wisconsin courts are useful. Ultimately, not violating the laws of any other states is the best defense, though given the patchwork quilt of state real estate laws this may be an impossible task. The Association of Real Estate License law officials (ARELLO) has adopted model rules for Internet activities. Go to : <http://www.arello.org> and Click on "Policies, Models and Guidelines" and then click on "Internet."

H. Linking Issues

Direct links from one Web page to another -- called hypertext links, hyperlinks or links -- make it simple to navigate through the vast world of the Web. Brokers building or maintaining Web sites will insert links into their home page to make it more attractive to viewers.

1. Permission to Link

Does one need permission to link to another Web site? Under early "netiquette," such links were added without the permission of the linked site. Part of the justification for this view was because the link benefits the linked site by bringing it additional viewers. This approach (no permission needed to link) remains appropriate for links to any "public domain" Web site. Among these "public domain" Web sites are government agency sites and other sites that give blanket authorization for links to their site.

However, there are several reasons why a Web site operator may object to you linking to internal pages of his or her site rather than to the Web site's home page. The home page

is typically where the site's privacy statement and terms of use agreement are located. In addition, the most valuable advertising space in most Web sites is found on a Web site's home page and Web site operators have frequently objected to links that bypass this advertising and reduce revenues. Based upon these concerns, cautious brokers will either link to the home page of another's site or seek permission before linking to internal pages of the site. If you are curious about who has linked to your site (and if they have done so properly) you can go to <http://www.altavista.com> and put the following into the search field: link: www.yourdomain.com (substitute your actual domain name for "yourdomain"). The search will give you all sites linked to yours (at least those found by found by Altavista).

2. Liability for Linking to Other Sites That Violate Law

What happens if you link to a site that violates libel, fair housing, gambling or some other law? Could you be liable if a consumer began in your site and followed your link to the offending site? Oddly enough, the answer may be yes. What do you do as the owner of a Web site to minimize this secondhand liability? First of all, be careful what sites you link to. Secondly, put a strong disclaimer in your terms of use agreement (see WRA's language below). After that, regularly review the sites you link to in order to ensure that the links have not been broken and that the content of the sites is still appropriate.

SAMPLE LINKING LIABILITY DISCLAIMER FROM WRA "TERMS OF USE." Liability for Linking- Links to Third Party Sites; Accuracy of Content on Linked Sites.

Links to other sites operated by independent, third parties exist on this Site. While (Broker) provides these links as a service to Users, (Broker) does not control these linked sites and (Broker) is not responsible for the content contained on these sites. Unless otherwise indicated, (Broker) does not endorse, approve, or otherwise warrant the accuracy of any information or content contained on a linked site. User agrees that the sites, including the information, material, products and services therein, shall be used solely at the User's own risk. Furthermore, because the (Broker's) privacy policy is applicable only when you are on (Broker's) Web site, once linked to another Web site, you should read that site's privacy policy before disclosing any personal information. If you are unsure if have moved to another site, check the Uniform Resource Locator (URL) address provided in your WWW browser.

4. Frames

As the name suggests, a "frame" is a bordered area of a Web page that "frames" the content of a second Web page or Web site. The problem with framing is that when a Web site links to and frames another Web site, the Web site's URL or domain name is not displayed. Instead, the "framer's" URL and Web page border is displayed, while the content of the "framed" site appears within this border. At the very least this may mislead a consumer into thinking that the Web content they are looking at is the "framer's, not the "framee's." Even worse, if the consumer likes the content of the competitor's site enough to save it as a "favorite page" they will likely end up saving the URL of the framer.

Companies whose content has been framed may argue that such practices infringe upon their proprietary trademark and copyright rights. Consequently, framing third-party information into another Web page raises issues of copyright infringement (derivative works) and trademark infringement. The solution to this problem is simple: if the use of frames is likely to give rise to the sort of confusion described here, third party pages and images should not be linked into the frame without permission of the owner of the site being framed.

Another major concern with framing is the loss or dilution of advertising potential of a site. Due to the frame imposed upon a target site, the target site's advertising may be distorted or made so small as to be ineffective. Moreover, the advertising contained in the frame may compete with or be contrary to the advertising in the target site. In the event that the framing diminishes advertising revenue for the target site there may be legal consequences.

Do not frame commercial sites without permission. ***Brokers framing another broker's Web site, an MLS Web site or realtor.com must obtain permission prior to framing these Sites.*** Sites in the public domain should be ok.

To protect your site from framing include a statement in your site's terms of use agreement that specifically prohibits framing.

SAMPLE FRAMING PROVISION FROM WRA "TERMS OF USE."

Framing Statement - Linking to and Framing this Site. Users who create links to any page of the Site may not "frame" any page of the Site for any purpose without the express written consent of the (Broker).

I. Misrepresentation

Both the license law and the Code of Ethics prohibit misleading advertising. Essentially all advertising laws and regulations applicable to traditional advertising are applicable to advertising in a Web site or an e-mail. Civil liability, DRL discipline and Code of Ethics discipline may each result from misleading advertising occurring on a Web site or in an e-mail. All advertising is required to be done under the Broker's supervision and this requirement is applicable to internet and e-mail advertising. Brokers who fail to supervise an Associate's Web site or e-mail advertising are subject to discipline for failure to supervise.

Under Wisconsin's strict responsibility law, a real estate licensee may be liable for a misrepresentation of fact which appears to be information known to be true by a real estate licensee, even if the real estate licensee is not acting negligently in sharing the information with the consumer. For example, if a real estate licensee forwards municipal tax information to a consumer (without identifying the source of the information) that later proves to be incorrect, the licensee may be liable for the incorrect information even though the licensee had no idea that the municipal information was incorrect. Therefore, all e-

mails and Web pages that contain factual information which has not been verified by a licensee should attribute the information to its source and include a disclaimer along the lines of:

Technology Policy Manual Language – Strict Responsibility

The information included in this e-mail has been provided by seller or other third parties. The information has not been verified by (Associate) or (Broker) unless specifically indicated.

In addition to the disclaimer, licensees will need to remember to ensure the accuracy of any information which is provided by the licensee and not merely passed on from third party sources.

J. Passwords

A common mistake many people make is to use passwords taken from important dates, addresses, facts, etc. in their lives - their date of birth, street, anniversary. While easy to remember, these passwords are easy to break. One useful suggestion is to develop a password using a simple code or acronym. An individual who married Bob on March 15, 1956 might use the password "imbo31556" (I married Bob on 3/15/56). Another would involve the date your first child Mike was born - April 7th, 1965 (mwb4765). These suggestions won't necessarily protect you from a skilled hacker/cryptologist. However, even more random passwords become useable if you have a way to securely save and recall them. Thus a second suggestion is to take advantage of software available for you to keep track of all of your passwords. There are many of these password management software utilities available. Choices include:

Password Safe <http://www.counterpane.com/passsafe.html>

Gator <http://www.gator.com/what/>

Password Agent <http://www.moonsoftware.com/frames.asp?page=pwagent.asp>

Passwords Plus <http://www.authord.com/PP/index.html>

K. Personal Use Of Office Computers, E-mail And Internet Services.

A real estate office risks potential liability when an Employee or an Associate uses office computers, e-mail or Internet services for personal use. If the Associate is transacting personal business using office computers and e-mail a consumer may mistakenly believe the Associate is acting on behalf of the company. Even though the Associate was doing personal business, the company may become liable under the principle of implied agency.

Inappropriate personal or business use of e-mail or the Internet can also result in liability based on fair housing violations, charges of sexual harassment, libel charges, etc. Most of us are familiar with individuals who distribute off color e-mails to friends and Associates. While this may seem relatively innocent to the individual, when held up as one element of a hostile environment in the workplace, the Broker can face substantial liability in a harassment lawsuit. Even relatively isolated misuses of e-mail and the office computer system will be captured on system backups and remain subject to scrutiny by plaintiff's

attorneys and government officials. Brokers must share some simple rules with all Employees and Associates and, more importantly, enforce these rules:

- The company e-mail and Internet systems are for business purposes only.
- Personal business, Internet surfing and other entertainment should be done on personal equipment using personal e-mail and Internet services.
- No inappropriate personal or business use of e-mail or the Internet will be tolerated.
- Any use of e-mail or the Internet which couldn't be shared at an all company meeting is likely inappropriate.
- No use of the company e-mail or the Internet services are private and the company reserves the right to make random audits of the use of these systems at any time.
- Inappropriate use of company e-mail or the Internet may be cause for dismissal.
- Associates and Employees agree to indemnify and hold harmless the Broker for any liability arising out of improper use of Broker's technology systems.

L. Privacy - Confidentiality

1. Privacy Statement

Privacy issues are at the forefront of many state and national legislative and regulatory debates. The increasing capability of Web sites to gather information from consumers is at direct odds with society's apparent desire to limit access to personal information. One thing that every Web site operator should do is to develop a privacy policy. In other words, determine what information is going to be gathered from visitors to the Web site (with the consumer's knowledge or without) and what is going to be done with this information. Once the company policy is finalized it should be documented in a privacy statement. A link to the privacy statement should be located on the home page of the Web site.

Unfortunately, privacy statements can be rather complex and difficult to draft. There are resources on the Web to assist Web site operators who are attempting to draft a privacy statement. One of these resources is TRUSTe. TRUSTe certifies privacy statements for companies and has resources available for companies that will be developing privacy statements (even without seeking TRUSTe's certification).

TRUSTe provides a Model Privacy Statement: - [HTML Format](#) - [Microsoft Word 97 Format](#) and a Site Coordinator's Guide: - [HTML Format](#) - [Microsoft Word 97 Format](#) .

For additional privacy issues Brokers and Associates should review the Graam-Leach-Bliley Act ("GLB") information on the WRA's Web site. GLB regulates privacy issues for entities which provide the type of services provided by financial institutions, including settlement services.

2. Internal Confidentiality Issues

There should be no expectation of confidentiality for any e-mail received or sent by an Employee or Associate in the company. The simple rule is if the material is not something

you would like discussed in a company meeting it does not belong in an e-mail in a company computer.

3. Consumer Confidentiality

One hundred percent security is neither possible nor ordinarily required to communicate with parties to whom a duty of confidentiality is owed. However, e-mail comes with a reasonable expectation of privacy for most communications. If confidentiality issues are important enough in a particular transaction, there are encryption technologies available in the marketplace.

4. Third Party Confidentiality

Like faxes, there is a concern that e-mails can be received by a third-party other than the person intended to receive the e-mail. Third party confidentiality issues may be addressed using a disclaimer like the following:

This e-mail message is intended solely for the person to whom it is addressed and may contain confidential and/or privileged information. If you have received this e-mail message in error, but are affiliated with the person to whom it is addressed, please notify the addressee that the e-mail has been received (otherwise delete it). Any review, dissemination, copying, printing or other use of this e-mail message by persons other than the addressee is prohibited.

5. Firewalls

Computers with a constant/permanent connection (DSL and cable modem users) have a permanent IP address, making them especially vulnerable to information theft and other attacks. Firewalls are software which provide some level of security against these attacks. Because the use of firewalls is beyond the scope of this Manual, business and personal computer users may wish to investigate the use of firewalls. Two examples of firewall software are:

Zone Alarm <http://www.zonelabs.com/>

Sygate Personal Firewall http://www.sygate.com/products/shield_ov.htm

M. Record Keeping

1. Transaction Record Keeping

RL 15.04 provides: A broker shall retain for at least 3 years exact and complete copies of all listing contracts, offers to purchase, leases, closing statements, deposit receipts, cancelled checks, trust account records and other documents or correspondence received or prepared by the broker in connection with any transaction. Therefore, brokers should retain copies of all e-mail sent or received in connection with a real estate transaction.

This can be accomplished by either printing each e-mail or by saving an electronic copy (archiving). Whether saved electronically or in writing, those e-mails required to be saved under RL 15.04 must be retained in the appropriate transaction file. If being saved electronically, a folder established for the transaction would be an acceptable means of "filing" the e-mail in a "transaction file."

2. Archiving Your Web Site

Keeping a record of your entire Web site and all its changes over time is very important. This will make it much easier to defend against any legal action against you and/or the company as a result of something found on your site. It is a good idea in any case to have your Web hosting service maintain a complete digital backup of your entire site, including incremental changes. Also, you should maintain a hard-copy print file of your site that includes print-outs of any substantive changes as they occur.

N. Regulation Z Credit Advertising Rules

Occasionally, real estate licensees include loan advertisements in their e-mail or Web pages. As with print advertising, these loan ads may be regulated. Regulation Z, also known as the Truth-in-Lending regulations, contains disclosure rules which apply to REALTORS® who advertise real estate financing terms. These rules state that if an ad contains any of the "triggering terms", then the ad must also contain (1) the dollar amount or percentage of the down payment; (2) all of the repayment terms including the number and amount of the payments and the period of repayment; and (3) the "annual percentage rate", using that term or the abbreviation "APR." The "triggering terms" generally include the dollar amount or percentage of the down payment, the number of payments, the period of repayment, the amount of any payment, or amount of any finance charge.

There is, however, a little-known exception to the general rule. The use of the down payment by itself in an ad does not trigger the Reg. Z disclosure requirements unless the transaction is a "credit sale." A "credit sale" will be present in residential real estate transactions only when the seller is offering seller financing and the seller has provided seller financing in residential transactions more than five times in the current or preceding calendar year.

Mortgages from banks and other lenders involve loans and not credit sales. Thus an ad by a real estate agent containing only the down payment percentage for a mortgage available through an area lender will not be subject to the Reg. Z disclosure requirements.

This down payment exception is limited to advertisements which state only the down payment amount or percentage for financing other than credit sales. If such a financing ad also includes any other triggering term, for example, the monthly payment amount, the additional disclosures required under Reg. Z would be triggered.

O. Terms of Use Agreement

Brokers operating Web sites need a "terms of use agreement" which is a contract between the Broker or Associate operating the Web site and the consumers using the site. The contract will serve to limit your liability to the user on a variety of issues, some of which have previously been addressed. But how do you get a user to agree to your terms and conditions? From a legal point of view, the best way to do this is to (1) put the information on a "terms and conditions of use" screen, which a user must pass through before entering the Web site; (2) make the user do something to show assent to the "terms"

before entering the Web site--for example, by registering and typing "I agree"; (3) keep records of the user agreement; and (4) give users the option of exiting at the "terms" screen if they do not want to accept those rules.

Does that sound like too much trouble? Probably. From a legal viewpoint, the next best thing is to require users to click through a "terms" screen to get to your Web site. The "terms" screen states that using the Web site confirms the user's consent to the stated terms. This is called a "click through" agreement but may still be too much trouble for a service-oriented site.

The most common way to make the user aware of your terms and conditions agreement is by placing a link on your site's home page, and make it easy for them to click to the "terms" screen.

As for the content of a terms of use agreement, every major Web site has such an agreement which is linked from the home page. These agreements can be reviewed and should provide sufficient guidance for a Broker looking to draft or revise their terms of use agreement. Examples of the issues to be addressed in a terms of use agreement are provided in the Web site checklist section of this Guide.

P. Trademark Law

Trademarks and service marks are words, names, symbols, or devices used by manufacturers of goods and providers of services to identify their goods and services, and to distinguish their goods and services from goods manufactured and sold by others.

Example: The trademark REALTOR[®] is used by NAR to identify the Association and to distinguish members of the NAR from other real estate licensees – see paragraph 4 for a more detailed discussion of the electronic use of the REALTOR[®] trademark.

1. Availability of Protection

Trademark protection is available for words, names, symbols, or devices that are capable of distinguishing the owner's goods or services from the goods or services of others. A trademark that merely describes a class of goods rather than distinguishing the trademark owner's goods from goods provided by others is not protectible.

Example: The word "corn flakes" is not protectible as a trademark for cereal because that term describes a type of cereal that is sold by a number of cereal manufacturers rather than distinguishing one cereal manufacturer's goods.

2. Obtaining Protection

The most effective trademark protection is obtained by filing a federal trademark registration application in the Patent and Trademark Office. Federal law also protects unregistered trademarks, but such protection is limited to the geographic area in which the mark is actually being used. The State of Wisconsin also registers trademarks at the

Secretary of States Office. Like the federal trademark, protection registration without usage does not provide absolute protection. In a dispute, a company with a long history of using a trademark may very well win a dispute with a newcomer who registers the mark and challenges the first company's rights to the mark.

For information about registering a trademark:

United States Patent and Trademark Office <http://www.uspto.gov/>

Wisconsin Secretary of State <http://badger.state.wi.us/agencies/sos/trade.htm>

3. Scope of Protection

Trademark law in general, whether federal or state, protects a trademark owner's commercial identity (goodwill, reputation, and investment in advertising) by giving the trademark owner the exclusive right to use the trademark on the type of goods or services for which the owner is using the trademark. Any person who uses a trademark in connection with goods or services in a way that is likely to cause confusion is an infringer. Trademark owners can obtain injunctions against the confusing use of their trademarks by others, and they can collect damages for infringement.

A good example of improper use of someone else's trademark is using another person's trademark as a meta tag to draw business to your Web site. A meta tag is programming code used in the creation of a Web site. Meta tags are powerful tools because they have a direct effect on the frequency with which search engines will find a Web site. Even though an Internet user never sees this code, meta tags have been the subject of trademark lawsuits because companies have used them to divert or confuse consumers. For example, Company A inserts the trademark name of a rival business, Company B, into its meta tag. A customer using a search engine to find Company B may be diverted to Company A instead. Some real estate brokers (not in Wisconsin) have been caught listing all local competitors in their meta tags in hopes that anyone searching for any of these companies will land on the infringer's Web site. Clearly this would present trademark problems.

4. The NAR Trademark on the Internet

NAR has provided the following guidance to REALTORS[®] who want to use the REALTOR[®] marks as part of their domain name or address. Like any other trademark there are rules governing proper use of the REALTOR[®] marks that must be adhered to at all times regardless of the media used. These rules are found in the National Association's Membership Marks Manual, a reference manual explaining proper use of the REALTOR[®] marks including examples of correct and incorrect uses. Here is a brief list of the principle rules affecting use of the REALTOR[®] marks in domain names:

1. The term REALTOR[®], whether used as part of a domain name or in some other fashion must refer to a member or a member's firm.
2. The term REALTOR[®] may not be used with descriptive words or phrases. For example, Number1realtor.com, Madison realtors.org or realtor properties.com are all incorrect.

3. For use as a domain name or e-mail address on the Internet **only** the term REALTOR[®] does not need to be separated from the member's name or firm name with punctuation

(unlike in print). For example, both johndoe-realtor.com and johndoerealtor.com would be correct uses of the term as a part of domain names and jdoe*realtors@webnetservices.com and jdoerealtors@webnetservices.com are both correct uses of the term as part of an e-mail address.

4. The REALTOR® block R logo should not be used as hypertext links at a Web site as such uses can suggest an endorsement or recommendation of the linked site by your Association.

The public has adopted the use of all lower case letters when writing domain names, even those containing trademarks. Therefore, for purposes of domain names only, there is an exception to the rule on capitalization of the term REALTOR® and it may appear in lower case letters.

Whether you use traditional print media or the Internet, it is essential to use the REALTOR® marks in accordance with the rules and guidelines of the National Association. The REALTOR® marks should only be used to denote membership in the NATIONAL ASSOCIATION OF REALTORS®.

Further information from NAR on trademark issues can be found at:

<http://www.onerealtorplace.com/letterlw.nsf/pages/trademarkmanual>

Copyright and trademark issues are discussed in an article titled: Intellectual Property Law Primer <http://www.timestream.com/stuff/heatstuff/mmlaw.html>

III.
CHAPTER 3 - E-MAIL POLICIES

E-mail has become an integral part of real estate practice. In developing e-mail office policies, Brokers must balance a number of regulatory and business issues. E-mail is subject to the same legal and business practice standards as more traditional means of communication. In addition, e-mail presents some unique issues relating to technology. The following policies should be considered by Brokers to ensure that the e-mail practices of Associates and other Employees are as productive as possible without violating any regulations or exposing the company to excessive potential liability. It is not anticipated that every one of the ideas discussed will be adopted by any given office. Given the unique business styles and technology systems of each office, it is anticipated that most of the model suggestions will need to be tailored for individual company use. Hopefully, the list of issues and concepts will prove to be a useful tool for Brokers developing or updating office technology policy manuals.

Office E-Mail Policies and Checklist

Associate Acknowledgement of Receipt, Review and Agreement

I acknowledge that I have received and read the Office E-mail Policy and understand its provisions. I agree to comply with its policies as a condition of my employment and in order to comply with Federal, State and local laws. I understand that the Broker reserves the right to amend and change the policies and/or procedures expressed in the Manual at any time.

Date: _____

(Associate Signature)

A. E-mail Accounts

- Associates must have at least one personal e-mail account separate from business e-mail accounts for real estate activities (“business e-mail account”).
- Broker (shall) (shall not) provide Associate with a business e-mail account.
- Business e-mail accounts shall not be used for personal e-mail. All business e-mail accounts, whether provided by Broker or by Associate, shall be used under the full supervision and control of Broker. All business e-mail accounts, whether provided by Broker or by Associate, shall be subject to the following policies:
 - ▶ Broker shall have the right to audit compliance (review e-mails) with these policies and Associate shall give Broker the account name and password for any business e-mail accounts provided by Associate.

- ▶ Inappropriate personal or business use of e-mail will not be tolerated. Use of business e-mail accounts, whether provided by Broker or by Associate, for content of a sexually explicit nature, focusing on classes of persons protected by fair housing or other anti-discrimination laws, personal attacks on any person, etc. will be grounds for dismissal. As a general rule, if you could not read an e-mail at an all-company meeting, the content of that e-mail may be inappropriate, and if inappropriate, is not permitted on any business e-mail account.
- ▶ It is no more appropriate to receive offensive e-mails than to send them. Any person sending inappropriate e-mails to a business e-mail account should be contacted promptly and asked to refrain from future inappropriate e-mails.
- ▶ Personal business, Internet surfing and other entertainment should be done on personal equipment using personal e-mail and Internet services.
- ▶ Business e-mail accounts provided by Associate should be a POP-based e-mail account. Proprietary network or Web-based e-mail accounts should not be used for business purposes without prior authorization of Broker. Business e-mail accounts provided by Associate should not insert third-party advertising nor should they block or modify any Broker required signatures, disclosures, disclaimers, etc.

B. E-mail Addresses

- Broker (shall) (shall not) provide Associate with a business e-mail address.
- All business e-mail addresses provided by Associate shall be used only with the prior approval of Broker. All business e-mail addresses, whether provided by Broker or by Associate, shall be subject to the following policies:
 - E-mail address must incorporate the following wording _____ (company identity, tradename, marketing slogan, etc.).
 - All e-mail addresses must comply with all applicable laws and the Code of Ethics.
 - E-mail addresses may not exaggerate, mislead, use offensive terminology, etc.
 - E-mail addresses may not violate fair housing, ADAA or other related law.
 - E-mail addresses may not create confusion with another company name, product, service or trademark.
 - The approval of Associate's business e-mail addresses shall be at the sole discretion of Broker.

C. Signature Requirements

All e-mails sent on business e-mail accounts, whether provided by Broker or by Associate, shall utilize the Broker's signature model. In addition to traditional e-mails, other electronic communications and marketing shall also be subject to these signature requirements (e.g. electronic newsletters, newsgroups, chat rooms, etc.). All signatures used by Associates shall be approved by Broker prior to usage. Associates may use multiple signatures subject to each signature's compliance with the signature model's requirements and prior approval by Broker. The Broker's signature model requirements are as follows:

All e-mail signatures shall contain:

- Associate's name as it appears on the Associate's real estate license unless another form of Associate's name has been approved by Broker.

- "Associate" or "Broker-Associate", as appropriate, plus all real estate designations Associate is currently permitted to advertise, following the Associate's name.

- Broker's name, in the following form: _____

- Broker marketing or identity information as follows: _____

- Associate's business telephone number.

- Associate's business e-mail address.

- Associate's business fax address.

- Broker's and Associate's Web site address.

- Associate's mailing address.

- The signature format should reflect the company's Equal Opportunity policy.

Associates with residential practices may include the phrase "Equal Housing Opportunity."

Associates who do not have a residential practice may include the phrase "Equal Opportunity Broker."

E-mail signatures may contain:

- Associate marketing or identity information, subject to prior approval of Broker.

E-mail signatures shall be formatted as follows:

- E-mail signatures shall be created as "signature files" in the Associate's e-mail account using the format provided by Broker. Broker's format includes font, font size, font color, etc. If the e-mail account does not support signature files, the required signature may be typed in or pasted in from a file created in word processing software.

- E-mail signatures shall be text only unless Broker gives prior permission for use of photographs or other graphics or special effects.

Signatures shall be used as follows:

- At the bottom but within the body of an e-mail message or newsletter.

- At the beginning of other business electronic communications such as chat-discussions or instant message sessions.

D. Responding to Incoming E-mail.

Prompt responses to incoming e-mail is arguably as important to business success as prompt responses to telephone calls. The following e-mail response policies are mandatory for all Associates:

- All e-mails shall be responded to personally no later than 24 hours after receipt. If an Associate is unable to personally respond within this time frame another person shall be designated to respond on behalf of the Associate. Broker shall be informed of those persons responding to e-mail on behalf of Associates.

- Auto-responder functions shall be used on all e-mail accounts having this capability. Auto responders shall acknowledge receipt of incoming e-mail and indicate when a personal response will be sent.

- Use of wireless e-mail devices (pagers, PDA's, telephones, etc.) are encouraged to provide immediate communications with persons sending incoming e-mails. Incoming e-mails can then be responded to with a phone call, an e-mail or be forwarded to an assistant or other Associate for personal attention.

E. Passwords

All business e-mail accounts shall be protected with a password. The account name and password of all business e-mail accounts shall be submitted to and approved by Broker. Passwords should comply with the following guidelines:

- Only persons approved by Broker shall have access to business e-mail account passwords.
- Passwords should not be taken from important personal dates, addresses, facts, etc., e.g. an Associate's date of birth, street, anniversary. These passwords are too easy to break.
- Passwords should be meaningless to 3rd parties who may try to "hack" the passwords and violate system security and confidentiality.
- Passwords developed under these standards may be more difficult to remember and should therefore be stored by Associate and Broker using password management software utilities.

F. Writing Style For Business E-Mails

Informal writing is as inappropriate in business e-mail as it is in business letters. All business e-mails shall be drafted with the same style and care as other business correspondence.

G. Confidentiality

1. Client/Customer Confidentiality

Parties wishing strict confidentiality should consult with legal or other advisors regarding the use of encryption software. Standard e-mail is generally accepted for most business e-mail. However, the U.S. Post Office or other delivery service should be used if encryption technology is not available and strict confidentiality is required.

2. Third Party Confidentiality

Like faxes, there is a concern that e-mails can be received by a third-party other than the person intended to receive the e-mail. Third party confidentiality issues should be addressed by using the following disclaimer whenever e-mail addresses may be accessible by persons other than the addressee (including family members and business associates):

This e-mail message is intended solely for the person to whom it is addressed and may contain confidential and/or privileged information. If you have received this e-mail message in error, but are affiliated with the person to whom it is addressed, please notify the addressee that the e-mail has been received (otherwise delete it). Any review,

dissemination, copying, printing or other use of this e-mail message by persons other than the addressee is prohibited.

H. Complaints

All complaints resulting from receipt of e-mail shall be copied to Broker and Broker shall determine whether Associate or Broker shall respond to the complaint and shall determine the content of the response.

I. Agency Disclosure

Agency disclosure duties arise when a broker provides brokerage services to a client or customer, including the identification of specific properties for a prospective buyer or tenant by e-mail. Therefore, the following e-mail agency disclosure practices shall be complied with:

1. Brokerage Services to a Customer - E-Mail

When brokerage services are provided by e-mail, the first e-mail rising to the level of brokerage services should include an agency disclosure, either pasted at the end of the e-mail or as an attachment. The party should be asked to respond acknowledging that they received the message in order to satisfy the requirements of RL 24.07(8). A copy of this e-mail and response (or record of the customer's refusal to acknowledge receipt in writing) should be retained as would any other transaction document. Until the license law is revised to reflect electronic commerce principles, you are required to request acknowledgement in writing when a face-to-face meeting occurs.

2. Brokerage Services to a Client

Because a seller, buyer or tenant client cannot receive brokerage services without a signed agency agreement, agency disclosure is addressed when the agency agreement is signed by the party. You are prohibited from providing brokerage services to a prospective client prior to the client's signing of the agency agreement.

3. Agency Disclosure Language

Every e-mail that provides property information to a customer in response to that customer's request or includes exchange of other information relating to the terms of the transaction should contain the following agency disclosure form (completed appropriately for the transaction) in the form of an attachment or pasted into the e-mail itself:

a. Attachment

Attachments should be labeled as follows: Agency Disclosure - Please Review, Complete and Provide Written Acknowledgement of Receipt.

b. Agency Disclosure Form

See Appendix A

J. Misrepresentation

Note that e-mail communications are subject to the same laws and regulations related to distribution of misleading factual information as are traditional forms of communication. The greatest liability threat to Brokers stems from Wisconsin's strict responsibility law. To avoid liability under strict responsibility theories, any e-mail communication (including newsletters, marketing information, etc.) which contains factual information about a property which was obtained from seller or other third party sources should include the following disclaimer (unless the accuracy of the information has been verified by Associate):

The information included in this e-mail has been provided by seller or other third parties. The information has not been verified by (Associate) or (Broker) unless specifically indicated.

K. Other Disclosures

Possible other disclosures which may be necessary in a business e-mail include:

- Regulation Z loan disclosures when certain loan information is being advertised (see Legal Update 97.06);
- Disclosures related to referrals and other conflicts of interest required under Wisconsin license law (RL 24.05);
- RESPA Disclosures (Affiliated Business Disclosures – see <http://www.hud.gov/fha/sfh/res/resappd.html> and Legal Update 96.08)

L. Other E-mail Regulations

1. FAIR HOUSING LAW - Use of Demographic Information.

Brokers should adopt policies controlling Employees' and Associates' use of demographic information which separates out information about groups of persons protected under fair housing laws. An example of such a policy might be:

It is a violation of this e-mail policy to distribute demographic information which includes information regarding classes of persons protected under fair housing laws without Broker's prior review and approval. No approval will be given for distribution of information which separates out protected class information from a larger database (for residential transactions). Because buyers are not restricted from analyzing a neighborhood based on protected class information, any e-mail containing demographic information authorized for distribution by Broker must contain the following disclaimer:

Disclaimer Regarding Use of Demographic Data Relating To Persons Protected Under Fair Housing Law.

Under Wisconsin fair housing statutes, it is unlawful for a real estate licensee to provide any person with information which separates demographic information into categories based upon classes of persons protected under fair housing law.

M. Record Keeping

Associates shall retain copies of all e-mails sent or received in connection with a real estate transaction. This can be accomplished by either printing each e-mail or by saving an electronic copy (archiving). Whether saved electronically or in writing, transaction e-mails must be retained in an appropriate transaction file. If an electronic folder has not been established for the transaction, a hard copy shall be filed in the transaction file.

N. Trademark Law

Trademark law in general, whether federal or state, protects a trademark owner's commercial identity (goodwill, reputation, and investment in advertising) by giving the trademark owner the exclusive right to use the trademark on the type of goods or services for which the owner is using the trademark. Any person who uses a trademark in connection with goods or services in a way that is likely to cause confusion is an infringer.

Any use of another company's trademark to attract business to Broker or Associate is prohibited without the other company's permission. This includes use of another company's trademark in e-mail addresses created by Employees and Associates.

O. Jurisdiction

Any e-mail communications (including newsletters, marketing information, etc.) being sent to distribution lists that may include residents of states in which (Broker) is not licensed to practice real estate should include the following statement:

"Information being provided for residents of the State of Wisconsin (and other states Broker may practice in).

Avoid references to cities or states outside of Broker's license jurisdiction in e-mail addresses or elsewhere in Associate marketing materials.

P. Copyright Issues

Associates should assume that they do not have permission to copy and distribute by e-mail any article, picture, video, music, etc. unless the author of the work has expressly given permission to do so. Modification of these works without permission, by revising or altering the article, picture, etc., is a violation of the author's copyright as well. Permission must be documented in writing prior to Associate's use or modification of such material.

Q. E-Mailing to Distribution Lists

The use of e-mail distribution lists make marketing to large numbers of people extremely inexpensive. To avoid legal liability, ethical violations or loss of good will, the following guidelines must be followed when distributing e-mail to groups:

- "Spam" or mass e-mails to untargeted lists are prohibited without Broker's prior consent.
- Targeted e-mails to distribution lists are permitted so long as the list consists of persons who are qualified as prospects for Associate's services.

- All e-mails to distribution lists must offer the recipient the opportunity to be removed from the list. Associate is responsible for maintaining the lists and maintaining records of all persons requesting removal from e-mail lists. All persons requesting removal from a distribution list should be forwarded to Broker so that the person can be removed from all company distribution lists as appropriate.

- All e-mails to distribution lists must include a disclaimer recognizing the Code of Ethics prohibition against interference with another broker's listing. Associate shall use the following language in all e-mails to distribution lists unless prior approval is received from Broker:

"If you currently are represented by a real estate licensee, this e-mail is not a solicitation of the business covered by the exclusive agreement with that licensee."

R. E-mail Attachments

Because many e-mail recipients are fearful of viruses and may not be sophisticated computer users the following procedures shall be followed when sending e-mails.

- Because different e-mail recipients have different preferences regarding use of attachments versus pasting text into the body of the e-mail, Associate shall determine which approach is preferred by the recipient when sending e-mail. If attachments are used, identify the attachment name and the e-mail subject line in a way that the recipient knows that the e-mail and attachment were created specifically for that recipient.

- Recognize that certain consumers have slow e-mail connections and others have fast connections. Based on the speed of the recipient's connection and other preferences, design e-mail content appropriately. E-mail recipients with dial-up connections should be sent text-only e-mails unless they request additional content. Recipients with fast connections may receive pictures, videos, large documents, etc.

- Recipients will ordinarily have limited computer sophistication. Therefore, all attachments shall be in the most common format available, i.e. jpg for pictures. When sending a file in a format which the recipient may not be able to read, send along a link to the software reader download site. If sending an Adobe Acrobat file (e.g. a WRA Legal Update) include a link to download the Acrobat Reader program:

<http://www.adobe.com/products/acrobat/readstep2.html>

- Virus software should be regularly updated (at least weekly) and should be set to auto-detect all e-mail – both incoming and outgoing. If the virus software available for the business e-mail account does not have this function, manually check attachment files for viruses before sending.

- Because no anti-virus software is foolproof, regularly back up computer data (no less than weekly) to a zip disk or other external media which will not be affected should the computer hosting the business e-mail account be infected by a virus.

7. Office E-Mail Policy Checklist

Associate: _____

Date: _____

Policy Requirement	Policy Compliance*		
	YES	NO	N/A
Acknowledgement of Receipt, Review and Agreement Signed?			
E-mail Accounts, Personal Account Active?			
E-mail Accounts, Appropriate Use of Business Account(s)?			
E-mail Accounts, Accounts Provided by Associate Meets Standards?			
E-mail Addresses, Address(es) Meet Standards?			
Signature Requirements, All Associate Signatures Comply With Model?			
Response to Incoming E-mail, Prompt Response?			
Response to Incoming E-mail, Auto Responder or Assistant Response?			
Response to Incoming E-mail, Broker Informed - Person(s) Responding?			
Passwords, All Account Names and Passwords Submitted & Approved?			
E-Mail Writing Style, Appropriate for Business Correspondence?			
Client/Customer Confidentiality, Encryption or Appropriate Delivery Used When Required by Client or Customer?			
Third Party Confidentiality, Disclaimer Used in E-mails?			
Agency Disclosure, Customer – Attached to E-mails When Required?			
Misrepresentation, Disclaimer Used When Factual Information Given?			
Other Disclosures, Reg. Z Disclosures used when Advertising Loans?			
Other Disclosures, Referral Fee Disclosures Made (RL 24.05)?			
Other Disclosures, Affiliated Business Disclosures Made if Required?			
Fair Housing Law, Disclaimer Used When Distributing Demographics?			
Fair Housing Law, Equal Opportunity Statement Being Used?			
Record Keeping, All Transaction E-Mail Being Placed in File?			
Trademark Law, Trademark Rights of Others Being Honored?			
Jurisdiction, Multi-state Distribution Lists Using Disclaimer?			
Jurisdiction, Avoiding References to Markets Outside Jurisdiction?			
Copyright Law, Copyright Rights of Others Being Honored?			
E-Mailing to Distribution Lists, Spam Policy Complied With?			
E-Mailing to Distribution Lists, Distribution Lists Include Opt-Out?			
E-Mailing to Distribution Lists, Lists Targeted to Qualified Prospects?			
E-Mailing to Distribution Lists, Non-Solicitation Disclaimer Included?			
E-Mail Attachments, Appropriate Subject When Attachments Used?			
E-Mail Attachments, Appropriate File Types?			
E-Mail Attachments, Anti-Virus Software on Auto-Detect?			

E-Mail Attachments, Anti-Virus Software Updated Weekly?			
Computer Used for Business E-mail Account(s) Backed Up Weekly?			

* Additional Comments

Associate Signature

Date

Supervisor Signature

Date

IV.
CHAPTER 4 - INTERNET AND ASSOCIATE WEB SITE POLICIES AND CHECKLIST

Associate Acknowledgement of Receipt, Review and Agreement

I acknowledge that I have received and read the Office Web Site Policy and understand its provisions. I agree to comply with its policies as a condition of my employment and in order to comply with Federal, State and local laws. I understand that the Broker reserves the right to amend and change the policies and/or procedures expressed in the Manual at any time.

Date: _____

(Associate Signature)

A. Associate Web Sites

Associate Web pages on the Broker's site and Associate Web sites used in real estate practice which reside outside Broker's Web site shall be subject to the following policies:

B. Web Privileges

Having your Web page on Broker's site or having a real estate Web site outside Broker's site is a privilege, not a right. Breach of any of the policies and procedures found in this manual may result in deletion of your Web page on Broker's site, termination of authorization to operate Associate's real estate Web site outside Broker's site, and other disciplinary action.

C. Web Site Design and Content Responsibility

Broker is legally responsible for all real estate activities of Associate including Web site activities. In order to limit the liability of Broker and Associate, the design and content of Associate's Web site shall be developed and maintained under the supervision and control of Broker. Associate's development agreement, site specifications, content, etc. must be submitted to Broker prior to development of the Associate's Web site for Broker's approval. Broker shall review the Associate's Web site for legal compliance issues, compliance with the policies of this Chapter, and overall appropriateness and effectiveness of the Web site and its content. Modifications shall be made as directed by Broker, at Broker's discretion.

D. Web Site Content Requirements

Associate shall comply with the following Associate Web site guidelines:

E. Advertising

Associate must obtain written approval from Broker prior to placing any third-party advertisement on Associate's Web site. Associate shall submit to Broker the identity of the company and product/service as well as the ad content. Broker shall approve or disapprove of the ad content and determine the allocation of ad revenue between Associate and Broker at the sole discretion of Broker.

F. Agency Disclosure

Any Associate Web page that provides consumers the opportunity to specify their real estate needs and which responds with a selection of appropriate properties/information regarding the terms of a transaction should include an agency disclosure on the page which gathers the party's information. A prominent link to the agency disclosure with a heading indicating that consumers should review the agency disclosure and acknowledge receipt would be appropriate. Until the license law is revised to reflect electronic commerce principles, Associates shall request acknowledgement in writing whenever a face-to-face meeting should occur. Records of written acknowledgement, or refusal of the same, shall be retained in the transaction file.

1. Agency Disclosure Link Sample

Every Web page that returns property information in response to a customer request should contain the following link and the link should take the customer to the following agency disclosure information:

a. Link

Agency Disclosure - Please Review and Provide Written Acknowledgement of Receipt of This Agency Disclosure.

b. Agency Disclosure

See Appendix A

G. Broker Identification

Associate must include on every page of Associate's Web site the following Broker identification information:

(Insert Broker Identification Graphic)

Copies of the Broker identification graphic may be obtained from _____ . No modifications to the graphic (size, colors, etc) are permitted. The graphic shall be placed below the Associate's contact information, visible whenever Associate's contact is visible and no less prominent than Associate's contact information.

H. Comments

Users of Associate's Web site should be given the opportunity to comment. These comments will provide valuable feedback to assist Associate in the further development of the site. Most consumers need some inducement to provide comments. Incentives which can be applied to future transactions (one incentive per transaction!) may be an effective inducement. All comments received from Associate's Web site shall be forwarded to Broker no less than monthly.

I. Content Accuracy

It is Associate's responsibility to check his or her Web site pages for accuracy, correct any inaccuracies immediately and report any errors to Broker promptly and in writing.

J. Drawings

Associates wishing to offer a drawing on the Associate's Web site must comply with Wisconsin gambling laws. The issue is whether such a drawing would be an illegal lottery under sections 945.04(5) and 945.02 of the Wisconsin Statutes. A drawing is generally defined as a regulated lottery if one must give consideration to enter, and the award is determined by chance. Consideration is anything which would be of financial or commercial advantage to the promoter, with some exceptions (send in coupon, visit store, etc.). Because the prize winner will be determined by chance, there can be no consideration paid for entering. Therefore, any person submitting an entry on the Web site must be entered into the drawing regardless of that person's qualification as a potential prospect, etc.

The content and rules of any proposed drawing must be submitted to Broker in writing for review. Prior to offering the drawing, Associate must obtain written permission from Broker. All drawings must be limited to Wisconsin residents. Residents of other states may be included if legal counsel approves following review of that state's gambling laws. Legal counsel review shall be at the Associate's expense.

K. Copyright law

Copyright protection is available for "works of authorship." These works include: literary works (from books to articles), pictorial and graphic works, music/sound recordings and compilations such as an MLS. The author of these works has the exclusive right to copy, modify, distribute or display these works. The use of a copyright notice is no longer required under U.S. law. Associates operating Web pages shall not copy, modify, distribute or display any work of authorship without permission of the author. All use of MLS data shall conform with MLS rules. Any use of MLS data not addressed by MLS rules shall not be incorporated into Broker's or Associate's Web site without prior written approval of the MLS.

1. Web Site Copyright Notices.

To protect Broker's, Associate's and other person's copyrights, Associate shall include a copyright paragraph in Associate's Web Site's terms of use agreement.

An example of such a paragraph is:

Limited License for Personal and Non-Commercial Use Only; Printing of Site Content. The Content of this Site is copyrighted by the (Broker) or other persons and entities that provide information to the Site. Users of this Site are granted a limited nonexclusive license to use the Site and its Content for personal and non-commercial use only. Users may print or copy Content from this Site that is copyrighted or owned by (Broker) provided that such copies are not modified or revised in any manner and include proper notices indicating that the Content is copyrighted or owned by (Broker) (such as "Copyright (c) [Insert Year] (Broker)"). In addition, any Content which comes from pages of this Site that contain disclaimers must be printed or copied with the disclaimer included in its entirety. In the event a User wishes to print Content from this Site, or other sites linked to from this Site, that is copyrighted or owned by a person or entity other than the (Broker), the User must obtain permission from the appropriate owner to do so. Except as permitted in this Agreement, Content may not be reproduced, sold, transferred, modified, redistributed, retransmitted, published, or exploited for any purpose without the express written permission of the (Broker) or appropriate owner of the information.

If you would like to reprint Content from this Site for purposes other than those permitted in the Agreement, please send a request to (manager at Broker). Please include in your request as much information as possible including your intended use of the Content. If you would like to republish the content in an article or publication, please indicate the title and byline of the article and the publication it will appear in. In order for requests to be considered, all requests must include your name, address, phone number and e-mail address.

2. Software Copyright

Broker licenses the use of computer software from a variety of outside sources. Broker does not own this software or its related documentation, and unless authorized by the software developer, does not have the right to reproduce it. Associates shall use the software only in accordance with the relevant license agreement. Any duplication of copyrighted software, except for backup purposes, is a violation of the Federal Copyright Law. All software installed in the information systems must be pre-approved by the network administrator and be non-proprietary or properly licensed.

L. Domain Names

Associate shall be responsible for obtaining and renewing the registration of the Associate's Web site's domain name. Associate must comply with Broker's domain name policies. Associate shall be responsible for ensuring that the domain name is not inappropriate and that it does not violate any person's trademark or service mark.

Associate may wish to search available domain names consistent with Broker's domain name policy. Several such services are available on the internet including:

<https://home.verio.com/lookup/index.cfm?plancode=dp1>

M. FAIR HOUSING LAW - Use of Demographic Information.

Brokers should adopt policies controlling Employees' and Associates' use of demographic information which isolates information about groups of persons protected under fair housing laws. An example of such a policy might be:

Associate's Web Site may not distribute demographic information which includes information regarding classes of persons protected under fair housing laws without Broker's prior review and approval. This restriction applies to information located on Associate's Web site as well as information located on Web sites linked to on Associate's site. No approval will be given for distribution of information which isolates protected class information from a larger database (for residential transactions). Because buyers are not restricted from analyzing a neighborhood based on protected class information, any Associate Web site containing demographic information authorized for distribution by Broker must contain the following disclaimer:

1. Disclaimer Regarding Use of Demographic Data Relating To Persons Protected Under Fair Housing Law

Under Wisconsin fair housing statutes it is unlawful for a real estate licensee to provide any person with information which separates demographic information into categories based upon classes of persons protected under fair housing law.

2. Equal Opportunity Statement

The Associate's home page and preferably all Web site pages should reflect the company's Equal Opportunity policy. Associates with residential practices may include the phrase "Equal Housing Opportunity" (and the Equal Opportunity logo). Associates who do not have a residential practice may include the phrase "Equal Opportunity Broker."



N. Harrassment/ Offensive Content

1. Harassment

Use of the Broker's or Associate's information systems for harassment, in any form, will not be tolerated. The information systems are not to be used inappropriately to access or forward offensive content. Offensive content includes, but is not limited to, messages or information that will disparage or threaten individuals or groups based on their gender, race, national origin or other protected class; content containing adult oriented information (i.e. primarily sexual theme, offensive language or graphics, etc.) or any other material which might disrupt the work place. Accordingly, conduct including, but not limited to, accessing or forwarding offensive comments, jokes/riddles, cartoons, pornography,

profanity and offensive messages or information in any form are expressly prohibited. Any Associate who receives communications containing offensive content shall immediately report the situation to their immediate supervisor, consistent with Broker's prohibition of harassment. No Associate Web site may contain offensive content residing on the site, accessible on Web sites linked to from Associate's site, or in any hidden code.

O. Linking Issues

Links to and from Associate's Web site can create potential legal and business problems. The following linking policies are mandatory for all Associate Web Sites:

1. Links to Associate's Web Site

Generally having other sites link to Associate's Web site is positive as it can increase site traffic. However, some links are not acceptable because the other site contains offensive material, links to pages other than Associate's home page, frames Associate's pages or is otherwise unacceptable.

At least once a month Associate shall review all sites linking to Associate's site and report any of the unacceptable practices described above in writing to Broker. Go to <http://www.altavista.com> and put the following into the search field:

link: www.yourdomain.com (substitute your actual domain name for "yourdomain"). The search will give you all sites linked to yours (at least those found by found by Altavista).

2. Links to Other Sites

Generally it is positive to provide links on the Associate's Web site to other Web sites. Associate's Web site is enriched by the content from the other Web site and Associate's links increase traffic on the other site. However, some restrictions on linking practices exist. Any Web site in the public domain may be linked to freely. Some Web sites prohibit any linking in their "terms of use agreements" without express permission. However, most commercial sites allow linking to the home page of the site without further permission. Linking to home pages is often required because that is where the site's privacy policy, terms of use agreement, most valuable ad space, etc. is located.

Associates linking to any other Web site shall confirm that all required permissions for the link have been received in writing in advance of the use of the link.

3. Liability Due to Linked Site's Content

Brokers and Associates can be legally liable if Associate's Web site links to a site that violates libel, fair housing, gambling or some other law. To minimize this liability, Associate shall carefully review all sites prior to linking to the site. Once a month, all links shall be reviewed to ensure the link is still active and that the linked site's content is still appropriate. Finally, Associate's terms of use agreement should contain the following disclaimer:

Links to Third Party Sites; Accuracy of Content on Linked Sites.

Links to other sites operated by independent, third parties exist on this Site. While (Broker/Associate) provides these links as a service to Users, (Broker/Associate) does not control these linked sites and (Broker/Associate) is not responsible for the content contained on these sites. Unless otherwise indicated, (Broker/Associate) does not endorse, approve, or otherwise warrant the accuracy of any information or content contained on a linked site. User agrees that the sites, including information, material, products and services therein, shall be used solely at the User's own risk. Furthermore, because the (Broker's/Associate's) privacy policy is applicable only when you are on (Broker's/Associate's) Web site, once linked to another Web site, you should read that site's privacy policy before disclosing any personal information. If you are unsure if have moved to another site, check the Uniform Resource Locator (URL) address provided in your WWW browser.

4. Frames

As the name suggests, a "frame" is a bordered area of a Web page that "frames" the content of a second Web page or Web site. The problem with framing is that when a Web site links to and frames another Web site, the Web site's URL or domain name is not displayed. Instead, the "framer's" URL and Web page border is displayed, while the content of the "framed" site appears within this border. At the very least, this may mislead a consumer into thinking that the Web content they are looking at is the "framer's, not the "framee's." Associate's Web sites may not frame any other site's pages unless written permission is obtained or the page is in the "public domain."

Associate's Web site's terms of use agreements should explicitly prohibit framing by other sites using the following disclaimer:

Linking to and Framing this Site.

Users who create links to any page of the Site may not "frame" any page of the Site for any purpose without the express written consent of the Broker/Associate.

P. Misrepresentation

Under Wisconsin's strict responsibility law, an Associate and the Associate's Broker may be liable for forwarding incorrect information from a third party, if the information appears to be coming from the Associate's knowledge, even though Associate had no idea that the third party's information was incorrect. Therefore, all Associate Web pages that contain factual information which has not been verified by Associate should attribute the information to its source and include a disclaimer along the lines of:

The information included on this Web site has been provided by seller or other third parties. The information has not been verified by (Associate) or (Broker) unless specifically indicated.

In addition to the disclaimer, Associate will need to remember to ensure the accuracy of any information which is provided by Associate and not merely passed on from third party sources.

Q. Privacy Issues

1. Privacy Statement

Privacy issues are at the forefront of many state and national legislative and regulatory debates. The increasing capability of Web sites to gather information from consumers is at direct odds with society's apparent desire to limit access to personal information. Therefore, each Associate Web Site shall contain a privacy statement. A privacy statement tells a user what information is going to be gathered (with the user's knowledge or without) and what is going to be done with this information. A link to the privacy statement should be located on the home page of the Web site.

A privacy statement must at a minimum disclose the following:

- What personally identifiable information is collected;
- What organization is collecting the information;
- How the information is used;
- With whom the information may be shared;
- What choices are available to users regarding collection, use and distribution of the information;
- What kind of security procedures are in place to protect against the loss, misuse or alteration of information under the company's control;
- How users can correct any inaccuracies in the information.

Legal counsel may be consulted for assistance in drafting the privacy statement. There are resources on the Web to assist Web site operators who are attempting to draft a privacy statement. One of these resources is TRUSTe. TRUSTe certifies privacy statements for companies and has resources available for companies that will be developing privacy statements (even without seeking TRUSTe's certification).

TRUSTe provides a Model Privacy Statement: - [HTML Format](#) - [Microsoft Word 97 Format](#) and a Site Coordinator's Guide: - [HTML Format](#) - [Microsoft Word 97 Format](#)

For additional privacy issues, Brokers and Associates should review the Graam-Leach-Bliley Act ("GLB") information on the WRA's Web site. GLB regulates privacy issues for entities which provide the type of services provided by financial institutions, including settlement services.

2. Firewalls

If Associate uses personal computers to access the Broker's intranet with an always-on connection (DSL and cable modems), Associate shall install a "firewall" to minimize information theft and other attacks. Two examples of firewall software are:

Zone Alarm <http://www.zonelabs.com/>

Sygate Personal Firewall http://www.sygate.com/products/shield_ov.htm

3. Internal Confidentiality Issues

There should be no expectation of confidentiality for any Associate Internet activity using Broker's hardware, software or intranet.

R. Jurisdiction

The Internet transmits an Associate's Web site to every state and country. Therefore, a Broker must ask the question whether it is subject to the laws of states reached by an Associate's Web advertising (every state). It's unlikely that Broker would be subject to the jurisdiction of another state simply for posting a Web site on the Internet. However, when a Web site (along with a certain amount of e-mails, phone calls and other advertising) generates significant sales in a state outside Wisconsin, there is a greater likelihood that Broker may hear from regulators or courts claiming that they have jurisdiction over Broker based on the "minimum contacts" theory.

Another key factor in determining whether Broker may face jurisdiction issues is the extent to which the Web site is interactive. Jurisdiction claims for passive sites (information delivered to consumer only) are not likely. However, when a site is interactive (as any good real estate Web site will be) jurisdiction claims become much more likely. Because an Associate's site will typically ask a buyer about the type of property the buyer is looking for and respond with information on specific properties, Broker must be concerned with potential jurisdiction claims from other states.

How is the risk of out-of-state jurisdiction claims reduced? Because limiting interactivity is effective but not practical, Associate shall incorporate a provision in the Associate's Web site terms of use agreement which states:

Information being provided for residents of the State of Wisconsin (and other states in which Broker is licensed to practice real estate).

Ultimately, not violating the laws of any other states is the best defense. Given the patchwork quilt of state real estate laws this may be an impossible task. The Association of Real Estate License Law Officials (ARELLO) has adopted model rules for Internet activities. Associate shall review these policies and follow them to the extent practicable. Go to : <http://www.arello.org> and Click on "Policies, Models and Guidelines" and then click on "Internet."

S. Listings

Associate may not advertise any other company's listing without permission of the other company. This permission is usually extended expressly or implied through the MLS. Associate shall determine that all listings included on Associate's site have been posted

with permission, that no listing information published by Associate is false or misleading and that all applicable MLS rules have been complied with. Advertising For Sale By Owner (FSBO) properties is prohibited.

T. Meta-Tags and Other Hidden Code.

Meta tags are codes used to direct search engines to a particular Web site. Associate is prohibited from using any offensive content or from violating any person's trademark or copyrights in meta tags or other hidden code.

U. Regulation Z Advertising Rules

If Associate's Web site (including linked sites) advertises mortgage loans, these ads may be regulated. Regulation Z, also known as the Truth-in-Lending regulations, contains disclosure rules which apply to REALTORS® who advertise real estate financing terms. These rules state that if an ad contains any of the "triggering terms", then the ad must also contain (1) the dollar amount or percentage of the down payment; (2) all of the repayment terms including the number and amount of the payments and the period of repayment; and (3) the "annual percentage rate", using that term or the abbreviation "APR." The "triggering terms" generally include the dollar amount or percentage of the down payment, the number of payments, the period of repayment, the amount of any payment, or amount of any finance charge.

There is, however, a little-known exception to the general rule. The use of the down payment by itself in an ad does not trigger the Reg. Z disclosure requirements unless the transaction is a "credit sale." A "credit sale" will be present in residential real estate transactions only when the seller is offering seller financing and the seller has provided seller financing in residential transactions more than five times in the current or preceding calendar year.

Mortgages from banks and other lenders involve loans and not credit sales. Thus an ad by Associate containing only the down payment percentage for a mortgage available through an area lender will not be subject to the Reg. Z disclosure requirements.

This down payment exception is limited to advertisements which state only the down payment amount or percentage for financing other than credit sales. If such a financing ad also includes any other triggering term, for example, the monthly payment amount, the additional disclosures required under Reg. Z would be triggered.

Associate shall comply with Regulation Z disclosure requirements when applicable.

V. Terms of Use Agreement

Associates operating Web sites need a "terms of use agreement" which is a contract between the Associate operating the Web site and the consumers using the site. The contract will serve to limit liability to the user on a variety of issues, some of which have

previously been addressed. Associate shall place a link on the Associate's Web site's home page labeled "Terms of Use Agreement."

The content of the terms of use agreement must be approved, in writing, by Broker. Associate's terms of use agreement should (follow the model provided by Broker) (cover the following subject headings).

- Definitions. Associate should define applicable terms such as the parties to the agreement, content covered, extent of coverage of agreement, etc.
- Statement of copyrights.
- Linking and framing restrictions.
- Liability for content in third party sites.
- Disclaimer regarding legal information and advice.
- Right to modify terms and conditions of site use agreement.
- Disclaimer regarding warranties and representations.
- Right to termination of access.
- Indemnification.
- Reservation of rights.
- Choice of law; jurisdiction and venue.
- User's consent to be legally bound to agreement.
- Severability.

W. Third-Party Web Sites

Third-party Web sites may be used by Associate to advertise only with the prior consent of Broker. Associate shall be responsible for all costs involved and for ensuring that all conditions Broker places on the use of Associate's Web site are complied with when Associate utilizes the services of the third-party Web site.

X. Trademark Law

1. Trademark Violations

Trademarks and service marks are words, names, symbols, or devices used by manufacturers of goods and providers of services to identify their goods and services, and

to distinguish their goods and services from goods manufactured and sold by others. Trademark protection is available for words, names, symbols, or devices that are capable of distinguishing the owner's goods or services from the goods or services of others. Associates operating Web pages shall not use any other person's trademark or service mark without permission of the owner of the mark. This rule applies to observable usages (e.g. use of the audio trademark Harley Motorcycle "roar") as well as hidden uses (e.g. use of a competitor's name in "meta tags").

2. The NAR Trademark

Associates wishing to use NAR's trademarks must comply with the following guidelines:

1. The term REALTOR[®], whether used as part of a domain name or in some other fashion must refer to a member or a member's firm.
2. The term REALTOR[®] may not be used with descriptive words or phrases. For example, Number1realtor.com, Madison realtors.org or realtor properties.com are all incorrect.
3. For use as a domain name or e-mail address on the Internet the term REALTOR[®] does not need to be separated from the member's name or firm name with punctuation. For example, both johndoe-realtor.com and johndoerealtor.com would be correct uses of the term as a part of domain names and jdoe*realtors@webnetservices.com and jdoerealtors@webnetservices.com are both correct uses of the term as part of an e-mail address.
4. The REALTOR[®] block R logo should not be used as hypertext links on a Web site as such uses can suggest an endorsement or recommendation of the linked site by NAR.

The public has adopted the use of all lower case letters when writing domain names, even those containing trademarks. Therefore, for purposes of domain names only, there is an exception to the rule on capitalization of the term REALTOR[®] and it may appear in lower case letters.

Further information from NAR on trademark issues can be found at:

<http://www.onerealtorplace.com/letterlw.nsf/pages/trademarkmanual>

Y. Web Site Maintenance and Operation

1. Archiving Web Site

Associate or Associate's Web hosting service should archive the site regularly and all changes should be recorded and maintained in Associate's files for 6 years.

2. Marketing

All marketing material (in any media) developed by or on behalf of Associate should incorporate the Broker's and the Associate's Web site address.

3. Search Engine Registration

Associates should register the Associate's Web site with as many search engines as possible. Information about registering with search engines can be found at many places on the Internet including: <http://www.searchengines.com/>

4. Link Validation

All Links and e-mail addresses provided on Associate's Web site should be validated at least monthly.

5. Passwords

All passwords (as well as related account/user names) maintained by Associate for Associate's Web site e-mail accounts shall be submitted to Broker. Passwords should comply with the following guidelines:

- Passwords should not be taken from important personal dates, addresses, facts, etc., e.g. an Associate's date of birth, street, anniversary. These passwords are too easy to break.
- Passwords should be meaningless to 3rd parties who may try to "hack" the passwords and violate system security and confidentiality.
- Passwords developed under these standards may be more difficult to remember and should therefore be stored by Associate and Broker using password management software utilities.

Choices include:

Password Safe <http://www.counterpane.com/passsafe.html>

Gator <http://www.gator.com/what/>

Password Agent <http://www.moonsoftware.com/frames.asp?page=pwagent.asp>

Passwords Plus <http://www.dlcwest.com/~sorev/password.htm>

ASSOCIATE WEB SITE CHECKLIST

Associate: _____

Date: _____

Associate Web Site Policies	Policy Compliance *		
	YES	NO	N/A
Does Associate Have Web Privileges?			
Web Site Design and Content Approved by Broker?			
Web Site Advertising Approved?			
Agency Disclosure Provided Appropriately?			
Broker Identification Provided Appropriately?			
Web Site provides User Opportunity For Comments?			
Content Accuracy Being Confirmed By Associate?			
Drawings Offered Consistent With Policies?			
Copyright Law Compliance No Violation Of Other's Copyrights?			
Web Site Copyright Notices Provided Appropriately?			
Domain Name Conforms With Broker Policy?			
Fair Housing - Use of Demographic Information Disclaimer Used?			
Equal Opportunity Statement/Logo Used?			
Internet Use and Web Site Free Of Offensive Content?			
Links to Associate's Web Site Monitored Per Broker Policy?			
Links to Other Sites Appropriate and Reviewed Per Broker Policy?			
Links to Other Sites Have Required Permissions and Disclaimer?			
Web Site Free of Frames Unless permitted By Framed Site?			
Framing Disclaimer Utilized?			
Strict Responsibility Disclaimer Used?			
Privacy Statement Conforms With Broker Policy?			
Firewalls Installed?			
Jurisdiction Policies Appropriately Addressed?			
Web Site Contains Only Listings Associate Permitted to Advertise?			
Meta Tags and Other Hidden Code Complies With Broker Policy?			
Regulation Z (Disclosure of Loan Terms) Complied With?			
Terms of Use Agreement Meets Broker Standards?			
Third Party Web Sites Used Only With Broker Approval?			
Trademark Law Complied With, Including NAR Standards?			

Web Site Archiving Per Broker Policies?			
All Marketing Materials Contain Broker and Associate Web Site Addresses?			
Search Engine Registration Performed?			
Links and E-mail Validation Monthly?			
Passwords Provided to Broker and Comply With Broker Policy?			

* Additional Comments

Associate Signature

Date

Supervisor Signature

Date