



# **Commercial Information Exchange (CIE) Development Guide**

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## NAR CONTACTS

- Download a copy of this Commercial Information Exchange (CIE) Guide at <http://www.realtor.org/cie.nsf> or contact *NAR Commercial Real Estate* staff.
- A print version can be ordered by calling 888/648-8321.
- Contact George Green, Managing Director, Technology and Research at 312/329-5971 or Bonnie Gottlieb, Senior Vice President, Commercial Real Estate at 312.329-3297 for information to start a CIE.
- Contact Kevin Milligan, Managing Director Member Policy at 312/329-8410 for questions regarding the NAR approval process for CIE Bylaws and Rules and Regulations.

## CIE DATABASE

Search the property databases of local REALTOR® Commercial Information Exchanges. The database, located at [http://www.realtor.org/rodesign.nsf/pages/FS\\_FCOMLCIE?OpenDocument](http://www.realtor.org/rodesign.nsf/pages/FS_FCOMLCIE?OpenDocument) contains links to those CIEs that maintain public access to REALTOR® member properties.

## PREFACE

Over the last two years, the REALTORS<sup>®</sup> Commercial Alliance (RCA) of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup> (NAR) has renewed and strengthened its commitment to serve the commercial real estate practitioner through expanded programming. This commitment is particularly strong in the technology arena. Listed below are some activities that highlight this commitment:

- **Forums sponsored for developing Commercial Information Exchanges (CIEs):** For the past two years at the Realcomm commercial real estate technology conference, the RCA has sponsored and conducted the Commercial Board Summit. During this Summit, information on the development of CIEs has been shared among NAR Commercial staff and Association Executives of Commercial Overlay Boards (COBs) and Commercial Structures (CSs), as well as through CIE vendor presentations arranged by NAR Commercial staff.
- **Redesign of NAR commercial web site:** We redesigned the NAR commercial website to better incorporate internal NAR resources, streamline the content, and offer discounted products and services. In 2002, the NAR commercial web site was re-branded as REALTOR.org/RCA. On June 15, 2002, CIEs began receiving national Internet exposure on this web site. In the “Find a Property” section of REALTOR.org/RCA, a national map links directly to all CIEs that have a public access site.
- **Continuing communication:** NAR’s Commercial staff is in continual contact with COB and CS staff to learn about the latest CIE market development trends and to make this information available to other Boards.

For COBs and CSs that are considering a CIE, this *Guide* will be an extremely useful starting point for your organization’s CIE evaluation process. The *Guide* describes our recommended steps for implementing a CIE, with questionnaires, forms and relevant NAR rules and regulations governing CIE creation.

Please let me or any other Commercial staff member know how we can improve this *Guide* to make it more useful to you. As always, do not hesitate to contact us with any questions you might have about how to create a CIE to better serve your commercial members.

Bonnie S. Gottlieb  
Senior Vice President, Commercial Real Estate  
The National Association of REALTORS<sup>®</sup>

## ACKNOWLEDGEMENTS

In compiling the *Guide*, we would like to express our gratitude to COB and CS staff members as well as REALTORS<sup>®</sup> who shared their CIE experiences. In addition, CIE vendors shared valuable insight about the data collection process and training. Without the generous assistance of these professionals, the preparation of the Guide would not have been possible.

Special recognition goes to Sam Scott, Commercial Gateway of the Houston Association of Realtors<sup>®</sup>, for contributing sections that identified important CIE contract business issues and CIE system specifications. In addition, we would also like to recognize the following people for their significant contribution to the research effort:

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Susan Smith - Greater Las Vegas Association of Realtors<sup>®</sup>  
Debra Spadafora - Commercial Realtors<sup>®</sup> Association of Greater Miami and the Beaches  
Terry Storm - Pikes Peak Association of Realtors<sup>®</sup>  
Jacquie Wolff - Denver Metropolitan Commercial Association of Realtors<sup>®</sup>

## OVERVIEW OF THE CIE DEVELOPMENT PROCESS

### A. INTRODUCTION:

Over the past three years, Commercial Information Exchange (CIE) development activity has exploded. In fact, the number of REALTOR<sup>®</sup>-organized CIEs has jumped from eight in 1999 to 31 by year-end 2002, representing an astounding 388 percent increase. This dramatic change has occurred, in part, because REALTORS<sup>®</sup> throughout the country, with NAR encouragement, have made the collective decision to take control of their commercial real estate listing data.

In terms of both manpower and cost, developing a CIE is a considerable undertaking. However, it is a remarkable resource and provides benefits not only to REALTORS<sup>®</sup> but also to the commercial real estate community as a whole. A CIE provides the following benefits:

- Increases the efficiency of selling, buying and leasing commercial real estate in a market area.
- Expands COB/CS membership and collaborative networking within the market area.
- Creates a profit center for the COB/CS that will, in turn, support other commercial services.
- Develops an information system that will allow REALTORS<sup>®</sup> to take control of their data.

### B. OVERVIEW OF THE CIE DEVELOPMENT PROCESS:

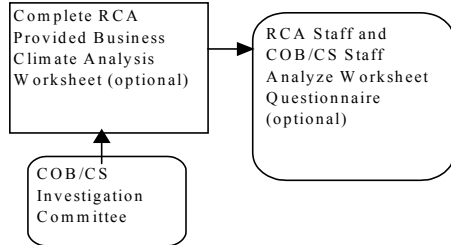
The *CIE Development Process Flowchart* shows the recommended process for creating a CIE. As illustrated in the *Flowchart*, creating a CIE is a complex effort that requires close coordination between COB/CS staff and volunteers. The *Flowchart* provides an overview of the CIE development process. A more detailed description for each CIE development step is addressed in subsequent chapters: (1) Business Climate Analysis – Preliminary Go/No Go Decision; (2) Needs Assessment; (3) Vendor Selection; and (4) Start-up. Each step is summarized below:

#### **1. Step 1 – CIE Business Climate Analysis – Preliminary Go/No-Go Decision:**

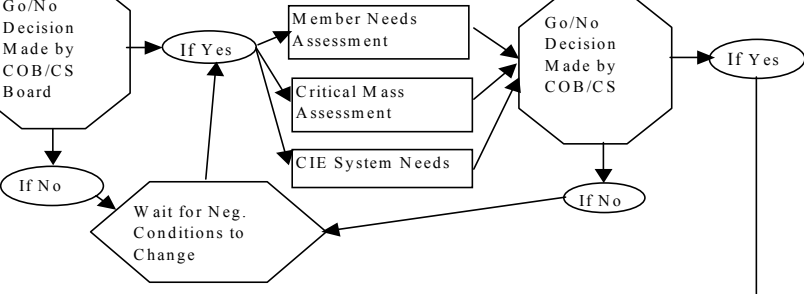
Before embarking on the full-scale development of a CIE, determining if the market place is ready for a CIE is very important. Step 1 involves the gathering of market intelligence that will allow COB/CS staff and volunteers to reach an informed decision on whether to start a CIE. Starting a CIE before a market is ready significantly increases the chances for failure. Thus, reaching a go/no-go decision before COB/CS staff and financial resources have been fully mobilized is critical. A thorough CIE Business Climate Analysis will minimize the potential of starting a CIE before the market is ready.

**CIE Development Process Flowchart**

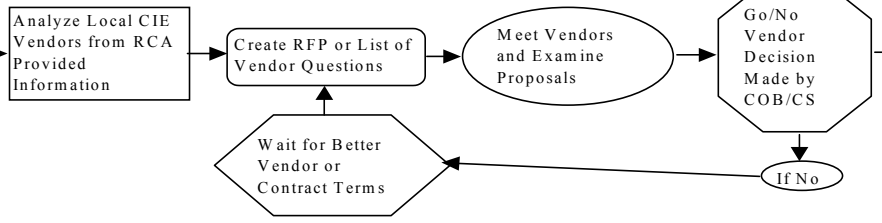
**Step 1  
Preliminary Analysis**



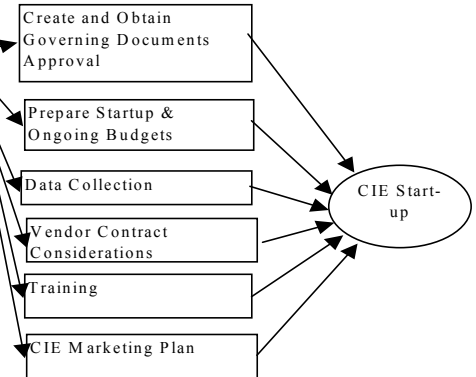
**Step 2  
Needs Assessment**



**Step 3  
Vendor Selection**



**Step 4  
Startup**



**2. Step 2 – Needs Assessment:**

Investigate the CIE system needs of the members. This step involves assessing the functionality that should be present in the CIE system. In addition, efforts should be made to determine if the market has a critical mass of users for the system that is being proposed. Member needs assessment can be performed through focus groups.

**3. Step 3 – Vendor Selection:**

The vendor selection process is of vital importance because the success or failure of a CIE hinges on the CIE vendor's performance. Select a CIE vendor that best meets the need of the members. This process involves identifying CIE vendors; preparing a request for proposal (RFP) or list of vendor questions; interviewing the vendors; analyzing the vendor interview and/or RFP; and making a final vendor selection.

**4. Step 4 – Start-up:**

Create the processes that will allow the CIE to operate. These items include creating and having governing documents approved; budgeting for start-up and ongoing operations; collecting data; identifying important legal considerations and creating marketing and training plans. Pay special attention to vendor contract negotiations, which highlight some important business issues that should be addressed in the contract, such as data ownership, contract term, etc.

C. PURPOSE OF THIS *GUIDE*:

This *Guide* is intended serve as the CIE creation road map. The important steps and milestones for creating a CIE are identified and described in detail. Please keep in mind that this *Guide* provides only the roadmap; the journey is completed by the COB/CS. However, knowing the start, middle, and end points of the process allows for a more efficient journey.

D. HOW THIS *GUIDE* IS ORGANIZED:

This *Guide* has been organized to take the reader through the step-by-step process for creating a CIE. First is the terminology that describes the CIE development process. This terminology includes technology terms that will be employed throughout the *Guide*. The ensuing four chapters address the previously-described four steps of the CIE development process. Exhibit materials follow these CIE development step chapters.

## DEFINITION OF TERMS

### **APPLICATION SERVICE PROVIDER (ASP):**

ASPs are third-party entities that manage and distribute software-based services and solutions to customers across a wide area network (WAN) from a central data center. ASPs allow companies to outsource some or almost all aspects of their information technology needs. When a CIE vendor hosts the system on behalf of the CIE, the vendor is also acting as the ASP. This solution lowers the CIE overhead because it is typically less costly than the CIE hosting the system.

### **APPLICATION USER INTERFACE:**

The CIE application itself is a collection of displays, screens, and report formats. A system needs to specify the different ways that property records will be categorized. These fundamental groups will determine how users search and report information compiled by the CIE. These categories can be very detailed and specific and allow users to search for Property Types, Associated Data Elements, and Property Characteristics.

### **CIE VENDORS:**

CIE Vendors provide a local property database that allows users to search and list properties in the individual markets that operate the CIE. The primary purpose of CIE Vendors is to meet the needs of the local market. CIE Vendors typically contract with REALTOR® organizations, non-REALTOR® commercial real estate groups, or special entities created by local market major real estate players. An ancillary feature is to provide national exposure to CIE listings through the CIE Vendor's homepage (see Multi-Market Data Providers). However, not all CIE Vendors provide national exposure.

### **COMMERCIAL REAL ESTATE PRACTITIONER:**

Those brokers and agents who earn some or all of their income under the broad classification of commercial real estate are generally engaged in:

Sales	Investment	Appraisal
Leasing	Exchanging	Auction
Property management	Development	Other specialty activities
Counseling		

### **COMMERCIAL REAL ESTATE:**

Commercial Real Estate is defined as any property except property with one to four residential units or condominiums, townhouses, manufactured homes, or individual homes which are sold individually, even though they are part of a larger group. (Non-owner occupied investment residences are included in the commercial real estate category.)

### **COMMERCIAL OVERLAY BOARD (COB):**

The Board of Directors of the National Association of REALTORS® at the 1992 Annual Convention authorized the establishment of Commercial Overlay Boards of REALTORS®. A Commercial Overlay Board co-exists and shares (overlays) geographic jurisdiction with one or more REALTOR® boards, in order to serve members in a commercial market area. (At the same

time, the territory then assigned to existing boards remains intact as well as such boards' rights and obligations to provide services to their members.) COB jurisdictions may be local, multi-market, state-wide and inter-state.

### **COMMERCIAL STRUCTURE (CS):**

The term generically refers to a specialized commercial organization within a parent board:

- Commercial Division/Council, or Society:
  - While there are similarities between them, each structure is tailored according to the needs of the members and the resources of the parent association. Division and Council are synonymous and used interchangeably. A Society is a type of division (see below).
  - Whether the division is a committee or a separately incorporated wholly-owned subsidiary corporation, Board bylaws will need to be modified to accommodate it.
  - A Society is generally a division that is a separately incorporated wholly-owned subsidiary of the Board.
  - A Cooperative Multi-Board or Regional Division is established by two or more parent boards acting in partnership to meet the needs of commercial members in a market area.
- Commercial Committee: A standing committee of a parent board or association to allow representation of commercial members and encourage their participation in the organization.

### **COMMERCIAL INFORMATION EXCHANGE (CIE):**

A Commercial Information Exchange (CIE) is a property service in which members voluntarily post information about commercial properties for sale or lease; and do so without any offer of cooperation or compensation. Not all CIE members are REALTORS<sup>®</sup>, nor are all CIEs REALTOR<sup>®</sup> association services. For the purpose of this *Guide*, CIEs are defined as REALTOR<sup>®</sup> commercial property services that are operated either as a committee or wholly-owned subsidiary of a COB or the parent board of a CS. See *Exhibit 1* for a comparison of the CIE and C/I MLS structures.

### **COMMERCIAL/INDUSTRIAL MULTIPLE LISTING SERVICE (C/I MLS):**

A Commercial/Industrial Multiple Listing Service (C/I MLS) is a property service in which members are required to post their property information and in doing so make a blanket offer of cooperation and compensation. The C/I MLS includes for-sale properties and depending on the system may include for-lease properties. See *Exhibit 1* for a comparison of the CIE and C/I MLS structures.

### **DATABASE:**

A collection of information organized in such a way that a computer program can quickly select desired pieces of data (i.e. Listings Database), similar to an electronic filing system. Traditional databases are organized by fields, records, and files. To access information from a database, you need a database management system (DBMS). This is a collection of programs that enables you to enter, organize, and select the data.

### **DATASET:**

The data that populates the database. For CIEs, this would include all the property record information for a market.

**DATA WAREHOUSE:**

A collection of data designed to support management decision making. Data warehouses contain a wide variety of data that present a coherent picture of business conditions at a single point in time. Development of a data warehouse includes development of systems to extract data from operating systems plus installation of a warehouse database system that provides managers flexible access to the data.

**EXPORT/IMPORT:**

To format data in such a way that it can be used by another application. An application that can export data can create a file in a format that another application understands, enabling the two programs to share the same data. The opposite of exporting is importing. Importing refers to the ability of an application to read and use data produced by a different application. Exporting implies that the sending application reformats the data for the receiving application, whereas importing implies that the receiving application does the reformatting.

**INSTITUTE AFFILIATE (IA) MEMBERSHIP:**

IA membership is only available to those who hold designations awarded by the NAR Commercial Affiliates: The CCIM Institute (CCIM); Counselors of Real Estate (CRE); Institute for Real Estate Management (CPM); the REALTORS® Land Institute (ALC); and The Society of Industrial and Office REALTORS® (SIOR). IA members are required to hold membership in both NAR (at the local, state and national levels) and their designating organization in order to maintain their designations.

**DOWNLOAD/UPLOAD:**

To copy data (usually an entire file) from a main source to a peripheral device. The term is often used to describe the process of copying a file from an online service or bulletin board service (BBS) to one's own computer. Downloading can also refer to copying a file from a network file server to a computer on the network. The opposite of download is upload, which means to transmit data from a computer to a bulletin board service, mainframe, network, or from your own computer to another computer.

**LEGACY APPLICATION:**

An application in which a company or organization has already invested considerable time and money. Typically, legacy applications are database management systems (DBMSs) running on mainframes or minicomputers. An important feature of new software products is the ability to work with a company's legacy applications, or at least be able to import data from them.

**MEMBER:**

For the purposes of this *Guide*, member refers to a REALTOR® or an IA who is a member of a COB or CS.

**MULTI-MARKET DATA PROVIDERS:**

Multi-Market Data Providers are vendors that provide a national property database that allows users to search and list properties in various markets. These vendors provide property information that is aggregated on a national basis in a centralized database. Consequently, users can perform multi-market searches. These vendors typically contract with companies and individuals to provide access to their system. Some Multi-Market Data Providers are also in the CIE business and are therefore also classified as CIE Vendors. CIE Vendors, that provide

aggregated listings for each CIE are classified as Multi-Market Data Providers. Those CIE Vendors that only provide individual links to CIEs on their homepage are not considered Multi-Market Data Providers because the links do not support multi-market aggregated database searches. Instead, the links permit only one market to be searched at a time.

**PUBLIC VS. PRIVATE VIEW:**

The public sections of a website allow the general public to access only certain features or applications, which usually includes limited search functionality. Members can choose whether to place a property on the public site. The private sections of a web site allow “members only” to access all features or applications, which include detailed searches. Members need a password to access the “members only” sections of the site.

**PASSWORD:**

A secret series of characters that enables a user to access a file, computer, or program. On multi-user systems, each user must enter his or her password before the computer will respond to commands. The password helps ensure that unauthorized users do not access the computer. In addition, data files and programs may require a password.

**REALTORS<sup>®</sup> COMMERCIAL ALLIANCE (RCA):**

The RCA represents the collective commercial constituency within NAR. It is comprised of commercial members, the RCA Committee, Subcommittees and Forums, COBs and CSs, the Commercial Affiliates, the RCA Advisory Board, and commercial products and services. The RCA Advisory Board is an advisory body comprised of REALTOR<sup>®</sup> and non-REALTOR<sup>®</sup> national and regional commercial real estate firms, the Affiliates, and selected COBs.

**TURNKEY:**

Refers to a system or software package that has been built, installed or supplied by the manufacturer complete and ready to operate. In the computer industry, the term is used to promote a system that can be easily set up and operated "right out of the box." Under a turnkey agreement, the CIE operates its own internet servers and manages the database infrastructure. This arrangement requires that the CIE have expertise in IT systems and it makes the CIE responsible for day-to-day operations of the system. Turnkey systems are a little less vulnerable to problems related to a vendor's financial viability because in the event of a default by the vendor, the CIE staff may still operate the system.

**VOLUNTEER:**

For the purposes of this *Guide*, volunteer refers to a REALTOR<sup>®</sup> who is a member of a COB or CS.

## STEP 1: CIE BUSINESS CLIMATE ANALYSIS -- PRELIMINARY GO/NO-GO ANALYSIS

### A. INTRODUCTION:

Before a CIE is implemented, a detailed CIE Business Climate Analysis (Analysis) should be performed. The Analysis answers the question: Is the market ready for a CIE? ***Implementing a CIE prematurely is the primary reason for CIE failure.*** Performing the Analysis will allow COB/CS staff and volunteers to make the determination if the market is ready for a CIE before staff and financial resources have been fully committed. Consequently, performing the Analysis has the potential to save the COB/CS thousands of dollars in unwarranted CIE development costs and hundreds of hours of COB/CS staff time. The *CIE Business Climate Analysis Flowchart* shows the process for reaching the preliminary go/no-go CIE development decision. This process is detailed in the sections that follow.

### B. STARTING THE CIE INVESTIGATION PROCESS:

#### 1. Committee:

The first step in the formal CIE investigation process is the creation of the CIE Investigation Committee (Committee). Typically, a group of volunteers approaches the COB/CS staff with the idea of creating a CIE. However, in some cases the COB/CS staff initiates the CIE investigation. In either case, support from influential volunteers is necessary to begin the CIE investigation effort because they will be the ones who lobby other market leaders to participate.

#### 2. Composition:

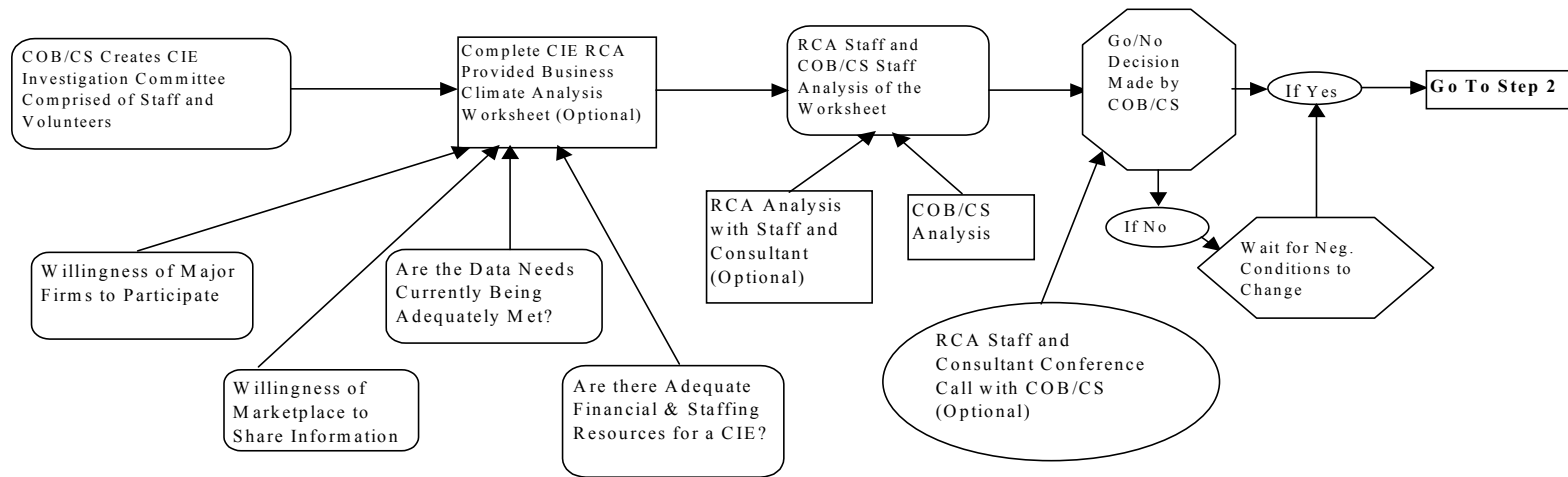
The Committee is typically composed of COB/CS staff and volunteers. Depending on the size of the COB/CS, from one to four staff members and from five to fifteen volunteers participate on the Committee. The number and choice of volunteers warrants careful deliberation. Involving well-respected high profile commercial practitioners adds instant credibility to the CIE development effort. In addition, the Committee should also include volunteers who might have a lower profile but are committed to investigating the CIE, and volunteers with strong technology backgrounds. Because every market is different, the Committee composition should reflect the mix of volunteers and staff that will maximize the CIE's potential for success. Please refer to section C4 of this chapter for the questions to address when creating the Committee.

### C. CIE BUSINESS CLIMATE ANALYSIS:

#### 1. The CIE Business Climate Analysis Worksheet (Worksheet):

The Commercial staff recommends that the NAR Worksheet be completed by COB/CS staff with input from volunteers. See *Exhibit 2*. The Worksheet is intended to serve as a guideline to be followed at the discretion of the Committee. The Commercial staff

**Step 1  
CIE Business Climate Analysis Flowchart**



recommends that the Committee first analyze the Worksheet and then perform modifications, as needed, to reflect the market's individual circumstances. The Worksheet addresses six topics: (1) reasons for creating a CIE; (2) level of broker cooperation in the marketplace; (3) CIE Investigation Committee; (4) identification of potential obstacles; (5) funding; and (6) CIE creation recommendation. Each of these Analysis components is addressed individually below:

2. Reasons For Creating a CIE:

This section allows the COB/CS staff and volunteers to identify their motivation for creating a CIE. The following four questions are presented in this section:

- Is your goal to create a service that will increase the efficiency of selling, buying and leasing commercial real estate in your market area?
- Do you want to create a service that will increase membership and collaborative networking in its market area?
- Do you want to create a profit center that will support other commercial services?
- Do you want to create an information system that will allow CIE members to take control of their data?

3. Level of Broker Cooperation in the Marketplace:

a) Broker Cooperation and Firm CIE Participation Questions:

Understanding the level of broker cooperation in the marketplace and identifying the firms that will participate in the CIE are important in determining if a market is ready for a CIE.

- Are the commercial practitioners and appraisers in the market willing to share information? If so, what types of information are shared?
- What level of cooperation exists in the marketplace? Do commercial practitioners co-broker transactions?
- Is the desire to create a CIE being driven by the "grassroots" commercial practitioners?
- Are the major firms and market players supportive of a CIE?
- What other firms would the COB/CS staff and volunteers like to see participate in the CIE?

b) Information Sharing Question:

The first question is intended to find out if there is a culture of sharing information in the market. This information could include listing information, market statistics, and comparable sales. A market where there is no information sharing represents a greater challenge to CIE development than markets that have a more open information-sharing culture.

c) Co-Brokerage Question:

The second question determines if there is a practice of co-brokering in the market. A market where co-brokerage is widely practiced is more likely to have a culture of information sharing than markets where there is little co-brokerage. In order to co-broker transactions, the listing broker must be willing to share listing information in order for other brokers to present the project to their clients.

- d) **Grassroots Support Question:**  
The third question addresses the level of grassroots support. The wider the base of grassroots support for the CIE, the better the chances for its success.
- e) **Major Firm Support Question:**  
The fourth question gauges the level of support from the major firms. Obviously, the greater their support, the better the chance for success. The number of major firms that initially support the CIE is an indicator of how much work will be required to achieve widespread adoption of the CIE. If the majority of major firms support the CIE, there will be a large built-in user base at its inception. In addition, these firms will be able to populate the listings database with a large number of listings. Conversely, if few of the large firms are supportive of the CIE, the CIE adoption rate will be slower. These non-supportive firms will likely participate in the CIE only after it proves to be successful. Careful attention should be paid to the total market share of firms supporting the CIE. CIE participation by firms comprising over 50 percent market share of leasing and sales will greatly enhance the likelihood of eventual success.
- f) **Major Firm Not Supporting the CIE Question:**  
The last question addresses the major firms that are not participating in the CIE development effort. Assessing the market share of these firms is also important. If these firms control over 50 percent the market's sale and leasing activity, the CIE adoption rate will be slowed by their lack of participation.

4. **CIE Investigation Committee (Committee):**

a) **Committee Questions:**

Committee creation and composition are addressed in the *Starting the CIE Investigation Process* section.

- Who are the volunteer leaders that comprise the CIE Investigation Committee?
- Are they respected commercial practitioners?
- What other influential commercial real estate practitioners would be helpful for the CIE creation effort?
- How were the volunteers appointed to the CIE Development Committee?
- Who will make the decision to create the CIE?

b) **Committee Composition Questions:**

The first two questions address the composition of the Committee. As previously discussed, having well-respected volunteers on the Committee is very important. Question three addresses who is not on the Committee. Identifying those influential commercial practitioners that could potentially oppose CIE development is very important. By identifying these practitioners, Committee members can attempt to persuade them to support the CIE development efforts or at least to adopt a neutral position. Universal support for CIE creation should not be expected. The power and influence of those opposing the CIE should be weighed when deciding to go forward or postponing CIE development.

c) **Committee Appointment Question:**

The fourth question addresses how the Committee members are appointed. Each COB/CS will also have to address the structural issues for the Committee. Is the

Committee formally sanctioned by the COB/CS? Is the Committee an informal advisory body to the COB/CS?

d). Board Approval Question:

The fifth question addresses the final decision process for creating a CIE. Because the creation of a CIE will require changes to COB/CS bylaws, the Board of Directors will be required to approve it. At issue is the influence of the Committee in making the recommendation to proceed with the CIE.

5. Identification of Potential Obstacles:

a) CIE Obstacles Questions:

An accurate assessment of the current commercial real estate data providers in the market will play an important role in the decision to move forward or postpone CIE implementation. Commercial real estate data providers could include existing CIE and local and national companies that provide property listing data. Markets that are well served by existing low cost and reliable data providers can be difficult to penetrate because commercial practitioners are usually satisfied and loyal to the data provider. However, markets that have poorly performing or overpriced data providers are ripe for CIE implementation because in many instances commercial practitioners are ready and willing to make a change.

- Are REALTOR<sup>®</sup> firms dominant in the market? If yes, do they support developing the CIE?
- Do non-REALTOR<sup>®</sup> dominant firms in the market that control most data? Will they be potential members once the system is in place? If so, what is the likelihood that they will participate in the CIE?
- Is there a history of failed CIE attempts in the market? If so, consider what factor/conditions led to the failure and have these factors/conditions changed?
- Are there commercial real estate data providers that currently provide market information? If so, is this data service being provided to members at a fair price? Are members willing to contract with another company?

b) REALTOR<sup>®</sup> Dominant Firm Question:

The first question addresses the relative strength of REALTOR<sup>®</sup> commercial real estate firms in the market. If REALTOR<sup>®</sup> commercial real estate firms dominate the market, the COB/CS influence on the market is greater than markets dominated by non-REALTOR<sup>®</sup> firms. However, even in markets with few commercial REALTOR<sup>®</sup> firms, the creation of a CIE may be warranted if the CIE solution is superior to existing data sources. Non-REALTOR<sup>®</sup> firms may find it in their interest to join a REALTOR<sup>®</sup> CIE to reduce expenses for firm-collected data that is rapidly becoming a commodity. A CIE becomes especially attractive if it represents an equal or superior solution to the data that firms are currently collecting on their own.

c) Non-REALTOR<sup>®</sup> Firm Market Share Question:

The second question asks if non-REALTOR<sup>®</sup> firms dominate the market. For markets that do not have a large REALTOR<sup>®</sup> brokerage firm presence, securing the participation of these firms is very important. In non-member brokerage company

dominated markets, the widespread adoption of the CIE will be dependent on their participation.

d) History of Failed CIE Questions:

The third question addresses the history of failed CIE attempts in the market. The Committee must identify the reasons for the failure, as well as whether the conditions for failure are still present in the market. ***Before a new CIE is attempted, the conditions that caused past CIE efforts to fail must be resolved.***

e) Satisfaction with Existing Data Providers Question:

The fourth question gauges the level of satisfaction with existing commercial real estate data providers and the willingness of commercial practitioners to switch to a new system. Markets that have an existing low-cost and quality commercial real estate real estate data provider are difficult to penetrate. In several markets, such as Seattle and Los Angeles, non-REALTOR<sup>®</sup> CIEs are meeting the needs of the marketplace and the local REALTOR<sup>®</sup> organizations have chosen either to participate or not to compete.

6. Funding Sources:

a) Funding Sources Questions:

A CIE must have adequate funding in order to be successful. So, before a CIE can be initiated, funding must be in place. ***In the overall evaluation of whether to proceed with a CIE, securing adequate funding is essential.*** With start-up costs ranging from \$20,000 to over \$250,000, depending on the market and CIE vendor, CIEs are costly enterprises.

- What is the preliminary start-up budget?
- Where will the start-up funding come from?
- Has the COB/CS raised the funding for the initial investigation and start-up expenses?

b) Startup Budget Question:

The first question addresses the preliminary CIE start-up budget. This is a rough estimate of the expenses that will be required to start a CIE. However, this budget is preliminary because the major cost item, the CIE vendor, will not have been selected. In fact, because CIE vendor start-up pricing varies significantly, presenting the preliminary budget in a low to high range is probably more appropriate. The purpose of this exercise is to get a rough idea of the funding range that will be required to start the CIE. More precise budgeting is addressed in Step 4.

c) Sources of Funding Question:

The second question addresses the sources of funding. The primary source is the COB/CS reserves and/or operating budget. Once a determination has been made regarding how much the COB/CS can contribute to the initial funding effort, other sources will have to be tapped for any shortfall. Some boards have raised CIE start-up funds by asking for a voluntary pre-payment of CIE dues. A member assessment can also be levied to raise funds. However, this is not the most popular fundraising mechanism. Once the COB/CS budget and members have been fully tapped, outside organizations can be solicited. Large commercial firms can be asked to contribute

start-up funding. Other sources outside the real estate community can also be solicited. Local and state economic development agencies sometimes participate in CIE start-up funding. The agencies benefit from a CIE because they are able to provide economic development clients listings of available for-sale and for-lease space. Utility companies have also sponsored the development of CIEs. Local business journals have also been active in CIE development.

d) Adequate CIE Funding Question:

The third question addresses whether the COB/CS has been able to raise the funding for the preliminary investigation and start-up expenses. Once again this is a rough estimate because precise funding and expenses will not be known at this time. Instead, the purpose of this step is to determine if there is a significant disparity between the funding and projected costs. Warning signals should flash if the COB/CS receives \$20,000 in preliminary funding commitments and projected implementation costs are \$200,000. Once again, this question is intended to serve as a reality check: is the COB/CS going to be able to raise the funds to create a CIE?

7. CIE Creation:

a) CIE Recommendation:

The final step of the Analysis is for COB/CS staff and volunteers to discuss the reasons for moving forward or postponing the development of a CIE. This section of the Analysis will require the positive and negative factors for CIE development to be carefully analyzed. We encourage COB/CS staff to collaborate closely with volunteers. Having COB/CS staff and volunteer unanimity on the final recommendation will go a long way toward obtaining Board approval.

b) NAR Staff Review:

At the discretion of the COB/CS, the Commercial staff will be available to review the completed Analysis on a strictly confidential basis. Having worked closely with dozens of COBs/CSs that have created CIEs, the Commercial staff has become familiar with the overall market conditions that will support a CIE's successful implementation, and are willing to share this knowledge with any COB/CS. By examining the Analysis, the Commercial staff can provide another voice in the CIE analytical process. Of course, the final decision whether to proceed with CIE implementation lies with the COB/CS Board. At the request of COB/CS staff, Commercial staff will be available to attend (in person at NAR's expense or by telephone) the Committee or Board meeting where CIE development is being decided. In addition, Commercial staff can answer any questions that may arise during any point during the CIE investigation process.

c) COB/CS Board Approval

If the Board votes to proceed with the CIE implementation, Step 2 of the CIE development process will be initiated. If, however, the Board votes not to move forward with the CIE implementation, the decision to move forward may be postponed until the conditions preventing the CIE implementation have changed. At that point, the Board may consider voting again to move forward with the CIE implementation process. See *Step 1 Flowchart*.

## STEP 2: ASSESS MEMBERS NEEDS

### A. INTRODUCTION:

Once the decision has been made to go forward with developing a CIE, the type of CIE system that best meets member needs should be investigated. Focus group research is the first step. Second, fully investigate existing property information systems. Third, examine the potential CIE customer base. Finally, based upon the focus group research and input from the Committee, decide what features to incorporate into the CIE. The *Assess Member Needs Flowchart* shows the process for evaluating the system requirements for the CIE. In the sections that follow, each of these topics will be addressed in greater detail.

### B. ASSESS MEMBER NEEDS:

#### 1. Conduct Focus Group Discussions:

Listening to the needs of the members is a very important step in developing a CIE. Ultimately, the members are the ones who will use the system, so it should reflect their needs. Focus group research is an accurate method to assess member needs.

##### a) Benefits of Focus Group Research:

Focus group research allows for two-way interaction between participants and a moderator. When non-technical participants deal with technical topics such as CIE development, the moderator can provide the necessary background that will allow them to give valid feedback. Although a survey could potentially reach a much wider audience, it is difficult to interpret because the varying level of member technical expertise gives dramatically varying responses. By explaining the technical concepts, the focus group moderator levels the playing field for all participants and allows each participant to focus attention on answering the questions rather than trying to figure out what is being discussed.

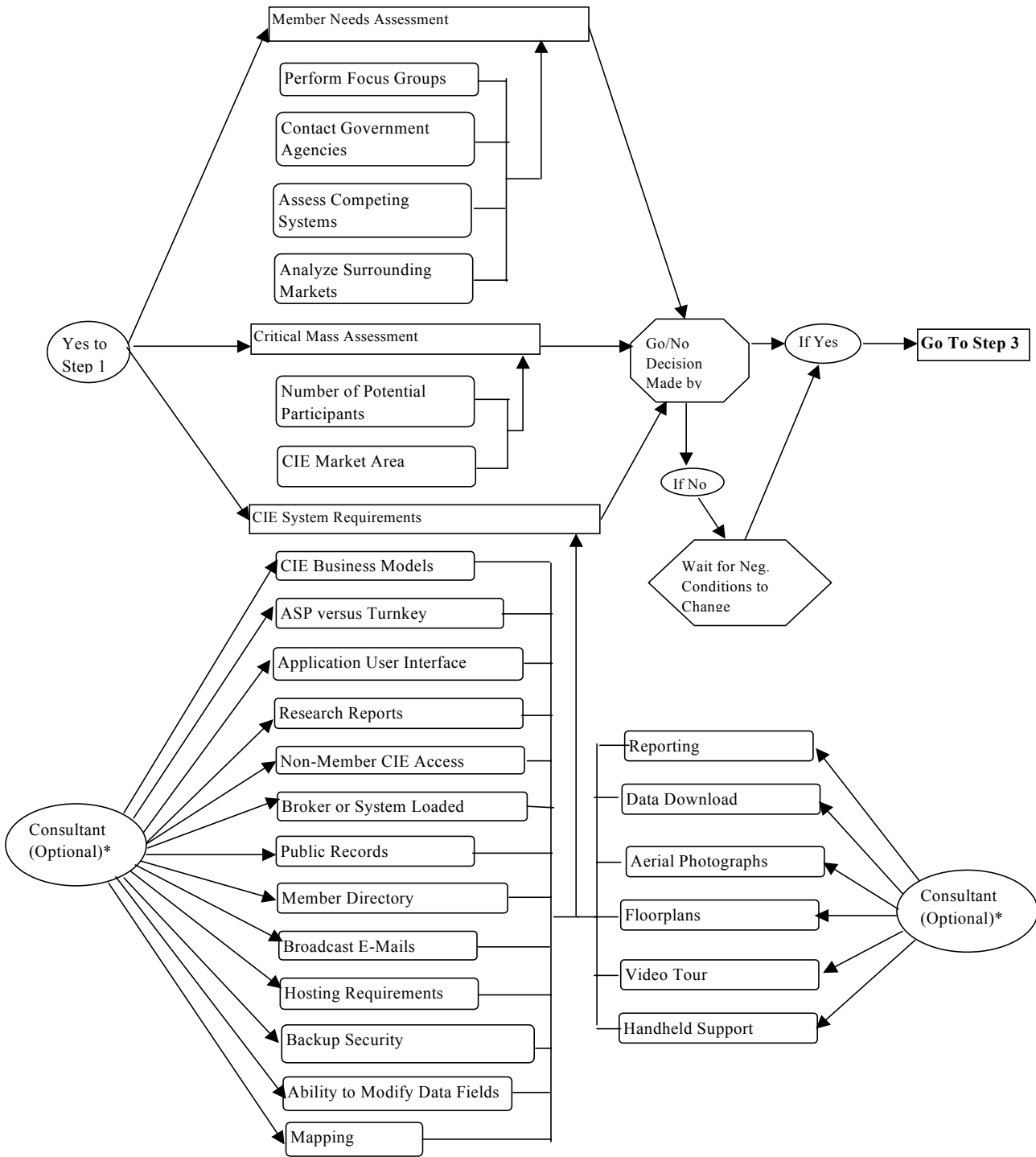
##### b) Focus Group Composition:

The mix and number of focus group sessions are important. Focus groups should include a wide mix of participants: large, medium, and small firm brokers; national and local firm brokers; REALTORS<sup>®</sup> and non-members; senior and junior level brokers; and brokerage company research staff. The focus group size range is 8 to 15 participants with the ideal group size being 9 to 12 participants. Inviting 15 or more participants usually results in reaching the ideal participant group size. The Commercial staff recommends performing at least 3 focus groups. If the results from the first three focus groups are inconsistent, additional focus groups should be considered in order for response patterns to be more accurately identified.

#### 2. Focus Group Questions:

Recommended focus group questions are shown in *Exhibit 3*. Listed below are the categories of questions contained in *Exhibit 3*:

**Step 2  
Assess Members Needs Flowchart**



\* CIE System Requirements can be analyzed by staff/volunteers or a technology consultant.

a) Questions Relating To Market Conditions And Attitudes:

These questions address how brokers and their clients currently collect real estate data; the importance of starting a CIE; attitudes towards sharing information; importance of national versus local property exposure; other beneficiaries of the CIE; and the collaborative nature of the market.

*Note:* Questions relating to market conditions and attitudes are intended to provide a broader-based response to the level of cooperation in a market than was contained the *CIE Business Climate Analysis*. If the focus group respondents express less willingness to share information and create a CIE than was indicated in the Analysis, there might be more broker hesitation to start a CIE than originally thought.

b) Questions Relating To CIE Functionality:

These questions address how the CIE should operate and function such as the ideal database; best methods for entering data; types of commercial specialties in the market; features of the CIE; search options; prioritization of features; and links to other sites.

*Note:* Questions relating to CIE functionality allows practitioners to have input into the type of CIE that will be developed. The focus group moderator will need to explain the technical terms that are associated with CIE features. Only after the focus group participants indicate their understanding of the technical terms, should the discussion of the features proceed. In addition, the financial impact should be introduced into the focus group discussion by letting the participants know that the more sophisticated the CIE system is the more it will cost.

3. Contact Economic Development and Other Governmental Agencies:

Government agencies can serve as important allies in the CIE development process. Economic Development Agencies (EDAs) are charged with bringing businesses to a community. EDAs often have a strong interest in the creation of a CIE because potential relocation prospects require commercial property information that may not be currently available. CIEs can serve as the source for this commercial real estate information. City, county and state governments are sometimes active in recruiting businesses to their jurisdiction. Consequently, they should also be treated as potential CIE development allies.

The types of commercial real estate information that governmental agencies require should be considered in the mix of information that will be collected by the CIE. However, providing this wish list is not always possible. As previously mentioned, EDA's should also be approached as sources of CIE start-up funding. An important by-product of involving EDAs in the CIE development process is the creation of a bridge between the brokerage and economic development communities. EDA staff will be in closer contact with the brokerage community, less interested in entering the brokerage business, and more likely to direct business leads directly to brokers.

4. Assess Competing Systems in the Market:

Understanding the competition in the marketplace is an essential component of needs assessment. This effort will leverage the work that was performed in identifying data vendors in the *CIE Business Climate Analysis*. If the more detailed analysis uncovers competition that was not identified and/or analyzed in the *CIE Business Climate Analysis*, the impact of this potential competition should be assessed before implementing the CIE. Committee staff with the assistance of members should identify the following source of real estate data:

a) Local Multiple Listing Service:

Do any of the local MLS systems feature commercial property listings? If so, the Committee should determine the percentage of commercial properties that are available for lease or for sale on the MLS system.

b) Existing non-member CIEs or Commercial Listing Service:

Is there an existing non-member CIE in or near the market? How well is it serving the market? Would this CIE or Commercial Listing Service want to become part of a REALTOR<sup>®</sup>-owned CIE?

c) Proprietary Databases Owned by Firms That Are Not Willing To Share:

Are there major market firms that do not want to share their database with the CIE? If so, identify them and their leasing and sales market share. The *CIE Business Climate Analysis* addressed the major firms that would not participate in the CIE. Now, identify which of the firms in this group have their own databases.

d) Member Firm Web Sites:

What firms that are willing to participate in the CIE have their own web sites? The databases of these firm could serve as the starting point for creating the CIE database. Understanding the percentage of the market's commercial buildings that are in these databases will provide an initial indication of how complete the initial CIE database could.

e) National Research Companies and Listing Companies:

What national research companies and listing aggregators are currently in the market? Depending on the market penetration of national research and property listing companies, these companies can potentially offer considerable competition to CIEs.

4. Analyze Surrounding Markets:

CIEs need not be limited to a single market and can also be state-wide or regional. When a CIE is considered for development, nearby markets should be contacted to determine if they want to participate. Multiple REALTOR<sup>®</sup> organizations can form a multi-jurisdictional CIE. Before allowing other markets to join, these markets should go through the same *CIE Business Climate Analysis* to determine if they would be viable partners. Combining COB/CS markets that have differing commitment levels for developing and maintaining a CIE could be the source for ongoing tension and conflict. Consequently, before forming a multiple COB/CS CIE, the level of financial and staff resources that will be required should be spelled out precisely and agreed to by all parties. A statewide CIE is especially attractive for a statewide COB. Whatever the jurisdiction size, the CIE market area should be clearly delineated; i.e., city, county, state, multi-state.

### C. DETERMINE CRITICAL MASS (MARKET SIZE):

The Committee should identify the number of potential brokers that could participate in the CIE. If the number of potential brokers is small; i.e. under 75, the market may not have a large enough broker base to support a CIE. In the case of a small market, the CIE vendor may not be able to charge enough user fees to recover the operating costs for the system. In this case, the smaller markets could team with nearby markets to create a larger critical mass that would warrant the CIE development.

### D. DEFINE THE CIE SYSTEM THAT MEETS MEMBER NEEDS:

Defining the CIE system that best meets member needs requires the basic understanding of how CIEs work. A number of technical concepts associated with CIEs are discussed in this section. The CIE features described in this section can be used for educating members in the previously-described focus group questions.

How a CIE operates is described in the CIE System Specifications Document (Document). Typically, the Document is drafted by Committee staff or a consultant (see the Technology Consultant discussion below) and is approved by the Committee. The Document provides a listing of the features and functionality of the CIE. This description doesn't need to be overly detailed or complex, but in the event of a dispute over functionality, both parties can refer to it to resolve problems. Listed below are considerations that should be addressed in developing the Document:

#### 1. Should A Technology Consultant Be Hired?:

When CIE system requirements are being defined, hiring a technology consultant should be considered. The technology consultant should have a background in CIE development or expertise in MLS or proprietary internet-based database development experience. Depending on experience level, technology consultants charge from \$75/hour to \$250/hour, with the average for a seasoned consultant in the \$125/hour to \$150/hour range.

##### a) Consultant Benefits:

The consultant offers the following benefits:

- The consultant is a respected neutral third party that can help to educate Committee members on CIE product features. This becomes especially important when Committee members split into separate camps regarding the type of CIE system that will be implemented. The consultant can employ his or her technical expertise to break down the differences between the two camps in order to reach common ground.
- By discussing the cost associated with CIE features, the consultant can help the Committee prioritize which features should be included in the system. Clearly, everyone on the Committee would like the CIE to include the most robust feature set possible. The consultant can provide a reality check regarding which features can be included under the budgetary constraints of the CIE.
- The consultant can be used to create a Request For Proposal (RFP). See the Step 3 Chapter for further discussion on RFP development.

- The consultant can be used to analyze RFPs and interview CIE vendors. See the Step 3 Chapter.
  - The consultant can draft the Document.
- b) Disadvantages in hiring a consultant include:
- Hiring a consultant can cost from \$5,000 to \$20,000. This cost can add significantly to the CIE development budget. This expense could be a budget buster for COBs/CSs that have a limited CIE development budget.
  - Within the ranks of the COB/CS staff and volunteers, adequate technical expertise to evaluate the CIE system needs may already exist.

These pros and cons will have to be carefully weighed in making the decision to hire a consultant. The Commercial staff recommends that the Committee reach consensus on this issue before a decision is made.

## 2. CIE Business Models:

### a) History:

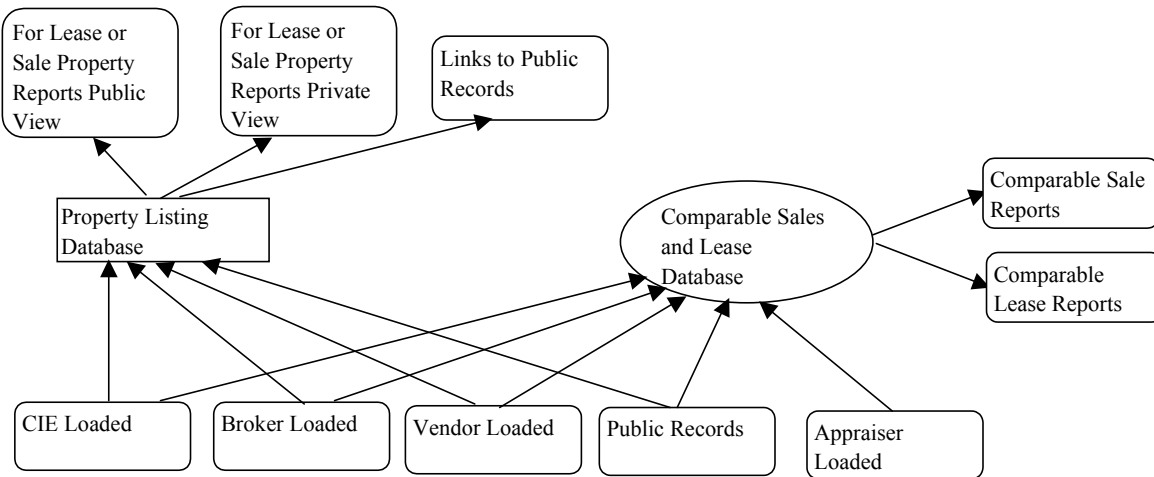
The CIE business model will determine the type of information that will be featured by the CIE. Accordingly, the types of CIE business models, Listing and Research Models, should be carefully investigated to identify the positive and negative features of each model. This investigation will determine which model best meets the member's needs.

Over the past decade, many types of CIE business models have come and gone. More recently, developments have coalesced around two models: The Listing Model and the Research Model. When Listing Model CIEs initiate service, they provide information for actively marketed properties. When Research Model CIEs initiate service, they provide information on all properties in a market. Consequently, the Research Model inventory is much more comprehensive than the Listing Model inventory (typically, 10 to 20 percent of a market's commercial real estate inventory is being marketed at any give time). However, because all properties are included in the Research Model, updating the database requires much more effort than updating the Listing Model, which has far fewer properties to update.

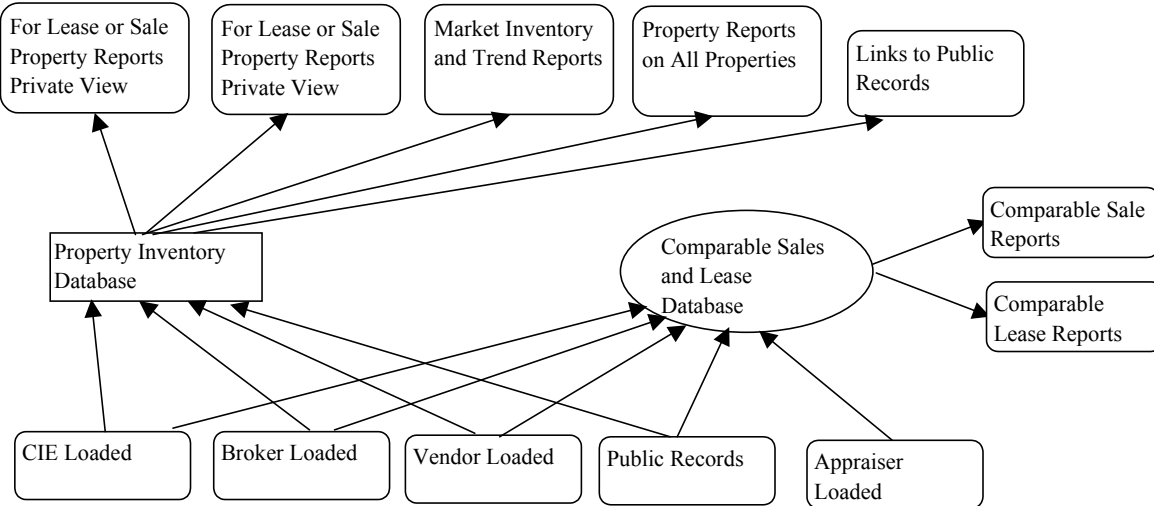
If the Listing Model has the ability to archive all properties listed on the system, over a two to five year period, a database will be created with a significant percentage of the market's commercial properties. This percentage will be determined by the overall turnover rate of properties in the market coupled with the percentage of available properties that are listed on the CIE. For the Research Model, the market's entire inventory is available at the initiation of the CIE.

**CIE Business Models**

**Listing Model**



**Research Model**



**Note:** No two markets are exactly alike, so no two CIEs will be identical. However, virtually all CIEs have general characteristics that allow them to be classified as either the Listing or Research business models. The paragraphs that following will provide a general description of the Listing and Research Business Models.

b) Listing Model:

1) Populating the Database:

The Listing Model structure is described in the *CIE Business Model* exhibit on the following page. At the heart of the Listing Model is a database of available for-sale and for-lease properties. This database can be populated in a variety of ways: (1) CIE staff; (2) broker-loaded; (3) CIE vendor-loaded; and (4) uploaded public records. For CIEs employing the Listing Model, in most instances, members of the CIE have the primary responsibility for loading property information. Once the information is loaded, vendor or CIE staff sometimes have the responsibility to verify it. In most instances, the CIE vendor is responsible for housing and maintaining the listing database. However, technology vendors have sold the CIE operating system directly to the COB/CS, who in turn had the responsibility for housing and maintaining the site. Public records, usually Country Assessor records, are used to confirm or to populate basic building information such as the address, plat map, legal descriptions, lot acreage, building square footage, and sale price (for disclosure states only). However, the electronic availability of public records as well as the information contained with them can vary significantly from jurisdiction to jurisdiction.

2) Reports:

For-Lease or For-Sale property reports are generated from the listing database. The user selects the database search parameters and the database returns a report on each property that meets the selected criteria. Depending on the system, the sophistication of the reporting can vary significantly. Reporting can vary from a complete project profile with demographics, aerial photography, mapping, and floor plans to a simple project summary (location, building size, price, age, location, etc.).

3) Public Search:

Many CIEs also have a public search feature (public view) that allows anyone to search for properties listed by the CIE participants. The public view is usually a restricted to a basic level of information (building size, location, but not always address, square footage, lease rate or sale price, etc.) The public side of the CIE is intended to generate business leads for CIE participants. CIE members can usually link to public records, provided they are electronically accessible.

4) Comparables:

The comparable sale and lease database is a much sought-after CIE feature. Unfortunately, brokers are often reluctant to share this information. In this case, CIEs may arrange with appraisers to populate the comparable sales database. For disclosure states (states that require sales prices to be listed in the public records),

the sales comparable database can be populated from public records. However, for non-disclosure states, public records searches are not an option.

**Note:** Lease rate comparables are very challenging to collect. Leases sometimes contain provisions preventing the public disclosure of the lease terms. In addition, lease transactions are not included in the public records, which greatly compounds the difficulty in obtaining lease records. A significant change in the non-disclosure of lease comparables by brokers, building owners, and tenants as a group will be required before lease comparables are available on most CIEs. One solution is to hire third party researchers to obtain lease comparable information. However, such an effort adds considerable cost to operating a CIE. **To date, no CIE system has published comparable lease rate data. However, there are several CIE vendors that are in the process of creating for-sale and for-lease databases. For lease comparables, populating the database will require a one-to-three year educational and research effort.**

5) Participation Fees:

CIE participation fees are comprised of four components: (1) costs associated with the level of CIE staff or vendor staff involvement in data entry and verification; (2) base fee structure charged by the CIE vendor; (3) costs associated with ongoing vendor training and technical support (4) CIE mark-up. If the CIE is broker-loaded, the CIE participation fee does not have to reflect the costs associated CIE staff or CIE vendor loading the data. Different CIE vendors have different base fee structures. The base fee structure is the component of the overall fee that is charged for the use and operation of the CIE system. This base fee does not include costs associated with items (1), (3), and (4). The vendor will typically charge an hourly rate for ongoing training (training not associated with start-up training) and technical support. The more active the CIE is involved in ongoing training and technical support the less the fee charged by the CIE vendor. However, CIEs must then account for these expenses in their operational budgets. CIEs mark-up the participation fees to reflect CIE operational expenses such as staff and overhead. This mark-up could also reflect funding for CIE reserves and other association programming. No mark-up is required is required for those CIEs whose vendor performs all the CIE activities.

6) Features:

The Listing Model has for-sale and for-lease reports, a public view (if specified by the CIE), and links to public records for CIE members (if available). The Comparable Sale and Lease Database can also be a feature of the Listing Model. However, populating the Comparable Sale and Lease Databases is difficult.

7) Staffing

For a discussion about Listing and Research Models staffing requirements see section 2.c)7).

c) Research Model:

1) Populating the Database:

The first step in populating the inventory database is obtaining the public records that detail the physical characteristics of each property. This involves the physical surveillance of each property to verify public records, taking photographs, inspecting the condition of the property, obtaining floor plans, tenant lists, stacking plans, etc. Building the database can take from between 60 to 180 days depending on the size of the market. The vendor or the CIE can be responsible for creating the building database. Generally, if the CIE subcontracts the job to local researchers it is less expensive because vendors will often have to bring in and maintain staff from outside the market. On the other hand, a vendor-populated database provides the CIE with an operational turnkey system that does not require additional CIE staff resources. Clearly, this is a decision that each CIE will need to make based upon its own needs and resources.

2) Reports:

As previously discussed, the Research Model includes all commercial property inventory in the system. The Research Model offers reporting features not available in the Listing Model. Overall market trends such as vacancy, absorption, inventory size, and asking lease rates can be tracked at the market and submarket level. This reporting provides valuable insight into the overall condition of the commercial real estate market. In addition, reports can be generated on all buildings in the market, just not those for sale or lease. This dramatically increases the number of buildings that can be compared to the for-sale or for-lease product.

3) Public Search:

Many CIEs also have a public search feature (public view) that allows anyone to search for properties listed by the CIE participants. The public view is usually a restricted to a basic level of information (building size, location, but not always address, square footage, lease rate or sale price, etc.) The public side of the CIE is intended to generate business leads for CIE participants. CIE members can usually link to public records, provided they are electronically accessible.

4) Comparables:

Listing and Research Models face identical challenges for collecting leasing and for-sale comparables. See the discussion in section 2.b)4).

5) Participation Fees:

The large amount of data contained in the Research model is costly to maintain. In order to populate the Research database, all buildings in a market must be inventoried. Given the large number of commercial buildings in most markets, this effort represents a labor intensive and costly task. However, the CIE may not wish to include every commercial building in the market in its inventory database. Threshold rules may be established for office, retail and industrial building sizes. Property threshold sizes vary from market to market depending on general inventory characteristics. The general tendency in larger markets is to have larger threshold building sizes, thus reducing the cost involved in tracking smaller buildings that are often more difficult to market. Nonetheless, data entry and data

verification costs are much higher for the Research Model than the Listing Model. Ongoing training and technical support costs are similar for both the Research and Listing Models. The base fee structure for Research Model CIEs is typically higher than for Listing Model CIEs because of the more intensive data housing requirements associated with maintaining records for a larger group of commercial properties. The mark-up for Research Model CIEs is typically higher than Listing Model CIEs to reflect the additional labor required to maintain records on all building in a market.

6) Features:

Like the Listing Model, the Research Model also has for-sale and for-lease reports, a public view (if specified by the CIE), and links to public records for CIE members (if available). The Comparable Sale and Lease Database can also be a feature of the Research Model. However, populating the Comparable Sale and Lease Databases is as difficult as previously noted for the Listing Model.

7) Staffing:

The Listing Model and Research Model also differ in respect to the level of staffing. The Research Model typically requires the ongoing update of all properties within the database – both for-sale and for-lease plus those projects that are not being marketed. Consequently, the level of updating is significantly higher than updating for the Listing Model, which only requires updating the for-sale and for-lease properties. All the properties in the database are being actively marketed, so the listing broker has a built-in incentive to make sure that the listing information is updated frequently. Competing brokers will quickly report to the listing broker's clients that the information provided to the CIE is obsolete or not updated.

The updating can be performed by brokers, CIE staff, or vendor staff. Even when brokers are primarily responsible for updating all the building records, additional CIE Staff or CIE vendor time is required to review the entered data. As a consequence, the monthly fee for participating in a Research Model CIE is typically higher than for a Listing Model CIE. Another issue that must be addressed is who (CIE staff, CIE vendor, or participating firms) will be responsible for maintaining the records for properties that are controlled by non-CIE participating firms.

3. Application Service Provider (ASP) Versus Turnkey Vendors:

The organization that will be housing the CIE is another important CIE development consideration. This decision will impact the amount of hardware and telecommunication bandwidth that the COB/CS will have to purchase. There are two CIE hosting options: ASP and Turnkey. Will the vendor provide a CIE with access to a system that they host and manage, or will the vendor provide software hosted on the system that the CIE owns?

a) ASP:

The CIE vendor hosts and operates the system on behalf of the CIE. This solution is typically less costly than Turnkey and lowers operating overhead. However, because the system is hosted by the vendor, responses to system changes and corrections may

be slower than if the CIE was operating the system. Should the vendor go out of business, CIEs with ASP systems would not be operational until they could install the computer equipment that would allow them to operate the systems themselves or until an alternative vendor was found.

b) Turnkey:

The CIE operates its own Internet servers and manages the database infrastructure. This arrangement requires that the CIE have expertise in IT systems and is responsible for day-to-day operations of the system. Turnkey systems are less vulnerable to problems if the vendor defaults, because the CIE staff may still operate the system. However, they require the COB/CS to purchase additional hardware and employ dedicated operational staff.

4. Application User Interface (AUI):

The look and feel of a CIE is determined by the AUI. The AUI is a collection of displays, screens and report formats. Since most national CIE vendors have systems operating in other markets, the AUI can be analyzed by receiving access to these markets. It is important to document the different data elements (information such as building square footage, age of building, number of floors, etc) that will be included in the CIE as well as the specific functions (vacancy reports, new property listings reports, etc.) that you expect the system to perform. Considerations to keep in mind when developing a AUI are listed below:

a) Property Types:

A system needs to specify the different ways that listings will be categorized. These fundamental groupings will determine how users search and report information compiled by the CIE. They can become very detailed and specific, but typically include the following general categories: Office, Industrial, Multi-Family, Land, Retail and Special Purpose

b) Associated Data Elements and Property Characteristics:

Different property types and market areas will be characterized by different data elements. For example, an office building listing will contain more information than a listing for raw land. Accordingly, the data elements for an office building will be more comprehensive than those for raw land. In addition, the same property will have different information associated with it depending on whether it is for sale or lease. Lease rates may even be stated differently depending on the property type. Consequently, the information for each property type that is to be included in the data elements should be carefully investigated. Be certain to include any peculiarities in business practices such as lease rates being quoted on monthly versus annual basis

c) The qualitative aspects of the AUI should be carefully examined. Listed below are some questions that should be answered when evaluating the AUI:

- How easy is the web site to navigate?
- Will the members have difficulty learning the system?
- Are the screens logically organized?
- Are system features easy to find?
- What is the quality of the look and feel of the web site?

- Are property searches easy to perform?
- Does the system provide for enough search options to meet member requirements?
- How much time will be required to input property data?
- Are the data input screens logically organized?
- Will the system have to be significantly modified to reflect local market conditions?
- Are reports easy to find and generate in the system?
- Can members easily private label reports?

5. Market Reports:

As previously discussed, the ability to produce market reports or analytics such as vacancy, rents, availability, etc is one of the primary features of the Research Model. As a CIE Research Model system matures, time series reports can be produced. However, the ability to statistically analyze the market will evolve in stages, as the CIE data sets become more complete. Listed below are the types of data that can be collected:

a) Availability:

The ability to track the majority of all space offered for lease and the majority of properties offered for sale will provide the first level of market analysis. The ability to monitor how this number changes on a month-to-month basis will provide useful information to brokers. Stating these numbers by property type and by geographic sub-market provides further insight into market trends.

b) Total Market:

A mature CIE should, for example, be capable of identifying all of the multi-tenant office buildings or most of the industrial lease space buildings. This provides the basis for calculating the vacancy rate and determining the market inventory.

c) Absorption:

Absorption can be calculated by comparing changes in the amount of total space leased in a market between two periods. However, a few quarters of complete leasing activity, available space and total inventory are required before absorption can be calculated.

6. Non-Member Access:

The Committee will need to decide the level of non-member access for the CIE. Most CIEs provide access to some portion of their database to non-members. Among CIEs that allow non-member access, there is a wide range in the level of information that is made available to the public. The non-member portion of the CIE serves several functions:

a) Advertising:

Additional public exposure of properties can serve as an incentive to some landlords and brokerages to cooperate with the CIE. Not all brokerage firms will care if their listings are more easily accessible, but the owners and managers of certain property types, especially smaller income producing properties, for instance, will benefit from broad public exposure of their available properties. Consequently, these owners may

pressure their brokers to join the CIE in order to provide broader exposure for their properties.

b) Enrollment:

Non-member access can serve as a recruiting tool to help the CIE reach potential members. A broker who is not a member may be introduced and become interested in the CIE by using the non-member facility. When the need for more complete access arises, or to satisfy the request of a customer, then they may join the CIE. However, some CIEs are concerned that non-member access might actually delay the enrollment of a potential member by providing a free alternative to membership. In these cases, public access is delayed until a prescribed CIE subscription level is achieved.

c) Communication with Owners:

Owners of for-sale and for-lease properties want to see their property widely advertised. Brokers are always under pressure to demonstrate tangible marketing efforts. Public access to the CIE will allow owners to see that their properties are being actively marketed.

When determining if the CIE will feature public access, the unique circumstances of each market should receive careful consideration in making the final decision.

7. Broker-Loaded Versus System-Loaded Data:

How property information is loaded into the CIE system, broker-loaded versus system-loaded, will have a major impact on the CIE cost structure. For CIEs that have the CIE vendor or CIE staff load and maintain property data, from one to four dedicated staff members will be required to complete this task. The number of CIE staff will be determined by the complexity of the data collection process and the number of properties in a market. Less staff will be required for CIEs that require the broker to load the property information. However, even for broker-loaded CIEs, the following considerations should be kept in mind:

a) Member Assistance:

The CIE may need to assist members in keeping their inventory complete and current. A productive broker with a dozen or more listings frequently relies on an assistant to maintain listings. To the assistant, the CIE may seem to be just another job task getting dumped onto an already overloaded agenda. Therefore, joining the CIE should be easy for both the broker and assistant. Whenever possible, CIE vendor staff or CIE staff should work closely with the broker and/or assistant to make sure that the initial data loading is smoothly accomplished.

b) Non-Member Research:

A CIE may choose to research properties offered by firms that have not chosen to participate in the CIE. Access to the majority of available properties is an important part of the CIE's value proposition for its membership. If the listings of certain firms or landlords are conspicuously absent then the perceived value of membership can be diminished. There may be certain firms and properties that need to be regularly surveyed and their listings maintained by CIE staff for the benefit of the CIE members.

8. Public Records:

The records maintained by county tax officials often contain very useful information, such as ownership references and property characteristics. These records can be especially valuable if they contain sale information. A CIE may benefit from including access to this information. Depending upon the capabilities of the local tax office, there are two ways to access this public information. The CIE may chose one or both methods to access the information from the CIE application:

a) Hyperlinked:

If the local tax office (the assessor or appraiser depending on jurisdiction) operates a publicly accessible web site, then the CIE may be able to simply include hyperlinks to automatically access information. This can be done by using information stored in the CIE, such as the address or tax account number. If the CIE can document the specific tax office hyperlink address for each property in the database, tax office records can be seamlessly incorporated into the CIE application.

b) Embedded:

Many tax offices sell copies of their databases. This information comes in large files containing information for an entire jurisdiction. For a large metropolitan area, this information might include several hundred mega-bytes of data and cost several thousand dollars. A CIE may choose to acquire this information and load some or all of the information into a database that is incorporated into the CIE application. Since this information is always changing, the CIE will need to budget resources to reacquire and reload this data on at least an annual basis.

c) Value of Public Records:

The value of public records can vary widely from one market to another. If a tax office operates a web site that provides free access to complete and current data, then no one will pay the CIE to duplicate that facility. In addition, if the public records are spotty, incomplete, and lack useful information on property characteristics, there will be little incentive to incur the additional expense.

9. Member Directory and Broadcast E-Mail:

A CIE is a community of practitioners cooperating to create a more efficient marketplace. As such, one of its most features is its membership directory. Creating an efficient means of communicating electronically is one of the primary benefits of a CIE. If e-mail replaces half of the phone calls that brokers receive, then they have more time to focus on revenue-generating activities. In addition to basic contact information, a membership directory can allow CIE subscribers to categorize themselves by geographic area(s) of interest and by the types of properties in which they choose to specialize.

If a CIE has a membership directory that allows members to be categorized by property types and geographic area, then other CIE members may choose to “Broadcast” e-mails about specific listing to those brokers who might be interested. Before adding this feature, the following considerations should be evaluated:

a) Anti-email Backlash:

In many markets there is a backlash against broadcast e-mail. In a large metropolitan market, there are hundreds of brokers trying to market thousands of properties. Active brokers find themselves inundated with dozens if not hundreds of unsolicited e-mails. In fact one CIE recently voted to disable broadcast e-mail because they found it to be largely unproductive.

b) The “Hot-Sheet” Alternative:

Many CIE applications include automated listing alert functionality that can replace broadcast e-mails. A “Hot-Sheet” is a user-defined search that involves an automatic daily CIE database search for new listings that match the criteria set forth by the user.

10. Hosting Requirements:

When preparing the system specifications, the hosting requirements should be specified. The hosting requirements will differ dramatically between Turnkey and ASP systems. For Turnkey systems, the CIE will have to purchase the hardware, software, and telecommunication equipment that will allow them to host the CIE. For ASP systems, these requirements will be met by the ASP. For CIEs with ASP systems, links will be provided from the COB/CS website to the ASP. However the increased traffic to the COB/CS website might require an upgrade in the server capacity and telecommunications equipment.

11. System Backup and Security:

Maintaining backup records is a growing concern. If the ASP is providing the CIE system, questions should be asked about the backup and security of the system:

- How often is the CIE system backed up: hourly, daily, weekly, monthly?
- Who is the backup vendor and how far is the backup vendor located from the ASP?
- What type of electronic encryption is used to transfer data?
- Do the security features prevent non-members from downloading the public access portion of the site?

If the CIE operates and maintains the system, daily backups should be transferred to an offsite location. In addition, the CIE staff should develop a disaster recovery plan.

12. CIE Vendor Programming Flexibility:

The Committee should evaluate the ability of each CIE system to accept modifications. CIE vendors typically have a standard series of datafields that comprise a property record. Some CIE vendors have greater flexibility to modify fields than other vendors. Local market conditions will often require modifications to the datafields. The flexibility of the CIE vendor to accommodate these changes should be spelled out in the system specifications.

13. Mapping:

Different CIE systems offer different levels of mapping capability. Mapping capability will allow the broker and client more easily locate a property. Assessing the mapping capability of a CIE can be determined by asking the following questions:

- Does the system feature a mapping option for every property?
- Is the mapping scalable?
- Can multiple properties be located on a single map?
- Is the mapping system proprietary or an existing mapping program?

14. Reporting Capability:

Most CIE systems are designed to provide reports with varying levels of detail. For comparing basic information (address, sales price, square footage, etc.) of many projects a catalog report is created. The catalog report is typically comprised of from one to five lines and sometimes a property photograph. The catalog report allows many properties to be presented to clients for initial review. Most CIE vendors allow the catalog reports to be private labeled. For more detailed information, brochures are created. Depending on the CIE vendor, the brochures can be quite sophisticated. Such a brochure would include detailed project description, map location, photographs, financial operating information, and project narrative. For CIEs employing the Research model, market statistical reports are available to track inventory, absorption, and rental rates. Clearly, reporting features of a CIE are of critical importance. The reporting features of each CIE vendor under consideration should be thoroughly analyzed.

15. Data Downloads:

What formats can the data be downloaded into? Are they Excel, Lotus, Word, HTML, Palm and Blackberry operating system compatible? How and where can the data be downloaded are important considerations for selecting a CIE vendor.

16. Aerial Photography:

Aerial photography is typically purchased from a third party vendor and added as an option for system users. Some CIE vendors have contracts with aerial photography companies that will allow them to resell property photographs at discounted prices.

17. Floorplans:

Some CIE systems can accept scanned floorplans into the property record. The party responsible for scanning the floorplans could include the CIE vendor, CIE staff, or listing agents. Scanning floorplans is a time consuming activity and the party responsible for this activity should be specified in the system specifications. As will be discussed in the Vendor Contract Consideration section, permission from the image copyright holder must be obtained prior to scanning the floorplan.

18. Video Tours:

Some CIE systems have the capability to have video tours included in the property record. Video tours are typically created by third party vendors or brokers. Because video tours require large amounts of electronic storage, careful consideration needs to be paid to the data transfer bandwidth of the CIE systems users and their clients before including video tours for all projects.

19. Handheld Support:

With the advent of Blackberry and digitally enabled Palm Pilots and wireless cell phones, remote access to CIE data is a growing issue. Being able to download property listing information in the field is a powerful sales tool for brokers. The handheld support features of each CIE vendor should be carefully analyzed.

20. Final Consideration:

The topics discussed in this section established the general framework for the features that should be considered for a CIE. Technology is rapidly progressing and CIE vendors are offering new features every day. Consequently, COBs/CSs considering a CIE will have to keep up with the rapidly evolving CIE market and adjust their system specification requirements accordingly.

## STEP 3: VENDOR SELECTION

### A. INTRODUCTION:

***Selecting the CIE Vendor is the single most important decision of the CIE creation process.*** Selecting the vendor that best suits the need of the market will play a pivotal role in the overall success of the CIE.

The four-step process for selecting a CIE vendor is described in this chapter. First, identify CIE vendors. Second, develop a list of vendor questions or a request for proposal (RFP). Third, meet with CIE vendors and analyze their proposals. Fourth, select the vendor. Each of these steps is shown in the *Step 3 Vendor Selection Flowchart* and are described further in the sections that follow.

### B. IDENTIFY CIE VENDORS:

Because the universe of national CIE vendors is relatively small, identifying them is relatively easy. In fact, this process has already been performed and is contained in *Exhibit 4*. National CIE vendors market their product throughout the country. Local CIE vendors are technology companies that have created a CIE solution for a single market. There are five national CIE vendors: Catylist, CommercialSearch, E-Property Data, LoopNet, and Xceligent. NAR's policy is to not endorse any vendor.<sup>1</sup> but rather to

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#### <sup>1</sup> NATIONAL ASSOCIATION OF REALTORS® Commercial Information Exchange Vendor Endorsement Policy

Within the highly competitive Commercial Information Exchange (CIE) technology space, there are a number of vendors vying for REALTOR® business. In fact, NAR has identified over 15 Commercial Overlay Boards (COBs) or Structures (CSs) that are actively considering implementing a CIE. Given this level of interest, questions have arisen as to THE NATIONAL ASSOCIATION OF REALTORS®' (NAR's) endorsement policy for CIE vendors.

NAR's CIE endorsement policy was addressed in a letter from NAR President Martin Edwards, Jr., CCIM, CIPS, in the Spring 2002 [RCA Report](#) and through a direct mailing to COBs and CSs. The letter specifically addressed the CIE vendor endorsement issue:

.... through March 31, 2003, NAR will not endorse any Internet-based commercial real property listing service. Instead, NAR will focus its efforts on the promotion and creation of CIEs.

After March 31, 2003, NAR will be free to endorse or not to endorse any CIE vendor or national commercial property listing service of its choosing. NAR is actively monitoring the developments in the rapidly changing CIE vendor and national commercial property listing spaces. Currently, no decisions have been made regarding the period after March 31, 2003. CIE market developments, not contract expiration dates, will be the deciding factor for NAR's actions. All options remain open and will be carefully scrutinized.

NAR's position is that each COB or CS is uniquely qualified to assess its own CIE requirements. Consequently, each COB or CS should make the CIE vendor selection based upon the vendor that best meets their own criteria.

Information on all national CIE vendors is being distributed by NAR. CIE vendor information can be requested from George Green, Managing Director, Technology and Research at [ggreen@realtors.org](mailto:ggreen@realtors.org). Should you have any additional questions about NAR's CIE vendor endorsement policy, please contact George Green or Bonnie Gottlieb, Senior Vice President, Commercial Real Estate at [bgottlieb@realtors.org](mailto:bgottlieb@realtors.org). We look forward to answering your questions.

disseminate information to COBs/CSs so they can make their own decision regarding which vendor is most appropriate for their market. *Exhibit 4* contains information about CIE system features, costs, database ownership, markets currently served, administrative features, revenue sharing, public view and data export.

CIE vendor operational issues are described in *Exhibit 5*. For each of the national CIE vendors the following issues are addressed in this *Exhibit 5*: ability to customize; how long in operation; protection against system or vendor failure; collection of initial data; and critical mass issues.

Combined, *Exhibits 4 and 5* provide a comprehensive profile of the national CIE vendors. However, the information provided in these *Exhibits* only represents the initial stage of the CIE vendor investigative process. COB/CS staff is strongly encouraged to contact each of the national CIE vendors to obtain the latest product version. Most vendors are also willing to provide an online product demonstration. These demonstrations will allow COB/CS staff and volunteers to make their own assessment regarding the functionality and ease of use of the various CIE systems. *Exhibit 4* has vendor contact information. *Exhibit 6* contains information on national listing and data companies that do not currently operate CIE systems. This information is provided in order that CIE vendors can be compared to national data vendors.

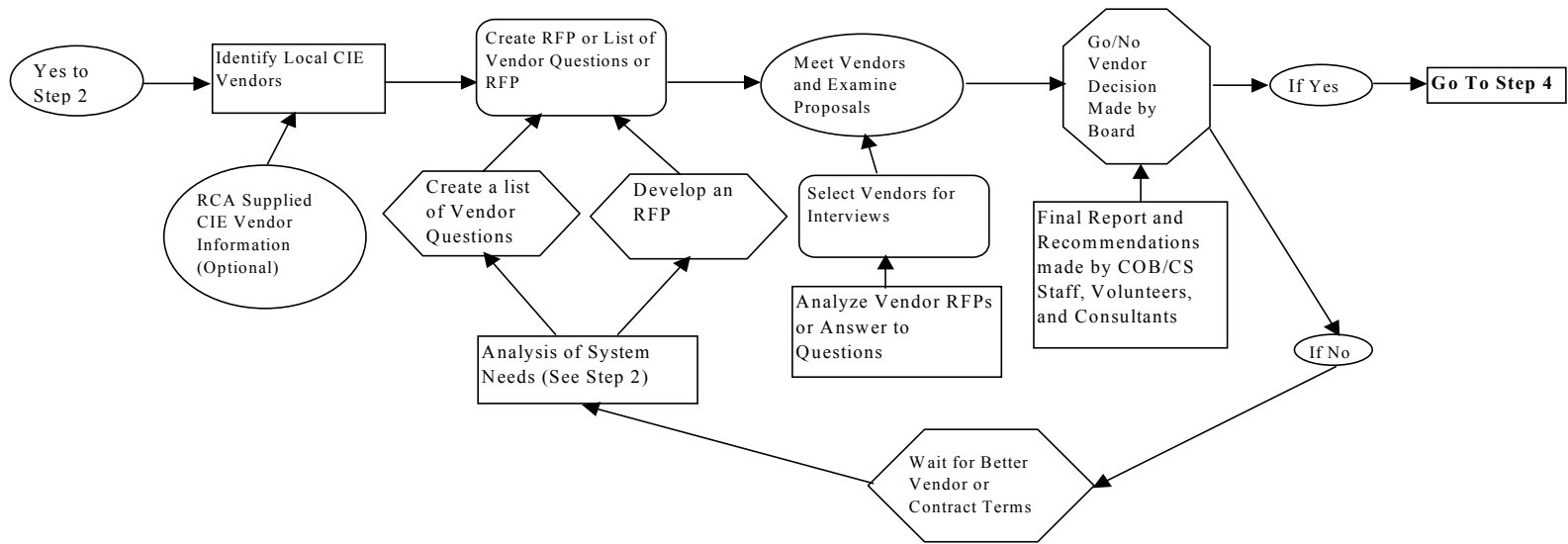
## C. CIE VENDOR QUESTIONS OR RFP:

### 1. CIE Vendor Questions:

Utilizing the system specifications document developed in Step 2, prepare a list of CIE vendor questions or a request for proposal (RFP). The list of questions should require the CIE vendor to describe how the CIE will be implemented. Sample questions for CIE vendors are:

- Provide a detailed explanation of the proposed CIE that includes: (1) type of CIE business model: Research or Listing; (2) reporting features; (3) hosting requirements, (4) ASP or turnkey; (5) broker or system loaded data; and, (6) listing of features.
- What are start-up charges?
- Who will be loading and scrubbing initial data?
- What is the monthly or ongoing fee paid to CIE vendor?
- Does the CIE vendor have the ability to customize the system to reflect local market conditions?
- What is the financial stability of the vendor?
- What is the CIE's protection against vendor failure?
- Request for references
- How many CIEs has the vendor developed?

**Step 3  
Vendor Selection Flowchart**



The answers to the CIE vendor questions should be compiled into a report where they can be compared on a side-by-side basis. This analysis will allow the Committee to make an “apples-to-apples” comparison of the various vendor proposals. Preparing a list of vendor questions has both positive and negative attributes. On the positive side, the CIE vendor questions can be prepared and compiled in a relatively short period of time. In addition, vendors must answer specific questions about the CIE. On the negative side, the CIE vendor questions do not specify the desired CIE system. Rather, an analysis must be made to determine how well the vendor proposal fits into the proposed CIE system

## 2. Vendor RFP:

An alternative to the CIE vendor questions is an RFP. The RFP provides specifications for the CIE and requires CIE vendors to describe how they will meet the specifications. The RFP provides the Committee with greater control over the type of system that will be implemented because the specifications are set by the COB/CS, not the CIE vendor. The RFP process is more formal than the CIE vendor questions. Typically an RFP will have the following elements:

- Scope of Work
- COB/CS-required system features/functionality
- The hardware/software requirements of the system
- Contractor questions/qualifications
- Vendor-provided pricing and delivery timeline
- COB/CS-provided contractual elements, such as the length of the contract
- Due date
- Selection process
- Award of contract

The RFP provides CIE vendors with an understanding of the required business terms of the deal. At this point, the CIE vendor must make the decision to go forward with a proposal or indicate to the COB/CS that there are objectionable conditions. If the CIE vendor does not object to the business terms when the proposal is submitted, the CIE vendor will not be in the positioned to raise business issue concerns when the final contract is being negotiated. However, if the CIE vendor objects to some of the business terms up front, the COB/CS is effectively put on notice that significant problems could arise during contract negotiations. For selecting a CIE vendor, potential contract negotiation difficulties should be included in the decision mix. The downside for preparing an RFP is the cost, usually \$3,000 to \$15,000 depending on who is preparing the RFP. In some cases, consultants are hired to prepare RFPs.

Traditionally, the RFP process is employed when there is a large potential vendor base, and/or the project is highly complex and costly in scope. With only five national CIE vendors, the process may be too costly and time consuming. However, some COBs/CSs have a policy of issuing RFPs for all major contracts. Each COB/CS must make the decision whether to issue or not issue a RFP based upon the individual circumstances of their market. Vendor answers to the critical questions asked in the RFPs should be compiled on a side-by-side basis for easy comparison.

### C. CIE VENDOR INTERVIEW:

After the CIE vendor question responses or RFPs have been received, the Committee should convene to carefully evaluate the responses. The responses should be compared with the system specifications that were developed in Step 2. Those vendors that offer CIE systems that most closely match the specifications should be invited to meet with the Investigation Committee.

Even if there is only one CIE finalist, it is strongly recommend that the Committee meet with the vendor prior to signing a contract. Vendor meetings allow the Committee to:

- View a live demonstration of the latest version of the CIE system and preview future upgraded features.
- Meet with the top management of the CIE vendor to determine if the business philosophies of the organizations are aligned and are a good fit.

The Committee should have individual monitors or a large projection screen to view the vendor demonstration. Typically, vendor interviews are scheduled from 1 to 3 hours, with the demonstration taking about an hour and the Q&A session another hour. If a “shoot out” format between competing finalists is used, the presentation time should be limited to allow all vendors to be able to present in a single day. With a two hour limit, up to four vendors could be accommodated in a long day. There are several advantages to the one-day “shoot out” format:

- The Committee will be able to make a more accurate comparative assessment of the CIE system features and overall functionality.
- The quality of the presentation and CIE management of each presentation can be instantly gauged against the competition.
- Perhaps most importantly, by meeting with multiple vendors, the Committee can press each vendor for their “best deal”. In highly competitive markets, CIE vendors are more likely to sharpen their pencils to close the deal.

### D. CIE VENDOR SELECTION:

Once the CIE vendors have been interviewed, the Committee needs to consider the quality of the CIE system, strength of the CIE vendor management, final pricing, and staff recommendations and analysis in reaching the final decision. In the unlikely circumstance that the Committee rejects all CIE vendors, the selection process would be placed on hiatus until a more suitable vendor or more favorable contract terms emerge.

After the Committee selects the vendor, a report or recommendation is made to the COB/CS Board of Directors (Board). A report should include an analysis of the vendors, a description of the selection process, and the recommended CIE vendor. A less formal approach would be to submit the Committee’s CIE vendor recommendation to the Board of Directors for approval. In most cases, the Board will approve the recommendation of the Committee.

Should the Board of Directors reject the Investigation Committee’s recommendation, the RFP or CIE vendor question process may begin again. See *Step 3 Vendor Selection Flowchart*. Addressed in Step 4 are CIE vendor contract considerations. Failure to complete

the CIE vendor contract would eliminate the vendor, which would restart the vendor selection effort from the RFP or CIE vendor question process.

## STEP 4: START-UP

### A. INTRODUCTION:

Now that the CIE vendor has been selected, attention can be focused on the activities that will allow the CIE to become operational. This chapter will discuss the items that must be completed in order to operate the CIE. There is much more to creating a CIE than selecting a vendor. Topics to be examined in the sections that following include: creation and approval of governing documents, start-up and ongoing budgeting, data acquisition, vendor contract consideration, training and marketing. The *Step 4 Start-Up Flowchart* shows how all of these processes come together in order for the CIE to begin operations.

### B. CREATION AND APPROVAL OF THE GOVERNING DOCUMENTS:

#### 1. Introduction:

This section examines the process for creating the CIE structure. In order to create a CIE, the governing structure must be chosen; the governing documents must be created and then approved by Board Policy of NAR. The sections that following describe the steps of this process.

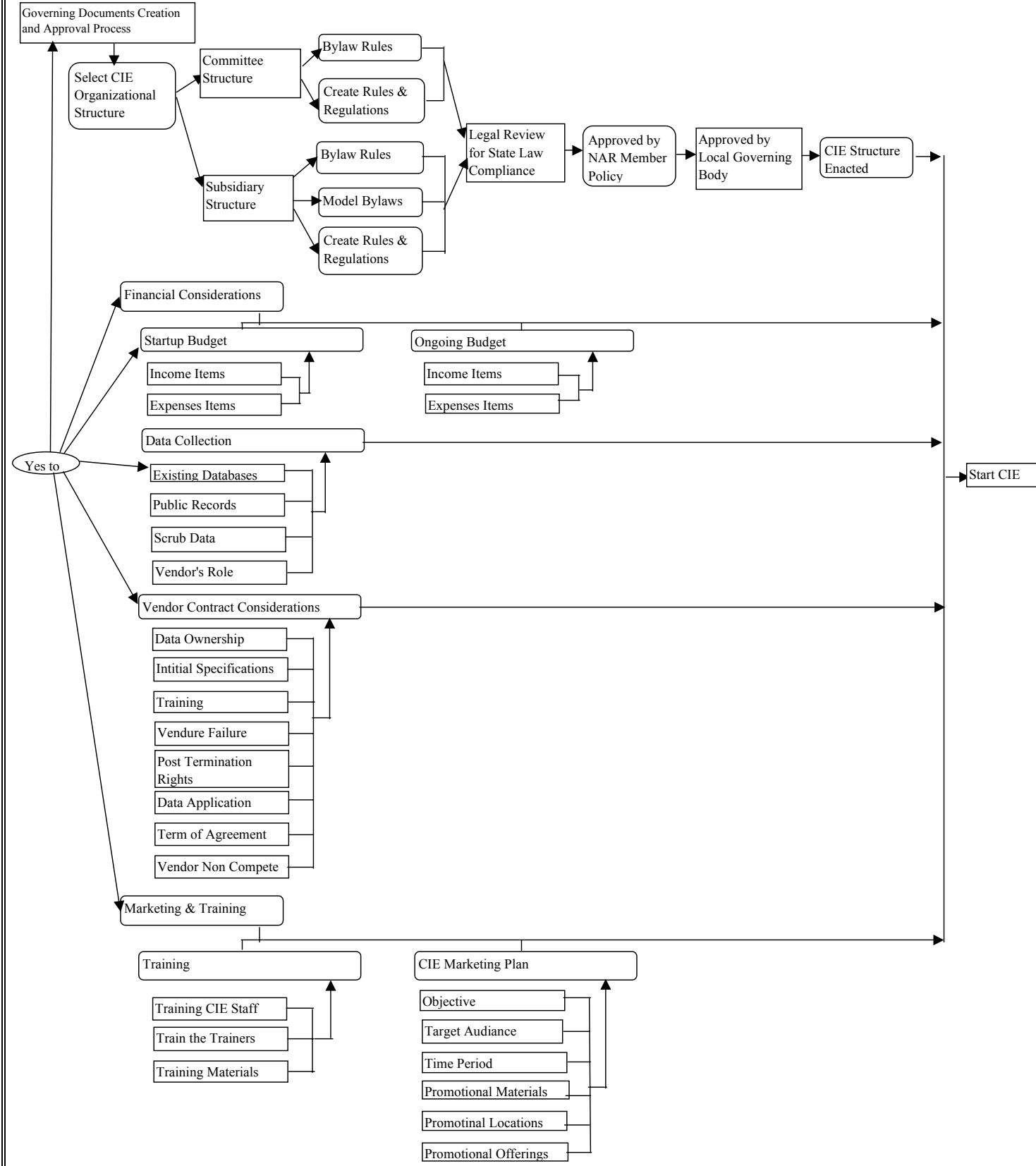
#### 2. Selecting a Governing Structure:

REALTOR<sup>®</sup> CIEs can be operated either as committee or as a wholly-owned subsidiary corporation by the COB or the parent Board of a CS. Only the local REALTOR<sup>®</sup> commercial organization can determine the type of structure that best meets its needs. Listed below are some considerations for selecting the appropriate governing structure:

##### a) Selecting The Appropriate Structure:

NAR has recommended for a number of reasons that its local associations seek tax exempt status. REALTOR associations are normally eligible for this status under Section 501(c)(6) of the Internal Revenue Code. Under this section any income which is directly related to the tax exempt purpose of the association is exempt from taxation under federal law. Income which is not directly related to this purpose may be taxed as "unrelated business income." If a tax exempt entity becomes so involved in a business which generates unrelated business income that it becomes the central purpose of the organization, the organization may lose its tax exempt status. While the IRS has not yet ruled on the tax status of CIEs, it has ruled that MLSs are, for tax purposes, normally operated "for-profit." Although CIEs are not multiple listing services, the parallels are close enough that a similar result is likely with regard to income from a CIE. Selecting whether a CIE should be organized as a committee of the association or as a separately incorporated, wholly owned subsidiary is usually driven by these tax considerations and is a decision that should be made in consultation with the association's legal and accounting advisors. See *Exhibit 7* for descriptions of the benefits of each and discussion of the tax issue.)

**Step 4  
CIE Start-Up Flowchart**



b) Committee:  
The CIE is probably one of the more important services provided by the association to its members. Operation of the CIE as a committee of the association will most effectively assure that members see this as a service being provided to them by the association. Operation as a committee will also assure that the Board of Directors of the association will be the final authority governing the CIE. If a committee structure is selected, the CIE will still, like any business operation, require on-going supervision and management. The committee that oversees the CIE will therefore be a standing committee of the association so it can fulfill its continuing responsibility to manage the operation of the CIE for the association.

c) Subsidiary:  
Some REALTOR<sup>®</sup> associations prefer to operate the CIE as a separately incorporated subsidiary. As noted, this decision is usually driven by tax considerations. In instances where a subsidiary corporation is the structure selected, the Board must be the sole shareholder. If multiple Boards are involved, their combined ownership of the CIE must total 100 percent. The Board(s), as the sole shareholder, will use this role to maintain a degree of control over the operation of the CIE to assure it does not adopt positions inconsistent with the interests of its shareholder association(s). **Most importantly, only 100 percent COB/CS-owned CIEs are eligible to be covered under the National Association of REALTORS<sup>®</sup> Professional Liability Insurance Policy.**

3. Governing Documents Creation and NAR Approval Process. See the *Step 4 Start-Up Flowchart*.

Select the most appropriate type of CIE structure for the organization. As the COB/CS makes its selection, the Commercial staff highly recommends that the COB/CS seeks legal and financial advice on the types of structures and their implications for the organization:

a) Committee Structure:

If the COB or Board elects to govern the CIE through a committee, it will need to modify its bylaws to authorize the CIE, establish rules and regulations for the operation of the CIE.

1) Create Bylaws:

Part 6 of the Commercial/Industrial Supplement, see *Exhibit 8*, contains Board bylaw provisions authorizing a CIE. The provisions cover such areas as member participation, optional non-member participation, access to CIE information, and the details for the establishment and operation of the CIE committee.

2) Create Rules & Regulations:

The rules and regulations, see *Exhibit 9*, further explain the items noted in the bylaw provisions. They also address: filing procedures; negotiation of cooperation and compensation (if any); prohibitions; fees and charges; compliance with rules; meetings; confidentiality of CIE information; ownership, copyright and use of CIE information; changes to the rules and regulations; and standards of conduct, enforcement of rules and arbitration of disputes.

3) Legal Review for State Law Compliance:

Laws of the state in which the REALTOR<sup>®</sup> association is incorporated also govern the establishment and operation of the CIE. Legal counsel should determine whether the bylaws and rules and regulations are in compliance with state law.

- 4) Approval by NAR Member Policy Division:  
Board bylaws and rules and regulations must be submitted to the NAR Member Policy division for review.
  - 5) Approval by Local Governing Body:  
Since it has the ultimate responsibility for the formation and governance of the CIE the association Board of Directors must approve the bylaws amendments, rules and regulations, and exercise continued oversight through the CIE Committee.
  - 6) CIE Structure Enacted:  
The governance and operational components of the CIE start-up are now complete.
- b) Subsidiary Structure:
- 1) Create Bylaws:  
Part 8 of the Commercial/Industrial Supplement, see *Exhibit 10*, contains sample bylaw provisions that authorize the creation of a CIE as a wholly owned subsidiary corporation of the Board. The provisions cover such areas as governing documents; participation (member and optional non-member); access to CIE information; and the removal of officers and directors.
  - 2) Model Bylaws:  
Because it is established and operated as a wholly-owned separately incorporated subsidiary corporation, the CIE maintains its own governing body, bylaws, and rules and regulations. Part 9 of the Commercial/Industrial Supplement, see *Exhibit 11*, provides suggested model CIE bylaws. Areas addressed include: service area; participation; service charges; governing body; duties of officers and directors and procedures for removing them from office; meetings; committees; fiscal year; amendments; and dissolution.
  - 3) Create Rules & Regulations:  
*Exhibit 12* provides suggested rules and regulations for operating the CIE: member and optional non-member rights and responsibilities; filing procedures; negotiation of cooperation and compensation (if any); prohibitions; fees and charges; compliance with rules; meetings; confidentiality of CIE information; ownership, copyright and use of CIE information; changes to the rules and regulations; standards of conduct, enforcement of rules and arbitration of disputes; and orientation requirements.
  - 4) Legal Review for State Law Compliance:  
Legal counsel must determine whether the bylaws and rules and regulations of the CIE are in compliance with law of the state in which the CIE is incorporated.
  - 5) Approval by NAR Member Policy Division:  
CIE bylaws and rules and regulations must be submitted to the NAR Member Policy division for review. Upon approval by NAR, they may be submitted for final approval by the association Board of Directors.
  - 6) Approval by Local Governing Body:

Since the CIE is a subsidiary corporation, the Board of Directors of the parent association must approve its bylaws.

7) CIE Structure Enacted:

The governance and operational components of the CIE start-up are now complete.

C. BUDGET START-UP CONSIDERATIONS::

When budgeting for a CIE, two types of budget should be created: start-up budget and ongoing budget. The start-up budget captures the one-time costs associated with initiating a CIE, and the ongoing budget address the income and expense items that will be incurred on a monthly basis. The start-up budget is addressed first.

The CIE vendor's start-up costs are typically the largest component of the start-up budget. The CIE vendor start-up costs should have been precisely stated in the proposal. With this knowledge in hand, the start-up budgeting process can begin. The start-up budget is divided into two categories: Income and Expenses.

An example of a CIE start-up budget is shown in *Exhibit 13*. The budget is shown for illustrative purposes only and the numbers inserted into the budget are plug-in numbers. Each CIE will need to customize the start-up budget based upon individual market circumstances. Nonetheless, *CIE Start-up Budget* provides general categories of income and expenses that are useful guide for starting the budgeting process. The income category will be addressed first.

1. Start-Up Income:

The Start-up Funding section of Step 1 discussed funding sources: COB/CIE reserve and operating funds, member assessments and dues prepayments, large brokerage firms, economic development agencies, utility companies, and business journals. The amount of income that is needed to be raised from these sources will be determined by the start-up expenses. Funds that cannot be raised from outside sources, will have to be made up for by contributions from COB/CS reserves or operating funds. If there is reluctance to grant COB/CS reserves or operating funds, a loan can be arranged. In some instances, the source of the loan is the COB/CS reserves and in other cases lending institutions. In every instance, the utmost effort should be made to secure funding from outside sources because every dollar raised from these sources is a dollar less that will have to be raised from the COB/CS internal funds or loans.

2. Start-Up Expenses:

Depending on the CIE business model and vendor selected, CIE start-up expenses will vary significantly. Once again, the largest component of the CIE start-up budget is vendor start-up fees. For markets employing the Research Model, an inventory database will have to be created. This activity can be performed by either the CIE vendor or CIE staff. Either way, a large number of hours will have to be accounted for in the start-up budget to populate the inventory database. Because the Listing Model does not require an inventory database, the start-up costs are much lower than the Research Model costs.

The expense categories in the sample *CIE Start-Up Budget* include line items for CIEs that employ the Research Model. Costs associated with Research Supervisor and Research Assistant will be much lower or not budgeted for the Listing Model. The remaining categories (Administrative Coordinator, Advertising & Promotion, Consultant (optional), Domain Name Registration, Equipment Enhancements, High Speed Broadband, Legal Fees, Overhead, Software, Staffing, System License & Operation, System License, Travel, and Vendor Design) are expenses that are potentially incurred by CIEs operating either business model. Expenses such as Staffing, Research Assistant, Research Supervisor have both an initial and ongoing component. The initial staffing costs include recruiting costs and overtime or extra staff for the intensive start-up period.

#### D. ONGOING BUDGET CONSIDERATIONS:

The ongoing operating budget incorporates the monthly income and expenses that are associated with the operation of the CIE. Typically, ongoing operating budgets are created on a fiscal year basis with a breakdown for each month. A sample is shown in *Exhibit 14*. The budget is shown for illustrative purposes only and the numbers inserted into the budget are plug-in numbers. Each CIE will need to customize its start-up ongoing budget based upon their market's individual circumstances. Nonetheless, *CIE Ongoing Operating Budget* provides general categories of Income and Expenses that are useful guide for starting the budgeting process. Addressed first will be the income portion.

##### 1. Income:

On an ongoing operational basis, member dues will comprise the majority of the CIE income. Consequently, carefully estimating the number of members that will participate in the CIE in the first year is extremely important. An overly aggressive adoption rate will cause a significant income shortfall if the adoption rate falls below expectations. When projecting the number of brokers that will participate in the CIE during the first year, consider the number of brokers that have actually signed up to participate in the CIE. Taking a conservative approach to estimating CIE adoption rate will minimize potential member dues income shortfalls. In markets with competing data providers, don't expect them to sit idle as the CIE erodes their market share. Typically, these competitors will offer cut-rate multi-year deals to stymie the loss of their customer base to the CIE and to slow the adoption of the CIE.

The member dues billing cycle will have a large impact on month-to-month income. Member dues can be collected on a annual, quarterly, or monthly basis. Each CIE will have to decide which billing cycle to implement. However, the monthly billing cycle can be the most labor intensive due to the billing frequency. Establishing an automatic payment plan (checking or credit card) can reduce the labor costs, especially for monthly billing cycles. The person who performs the billing, CIE staff or CIE vendor, will need to be accounted for in labor costs.

Each CIE will have to make the determination if non-REALTORS® will be allowed to join the CIE and if so, whether they will be allowed to join under the same fee structure as REALTORS®. Higher non-REALTOR® dues for this group has the potential to raise additional income. However, this policy may alienate a member group that has specifically been targeted for recruitment. On the other hand, lower dues for REALTOR® membership could serve as a powerful inducement to join the local COB/CS. Ultimately,

each CIE must weigh the arguments and make its own determination on how to treat non-REALTORS<sup>®</sup>.

When large numbers of brokers sign up during the CIEs start-up, initiation fees can be a significant source of income. However, since initiation fees are a one-time only fee, they will be a waning source of income as the CIE achieves widespread adoption.

Advertising fees have the potential to raise income. However, depending on the CIE vendor, the CIE may not have the ability to market banner advertising. Other income sources include: Interest Income, Bad Debt Recovery, Fines/Penalties, and Miscellaneous Income.

## 2. Expenses:

Also shown in the *CIE Ongoing Budget* are expense categories. Expenses fall into the Lease, Hardware, Data/Software, General & Administrative, and Income Tax categories. Each CIE will have to modify the line items to reflect their particular expense. The number of expense line items is expansive to accommodate the CIE potential hosting the site and maintaining a Research database.

The Lease Expense needs to take into account all the space required for the CIE to operate. Typically, the CIE is housed in space controlled by the COB/CS. Depending on the COB/CS, shared meeting space and classroom space may have to be accounted for in the lease, not just the office space directly occupied by CIE staff. The shared space could be included in the Overhead Expense category.

For CIEs that are operating and maintaining their own systems, the Hardware Expenses will be higher than for vendor operated and maintained systems. A contingency budget should be maintained for hardware repair or upgrade.

Data/Software Expenses are expenditures associated with obtaining commercial property data and for the software to operate the CIE. If the CIE is performing the market research, there will be a significant research staff expenditure. When preparing the CIE Research/Maintenance Staff line item, be realistic about the data gathering process. Data collection often takes much more time than anticipated. Skimping on CIE Research/Maintenance Staff budget could compromise the quality of the data collected. Regardless of who is operating and maintaining the system, software licensing fees are usually paid to the CIE vendor.

General and Administrative Expenses cover the everyday costs associated with operating the CIE. Training Costs should be carefully considered. Underestimating the time to train CIE members during the first year of operation is common. This problem should be avoided by creating a training plan, see Step 4, Section G, below. A marketing plan, see Step 4, Section H, below, will help identify Promotional and Web Marketing costs. During the first year of operation the CIE Director will be meeting and marketing the CIE to many groups. The Meetings line item should reflect the high cost of entertaining CIE members. Finally, don't forget to add Income Tax Expenses to the ongoing budget.

## E. DATA COLLECTION:

How data is collected for the CIE should be precisely detailed in the CIE vendor's proposal and formalized in the contract. The population of initial database can be generated from a variety of sources that include: existing company databases, public records, the CIE vendor, research staff, and government agencies.

Before adding existing data and photographic images to the CIE database, the CIE staff needs to make sure that no copyrights are being violated. The CIE staff should research the sites from which the data was uploaded to make sure that these sites do not claim the copyrights for the uploaded data. This issue will not arise if the database is populated from public records, from the CIE staff, or the CIE vendor.

An additional concern when populating a database from existing sources is to eliminate duplicate records and record errors. This scrubbing process involves matching addresses in combined databases. Depending on the quality of the information and the similarities in the data structures, a considerable amount of staff time may be required to accurately combine databases. The CIE contract, see Step 4, Section F, below should detail precisely whose staff, the CIE Vendor or CIE, will undertake this effort.

#### F. VENDOR CONTRACT CONSIDERATIONS:

**Note: The following provides information and guidance of a general nature regarding important considerations in CIE vendor agreements. It is not intended to be legal advice. COB/CS staff should consult with legal counsel before negotiating and entering into contractual relationships with vendors and others.**

##### 1. Data Ownership and Intellectual Property:

The CIE agreement should address issues concerning ownership and control of the information compiled by the CIE. Many people talk about owning a dataset (the information that comprises the database), but ownership of data can be complex. The most that a CIE can own is the copyright to its compilation of data or dataset. That copyright arises out of the selection, arrangement and coordination of the data provided by members for inclusion in the database, which is based on the unique decisions that the holder of the copyright makes in determining how and what information is stored and presented. The CIE user agreement, by-laws and rules also provide a basis for enforcing restrictions on the use of datasets accessed by the CIE members.

The agreement between the CIE and the vendor should address how the intellectual property, that is, the CIE data set, is partitioned between the CIE association and the service provider. The agreement should provide for the vendor to acknowledge the ownership and the validity of the CIE's copyright in the data set. Unless the CIE vendor's contract is carefully prepared, the copyright and control of the data may be shared with the CIE vendor, which is harmful to the COB/CS interests.

##### 2. Initial Specification with Ongoing Enhancements:

Any agreement for the procurement of a CIE system should include as specific description as possible of the system to be delivered. Systems are often selected by the Committee based on a vendor "demo". Perhaps some Committee members have been able to access another system operated by the vendor. We have all been disappointed by

products and services that were not as good in actual use as they seemed during the demo. The agreement should identify with particularity the functional characteristics of the system to be provided by the vendor.

a) Data Collection:

Gathering and loading real estate information is a major expense of the CIE. The contract should indicate if the CIE staff or CIE vendor has this responsibility for acquiring and loading the initial dataset. After the initial dataset has been loaded, the agreement should specify whether the CIE members, CIE staff, or the CIE vendor has the responsibility for the ongoing loading of commercial properties.

b) Property Photographs:

Pictures of properties make a system much more compelling for the users. It can cost from \$5 – \$15 to photograph each property. If the budget permits, an image archive can be developed for the most frequently searched multi-tenant properties in advance of the CIE “going live”.

c) Copyright Considerations:

In building the CIE image library, take precautions to prevent CIE members from inadvertently infringing on a copyright. If users are permitted to upload images of properties, then prominent notices need to be placed within the system to educate users about respect for copyrighted material so that the member providing the photo has the right to do so and the CIE is protected if the member does not. Professional photographers may require a broker to obtain a special release, or to pay an additional fee, to display their pictures on the Internet. Other listing services and property directories also copyright their images, so users have to take care to not upload copyrighted pictures without first securing permission to do so.

3. Training Assistance after Execution:

The contract should address the level of training that the CIE vendor will provide. Training items that should be specified in the contract include:

a) Training materials:

This could include operation manuals, quick study guides, interactive CDs, online training developed by the vendor. The contract should specify the training material deliverables.

b) Training CIE Staff:

The training of CIE staff by the CIE vendor should be addressed in the contract. Where and when the training will be performed should be addressed in the contract.

c) Training CIE Members:

The contract should specify the responsibility of the CIE vendor for training CIE members. The number of training session and the period in which the vendor-taught training sessions will be performed should be addressed in the contract. The cost for the initial training should be specified in the contract.

d) Ongoing Support:

The party responsible for answering ongoing member questions about the CIE should be specified in the contract. Will the CIE staff or CIE vendor provide the ongoing support? The contract should address the cost for ongoing vendor-provided training. The cost can be expressed in terms of dollars per our or a fixed annual or monthly fee.

4. Protection Against Vendor Failure:

Many information service providers face financial challenges. Many vendors require funding from investors to cover the cost of operations. If a service provider runs short of cash, quality of service can be negatively impacted. Some service providers have even gone bankrupt, or discontinued unprofitable operations, leaving customers in the lurch.

At a minimum, the agreement should provide for the CIE to obtain frequent backup copies of the CIE databases. This information may be used to transition between CIE providers. Some COBs/CSs also require that their vendor escrow copies of critical software, so in the event of bankruptcy the CIE can obtain and continue to use the application. If the CIE is operating its own IT system under the terms of a turnkey agreement, then the demise of the vendor may have less dire consequences.

5. Post Termination Rights in the Information:

The agreement between the CIE and its vendor should address what rights, if any, the vendor has in the information compiled by the CIE. If the vendor retains the right to use the CIE information after the agreement terminates, then the CIE may have special concerns about the competitive threat posed by the vendor. The CIE should always demand the right to obtain and move its property listing information and the CIE members from the original vendor to a replacement service provider. If the original vendor retains the right to use the CIE information then the vendor could simply continue operations and attempt to capture the CIE membership as subscribers to a new “privatized” service. Thus, many agreements require the vendor to delete all copies of the CIE datasets upon termination of the agreement and further stipulate that the vendor has no right to use the CIE information in the future

6. Peripheral Applications of Data:

Some vendors recoup some cost of providing the CIE service by offering other services to other customers using the information compiled by the CIE. The CIE and vendor need to agree how, if at all, CIE-generated information can be used. For instance, if the vendor charges other customers to access a national service that aggregates information from several local CIEs, how does the local CIE obtain compensation? Will the vendor’s national service compete with the local CIE for revenue? Contracts for this type of system frequently contain a provision that requires the vendor to obtain the consent of the CIE before offering services based on the CIE data.

7. Term of Agreement:

The ability to change CIE system vendors is important. The ability to change from an obsolete or expensive vendor to a provider who offers a better system at a better price is the best insurance that a CIE can want. However, a CIE needs to have a stable long-term plan for how it will deliver services to its members. Changing vendors and systems is

never easy and it can be an expensive disruption to the CIE users.

In order to protect the COB's/CS's investment, the COB/CS staff should negotiate a multi-year (perhaps two to three years) initial term of an agreement, with perhaps one or more annual renewals. These renewal clauses frequently give the vendor the right to increase price up to a specified percentage (e.g. a 5% increase). In any event, don't wait until the final few months of the service agreement's expiration before negotiating a renewal or arranging for a new vendor.

8. Non-Compete from the CIE Vendor:

Agreements between REALTOR<sup>®</sup> associations and vendors for the maintenance of listing systems typically contain a provision that precludes the vendor from offering a similar service in that market during the term of the agreement and for a year or two following the termination of the agreement. This non-compete provision protects the CIE in the event that it chooses to change service providers.

## G. TRAINING

Because each CIE is different, there is not a single training regimen that can be prescribed. Instead the CIE vendor and CIE staff will need to work closely together to ensure that CIE staff and members are adequately trained on the system. Poor CIE training could slow adoption, which, if allowed to persist, could jeopardize the CIE. Consequently, a critical success factor for a CIE is having a training plan in place when the CIE is implemented. As described in the previous section, the training responsibility of the vendor should be precisely detailed in the CIE vendor contract. Addressed below are some considerations for creating a training plan.

1. Training the CIE Staff:

The CIE vendor will need to train the CIE staff on how to operate the CIE. Depending on the scope of management activities that will be undertaken by the CIE vendor, the level of training can vary significantly. If the CIE staff will be responsible for maintaining the CIE database, extensive training will be required. This training is usually accomplished by a two-to-three day training session conducted by the CIE vendor. The location of this training can take place at the CIE office, at the CIE vendor's office, or in a market where the CIE vendor has installed a system. During CIE staff training, the CIE vendor should provide an operation manual for the system. Upon completion of training, the CIE staff should be able to demonstrate a thorough understanding of the CIE System. After the completion of the initial training, CIE staff should be provided a CIE vendor contact person to troubleshoot problems that may arise. In addition, the CIE vendor should provide additional training when new releases are introduced. Depending on the complexity of the system changes, additional on-site training by the CIE vendor may be required. The contract should address who will pay for these training sessions.

2. Train the Trainers:

The initial training of the CIE members is a highly time-intensive activity. Accordingly, the responsibility for training the CIE members, the CIE vendor or CIE staff, is a very important operational consideration for the CIE. For CIEs that will have the CIE vendor

perform all the training, minimal CIE staff time will have to be dedicated to training. For those CIEs that will have their staff perform all the training, dedicated training staff will be required for the first year of CIE operation. However, the most common practice is for the CIE vendor to perform some of the initial training with the CIE staff providing the ongoing training. This typical arrangement is for the CIE vendor to provide 10 to 15 classroom training sessions over the course of the CIE's first six months. Depending on the complexity of the CIE system and the computer skills of the members, training sessions typically require from one to three hours. After the initial training has been completed, many CIEs offer training to new members on a monthly basis.

### 3. Training Materials and Logistics:

Classroom instruction is the primary initial CIE training method. In order for the classroom sessions to be productive, the room must be properly set up to support computer training. This training usually requires a projection screen that allows the instructor's CIE feature lecture to be followed by the students. Ideally, the classes would be conducted in a computer lab with the CIE running on each computer. The use of a computer lab allows for the two-way interaction between the students and instructor. However, computer labs are beyond the technical resources of many CIEs. Classrooms will have to be reserved from COB or CS for the training sessions. If classroom facilities are not available at the COB or CS, alternative facilities will have to be secured.

CIE staff performing CIE training should receive training instruction. CIE vendor-developed training modules greatly increase the quality and consistency of CIE staff instruction. The CIE vendor should train the CIE staff on the instruction modules. The training modules should include the following materials:

- Detailed lesson plan
- Lecture support handouts
- Power Point lecture presentation
- Quick Start manual
- CIE system manual

The Quick Start manual is a 5 to 10 page document that provides the most important information for getting started on the CIE. The Quick Start manual supports the more detailed CIE system manual. Sales agents that want to be able to immediately use the CIE without having to spend hours wading through the more detailed CIE systems manual will use the Quick Start manual.

The classroom is not the only training venue. For larger companies, many CIEs have performed office training. During these sessions, sales agents and research assistants are trained. However, since the research assistants or computer administrators are responsible for inputting listings into the CIE for larger offices, they should receive more intensive training than sales agents. Other venues for CIE training include: local commercial real estate trade shows, state association meetings, and local association meetings. A clever way for encouraging CIE training participation is to have the classes approved for Continuing Education credit. Regardless of whether the CIE vendor or CIE staff will be performing the training, a training plan should be in place by the launch of the CIE. Executing a training plan that quickly and efficiently reaches out to the maximum number of CIE participants will play an important role in the eventual success of the CIE.

#### H. CIE Marketing Plan:

The marketing program should contain the following elements:

1. Objective:

To make REALTOR<sup>®</sup> commercial practitioners and affiliates aware of the benefits of the new CIE and to promote the usage of the CIE system. The statement of objective should be customized for the target audience selected. If the target audience includes both REALTORS<sup>®</sup> and non-REALTORS<sup>®</sup>, the objective and target audience statements should be adjusted accordingly. Appraisers should also be included in the target audience.

2. Targeted Audience:

Primarily, REALTOR<sup>®</sup> commercial real estate practitioners within the jurisdiction. Secondary target are those REALTORS<sup>®</sup> who practice both commercial and residential. Third tier target are non-REALTOR<sup>®</sup> commercial practitioners for CIEs allowing non-REALTOR<sup>®</sup> participation. In markets with a small number of REALTORS<sup>®</sup>, the target audience may be reprioritized to attract non-REALTORS<sup>®</sup> to the CIE.

3. Time Period:

One-year from inception (introduction of the system into the market place) or the completion of a pilot program, if applicable.

4. Promotion Material:

- The vendor or association either prepares concise explanation on how system works such a flyer that can be handed out at programs and activities that.
- Training manuals prepared by the vendor
- Advertising design – slick ads
- Placards or posters that can be distributed to firms and placed in the Association Media:
  - REALTOR<sup>®</sup> Association Newsletter or periodical
  - REALTOR<sup>®</sup> Associations surrounding COB/CS
  - REALTOR<sup>®</sup> State Association periodical
  - REALTOR<sup>®</sup> Association
    - ✓ Broadcast email
    - ✓ Flyers to be passed out at functions, programs, activities
- Local newspaper articles prepared by association leadership, staff
- Paid advertising in real estate or business sections of local newspapers
- Local newspaper interviews
- Commercial real estate industry newspapers articles and interviews
- Placards or posters that can be distributed to firms and place at the Association.

5. Promotion Locations:

- Special session on the introduction of the system

- CIE training sessions held at the association, at individual firms or at distant locations within the association jurisdiction
- Association education sessions
- Special REALTOR® events such as inaugurals, economic forecasts, golf tournaments, trade shows
- Marketing sessions
- Board of Director meetings
- Local commercial real estate trade shows

6. Promotional Offerings:

- Introductory discounts
- Prepayment discounts

I. PUTTING IT ALL TOGETHER:

The information presented in this *Guide* serves as a roadmap for the CIE creation process. We can guarantee that there will be bumps along the way. However, by keeping focused on the CIE creation mission, these distractions can be overcome. The CIE will provide your members with an asset that will bring greater cooperation and efficiency to your commercial real estate market. Now that the CIE creation process has been discussed, the time has come to begin the CIE creation journey.

**EXHIBIT 1**  
**REALTOR® COMMERCIAL PROPERTY SERVICES:**  
**Commercial Information Exchange (CIE)**  
**Commercial/Industrial Multiple Listing Service (C/I MLS)**

The National Association of REALTORS® has established two types of Commercial property services (“Services”): the Commercial Information Exchange and the Commercial/Industrial MLS. While both are designed for the orderly correlation and dissemination of listing information so that participants may better serve their clients and the public, there are distinct differences between them. The following summary highlights their similarities and differences. A “Frequently Asked Questions” (FAQ) section regarding the operation of CIEs may be found at the end of this document. Unless otherwise noted, the following are excerpted from the *Handbook on Multiple Listing Policy, Commercial/Industrial Supplement* (Eleventh Edition 2002), which is also available in an online format at <http://www.realtor.org/NCommSrc.nsf/pages/BenefitsServices>.

**Please Note:** *This is a comparison and should not be considered a replacement for the official documents established by the National Association of REALTORS® that govern the rules and regulations for developing and operating a REALTOR® property service. All inquiries regarding CIE & C/I MLS policies and procedures should be directed to the NAR Board Policy and Programs division at 312.329. 8339.*

	<b>COMMERCIAL INFORMATION EXCHANGE (CIE)</b>	<b>C/I MULTIPLE LISTING SERVICE (C/I MLS)</b>
<b>PURPOSE</b>	The CIE is as an information exchange. Participants who have been retained by sellers of commercial or industrial property to market those properties may submit information on those properties to the CIE and Participants who have been retained by buyers of commercial or industrial property may submit information on the type(s) of property sought to the CIE. (CIE: Part 6, Section 2)	A Commercial/Industrial MLS is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law). (C/I MLS: Part 1, Section2)
<b>COMPENSATION</b>	A CIE is not an MLS. No offers of cooperation and compensation are communicated by filing information on a property with the CIE. Any compensation agreements related to property included in the Exchange compilation must be made on an individual basis outside the CIE between the Participants involved. (CIE: 6,2)	In filing a property with the C/I MLS, the Participant is making a blanket unilateral offer of compensation to the other Participants for their services in the sale or lease of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker’s performance as the procuring cause of the sale (or lease). The listing broker retains the right to determine the amount of compensation offered to other Participants, which may be the same or different. (C/I MLS: 2,5)
<b>PARTICIPANTS</b>	Any REALTOR® (principal) is eligible to participate in the Service upon agreeing in writing to conform to the rules and regulations and to pay the costs involved. (CIE: 6,3; C/I MLS: 2)  Brokers and salespeople other than principals are not “members” or “participants” but may use the Service through the Participant (principal) with whom they are affiliated. (CIE: 7; C/I MLS: 2)  No individual or firm, regardless of Board membership status, is eligible for participation or membership unless they hold a current, valid real estate broker’s license and are capable of offering and accepting compensation to and from other Participants. (CIE: 6,3; C/I MLS: 1,3)	

<b>NON-MEMBERS</b>	In states where law requires non-Board members be admitted to the Service, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association’s Membership Qualification Criteria. However, in states where non-Board member access to the Service is not a requirement of state law, Boards may at their discretion, establish additional qualifications for non-Board member participation and membership. (CIE: 6,3; C/I MLS: 1,3)	
<b>ACCESS TO INFORMATION</b>	<p>Current Property Information: Only Participants and their affiliated licensees may have access to and use of the current property information generated by the Service. (CIE: 7; C/I MLS: 2)</p> <p>Comparable &amp; Statistical Information: Board members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the Service, may receive, purchase or lease all information other than current listing information that is generated wholly or in part by the Service including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members. (CIE: 6,8; C/I MLS: 1,8)</p> <p>A Service may, as a matter of local determination, provide access to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Part 7, Section33: <i>Handbook on Multiple Listing Policy</i>, Sixteenth Edition, 2002)</p> <p>None of the foregoing is intended to convey “participation” or “membership” or any right of access to information developed by or published by a Board MLS where access to such information is prohibited by law. (CIE: 6,3; C/I MLS: 1,3)</p>	
<b>LISTINGS</b>	It is not essential that a Participant retained by a property owner to market the property have an exclusive right to sell, exclusive agency, or open listing. Other forms of agreement to provide certain marketing services may be the basis for authorizing the submission of property information to the Exchange. (CIE: 7)	The Service shall accept exclusive right to sell or lease listing contracts and exclusive agency listing contracts, and may accept other forms of agreement, (except open listings – unless required by law – and net listings) which make it possible to offer compensation to other Participants acting as subagents, buyer agents, or both (C/I MLS: 2,1)
<b>FILING PROCEDURES</b>	Participants acting on behalf of buyers may submit information describing the type of property sought even though the Participant may not be the buyer’s exclusive agent. Participants acting on behalf of sellers or lessors must submit their written authorization. (CIE: 7)	
	Submission of any property information to the CIE is voluntary. However, any property information submitted must include written authorization for submission to the CIE. (CIE: 7)	Listings of real or personal property located within the territorial jurisdiction of the MLS must be delivered, usually within 48 hours, after all necessary signatures of seller(s) or lessor(s) have been obtained. (C/I MLS: 2,1)
<b>PROPERTY TYPES</b>	Qualifying properties are defined as: subdivided vacant land; land and ranch; business opportunity including some interest in real property; motel/hotel; mobile home parks; commercial income; industrial; investment; and office space (additional categories of commercial, industrial, and investment property may be added by the Service.) ( CIE: 7; C/I MLS: 2,1)	
<b>OWNERSHIP OF INFORMATION</b>	By submitting property information, Participants represent that they are authorized and grant authority for the Board to include the property information in its copyrighted Exchange compilation and also in any comparable report, sold report, or other historical or statistical report unless expressly indicated otherwise in writing at the time the information is filed with the Exchange. (CIE: 7,9)	By the act of submitting any property listing data to the C/I MLS, Participants represent that they are authorized and grant authority for the Board to include the property listing data in its copyrighted C/I MLS compilation and also in any statistical report on comparables. (C/I MLS: 2,11)
<b>DISPUTE RESOLUTION</b>	By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the REALTOR® Code of Ethics (another cooperating broker claims to be the procuring cause of the sale or lease.) (CIE: 7,15; C/I MLS: 2,15)	

## FREQUENTLY ASKED QUESTIONS:

1. Q: May the CIE allow licensees who are not REALTORS® to participate in the CIE?

A: Allowing participation by licensed brokers and affiliated salespeople who are not REALTORS® is completely a local CIE decision. This is somewhat similar to a local MLS deciding whether they will allow participation in their MLS by non-member brokers. In those states where nonmember broker access to the MLS is required by state law, associations should consult with legal counsel to determine if similar access should be provided to a CIE.

2. Q: May the CIE allow REITs and other property owners to participate in the CIE?

A: Whether a CIE wants to allow REITs and other unlicensed property owners to submit properties to the CIE is completely a local decision. Similarly, any other CIE privileges that are extended to these individuals (beyond the right to submit their properties for publication in the CIE) are a matter for local determination. CIEs are not precluded from publishing, at their discretion, properties submitted by unlicensed individuals or entities.

3. Q: Institute Affiliate (IA) members are not REALTORS® but belong to the National Association of REALTORS®. May they be allowed to participate in the CIE?

A: Whether participation in the CIE is available to Institute Affiliate (IA) members is completely a matter for local determination.

4. Q: Will participation by those who are not REALTORS® disqualify the CIE from NAR insurance coverage?

A: A decision by a local association to provide limited or full participatory privileges to any or all of the groups listed above or, alternatively, a decision by a local association that none of these individuals will have access to the CIE is consistent with NAR policy and does not jeopardize insurance coverage, unless criteria for determining eligibility for a particular class of Participants are not applied consistently.

Rules and regulations for implementing a CIE are found in the *Handbook on Multiple Listing Policy, Commercial/Industrial Supplement* (Eleventh Edition, 2002) which can be found online at <http://www.realtor.org/NCommSrc.nsf/pages/BenefitsServices>. All policy questions should be directed to the NAR *Board Policies and Programs* division at 312.329. 8339.

**EXHIBIT 2**  
**CIE BUSINESS CLIMATE ANALYSIS WORKSHEET**

Prepared By: \_\_\_\_\_ Date \_\_\_\_\_  
Company \_\_\_\_\_ Telephone \_\_\_\_\_  
E-Mail \_\_\_\_\_

**WHY DOES THE COMMERCIAL OVERLAY BOARD (COB) OR THE COMMERCIAL STRUCTURE (CS) WANT TO CREATE A COMMERCIAL INFORMATION EXCHANGE (CIE)?**

To increase the efficiency of selling, buying and leasing commercial real estate in its market area?

Yes \_\_\_\_\_ No \_\_\_\_\_

To increase membership and collaborative networking in its market area? Yes \_\_\_\_\_ No \_\_\_\_\_

To create a profit center that will in turn support other commercial services? Yes \_\_\_\_\_ No \_\_\_\_\_

To create an information system that will allow its members to take control of their data?

Yes \_\_\_\_\_ No \_\_\_\_\_

**LEVEL OF BROKER COOPERATION IN THE MARKETPLACE**

Are the commercial practitioners in the market willing to share information? Yes \_\_\_\_\_ No \_\_\_\_\_

What type(s) of information is shared?

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What level of cooperation exists in the market? Do brokers co-broker deals?

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Does the COB/CS have in reserves or can it raise the financial resources (\$20,000 to over \$250,000 depending on the CIE vendor selected) to implement a CIE? Yes \_\_\_\_\_ No \_\_\_\_\_

Is the desire to create a CIE being driven by the "grassroots" commercial practitioners? Yes \_\_\_\_\_ No \_\_\_\_\_



_____	_____
_____	_____
_____	_____
_____	_____

Are they respected commercial practitioners? Yes \_\_\_\_\_ No \_\_\_\_\_

Please list other influential commercial real estate practitioners that would be helpful for the CIE creation effort?

Volunteer	Company
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

How were the volunteers appointed to the CIE Development Committee?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Who makes the final decision to create a CIE?

\_\_\_\_\_

\_\_\_\_\_

**IDENTIFY POTENTIAL OBSTACLES**

Are there REALTOR dominant firm(s) in the market? Yes \_\_\_\_\_ No \_\_\_\_\_ If Yes, are they supportive of the CIE development effort?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FUNDING SOURCES**

Where will the start-up funding come from?

Funding Category	\$ Amount
COB/CS reserves	_____
COB/CS operating funds	_____
Member assessment	_____
Member pre-payment	_____
State/local economic development agencies	_____
Commercial real estate firms	_____
Utility companies	_____
Other sources	_____
Total start-up funding	=====

Page 5 of

Create preliminary investigation budget

Funding Category	\$ Amount
COB/CS staff time	_____
Survey/focus group expenses	_____
Legal fees	_____
Consulting fees	_____
Meeting expenses	_____
Other expenses	_____
Total preliminary expenses	=====

Has your COB/CS raised the funding for the initial investigation and CIE start-up expenses?    Yes \_\_\_\_\_ No \_\_\_\_\_

**CIE CREATION RECOMMENDATION**

Please take the time necessary to review and analyze the answers to this Worksheet. Based upon this analysis, please discuss the reasons for moving forward or postponing the development of a CIE in your market.

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**EXHIBIT 3**  
**FOCUS GROUP QUESTIONS**

Questions relating to market conditions and attitudes

1. Can your client gather commercial market information easily through means beyond your control or must the client rely on you and your firm? Do you think the availability of information will be more restricted in the next few years or will it become more accessible?
2. How do you conduct your market research now? What benefits does your source offer that helps you complete a commercial transaction or lease?
3. How would you rate the importance of establishing a CIE in the local market that would offer information on available properties and leases in the market as well as provide linkage to sources helpful to completing a commercial real estate transaction?
4. Do you find more value in sharing your information on the market with a select number of commercial agents? Do you find more value in sharing your market property information with as many other agents in the commercial brokerage community? With whom or what entities would you like to share or not share the information?
5. Do you think placing your sales information in a local database has more value than putting it into a national system? In other words, do you obtain more prospective buyers or sellers from outside the local market or within the local market?
6. Besides the commercial real estate consumer, who do you think would benefit from having a local CIE? Government agencies, economic development agencies, utilities, affiliates, and others.
7. How would you define the collaborative nature of the market place?
  - a) Most commercial firms and agents are willing to share information with other agents.
  - b) There is reluctance in the market to share information among agents.

**Questions relating to functionality**

1. How would you describe the perfect database system for the local market?
2. What is the best method to enter data into the system?
  - a) \_\_\_ Enter and make changes myself
  - b) \_\_\_ Have In-house staff enter and change data
  - c) \_\_\_ Have Association Staff enter and change data
  - d) \_\_\_ All the above
  - e) \_\_\_ None of the above
  - f) \_\_\_ Other, please be specific \_\_\_\_\_

3. Name (list) the commercial specialties that apply in the local market and would benefit from using a CIE:

- a) Investments sales,
- b) Office sales,
- c) Apartment sales,
- d) Retail sales,
- e) Industrial sales
- f) Office leasing
- g) Industrial leasing
- h) Industrial sales
- i) Retail leasing
- j) Retail sales
- k) Hotel sales
- l) Land, commercial and residential sales
- m) Property management
- n) Appraisal, commercial
- o) Sales and leaseback
- p) Development
- q) Farm and Ranch
- r) Other, please be specific \_\_\_\_\_

4. What features do you think are useful in completing a commercial transaction?

- a) Available properties for Sale
- b) Property search
- c) Broadcast Email
- d) Bulletin Board
- e) Catalogs ( list of available properties)
- f) Brochures ( quality information sheets )
- g) Comparable sold data
- h) Public Records also referred to as County Records
- i) Association Information
- j) Statistics, historical
- k) Vacancy Reports
- l) Other

5. When searching for available properties for sale, what fields do you think should be mandatory?

- a) Investment properties
- b) Leasing space
- c) User properties
- d) Others

6. How important would you rate the following features:

- a) Sold Comparables
- b) Virtual tour such as IPIX
- c) Aerial Photos

- d) Mapping
- e) Audio and Video Clips
- f) Floor Plans
- g) Site Plans
- h) Property Photos
- i) Other

7. What links would be beneficial?
- a) To national databases
  - b) Advertisements
  - c) Affiliates
  - d) Demographics
  - e) Broker web sites
  - f) Association member roster
  - g) Commercial media
  - h) Other

**EXHIBIT 4  
CIE PRODUCT DESCRIPTION**

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Features	System Cost	Database Ownership/ Markets Currently Served	Admin. Database/ Admin. Tech. Support/ Admin. Training/ Admin. Billing/ Admin. Member Input/	Revenue Sharing	Public View/ Data Export
1	<b>Catylist, powering CCIMNet</b> Richard Maxson VP Sales & Marketing 312- 321-4529 richard@catylist.com	CCIMNet is a commercial information exchange solution for the commercial real estate industry. The platform provides the exchange of information among national, regional, and local markets. Backed by the CCIM Institute.	1) Comprehensive marketing presentation tools assembled from 200+ fields of tailored property data, photos, 360-degree tours, site maps, street mapping and geo-coding, etc. Presentations may be delivered via print, Web, fax, and email. 2) Other features include: Property Profiler, Comps Profiler, Agent Profiler, data integrity mgmt, data tiering, and Members Administration Console.	1) Set-up fee varies. 2) \$24 per non-CCIM member per month; no montly minimum.	Users own their data Markets currently served: Mississippi, Chicago, Miami-Dade County, Northeast FL, Tampa, West Palm Beach, Colorado Springs.	Admin. Database - Yes Admin. Tech. Support - Yes Admin. Training - Yes Admin. Billing - Yes Admin. Member Input - Yes	Advertising revenue is shared.	Public view is available. Data export is available.
2	<b>Commercial Search</b> Kirk Holliman, President 303-791-9332 keh@indra.com	Commercial Search's business focus is on the creation and maintenance of local CIE systems.	1) Internet-based fully searchable property database housed on Commercial Search's high capacity redundant servers. 2) 3-part property records: general, current availability, transactional history, comprehensive Bldg. units tracking. 3) System based maps. 4) Customizable property catalogs, multiple brochure layouts. 5) Filtered Broadcast email. 6) 70 standard statistical reports updated daily in graph form. 7) Members can create personalized home pages linked to all properties. 8) Full function Bulletin board, visitors can post but not see. 9) Saved searches. 10) Members can download company info into standard data formats.	Std. system set-up fee \$7,000. Std. monthly fee \$9/member, min \$1500 some flexibility with smaller Associations. Additional services: initial inventory input, county records, image acquisition, admin support.	The local CIE owns its own local data, but any regional or national aggregator owns its own aggregation of data. Markets currently served: CA Desert Area, Denver, Ft. Collins, Baton Rouge, New Orleans, Shreveport, Maine, Northeast MA, New Hampshire, Las Vegas, Cincinnati, Tulsa, Portland, Southwest WA.	Admin. Database - Yes Admin. Tech. Support - Yes Admin. Training - Yes Admin. Billing - Yes Admin. Member Input - Yes	The Board sets up the fee to member and collects. Revenue opportunity to the Board is difference between vendor fee to Board and Board fee to members. Also, revenue possible for Board approved advertising, services directory listings, and cobranded public Websites.	Public view is available but members can choose not to place a property on the public site. Data export is available.

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Features	System Cost	Database Ownership/ Markets Currently Served	Admin. Database/ Tech. Support/ Admin. Training/ Admin. Billing/ Admin. Member Input/	Revenue Sharing	Public View/ Data Export
3	<b>ePropertyData</b> Robert Regan, Co-Founder 206-720-5590 regan@eproperty data.com	ePropertyData develops, as well as maintains, local CIE systems for associations of commercial practitioners. They provide a variety of database solutions for membership records and back office accounting. ePropertyData has developed applications for the largest commercial brokers associations in the country, as well as for the largest MLS.	1) Creates and maintains local CIE systems that offer functions such as search and display, saved searches, reporting, custom reporting tools, self-cleansing property records that maintain data quality, notification of new availables, highly targeted broadcast email, public records, and listing expiration notice to members. 2) Additional features offered include the ability to access the CIE over the cell phone, download ability for "Palm" and "Palm Phone" devices, and a custom commercial property "CMA" that interfaces with the CIE and the practitioner's own contact database.	1) System development fee is \$25-50,000. Individual user fee is \$12-20/month, with a minimum \$2,500/month. 2) The system development fee for smaller CIE's, who host on a divided server, is \$10-15,000. The individual user fee is the same.	The local CIE owns its own local data, but any regional or national aggregator owns its own aggregation of data. Markets currently served: Seattle, Houston, New Mexico.	Admin. Database - Yes Admin. Tech. Support - Yes Admin. Training - Yes Admin. Billing - Yes Admin. Member Input - Yes	The Board sets up the fee to members and collects. Revenue opportunity exists on any derivative product developed for local CIEs.	Develops applications for both private and public view, whichever the CIE wants. Data export is available.
4	<b>LoopNet</b> Jabez Boyd Sr. Mgr., Strategic Accounts 415-216-1600 jboyd@loopnet.com	Comprehensive commercial real estate site offering for sale and for lease office, industrial, and retail property listings, loan origination services, and marketing products/services.	1) LoopNet creates a members-only CIE based on the technologies in use at the LoopNet national site. 2) Features include: property database and information mgmt tools, automated agent technology, for sale and for lease search engine, online property brochures or e-brochures, saved listings, broker directory of local market professionals, visitors statistics counter on each available listing, qualified investors database - BuyerMatch, client reporting tools, administrative reporting tools, off-the-market/inventory property and comparables tracking, and controlled access listings	Monthly subscription fees per user. Cost varies by usage volume and customization, starting price is \$40/month/user. Initial setup fees vary with customization, but typically are around \$5,000.	Users own their data. LoopNet provides hosted web sites, data management, search engine, broker directory and public portal/search to over 100 local Boards and Organizations.	Admin. Database - Yes Admin. Tech. Support - Yes Admin. Training - Yes Admin. Billing - Yes Admin. Member Input - Yes	Revenue sharing programs available and determined on a case by case basis. Please contact LoopNet for a quote.	Public view available on the local CIE and via direct interaction with LoopNet.com. Data export is available.

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Features	System Cost	Database Ownership/ Markets Currently Served	Admin. Database/ Admin. Tech. Support/ Admin. Training/ Admin. Billing/ Admin. Member Input/	Revenue Sharing	Public View/ Data Export
5	<b>Xceligent</b> Douglas Curry, CEO 816- 303-5300 doug.curry@xceligent.com	Xceligent's business focus is on the creation and maintenance of local CIE systems. Xceligent also provides market research services.	1) Xceligent's local CIE product is very extensive in the data required and stored for each available property. 2) Features include: reporting options, saved search results, InfoUSA Tenant Data, file cabinet, notification of new availables, Xceligent in-house research cleans up redundancies, tracks non-member listings, maintains data quality and timeliness, and either builds or helps build the core data set 3) Xceligent creates a database of commercial property records and listings by driving each property, adding additional data sources, capturing original photos of each property and verifying each listing prior to launch. 4) To encourage timeliness of data, users are reminded to keep their listings current and are locked out of the system when they haven't updated their records after 30 days.	System set up fee is on a per building basis. Cost is billed to the users of local market. Monthly subscription fees for the property system are typically \$58.00 per month with typical levels of research.	Members of the exchange, who generate content, and the CIE share ownership rights to the data in the exchange, but any regional or national aggregator owns its own aggregations. Markets currently served: Kansas City, Atlanta, San Diego, Nashville, Milwaukee, Columbus, Minneapolis. Markets in progress: LA/Orange County, Indianapolis, Austin. Markets in progress: LA/Orange County, Indianapolis, Austin	Admin. Database - Yes Admin. Tech. Support - Yes Admin. Training - Yes Admin. Billing - Yes Admin. Member Input - Yes	Xceligent will share its revenues with the CIE on any derivative products made possible by the use of local market data as licensed for use by the CIE.	Public view is available but with limited details. Data export is available.

**EXHIBIT 5  
CIE OPERATIONAL ISSUES**

No.	Company Name	Ability to Customize?	How Long in Operation	Protection Against System or Vendor Failure	Who Collects Initial Data, Vendor or COB/CS?	Critical Mass Issues
1	<b>Catylist, powering CCIMNet</b>	Yes - Customization is available for the system except for basic "required" data that is common on all CCIMNET platforms. The CCIMNet platform may be customized to meet the unique needs of each local market in the following manners: 1) data from outside sources may be integrated, 2) additional "add-on" services, such as aerial photos and tax data, may be added in, 3) the Association may set the access privileges and decide who can join (Realtors vs. licensed practitioners vs. developers vs. FSBOs...), 4) the Association may brand the look and feel to match its organization, market area, 5) the CIE may be synchronized with the Association's member maintenance system	CCIMNET was launched at REALCOMM in June, 2002. CCIMNet 1.0 launched June, 2002. CCIMNet 2.0, which will include major functionality upgrades, will launch Fall 2002. 60 CCIM Chapter web sites will launch September 2002. Customized local and state CIEs will launch beginning October 1st.	Source code may be escrowed as a safeguard. Contracts offer an opt-out period.	There are currently several options for collecting data: 1) Catylist uploads existing property and tax data from local vendors, brokerage firms, appraisal firms, 2) Catylist works with a market research partner to gather and assemble data, removing the responsibility from the Association, 3) Catylist trains members of the Association to use digital photography equipment to take pictures and 360 movies. The Association purchases equipment from Catylist's hardware vendors at a discount, and rents it out to its members, 4) Catylist helps the Board staff the appropriate researcher	None, but Catylist focuses its efforts where it stands the greatest chance of adoption. Generally speaking, the firm enters market areas with an existing CCIM chapter. In addition, Catalyst is marketing its services to COBs/CSs regardless of the presence of a CCIM chapter.

No.	Company Name	Ability to Customize?	How Long in Operation	Protection Against System or Vendor Failure	Who Collects Initial Data, Vendor or COB/CS?	Critical Mass Issues
2	<b>Commercial Search</b>	The system can be customized to a degree, mandatory fields, field additions, reports, submarkets, expiration and withdrawal periods. The ASP model provides economies of scale and values keeping database structures similar to preclude programming nightmares. Commercial Search encourages new clients using the standard system to work with the system for a few months and then report needed changes. Typically there are very few if any. The firm is working on a new level of service that will be more focused on research, where more flexibility and customization will be possible. Commercial Search is continually making improvements to the overall system from input from its clients and will continue to do so.	Early 1995 and have made significant changes over this period.	From a technical standpoint, the firm operates with redundant servers continually backed up; each system has UPS back up in the 24/7 server farm where its servers reside. Commercial Search cannot be responsible for Internet failures but should its systems be at fault for extended periods of inaccessibility, the firm would provide adjustments to compensate. Copies of the full database, in standard formats, are always available. Should Commercial Search as a company fail, it provides in its contracts appropriate protections that correlate to the capacities of the Association which can include Limited software licensing agreements and security interests in the appropriate servers.	Commercial Search's standard contract at the \$9/month / member investment contemplates the Association populating the database. The firm has in some markets mapped an existing database to its system for the programming time involved. In addition, the firm has also purchased county record information and mapped it to its database to provide an initial inventory and continuing updates of transactions. On a negotiated basis, Commercial Search can work with the Association to acquire images and current availabilities.	The firm is currently serving a market with 50 members and one with 1600 plus. Receiving a minimum financial commitment for the COB/CS is more important than a minimum number of participants.

No.	Company Name	Ability to Customize?	How Long in Operation	Protection Against System or Vendor Failure	Who Collects Initial Data, Vendor or COB/CS?	Critical Mass Issues
3	<b>ePropertyData</b>	Yes. ePropertyData captures nearly 100 fields and allows clients to add, subtract, or customize fields. In addition, the "look and feel" (colors/fonts) is independent of the Application and can be easily modified.	The principals of ePropertyData have been developing systems for MLS's and CIE's since 1994.	In the event ePropertyData is unable to operate the Application because of material technical failure lasting more than 15 consecutive days, natural disaster destroying the company's facilities, the cessation of ePropertyData or demise of the key personnel of the company, ePropertyData will escrow the code and system documentation and the CIE will have the right to access the code in escrow.	Property data can be collected by CIE staff or EpropertyData will have the data collection subcontracted.	No
4	<b>LoopNet</b>	Yes. Search parameters, site design/lay out, and Member Directory all allow for certain levels of customization. In addition, clients feedback and suggestions are the main force behind system enhancements and changes.	6 Years	Yes, LoopNet is willing to provide the details of our system failure response plans to prospective clients. This plan includes details on Backup and Business Resumption, Security and Availability and Performance.	In addition to the market data already in the system, subsequent initial data can be entered into the system by members, the clients or in partnership with LoopNet professionals. LoopNet also accepts electronic listing files for both initial and ongoing data.	No

No.	Company Name	Ability to Customize?	How Long in Operation	Protection Against System or Vendor Failure	Who Collects Initial Data, Vendor or COB/CS?	Critical Mass Issues
5	<b>Xceligent</b>	Extensive customization available. Each market is provided its own solution. Market selects data fields, submarkets, and reports.	Since 1999	Copy of the data is provided to the CIE. If vendor fails, CIE will retain all market data.	Xceligent provides a team that comes into the market and surveys the market's inventory in 60 to 90 days. Pictures are also taken of every building.	Xceligent likes to see the major players in the market behind the CIE. Xceligent will work with major market players in order to achieve their buy-in for the CIE and will also directly market the system to Realtors when creating the CIE for a COB/CS..

**EXHIBIT 6  
NATIONAL DATA PROVIDERS**

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Operational Markets	Source of Listings	Property Types Listed	Fees for Listings	Types of Data Offered	Other Services Offered
1	<b>CCIMNet, powered by Catylist</b> Richard Maxson VP Sales & Marketing 312-321-4529 richard@catylist.com	CCIMNet is a commercial information exchange solution for the commercial real estate industry. The platform synergizes the exchange of information among national, regional, and local markets.	Open, national "hub" that is available in all markets across the country; international	1) 13,000 CCIM designees and candidates. 2) Local/state associations of REALTORS®. 3) CCIM chapters. 4) Brokerage firms. 5) Individual subscribers.	Office, retail, industrial, multi-family, vacant land, special purpose (e.g. hospitality, convenience, stores, restaurants, golf courses, marinas, etc.)	\$30 monthly per subscriber for access to national CCIMNet site (free for CCIM designees and candidates).	Active sale/lease data and sale/lease comparables.	Services include: 1) Marketing presentation tools assembled from 200+ fields of tailored property data, photos, 360-degree tours, site maps, street mapping, geo-coding, etc. May be delivered via print, Web, fax, and email. 2) Property Profiler 3) Comps Profiler 4) Agent Profiler 5) Data integrity management 6) Data tiering 7) Members Administration Console 8) Broker/Agent Websites
2	<b>Cityfeet.com</b> Guy Shannon, CEO 212-924-6450	Commercial real estate portal offering lease/sublease and sale listings of office, retail, and industrial spaces for small businesses looking in their local area. Cityfeet powers the commercial real estate portion of the following partner Websites: New York Times, Atlanta Journal-Constitution, Chicago Tribune, Boston.com, SignsonSanDiego.com, InsideBayArea.com, and GoMemphis.com.	Atlanta, Boston, Chicago, Los Angeles, Sacramento, Memphis, New York City, San Diego, and San Francisco. Coming soon are: Dallas, Denver, and Washington, D.C.	Members (1,000+ firms)	Lease and sales listings of office, retail, and industrial space. Listings are for local small businesses.	1) For lease listing is \$59/mo 2) For sale listing is \$99/mo 3) Firms with multiple listings are eligible for package discounts.	1) Listing data (space description, building description, parking description, broker comments, photos, floor plan, broker phone number, email link, home page link) 2) Glossary of industry terms.	1) HotProperty email blasts to 3,000 local commercial real estate professionals. 2) Leasing Advisor (enables prospective tenants to quickly identify a qualified leasing advisor to help them find the right space). 3) Space Watch (receive ongoing email updates on new listings that meet your search parameters). 4) Goods & Services (local directory of providers). 5) CityFeet Newsblast (provides a free weekly email of commercial real estate news in all local markets).

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Operational Markets	Source of Listings	Property Types Listed	Fees for Listings	Types of Data Offered	Other Services Offered
3	<b>CoStar Group</b> Andrew Florance, CEO 301-215-8300	General commercial real estate information provider offering comprehensive, verified building information on for-lease and for-sale listings; the industry's only verified comparable sales database; data on over 750,000 tenants; market statistics and news. CoStar is a public company.	Over 50 major U.S. metropolitan markets, including over 1,100 submarkets, are covered in CoStar's database of researcher-verified commercial real estate information.	CoStar collect information from over 1 million industry sources; field research staff supplements this data.	Apartment, commercial land, hotel/motel, industrial, industrial land, mobile home parks, office, residential land, retail, specialty.	No fees for listing. CoStar's products are by monthly subscription for unlimited access. For specific pricing information, contact a CoStar representative at either 1-877-COSTAR or info@costar.com.	Space availabilites, for-sale data, sale comparables, tenant database and digital images on a subscription basis. Local & national industry news, market statistics & trends data is available to the public at no cost.	Primary products are CoStar Property, CoStar COMPS, CoStar Tenant, CoStar Exchange, and CoStar Connect. Other services include: CoStar Office Market Reports, CoStar Marketplace Interactive Advertising, and CoStar ARES 2000 for ACT!
4	<b>LoopNet</b> Richard Boyle President & CEO 415-216-1600	Comprehensive commercial real estate site offering for sale and for lease office, industrial, and retail property listings, loan origination services, and marketing products/services.	North America and other international markets.	Licensed brokers.	General sale or lease commercial listings. Office, industrial, retail, multi-family, land, hospitality, agricultural, special purpose.	Basic Membership is free. Premium Membership is \$39.95/month for unlimited listings or \$75 for a single listing.	1) Listing Data (property and broker info) 2) Industry News (general, mortgage, REIT, pension) 3) Weekly Email News 4) Interest Rates and Mortgage Calculators 5) Property Mapping and Demographics 6) Buyer/Seller Matching Service 7) AppraiserLoop (market transaction information)	1) Broker/Agent Websites 2) PropertyAlert (automatic emails to interested site users for properties matching their search criteria) 3) PropertyPush (electronic property brochures) 4) LoopLink (adds broker/company website link and logo to property listings and provides fully integrated search engine and property descriptions within subscriber's website) 5) Co-Branded listings (adds owner logo to listings) 6) PDF Client Reporting Tools 7) Mapping/GIS Tools 8) AppraisalLoop 9) Mortgage Services (property financing through LoopLender) 10) 1031 Exchange Services

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Operational Markets	Source of Listings	Property Types Listed	Fees for Listings	Types of Data Offered	Other Services Offered
5	<b>MrOfficeSpace.com</b> Henry Robbins Executive Vice President 212-683-5700	Commercial real estate site focused on office space for lease. Site run by Yale Robbins, which is a real estate publisher in New York City and nine states throughout the Northeast, Mid-Atlantic and Midwest regions.	New York, Connecticut, Washington, D.C., Delaware, Massachusetts, Maryland, New Jersey, Ohio, Pennsylvania, and Virginia.	Researched by staff via field visits and phone calls to verify data.	Office space for lease.	Unknown, although there is a basic listing and service fee for add-ons (floor plans, broker Website links).	1) Listing data (exterior photo, building info, space info, office and retail tenant names, rental agent name and telephone number, property manager name, building owner name, floor plans, broker Website link) 2) Market statistics 3) Space calculator	1) Sell technology to allow brokers and sales people to display their space and floor plans on their Websites. 2) Building Watch (email alert sent when new space becomes available in specified buildings).
6	<b>Offices2Share.com</b> Jeffrey Landers, President 212-867-1888	Provides a "match making" listing service for those with short-term office space to rent (listors) and those who wish to rent ready-to-move-into offices with short-term/flexible leases (space seekers).	All 50 U.S. states.	Members: brokers, landlords, large tenants.	Short-Term Space: office space, executive suites, business/office centers, and medical space.	1) Listors must open an account in order to post listings. 2) Office & Medical Space: Listings are \$99/month 3) Brokers, Landlords, Large Tenants: For multiple listings, may be eligible for "Pay-for- Performance" (free listings, but payment of pre-negotiated fee) 4) Executive Suites/Office Business Center: "Pay-for- Performance" or \$999/year per location fee	Listing Data (space details, building description, photos, maps, contact info)	Resource Center (links to various businesses)

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Operational Markets	Source of Listings	Property Types Listed	Fees for Listings	Types of Data Offered	Other Services Offered
7	<b>OfficeSpace.com</b> John Suryan, President 425-957-7603	Commercial real estate site run by parent company Commercial Space Online, which is the main front door for 3 lease listing sites: OfficeSpace.com, IndustrialSpace.com, and RetailSpace.com.	Cincinnati, Columbus, Denver, Minneapolis/St. Paul, Portland, Seattle.	Research staff plus info input by landlords, property managers, and brokers.	Office, retail, and industrial space for lease. Land and for sale also.	Basic listings are free. Enhanced listings are \$199 to \$799/year, depending on size of property. \$995/year per office to add company logo to listing plus telephone number and Web link.	1) Listing data 2) Historical data 3) Up-to-date market vacancy and rental rates 4) Building Website directory	1) Broker/Agent Websites 2) CoolerEmail (build, send, and track emails with banners, images, and links). 3) Blueprint to CAD Conversion (partnered with firm)
8	<b>PeerMark</b> Holley Dargie, President 901-537-7431 holley@peermark.com	PeerMark is a commercial real estate market data provider that creates, maintains, and populates a private Website for local Associations containing researcher-driven data on available properties and overall market inventory.	Memphis and Nashville, Tennessee	Research staff acts as data aggregator itself	Office, industrial, retail.	Cost of system is \$2,000 per quarter per sector (office, industrial, retail). A firm with 20 brokers that subscribes to office will pay approximately \$33 per month per broker. PeerMark offers a wholesale discounted fee to the local associations.	Available properties and market inventory.	Services include: 1) Produce reports on the industrial, land, multifamily, office, retail and service sectors. 2) Customizable brochures and lists 3) Storage of documents 4) Create maps 5) Automatic reminders 6) Save searches 7) Contact mgmt tools 8) Create building and tenant notes

No.	Company Name/ Contact/ Phone/ Email/	Brief Description	Operational Markets	Source of Listings	Property Types Listed	Fees for Listings	Types of Data Offered	Other Services Offered
9	<b>StoreTrax</b> Thomas McCabe, CEO 301- 217-0100	Commercial real estate site focused on the retail space.	48 U.S. state - mainly Mid-Atlantic, Southern & Northern California, plus Chicago Metro Area.	Directly from landlords and brokers.	Retail space for lease.	1) Listing Fee for Retail Space: Fixed monthly fee (\$35-50) for each property listing 2) Transaction Fee for Retail Space: no monthly fee, pay fees only when deal is done. 3) Listing Fee for Surplus Space: Fixed monthly fee (\$15-50) for each property listing 4) One-time set up fee of \$35-50 per property	1) Listing data (basic property info; agent address, telephone info, and email link; tenant(s) info; site plan; demographics; mapping) 2) Industry links	1) Provide Web design services. 2) StoretraxLink (allows user to market properties on company Website & Storetrax) 3) Search Agent (submit your site criteria to receive property listings via email) 4) Client Extranet (update your properties listings with ease) 5) Super Search Agent (send your criteria to landlords in your expansion markets)

## EXHIBIT 7

### 2002 Handbook on Multiple Listing Policy

#### Part 9

### Organizational Structure of Multiple Listing Service to Protect Tax-Exempt Status of the Board of REALTORS®

#### Section 9.1

##### Background of Possible Tax Problem

Section 501 (c) (6) of the Internal Revenue Code provides for the exemption of nonprofit real estate Boards whose earnings do not inure to the benefit of any private shareholders or individuals. Pursuant to Section 1.501 (c) (6)-1 of the Income Tax Regulations, a real estate Board will not be entitled to an exemption unless it:

. . . is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. . . . Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self sustaining, is not a business league.

It should be noted that this regulation does not preclude a real estate Board from engaging in “a regular business of a kind ordinarily carried on for profit,” as long as such business does not constitute the primary purpose for the organization’s existence. In fact, the regulation strongly suggests that a real estate Board could engage in some business activities without loss of exemption by providing that “organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income.”

Thus, the purpose of this discussion is to consider whether real estate Boards operating Multiple Listing Services can qualify for a Section 501 (c) (6) exemption.

Discussion: This inquiry involves two separable questions:

1. Is the operation of an MLS ordinarily a not-for-profit activity?
2. Will the operation of a profitable MLS cause the real estate Board to forfeit its Section 501 (c) (6) exemption?

The position of the Internal Revenue Service with respect to the first of these questions is clear. Revenue Ruling 59-234, 1959-2 C.B. 149 holds that an MLS is a business ordinarily carried on for profit and inherently designed to render particular services to individual members. The Service reached this conclusion notwithstanding that the purpose of an MLS, generally, in the Service’s own words, is:

(a) to assist members of the board in rendering better service to the public by creating a broader and more active market for real estate; (b) to stimulate and facilitate the transaction of business between members of the board through cooperation and exchange of exclusive listings; (c) to provide a medium through which real estate may be merchandized more efficiently and expeditiously to the advantage of both buyer and seller; and (d) to encourage REALTORS® to uphold high standards of business practice and to further educate them in adhering to the principles of the REALTORS® Code of Ethics.

The Court of Claims, in *Evanston–North Shore Board of REALTORS® v. U.S.*, 162 Ct. Cl. 682, 320 F.2d 375 (1963), cert. den. 376 U.S. 931 (1964), followed Rev. Rule. 59-234 in denying exempt status to a real estate Board with a mandatory Multiple Listing Service. While the Court specifically found that Evanston–North

Shore's MLS was operated primarily for the benefit of its members, there is dictum which suggests that a real estate Board might escape the application of Rev. Rule. 59-234, given the right circumstances.

## **Section 9.2**

### **Avoiding a Tax Problem**

Assuming that a Multiple Listing Service is a business ordinarily carried on for profit, it does not follow that the operation of an MLS should cause a real estate Board to forfeit its Section 501 (c) (6) exemption. Arguably, the operation of an MLS qualifies as a business activity ancillary to the primary purpose of a real estate Board which, as required by Reg. Section 1.501 (c) (6)-1, is “. . . to promote (a) common interest and . . . (improve) business conditions . . . distinguished from the performance of particular services for individual persons,” rather than constituting the primary purpose for the Board's existence. Thus, if the primary purpose of a real estate Board is to improve business conditions as opposed to operating an MLS, the Board should be eligible for a Section 501 (c) (6) exemption.

The basic problem facing a real estate Board operating an MLS is demonstrating that the primary purpose for its existence is to conduct activities dedicated to the improvement of local business conditions (within the meaning of Reg. Section 1.501 (c) (6)-1) and that any other financial activities, including the MLS, are ancillary to such purpose.

## **Section 9.3**

### **Methods of Operation**

A summary of specific methods and procedures that should be followed and adequately documented by the Board is presented in the following paragraphs of this article.

#### Board Procedures Demonstrating Entitlement to Tax Exemption

##### 1. Board to Document Its Overall Program of Activity

The leadership of the Board should ensure that the “objects” of the Board, as set forth in the bylaws, establish a clear and articulate picture of what the Board is and what the purposes and objectives of the Board are considered to be. In addition to the description found in the bylaws of the Board, the leadership should ensure that it documents, in some further form, any and all participation by Board members in the programs, activities, and projects of the local Board, as well as those of the State Association and of the National Association.

##### 2. Multiple Listing Service to Be Operated as Incidental Activity of the Board

The leadership of the Board should ensure that it is clearly understood by all of the Board members, and particularly by those who participate in the Multiple Listing Service, that the Multiple Listing Service is owned and operated by the Board as just one of the many activities of the Board and is of an “incidental” nature rather than being of a predominant nature as an activity of the Board.

The articles of the bylaws of the Board of REALTORS® should clearly delineate the Multiple Listing Service as being a service of the Board, should describe whether it will be operated as a committee of the Board or as a wholly-owned subsidiary corporation with all of the stock owned by the Board of REALTORS®, and should indicate that any bylaws and/or rules and regulations of the MLS will be subject to “final approval” by the Board of Directors of the Board of REALTORS®. It is important that the authorizing article in the Board's Bylaws spell out all of the details clearly as to the Board's Multiple Listing Service, and it is recommended to Boards of REALTORS® that they adopt Article XVIII of the Model Bylaws recommended

to Member Boards by the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>. The adoption of this article will ensure the appropriate authorization and implementation of a Board MLS.

Whether the Multiple Listing Service should be operated as a committee of the Board or as a wholly-owned subsidiary, is a matter to be determined by the local Board with advice of its accountant and its Board legal counsel. In this connection, there are a variety of considerations which must be reviewed, including, of course, the differential in the tax rate applicable to unrelated business income of an association and the income of a for-profit corporation. Generally, it is recommended by the National Association that a Multiple Listing Service be operated as a committee of the Board and that all the necessary effort be made to ensure that the Board maintains its tax-exempt status. However, as indicated, it is necessary for the Board and its members to be completely aware of the special effort that must be made to maintain the proper perspective of the Multiple Listing Service as compared to overall Board activity. Generally speaking, the Board must be able to demonstrate that the annual budget of the MLS as compared to the overall annual budget of the Board of REALTORS<sup>®</sup> is less than 50% and preferably less than 30%. Lawrence B. Jerome, a former Chief of the Exempt Organizations Branch of the Internal Revenue Service, is now retired from the Internal Revenue Service, and served as a consultant to the National Association on tax matters. Mr. Jerome, in an article published in *The Executive Officer*, September, 1974, states, "The IRS has never published a position on how significant particular services must be to cause loss of exemption," but that he generally believed that, "fairly sound guidelines" are that loss of exemption is clearly indicated if the performance of particular services exceeds 50% of a Board's total activities. He further expressed an opinion that tax exemption for the Board is likely to be challenged and revocation of the tax exemption becomes a strong possibility if particular services (i.e., MLS) are more than 30% of a Board's activities, unless there are other issues or mitigating circumstances. Mr. Jerome warned that, "the foregoing guidelines can change drastically if the IRS modifies its interpretations or if the courts begin to take a harder or softer stand in this area." In summary, however, the "safest" position that a Board can take is to ensure that the "unrelated business income" represented by funds received from the MLS operation bears the smallest feasible percentage ratio to the overall budget of a Board as possible. This is the most convincing proof that a Multiple Listing Service is, in fact, just one of the many worthwhile activities of a Board of REALTORS<sup>®</sup>.

If, however, the Board concludes with advice of its accountant and Board legal counsel that it cannot sustain the necessary relationship of an incidental activity as a committee of the Board and still preserve its tax-exempt status as a Board, or if the tax consequences of such a relationship are seriously adverse, then it should consider the alternative method of operating the MLS as a wholly-owned subsidiary of the Board, with all stock of the subsidiary corporation owned by the Board of REALTORS<sup>®</sup> and with any bylaws and/or regulations subject to final approval by the Board of Directors of the Board. Operated as a wholly-owned subsidiary, the Multiple would maintain its own budget, separate and apart from the Board, and would pay taxes on any surplus accruing at the end of its fiscal year. The operation of the Multiple as a taxable, "for-profit" corporation would be similar in certain respects to the operation of a "nonprofit" corporation - for example, the Multiple could still accrue and maintain a "reasonable surplus" for continued operation in times of economic downswings or to maintain and improve the facilities required to operate the Multiple Listing Service.

It is specifically noted that the taxes are due and payable on any surplus of funds accruing to the MLS at the end of the fiscal year, irrespective of whether the Multiple Listing Service is operated as a committee of the Board or as a wholly-owned subsidiary. This is true because of the determination by IRS that a Multiple Listing Service is the type of business ordinarily carried on for profit and that it provides a particular service to the member Participants and, as such, the income derived is classified as "unrelated business income." Hence, it is emphasized that a Board must always pay tax on its MLS operation providing "unrelated business income" irrespective of how the MLS is "structured".

In either case, whether as a committee or as a wholly-owned subsidiary corporation, action should be taken by the Multiple Listing Service to ensure that it operates basically on a "break even" basis. Whenever a reasonable operating reserve has been accumulated, it is time to reduce income being generated by the MLS to a point close to "break even." The multiple listing policy of the National Association establishes that charges for multiple listing in a Board Service will approximate the cost incurred in providing the

Service to the member Participants. The MLS should not be a primary source of funding for a Board of REALTORS® at least while its membership is limited exclusively or primarily to Board Members. Reduction or elimination of service fees, listing fees, or subscription charges should be made as necessary to operate the MLS at or close to the desirable “break even” point.

### 3. Documentation of Staff Time Devoted to the Multiple Listing Service

The Board should be prepared to demonstrate the number of staff personnel whose time is utilized in the operation of the Multiple as opposed to the total number of staff involved in the overall operations of the Board. The records maintained to document this should also establish the type of personnel operating the Multiple. For example, the successful effort of one Board to maintain its tax-exempt status cited the fact that only three members of a staff of ten were assigned to full-time work with the Multiple Listing Service and that these personnel were “clerical” type employees. The remaining members of staff had only incidental duties related to MLS, and it was indicated that minimal duties of the Executive Vice President of the Board related to the operation of the Service. This served to clearly demonstrate that a major portion of the staff’s efforts were related to the overall operation of the Board and that the MLS operation required only approximately 30% of staff for its operation.

### 4. Value Analysis of Noncompensated Services of Members of the Board

The Board should prepare and maintain, as a continuing documentation, a comprehensive value analysis of the noncompensated time and service provided by Members of the Board to conduct the many and varied activities, programs, and projects of the Board. In any Board of REALTORS®, Board activities are primarily conducted through the efforts of Board Members donating many valuable hours of their time. To purchase such services as are donated by the Members of the Board of REALTORS® would be prohibitive for most Boards. These services represent value contributed by the Members and value received by the Board, and careful documentation can serve to establish the considerable monetary value of such activities. When the total monetary value is determined by calculation of the hours of such service provided and the establishment of a reasonable value for such services, this value can be added to the overall “gross income” of the Board, and if appropriately verified, should prove acceptable to the Internal Revenue Service should a challenge arise to the tax-exempt status of the Board. Appropriate forms for documenting this type of noncompensated time and service by Board Members are attached as Appendices D and E in Part 17 of this Handbook.

### 5. Committees of the Board

The Multiple Listing Committee (if MLS is operated as a committee of the Board) is only one of the many committees of the Board of REALTORS®. The Board should document and be prepared to demonstrate at any time the total number of committees and total number of Members serving on these committees. An appropriate listing of all of the committees of the Board, with attendant Statement of Organization and Procedure, will document that in addition to multiple listing, the Board provides a broad and myriad program of activity, including effective orientation programs, continuing educational programs to improve and elevate the professional status and competency of its members, community affairs programs, legislative action programs, professional standards and arbitration proceedings, equal opportunity programs, affirmative marketing programs, membership recruitment programs, and many other such activities. Similar comparative documentation can be made when the MLS is a wholly-owned subsidiary of the Board and is governed by a Board of Directors, subject to approval of the Board of Directors of the Board of REALTORS®.

### 6. Analysis of Agenda of Board of Directors

A ready source of authoritative documentation is available to any Board of REALTORS® to substantiate the fact that it has a broad spectrum of programs and activities, of which the Multiple Listing Service is only a part. This documentation source is the minutes of the Board of Directors of the Board. These minutes reflect the ongoing business of the Board, as discussed by the Directors, and the number of times any item appears in the minutes in ratio to the number of times other items are discussed, which reflects its proportionate importance. Therefore, in most cases, it can be readily shown that such minutes reflect the

discussion of many and varied items in overwhelming proportion to the times the Multiple Listing Service is discussed. In the documentation provided to the Internal Revenue Service by one Board of REALTORS<sup>®</sup>, an analysis of this type reflected that the MLS of the Board was discussed 31 times in a given period of time, whereas other items of Board activity were discussed 396 times. This served eloquently to reflect the fact that MLS was an incidental activity of the Board in a well-rounded program of activity.

#### 7. Time for Board Plan to Attain or Maintain Tax-Exempt Status

Now is the time. It has been demonstrated in several instances cited in the preceding paragraphs that careful and comprehensive documentation is essential and can be successful in obtaining and/or maintaining the tax-exempt status of a Board of REALTORS<sup>®</sup> operating a Multiple Listing Service. Compiling such records requires both planning and careful execution to ensure that they accurately demonstrate a true picture of the Multiple's position as an incidental activity of the Board. These records do not appear spontaneously. If your Board possesses tax-exempt status as a Board, or plans to apply for such exempt status in the future, the time to begin the essential record-keeping is now. It can be done and should be done on a continuing basis with advice of the Board's accountant and legal counsel.

Further questions or information concerning tax-exempt status of your Board should be directed to Board Policy and Programs of the National Association. Any successful effort by a Board to obtain or maintain tax-exempt status is welcomed by the National Association.

It is also recommended to Boards of REALTORS<sup>®</sup> having lost tax-exempt status at some point that every effort be made to regain such exempt status at the earliest possible time.

## EXHIBIT 8

### 2002 Handbook on Multiple Listing Policy Commercial/Industrial Supplement

#### Part 6

#### Board Bylaw Provisions Authorizing a Commercial Information Exchange as a Committee of the Board

(Adopted 11/88)

Article \_\_\_\_\_

Section 1—Authority: The Board of REALTORS® shall operate a Commercial Information Exchange for the use of its members, which shall be subject to the bylaws of the Board of REALTORS® and such rules and regulations as may be hereinafter adopted.

Section 2—Purpose: The CIE serves as an information exchange. Participants who have been retained by sellers of commercial or industrial property to market those properties may submit information on those properties to the CIE and Participants who have been retained by buyers of commercial or industrial property may submit information on the type(s) of property sought to the CIE. Any compensation agreements related to property included in the Exchange compilation must be made on an individual basis outside the CIE between the Participants involved.

A Commercial Information Exchange is not a Multiple Listing Service. No offers of cooperation and compensation are communicated by filing information on a property with the CIE. (Amended 4/92)

Section 3—Participation: Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as stipulated otherwise in these bylaws\*, shall be eligible to participate in the Commercial Information Exchange upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, no individual or firm, regardless of Board membership status, is eligible for CIE participation or membership status unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. Licensees affiliated with CIE Participants are not considered "participants" or "members" of the Exchange, but rather have access to and use of the Exchange information by virtue of their affiliation with the Exchange Participant. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Amended 11/97)

Optional Provision for Establishing Nonmember Participatory Rights ("Open Exchange")

A nonmember applicant for CIE participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the CIE rules and regulations and computer training related to CIE information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the CIE; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the CIE fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to CIE participation or membership unless they hold a current, valid real estate broker's license and are capable of offering and accepting compensation to and from other Participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board CIE is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by a Board CIE where access to such information is prohibited by law. (Amended 11/97)

*\*Optional qualifications which may be adopted at the local Board's discretion: Any applicant for CIE participation and any licensee (including licensed or certified appraisers) affiliated with a CIE Participant who has access to and use of the CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)*

*Boards are not required to establish prerequisites for CIE participation beyond holding REALTOR® (principal) membership in a Board. However, if the Board wishes to establish prerequisites for CIE Participation or access to the CIE-generated information, the requirement of attendance at an orientation program is the most rigorous prerequisite that may be required. (Amended 2/94)*

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the CIE rules and regulations and computer training related to CIE information entry and retrieval may be deleted from this Section at the option of each Board/Association. In states where law requires non-Board members be admitted to the CIE of a Board of REALTORS®, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association's Membership Qualification Criteria. However, in states where non-Board member access to the CIE is not a requirement of state law, Boards may, at their discretion, establish

additional qualifications for non-Board member participation and membership in the CIE.  
(Amended 11/96)

Note 2: Boards may also choose to have the Membership Committee consider the following when determining a nonmember applicant's qualifications for CIE participation or membership:

1. all final findings of Code of Ethics violations and violations of other membership duties in any other Association within the past three (3) years
2. pending ethics complaints (or hearings)
3. unsatisfied discipline pending
4. pending arbitration requests (or hearings)
5. unpaid arbitration awards or unpaid financial obligations to any other Association or Association CIE

Section 4—Supervision: The Exchange shall be operated under the supervision of the CIE Committee in accordance with the rules and regulations, subject to the approval of the Board of Directors of the Board of REALTORS®.

Section 5—Appointment of Committee: The President shall appoint, subject to confirmation by the Board of Directors, a Commercial Information Exchange Committee of \_\_\_\_\_ REALTOR® members. All members of the Committee shall be Participants in the Exchange except, at the option of the local Board, REALTORS® or REALTOR-ASSOCIATE®s licensed with Participants may be appointed to serve in such numbers as determined by the local Board. The Committee members so named shall serve staggered two (2) year terms.\* The Committee shall select its Chairperson from among the members thereof. (Optional provision: A Board may choose to have the appointment of the Chairperson made by the President of the Board of REALTORS®.)

Section 6—Vacancies: Vacancies and unexpired terms shall be filled as in the case of original appointments.

Section 7—Attendance: Any Committee member who fails to attend three (3) consecutive regular or special meetings of the Committee, without an excuse acceptable to the Chairperson of the Committee, shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

Section 8—Access to Comparable and Statistical Information: Board members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the Commercial Information Exchange, are nonetheless entitled to receive, by purchase or lease, all information other than current market catalogs that are generated wholly or in part by the CIE including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted,

retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the CIE rules and regulations. Board members who receive such information, either as a Board service or through the Board's CIE, are subject to the applicable provisions of the Exchange rules and regulations whether they participate in the CIE or not. Any Board member wishing to obtain such information must agree to abide by the applicable CIE rules and regulations regarding use of the information and must agree to pay the costs incidental to receiving the information.

*\*Boards have the option of establishing a longer or shorter term for service on the Committee and need not provide for staggered terms for Committee appointments.*

Section 9—Subscribers: Subscribers (or users) of the CIE include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. (Optional provision: Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of a CIE Participant or the Participant's licensed designee.) (Adopted 4/92)

## EXHIBIT 9

### **2002 Handbook on Multiple Listing Policy Commercial/Industrial Supplement Part 7**

#### **Suggested Rules and Regulations for a Commercial Information Exchange Operated as a Committee of a Board of REALTORS®**

(Adopted 11/88)

Membership in the Commercial Information Exchange: Any REALTOR® (principal) of this or any other Board is eligible to participate in the Exchange upon agreeing in writing to conform to these Exchange rules and regulations and to pay the Service fees and charges as specified in Section 4 of these rules.\* However, no individual or firm, regardless of Board membership status, is eligible for CIE participation or membership status unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. Brokers and salespeople other than principals are not "members" or "participants" of the Exchange but have access to and use of the Exchange through the Participant with whom they are affiliated. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Amended 4/98)

#### Optional Provision for Establishing Nonmember Participatory Rights ("Open Exchange")

A nonmember applicant for CIE participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the CIE rules and regulations and computer training related to CIE information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the CIE; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the CIE fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to CIE participation or membership unless they hold a current, valid real estate broker's license and are capable of offering and accepting compensation to and from other Participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board CIE is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. Further, none of the foregoing is intended to convey participation or membership or any right of access to

information developed by or published by a Board CIE where access to such information is prohibited by law. (Amended 11/97)

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the CIE rules and regulations and computer training related to CIE information entry and retrieval may be deleted from this Section at the option of each Board/Association. In states where law requires non-Board members be admitted to the CIE of a Board of REALTORS<sup>®</sup>, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association's Membership Qualification Criteria. However, in states where non-Board member access to the CIE is not a requirement of state law, Boards may, at their discretion, establish additional qualifications for non-Board member participation and membership in the CIE. (Amended 11/96)

*\*Optional qualifications which may be adopted at the local Board's discretion: Any applicant for CIE Participation and any licensee affiliated with a CIE Participant who has access to and use of the CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)*

*Boards are not required to establish prerequisites for CIE participation beyond holding REALTOR<sup>®</sup> (principal) membership in a Board. However, if the Board wishes to establish prerequisites for CIE participation or access to the CIE-generated information, the requirement of attendance at an orientation program is the most rigorous prerequisite that may be required. (Amended 2/94)*

Note 2: A Board may also choose to have the Membership Committee consider the following in determining a nonmember applicant's qualifications for CIE participation or membership:

1. all final findings of Code of Ethics violations and violations of other membership duties in any other Association within the past three (3) years
2. pending ethics complaints (or hearings)
3. unsatisfied discipline pending
4. pending arbitration requests (or hearings)
5. unpaid arbitration awards or unpaid financial obligations to any other Association or Association CIE

Responsibility for Conformance with Rules and Regulations: The Exchange Participant is responsible to the Exchange for compliance with the rules and regulations by all of the firm's licensees (including licensed or certified appraisers) who have access to and use of the CIE.

Access to Current Property Information: Only Participants and their affiliated licensees (including licensed or certified appraisers) may have access to and use of the current property information generated by the CIE.

## **Filing Procedures**

Note: In view of the fact that a Commercial Information Exchange is not a Multiple Listing Service, and no offers of cooperation or compensation can be extended through the Exchange, it is not essential that a Participant retained by a property owner to market the property have an exclusive right to sell, exclusive agency, or open listing. Other forms of agreement through which the Participant agrees to provide certain marketing services may be the basis for authorizing the submission of property information to the Exchange. Where the Participant is acting on behalf of a buyer, the Participant may submit information describing the type of property sought to the CIE even though the Participant may not be the buyer's exclusive agent. Where the Participant is acting on behalf of the seller or lessor, it is essential that there be a written agreement between the Participant and the seller or lessor authorizing the Participant to submit information on the property to the CIE. (Revised 4/92)

Section 1—Filing Procedures: Submission of any property information to the CIE is voluntary on the part of the Participant. Information on property for sale, lease, or exchange of the following types located within the territorial jurisdiction of the CIE may be submitted by Participants to the Commercial Information Exchange: (Revised 11/01)

- (a) subdivided vacant land
- (b) land and ranch
- (c) business opportunity
- (d) motel/hotel
- (e) mobile home parks
- (f) commercial income
- (g) industrial
- (h) investment
- (i) office space

(Additional categories of commercial, industrial, investment property may be added by the Exchange.)

While the Commercial Information Exchange does not require a Participant acting on behalf of a seller or lessor to utilize a particular listing contract or other form of agreement, the Exchange shall require use of a standardized property information sheet to submit information on properties for sale, lease, or exchange to the CIE. The Commercial Information Exchange does not require a Participant acting on behalf of a buyer to utilize a written buyer's agent agreement, but shall require use of a standardized property information sheet to submit information on properties sought to the CIE.

The Exchange accepts information on properties which are currently listed on an exclusive right to sell or lease basis, exclusive agency basis, or open listing basis as well as other forms of agreement that make it possible for the Participant to market the property. Any property information submitted on properties for sale, lease, or exchange must include the seller's written authorization for the Participant to submit information on the property to the CIE.

The Exchange will not publish information on properties taken on a net listing basis because such listings are considered unethical and, in most states, illegal.

Section 1.1—Filings Subject to Rules and Regulations of the Exchange: Any property information to be filed with the CIE is subject to the rules and regulations upon filing.

Section 1.2—Detail of Information Filed with the Exchange: Any property information sheet submitted to the Exchange should include a description of the type of property and the price, or a description of the property sought, or any pertinent information as determined by the CIE.

Section 1.3—Change of Status: Any change in price or other change in the terms of the information originally filed shall be submitted to the Exchange within seventy-two (72) hours (excepting weekends and holidays).

Section 1.4—Withdrawal of Filing Prior to Termination: Filings may be withdrawn from the Exchange by the filing Participant through the submission of a written withdrawal notice signed by the Participant.

Section 1.5—Specification of Price: The Participant, acting on behalf of a seller or lessor, shall specify the price at which the property is being marketed unless the property is subject to auction. (Amended 11/92)

Section 1.6—Multiple Unit Properties: Any property which is to be sold, leased, or exchanged, or which may be marketed separately must be so indicated on the property information sheet. When any part of a filed property has been sold, leased, or exchanged, the rules related to notifying the Exchange shall be observed.

Section 1.7—Publication of Information: Property information will be published in the Exchange's compilation for the period specified by the filing Participant (not to exceed ninety [90] days) upon payment of the required filing fee. The information will be withdrawn from the compilation on the date specified by the Participant or ninety (90) days after it is first published (whichever comes first) but may be extended for additional periods (not more than ninety [90] days) upon receipt of an extension notice and an additional filing fee from the Participant.

Section 1.8—Filings of Suspended, Expelled, or Resigned Participants: When a Participant is suspended, expelled, or voluntarily resigns from the Exchange, all property

information filings submitted by the Participant shall be removed from the compilation of current information by the Exchange.

## **Negotiations**

Section 2—Negotiations: The filing of information with the Exchange by a Participant acting on behalf of a seller or lessor does not, in and of itself, constitute an offer of cooperation. Any Participant, or licensee affiliated with a Participant, wishing to cooperate in the marketing of the property must contact the filing Participant to determine the type of cooperation offered, the compensation offered (if any) to Participants procuring a purchaser or lessee, and the terms and conditions upon which the property being offered may be shown. (Amended 4/92)

Any Participant, or licensee affiliated with a Participant, attempting to locate a property on behalf of a buyer must contact the Participant representing the seller/lessor to determine the terms and conditions of cooperation, the compensation offered (if any), and to arrange showings of prospective properties.

Section 2.1—Presentation of Offers: A filing Participant acting as the agent of a seller or lessor shall present all offers to the seller or lessor until closing unless precluded by law, government rule, regulation, or unless otherwise agreed in writing between the seller(s) or lessor(s) and filing Participant. Unless a subsequent offer is contingent upon the termination of an existing contract, the filing Participant shall recommend that the seller(s) or lessor(s) obtain the advice of legal counsel prior to accepting a subsequent offer.

Section 2.2—Right of Participant Producing Offer in Presentation of Offer: The Participant producing the offer or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase, lease, or exchange. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the filing Participant. However, if the seller or lessor gives written instructions to the filing Participant that the Participant producing the offer not be present when an offer the broker secured is presented, the Participant producing the offer has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the filing Participant's right to control the establishment of appointments for such presentations. (Amended 4/92)

Section 2.3—Right of Seller/Lessor Representative in Presentation of Counter-Offer: The Participant representing the seller or lessor, or his representative, has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the Participant representing the seller or lessor not be present when a counter-offer is presented, that broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93)

Section 2.4—Reporting Sales: Sales, leases, or exchanges shall be reported to the CIE by the Participant making the original information filing within seventy-two (72) hours (excluding weekends and holidays) of acceptance of a contract to purchase, lease, or exchange.

Note: The written agreement authorizing publication of information on properties for sale, lease, or exchange in the CIE should expressly grant the filing Participant authority to advertise; to file the information with the Exchange; to provide timely notice of status changes to the Exchange; and to provide contract information, including selling or rental price, to the Exchange upon sale of the property. If the CIE intends to publish contract information including selling or rental price, prior to closing, the agreement should expressly grant the filing Participant the right to authorize dissemination of this information through the CIE to other Participants and to others who have access, by virtue of their Board membership, to comparables, statistical reports, and other historical data developed or maintained by the Exchange.

Section 2.5—Reporting Cancelled Pending Sales: The Participant making the original filing shall report any cancelled sale, lease, or exchange to the Exchange within seventy-two (72) hours and the property information filing shall be reinstated in the compilation of current information.

### **Prohibitions**

Section 3—Information for Participants Only: Property information published through the Exchange may not be made available to any broker or firm not participating in the Exchange without the prior express consent of the filing Participant.

Section 3.1—“For Sale” Signs: Only the “For Sale” signs of the filing Participant may be placed on the property. (Revised 11/89)

Section 3.2—“Sold” Signs: Prior to closing, only the “Sold” sign of the Participant filing information on a property for sale may be placed on the property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. (Amended 4/96)

### **Fees and Charges**

Section 4—Service Fees and Charges: The following service fees and charges are subject to change from time to time in the manner prescribed:

(a) Initial Participation Fee: An applicant for Participation in the Exchange shall pay an initial participation fee of \$ \_\_\_\_\_ which shall accompany the application. The initial participation fee shall directly approximate the actual start-up costs incurred by the Exchange in initiating service to the office of a new Participant.

(b) Recurring Participation Fee: The recurring participation fee of each Participant shall be in an amount equal to \$\_\_\_\_\_ times each salesperson licensed (including licensed or certified appraisers) with the Participant or the Participant's firm who is engaged in the listing, sale, leasing, or appraising of C/I properties.

(b) (Alternate b) Recurring Participation Fee: The recurring participation fee of each Participant shall be \$\_\_\_\_\_, as determined by the CIE Committee.

(c) For filing information on a property or a renewal, a fee of \$\_\_\_\_\_ shall accompany the information when submitted.

(d) Subscription Fees: The Participant may purchase a copy of the compilation of current information for a subscription fee of \$\_\_\_\_\_. Additional copies of the compilation may be purchased for individuals licensed (including licensed or certified appraisers) with the Participant who are engaged in listing, selling, leasing, appraising, or locating C/I properties, provided, however, that the total number of extra copies of current information purchased shall not exceed the number of licensees and licensed or certified appraisers affiliated with the Participant's firm who are engaged in commercial/industrial activity.

Note 1: Participation in the Commercial Information Exchange is voluntary and submission of information to the Exchange is also on a voluntary basis. The Exchange may not require a Participant to purchase more than one copy of the current property information compilation.

Note 2: Any combination of the above fees and charges may be utilized to finance the operation of the Exchange.

Note 3: A Commercial Information Exchange that chooses to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of CIE information as "subscribers" may, at their discretion, amend Sections 4(b) and (d) as necessary to include such individuals in the computation of CIE fees and charges. (Adopted 4/92)

### **Compliance with Rules**

Section 5—Compliance with Rules: The following action may be taken for noncompliance with the rules:

(a) For failure to pay any service fee or charge within thirty (30) days of the date due, the Exchange shall suspend service until fees or charges are paid in full, provided that at least ten (10) days notice has been given.

(b) For failure to comply with any other rule, the provisions of Sections 7 and 7.1 shall apply.

Note: Generally, a warning or a moderate fine will be a sufficient deterrent to future violations of the rules and regulations. Suspension or termination is an extreme sanction to be used only in cases of extreme or repeated violation of the rules and regulations. If the CIE desires to establish a series of moderate, escalating fines, they should be clearly set forth in the rules and regulations.

Section 5.1—Applicability of Rules to Users and/or Subscribers: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the CIE are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of CIE information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users and subscribers affiliated with the Participant. (Adopted 4/92)

Note: Adoption of Section 5.1 is optional and it should be adopted by Commercial Information Exchanges wanting to establish authority to impose discipline on non-principal users or subscribers affiliated with CIE Members or Participants. (Adopted 4/92)

## **Meetings**

Section 6—Meetings of Commercial Information Exchange Committee: The Exchange Committee shall meet for the transaction of its business at a time and place to be determined by the Committee or at the call of the Chairperson.

Section 6.1—Meetings of Participants: The Committee may call meetings of the Participants in the Exchange.

Section 6.2—Conduct of Meetings: The Chairperson or Vice Chairperson shall preside at all meetings. In their absence, a temporary Chairperson from the membership of the Committee shall be named by the Chairperson or, upon his failure to do so, by the Committee.

## **Enforcement of Rules and Disputes**

Section 7—Consideration of Alleged Violations: The CIE Committee shall give consideration to all written complaints alleging violations of the rules and regulations. (Amended 2/98)

Section 7.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Exchange and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the CIE Committee, and if a violation is determined, the Committee may

direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board of REALTORS® within twenty (20) days following receipt of the Committee's decision. (Amended 11/96)

If, rather than conducting an administrative review, the Exchange Committee has a procedure established to conduct hearings, the decision of the Exchange Committee may be appealed to the Board of Directors of the Board of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®. (Amended 2/98)

Optional Provision for Establishing Nonmember Participatory Rights ("Open Exchange")

Section 7.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Exchange and does not involve a charge of alleged violation of one or more of the provisions of Section 14 of the rules and regulations or a request for arbitration, it may administratively be considered and determined by the CIE Committee of the Exchange and if a violation is determined, the CIE Committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Board in accordance with the bylaws of the Board of REALTORS®. (Amended 2/98)

If, rather than conducting an administrative review, the CIE Committee has a procedure established to conduct hearings, the decision of the hearing tribunal may be appealed to the Board of Directors of the Board of REALTORS®. Alleged violations of Section 14 of the rules and regulations shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board, except that if the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board. (Amended 2/98)

Section 7.2—Complaints of Unethical Conduct: All complaints of alleged unethical conduct shall be referred by the Exchange Committee to the Secretary of the Board of REALTORS® for appropriate action in accordance with the Board's professional standards procedures.

### **Confidentiality of Exchange Information**

Section 8—Confidentiality of Exchange Information: All information provided by the CIE to Participants shall be considered confidential and is provided exclusively for the use of Participants authorized and qualified to act as agents in the sale, lease, exchange, appraisal, or purchase of property filed with the Exchange and for the use of real estate licensees affiliated with such Participants and those Participants who are licensed or

certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

Section 8.1—Exchange Not Responsible for Information Submitted by Participants: The information published by the Exchange is communicated without change as filed by the Participants. The Exchange does not verify the information provided and disclaims any liability or responsibility for its accuracy. Each Participant agrees to hold the Exchange harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

Section 8.2—Access to Comparable and Statistical Information: Board members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the Exchange, are nonetheless entitled to receive, by purchase or lease, all information other than current market catalogs that are generated wholly or in part by the Exchange including “comparable” information, “sold” information, and other historical or statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise provided in these rules and regulations. Any Board member wishing to obtain such information must agree to abide by the applicable CIE rules and regulations regarding use of the information and must agree to pay the costs incidental to receiving the information.

### **Ownership of Exchange Compilation\* and Copyright**

Section 9—By submitting property information to the CIE, the Participant represents that he has been authorized to grant and also thereby does grant authority for the Board to include the property information in its copyrighted Exchange compilation and also in any comparable report, sold report, or other historical or statistical report unless expressly indicated otherwise in writing at the time the information is filed with the Exchange.

Section 9.1—All right, title, and interest in each copy of every Exchange compilation created and copyrighted by the \_\_\_\_\_ Board of REALTORS<sup>®</sup>, and in the copyrights therein, shall at all times remain vested in the \_\_\_\_\_ Board of REALTORS<sup>®</sup>.

Section 9.2—Each Participant shall be entitled to lease from the \_\_\_\_\_ Board of REALTORS<sup>®</sup> sufficient copies of each Exchange compilation sufficient to provide the Participant and each licensee affiliated with the Participant (including licensed or certified appraisers) engaged in commercial/industrial activity with one copy of such compilation. The Participant shall pay, for each copy requested, the rental fee set by the Board.\*\*

Participants shall acquire by such lease only the right to use the Exchange compilation in accordance with these rules.

## **Use of Copyrighted Exchange Compilation**

Section 10—Distribution: Participants shall at all times maintain control over, and responsibility for, each of the Exchange compilations leased to them by the Board of REALTORS<sup>®</sup>, and shall not distribute the compilation to anyone other than subscribers affiliated with the Participant. (Amended 4/92)

Section 10.1—Display: Participants, and licensees with affiliated Participants, shall be permitted to display the Exchange compilation to prospective sellers, lessors, and purchasers only in conjunction with their ordinary business activities of attempting to market properties or to identify suitable properties for buyers or lessees.

### **Option #1**

Section 10.2—Reproduction: Participants or their affiliated licensees shall not reproduce any Exchange compilation or any portion thereof, except in the following circumstances.

Participants and their affiliated licensees may reproduce from the Exchange compilation, and distribute to prospective sellers, lessors, and purchasers, a reasonable\*\*\* number of single copies of property information contained in the Exchange compilation.

*\*The term "Exchange compilation," as used in Sections 10 and 11 herein, shall be construed to include any format in which property data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer database, card file, or any other format whatever.*

*\*\*This section should not be construed to require the Participant to lease more than one copy of the Exchange compilation. The Participant retains the right to determine how many copies he will purchase for his firm, but may not purchase or lease more copies of the current information than the number of licenses (including licensed or certified appraisers) affiliated with his firm who are engaged in commercial/industrial activity.*

*\*\*\*It is intended that the Participant be permitted to provide buyers or lessees with information relating to properties which the buyer or lessee has an interest in, or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property information intended to facilitate the decision-making process in the consideration of a purchase, lease, or exchange. Factors which shall be considered in deciding whether the reproductions are reasonable in number, shall include, but are not limited to, the total number of filings in the compilation; how closely the filings reproduced relate to the purchaser(s) or lessee(s) expressed desires and ability to purchase or lease; whether the reproductions were made on a selective basis; and whether the type of properties are consistent with a normal itinerary of properties which would be shown to the prospective purchaser or lessee.*

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property information of properties other than that in which a buyer has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, or which is necessary to assist a seller or lessor in ascertaining a reasonable market price, does not appear on such reproduction.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Any information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current property information, sold information, comparable, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Commercial Information Exchange has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

## Option #2

Section 10.2—Reproduction: Participants or their affiliated licensees shall not reproduce any Exchange compilation or any portion thereof, except in the following limited circumstances.

Participants and their affiliated licensees may reproduce from the compilation, and distribute to prospective sellers, lessors, and purchasers, a reasonable\* number of single copies of property information contained in the Exchange compilation.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Any information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current property information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Commercial Information Exchange has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

*\*It is intended that the Participant be permitted to provide buyers or lessees with information relating to properties which the buyer or lessee has an interest in, or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property information intended to facilitate the decision-making process in the consideration of a purchase, lease, or exchange. Factors which shall be considered in deciding whether the reproductions are reasonable in number, shall include, but are not limited to, the total number of filings in the compilation; how closely the filings reproduced relate to the purchaser(s) or lessee(s) expressed desires and ability to purchase or lease; whether the reproductions were made on a selective basis; and whether the type of properties are consistent with a normal itinerary of properties which would be shown to the prospective purchaser or lessee.*

Option #3

Section 10.2—Reproduction: Participants or their affiliated licensees shall under no circumstances reproduce any Exchange compilation or any portion thereof.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Note: Concerning Section 10.2, Member Boards are advised to select one rule from the three (3) alternatives presented above as Options 1, 2, and 3, taking into consideration any recommendations or suggestions from the State Association as well as the needs and practices of the local Member Board.

### **Use of Exchange Information**

Section 11—Limitations on Use of Exchange Information: Use of information from the compilation of current property information, from the statistical report, or from any sold or comparable report of the Board or Exchange for public mass media advertising by a Participant or in other public representations, may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Board or the Exchange must clearly demonstrate the period of time over which claims are based and must include the following, or substantially similar, notice:

Based on information from the Board/Association of REALTORS<sup>®</sup> (alternatively, from the \_\_\_\_\_ CIE) for the period (date) through (date). (Amended 11/93)

### **Changes in Rules and Regulations**

Section 12—Changes in Rules and Regulations: Amendments to the rules and regulations of the Exchange shall be by a \_\_\_\_\_ vote of the Members of the Committee, subject to approval by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup>.

Note: Some Boards may prefer to change the rules and regulations by a vote of the Participants subject to approval by the Board of Directors of the Board of REALTORS<sup>®</sup>. If this is desired, the above rule should be amended accordingly.

Optional Provisions (Sections 13 and 14) for Establishing Nonmember Participatory Rights (“Open Exchange”)

### **Arbitration of Disputes**

Section 13—Arbitration of Disputes: By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with Exchange Participants in different firms arising out of their relationships as Exchange Participants subject to the following qualifications: (Amended 11/97)

(a) If all disputants are members of the same Board of REALTORS<sup>®</sup>, or have their principal place of business within the same Board’s territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS<sup>®</sup>.

(b) If the disputants are members of different Boards of REALTORS<sup>®</sup>, or if their principal place of business is located within the territorial jurisdiction of different Boards of REALTORS<sup>®</sup>, they remain obligated to arbitrate in accordance with the procedures of the (State Association) of REALTORS<sup>®</sup>.

Interboard Arbitration Procedures: Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS<sup>®</sup>. (Amended 11/98)

### **Standards of Conduct for Exchange Participants**

Section 14—Standards of Conduct for Exchange Participants:

Section 14.1—Exchange Participants shall not engage in any practice or take any action inconsistent with the agency or other exclusive relationship recognized by law that other Exchange Participants have with clients. (Amended 1/98)

Section 14.2—Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without the consent of the seller/landlord.

Section 14.3—Exchange Participants acting as subagents or as buyer/tenant agents or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/98)

Section 14.4—Exchange Participants shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the Exchange Participant, the broker refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the Exchange Participant may contact the owner to secure such information and may discuss the terms upon which the Exchange Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

Section 14.5—Exchange Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an Exchange Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the Exchange Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the Exchange Participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Amended 1/98)

Section 14.6—Exchange Participants shall not use information obtained from listing brokers through offers to cooperate made through the Commercial Information Exchange or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. (Amended 11/01)

Section 14.7—The fact that an agreement has been entered into with an Exchange Participant shall not preclude or inhibit any other Exchange Participant from entering into a similar agreement after the expiration of the prior agreement. (Amended 1/98)

Section 14.8—The fact that a client has retained an Exchange Participant as an agent or in another exclusive relationship in one or more past transactions does not preclude other Exchange Participants from seeking such former client's future business. (Amended 1/98)

Section 14.9—Exchange Participants are free to enter into contractual relationships or to negotiate with sellers/ landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. (Amended 1/98)

Section 14.10—When Exchange Participants are contacted by the client of another Exchange Participant regarding the creation of an exclusive relationship to provide the same type of service, and Exchange Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 1/98)

Section 14.11—In cooperative transactions, Exchange Participants shall compensate cooperating Exchange Participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other Exchange Participants without the prior express knowledge and consent of the cooperating broker.

Section 14.12—Exchange Participants are not precluded from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another Exchange Participant. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed “general” for purposes of this rule. (Amended 1/98)

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another Exchange Participant; and

Mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another Exchange Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information intended to foster cooperation with Exchange Participants.

Section 14.13—Exchange Participants, prior to entering into an agency agreement or other exclusive relationship, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 1/98)

Section 14.14—Exchange Participants, acting as agents of, or in another relationship with, buyers or tenants, shall disclose that relationship to the seller/landlord’s agent or broker at first contact and shall provide written confirmation of that disclosure to the

seller/landlord's agent or broker not later than execution of a purchase agreement or lease. (Amended 1/98)

Section 14.15—On unlisted property, Exchange Participants acting as buyer/tenant agents or brokers shall disclose that relationship to the seller/landlord at first contact for that client and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 1/98)

Exchange Participants shall make any request for anticipated compensation from the seller/landlord at first contact.

Section 14.16—Exchange Participants, acting as agents or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. (Amended 1/98)

Section 14.17—Exchange Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage). However, information received through a CIE may not be used to target clients of other Exchange Participants to whom such offers to provide services may be made.

Section 14.18—Exchange Participants, acting as subagents or buyer/tenant agents or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents or brokers, nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/98)

Section 14.19—All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's agent or broker, and not with the client, except with the consent of the client's agent or broker or except where such dealings are initiated by the client. (Amended 1/98)

Section 14.20—Participants, users, and subscribers, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 1/98)

Section 14.21—These rules are not intended to prohibit ethical albeit aggressive or innovative business practices, and do not prohibit disagreements with other Exchange Participants involving commission, fees, compensation or other forms of payment or expenses.

Section 14.22—Exchange Participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

### **Orientation**

Section 15—Orientation: Any applicant for Exchange Participation and any licensee affiliated with an Exchange Participant who has access to and use of CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)

## EXHIBIT 10

### 2002 Handbook on Multiple Listing Policy Commercial/Industrial Supplement

#### Part 8

#### Board Bylaw Provisions Authorizing a Commercial Information Exchange as a Wholly-Owned Subsidiary Corporation of the Board

(Adopted 11/88)

Article \_\_\_\_\_

Section 1—Authority: The Board of REALTORS<sup>®</sup> shall maintain for the use of its members a Commercial Information Exchange (CIE) which shall be a lawful corporation of the state of \_\_\_\_\_, all the stock of which shall be owned by this Board of REALTORS<sup>®</sup>.

Section 2—Purpose: The CIE serves as an information exchange. Participants who have been retained by sellers of commercial or industrial property to market those properties may submit information on those properties to the CIE and Participants who have been retained by buyers of commercial or industrial property may submit information on the type(s) of property sought to the CIE. Any compensation agreements related to property included in the Exchange compilation must be made on an individual basis outside the CIE between the Participants involved.

A Commercial Information Exchange is not a Multiple Listing Service. No offers of cooperation and compensation are communicated by filing information on a property with the CIE. (Amended 4/92)

Section 3—Governing Documents: The Board of Directors shall cause any Commercial Information Exchange established by it pursuant to this Article to conform its corporate charter, constitution, bylaws, rules, regulations, policies, practices, and procedures at all times to the Constitution, Bylaws, rules, regulations, and policies of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>.

Section 4—Participation: Any REALTOR<sup>®</sup> of this or any other Board who is a principal, partner, corporate officer, or branch manager acting on behalf of a principal, without further qualification, except as stipulated otherwise in these bylaws\*, shall be eligible to participate in the Commercial Information Exchange upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, no individual or firm, regardless of Board membership status, is eligible for CIE participation or membership status unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. Licensees affiliated with CIE Participants are not considered "participants" or "members" of the Exchange, but rather have access to and use of the Exchange information by virtue of their affiliation with the Exchange Participant. None of the foregoing is intended to preclude a CIE from

providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Amended 11/97)

#### Optional Provision for Establishing Nonmember Participatory Rights (“Open Exchange”)

A nonmember applicant for CIE participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the CIE rules and regulations and computer training related to CIE information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the CIE; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the CIE fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to CIE participation or membership unless they hold a current, valid real estate broker’s license and are capable of offering and accepting compensation to and from other Participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board CIE is strictly limited to the activities authorized under a Participant’s licensure(s) or certification and unauthorized uses are prohibited. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by a Board CIE where access to such information is prohibited by law. (Amended 11/97)

*\*Optional qualifications which may be adopted at the local Board’s discretion: Any applicant for CIE participation and any licensee (including licensed or certified appraisers) affiliated with a CIE Participant who has access to and use of the CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)*

*Boards are not required to establish prerequisites for CIE participation beyond holding REALTOR (principal) membership in a Board. However, if the Board wishes to establish prerequisites for CIE participation or access to CIE-generated information, the requirement of attendance at an orientation program is the most rigorous prerequisite that may be required. (Amended 2/94)*

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the CIE rules and regulations and computer training related to CIE information entry and retrieval may be deleted from this Section at the option of each

Board/Association. In states where law requires non-Board members be admitted to the CIE of a Board of REALTORS<sup>®</sup>, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association's Membership Qualification Criteria. However, in states where non-Board member access to the CIE is not a requirement of state law, Boards may, at their discretion, establish additional qualifications for non-Board member participation and membership in the CIE. (Amended 11/96)

Note 2: A Board may also choose to have the Membership Committee consider the following when determining a nonmember applicant's qualifications for CIE participation or membership:

1. all final findings of Code of Ethics violations and violations of other membership duties in any other Association within the past three (3) years
2. pending ethics complaints (or hearings)
3. unsatisfied discipline pending
4. pending arbitration requests (or hearings)
5. unpaid arbitration awards or unpaid financial obligations to any other Association or Association CIE

Section 5—Access to Comparable and Statistical Information: Board members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the Exchange are nonetheless entitled to receive, by purchase or lease, all information other than current listing information that is generated wholly or in part by the Exchange including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the CIE rules and regulations. Board members who receive such information, either as a Board service or through the Board's CIE, are subject to the applicable provisions of the CIE rules and regulations whether they participate in the CIE or not. Any Board member wishing to obtain such information must agree to abide by the applicable CIE rules and regulations regarding use of the information and must agree to pay the costs incidental to receiving the information.

Section 6—Subscribers: Subscribers (or users) of the CIE include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. (Optional provision: Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of a CIE Participant or the Participant's licensed designee.) (Adopted 4/92)

Section 7—Removal of Officers and Directors: In the event that an Officer or Director of the Commercial Information Exchange is deemed to be incapable of fulfilling the duties

for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure:

(a) A petition requiring the removal of an Officer or Director and signed by not less than one-third of the Participants or a majority of all Directors of the CIE shall be filed with the President of the CIE, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service.

(b) Upon receipt of the petition, and not less than twenty (20) days or more than forty-five (45) days thereafter, a special meeting of the Participants of the CIE shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director, and to render a decision on such petition.

(c) The special meeting shall be noticed to all Participants at least ten (10) days prior to the meeting, and shall be conducted by the President of the CIE unless the President's continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the meeting or the hearing by the Participants. Provided a quorum is present, a three-fourths vote of Participants present and voting shall be required for removal from office.

(d) Any vote taken by the Participants to remove an Officer or Director must ultimately be confirmed by a majority vote of the Directors of the shareholder(s). Notwithstanding the foregoing, the shareholder(s) may remove an Officer or Director by a majority vote of the Directors of the shareholder(s). (Adopted 11/96)

## EXHIBIT 11

### **2002 Handbook on Multiple Listing Policy Commercial/Industrial Supplement Part 9**

#### **Suggested Model Bylaws for a Commercial Information Exchange Separately Incorporated but Wholly-Owned by a Board of REALTORS®\* (Adopted 11/88)**

##### **Article 1: Name**

The name of this organization shall be the Commercial Information Exchange of the \_\_\_\_\_ Board of REALTORS®, Inc., hereinafter referred to as the Exchange or CIE, all the shares of stock which are solely and wholly-owned by the Board of REALTORS®.

##### **Article 2: Purposes**

The CIE serves as an information exchange. Participants who have been retained by sellers of commercial or industrial property to market those properties may submit information on those properties to the Exchange and Participants who have been retained by buyers of commercial or industrial property may submit information on the type(s) of property sought to the Exchange. Any compensation agreements related to property included in the Exchange compilation must be made on an individual basis outside the Exchange between the Participants involved.

A Commercial Information Exchange is not a Multiple Listing Service. No offers of cooperation and compensation are communicated through filing information on a property with the CIE. (Amended 4/92)

##### **Article 3: Service Area**

The area within which the Exchange shall function shall at all times be coextensive with or within the territorial jurisdiction of the \_\_\_\_\_ Board of REALTORS®.

##### **Article 4: Participation**

A—Participation Defined: Any REALTOR® of this or any other Board who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in the Exchange upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.\*\* However, no individual or firm, regardless of Board membership status, is eligible for CIE “participation” or “membership” status unless they hold a current, valid real estate broker’s license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. The REALTOR® principal of any firm, partnership, corporation,

or the branch office manager designated by said firm, partnership, or corporation as the “Participant” shall have all rights, benefits, and privileges of the Exchange, and shall accept all obligations to the Exchange for the Participant’s firm, partnership, or corporation, and for compliance with the bylaws and rules and regulations of the Exchange by all persons affiliated with the Participant who utilize the Exchange. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Amended 4/98)

*\*The Suggested Model Bylaws for a Commercial Information Exchange separately incorporated but wholly-owned by a Board of REALTORS® should not be adopted without review and consultation with Board legal counsel to ensure that they comply with applicable state law pertaining to corporations within the state, or are appropriately modified to comply with the law.*

*\*\*Optional qualifications may be adopted at the local Board’s discretion: Any applicant for Exchange participation and any licensee (including licensed or certified appraisers) affiliated with an Exchange Participant who has access to and use the CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the Exchange rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)*

*Boards are not required to establish prerequisites for CIE Participation beyond holding REALTOR (principal) membership in a Board. However, if the Board wishes to establish prerequisites for Exchange Participation or access to Exchange-generated information, the requirement of attendance at an orientation program is the most rigorous prerequisite that may be required. (Amended 2/94)*

#### Optional Provision for Establishing Nonmember Participatory Rights (“Open Exchange”)

A1—Nonmember Participation Defined: Participation in the Exchange is also available to nonmember principals who meet the qualifications established in the Board’s bylaws and CIE rules and regulations. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Commercial Information Exchange “participation” or “membership” unless they hold a current, valid real estate broker’s license and are capable of accepting and offering compensation to and from other Participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board CIE is strictly limited to the activities authorized under a Participant’s licensure(s) or certification and unauthorized uses are prohibited. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. Further, none of the foregoing is intended to convey “participation” or “membership” or any right of access to

information developed by or published by a Board CIE where access to such information is prohibited by law. The nonmember principal of any firm, partnership, corporation, or the branch office manager designated by said firm, partnership, or corporation as the "Participant" shall have only those rights, benefits, and privileges as specified by the Exchange, and shall accept all obligations to the Exchange for the Participant's firm, partnership, or corporation, and for compliance with the bylaws and rules and regulations of the Exchange by all persons affiliated with the Participant who utilize the Exchange. (Amended 4/98)

B—Application for Participation: Application for participation shall be made in such manner and form as may be prescribed by the Board of Directors of the Exchange and made available to any REALTOR<sup>®</sup> (principal) of this or any other Board requesting it. The application form shall contain a signed statement agreeing to abide by these bylaws and any other applicable rules and regulations of the Exchange as from time to time adopted or amended. (Amended 2/94)

C—Discontinuance of Exchange: Participants of the Exchange may discontinue the Exchange by giving the Exchange \_\_\_\_\_ days' written notice and may reapply to the Exchange after \_\_\_\_\_ months by making formal application in the manner prescribed for new applicants for participation provided all past dues and fees are fully paid.

D—Subscribers: Subscribers (or users) of the CIE include nonprincipal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. (Optional provision: Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of a CIE Participant or the Participant's licensed designee.) (Adopted 4/92)

## **Article 5: Service Charges**

The charges made for participation in the Exchange shall be as determined, and as amended from time to time by the Board of Directors of the Exchange, and specified in the rules and regulations of the Exchange.

## **Article 6: Governing Body**

A—Government of the Exchange: The government of the Exchange shall be vested in a Commercial Information Exchange Board of Directors comprised of the elected Officers and Directors nominated and elected as described in this Article.

B—Officers of the Exchange: The Officers of the Exchange, who shall also be Directors, shall be a President, a Vice President, and a Secretary-Treasurer, and shall have such duties as described in this Article.

C—Board of Directors of the Exchange: There shall be a total of \_\_\_\_\_ elected Directors, including the President, Vice President, and Secretary-Treasurer of the Exchange, to be elected from among the Participants of the Exchange, except that not more than \_\_\_\_\_ Directors may be elected from among REALTORS® other than Participants or from REALTOR-ASSOCIATE®s who are affiliated with Participants and serve with consent of the Participants as representatives of the Participants with whom they are affiliated. In addition to the elected Directors, the current President of the \_\_\_\_\_ Board of REALTORS® or a person appointed by the President, and the Immediate Past President of the Exchange shall serve as Directors, ex-officio, with full voting privileges.

D—Nomination and Election of Officers and Directors: The Officers and Directors of the Exchange shall be nominated by a vote of the Participants in the Exchange in accordance with the provisions of Article 7, Meetings, of these bylaws and as set forth below.

1. Nominating Committee: The President of the Exchange shall appoint a Nominating Committee each year which Committee shall be comprised of \_\_\_\_\_ Participants of the Exchange. The appointment of the Nominating Committee shall be made by such a date as to enable the Committee to meet and select a proposed slate of Officers and Directors of the Exchange not more than \_\_\_\_\_, nor less than \_\_\_\_\_, days prior to the date of the meeting of the Participants of the Exchange at which nominees shall be selected by vote of the Participants. The proposed slate of Officers and Directors shall be reported to the President and Secretary of the Exchange.

2. Notice of Proposed Nominees: The President shall cause a list of the proposed nominees selected by the Nominating Committee to be forwarded to the Participants of the Exchange, setting forth the time, place, and other pertinent conditions of the meeting to select the final list of nominees by vote of the Participants of the Exchange. The notice to the Participants of the Exchange concerning the meeting to select nominees for Officers and Directors shall be mailed on a date at least \_\_\_\_\_ days prior to the proposed meeting.

3. Rights of Participants to Select Additional Nominees: The names of additional proposed nominees may be added to the list selected by the Nominating Committee by a petition submitted to the Secretary of the Exchange by \_\_\_\_\_% of the Participants of the Exchange, with said petition received not less than \_\_\_\_\_ days prior to the date of the meeting of the Participants to select nominees for Officers and Directors. The names contained in such petition, if duly received and certified, shall be presented in writing to the Participants at the meeting to select nominees as additional nominees for consideration for such office as specified in the petition. In addition, nominations may be made from the floor at the duly noticed meeting of the Participants to select nominees for Officers and Directors and, if seconded, shall be added to the list of proposed nominees.

4. Voting by Written Secret Ballot: Voting for selection of nominees, if other than on a motion to cast a unanimous vote for the original proposed slate shall be by secret ballot,

and said ballot shall contain blank spaces for writing in additional names proposed by petition or from the floor at the meeting to select nominees.

5. Vote to Select Nominees: Voting shall be in accordance with provisions of Article \_\_\_\_\_ of these bylaws.

6. Nominees Submitted to Shareholder for Election: When nominees for Officers and Directors of the Exchange for the forthcoming fiscal year have been selected by vote of the Participants of the Exchange, such nominees shall be submitted to the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder) for election. Upon election by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder), the individuals so elected shall be considered Officers-Elect and Directors-Elect and shall assume their respective offices on (date office is effective).

The term of office for Officers and Directors of the Exchange shall be on a calendar year basis. In the event one (1) or more nominee(s) is/are not elected by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder), and upon notice of such failure of election, the President of the Exchange shall select a proposed Participant or Participants, as required, subject to confirmation by the Board of Directors, for submission as nominee(s) to the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder) to be considered for election to fill the vacancy or vacancies existing.

In the event that nominees are not duly and timely provided by the Exchange to the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup>, as provided in these bylaws, then the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> shall exercise rights as sole and exclusive shareholder to elect a Participant or Participants of the Exchange to fill an existing vacancy or vacancies as Officers or Directors of the Exchange.

E—Term of Office: The Officers shall serve for a one-year term. The elected Directors shall serve for staggered three-year terms with one-third of the terms expiring each year. Officers and Directors shall take office upon the effective date of their offices and shall continue until their successors are elected, qualified, and installed. No Officer or Director shall be nominated and elected to the same office for more than two (2) consecutive terms.

F—Duties of Officers and Directors: The duties of the Officers and Directors follow.

1. The President shall be the chief executive officer of the Exchange and shall preside at its meetings and those of the Board of Directors, and shall perform all the duties of the President subject to declared policies and, as required, subject to confirmation of the Board of Directors.

2. The Vice President shall, in the absence of the President, perform all of the duties of the President.

3. The Secretary-Treasurer shall be the custodian of the funds of the Exchange and shall keep an accurate record of all receipts and disbursements. The Secretary-Treasurer shall provide to all members of the Board of Directors a quarterly statement of all accounts and financial affairs for the Exchange, and shall have charge of the corporate seal and affix the name to all documents properly requiring such seal.

4. The Board of Directors of the Exchange shall be the governing body of the Exchange and shall have control of all affairs of the Exchange and shall authorize all expenditures of funds. The Exchange Board of Directors shall, prior to the end of each fiscal year, prepare a budget reflecting projected costs and expenses of the Exchange for the next fiscal year, indicating projected income from all sources. The budget shall be submitted to the Participants of the Exchange for approval on a date not less than \_\_\_\_\_ days prior to the first day of the next fiscal year. The Exchange Board of Directors shall not incur an obligation in excess of \$ \_\_\_\_\_ over the total budget without the authorization by vote of a two-thirds majority of REALTOR® Participants of the Exchange present and voting unless such excess is the result of an increase in the volume of listings processed by the Exchange over that projected in preparing the annual budget. The Exchange Board of Directors shall employ such executive, legal, and office personnel it deems necessary to care for and maintain the properties of the Exchange and otherwise conduct the administrative business of the Exchange. The Exchange Board of Directors shall have the right to make an audit of all books and accounts at any time without notice. The Exchange Board of Directors shall have the power from time-to-time to adopt such rules and regulations that they may deem appropriate subject to final approval of the Board of Directors of the \_\_\_\_\_ Board of REALTORS® (shareholder). Except as otherwise provided in these bylaws and rules and regulations, the action of the Exchange Board of Directors shall be final.

G—Removal of Officers and Directors: In the event that an Officer or Director of the Commercial Information Exchange is deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure. (Adopted 11/96)

1. A petition requiring the removal of an Officer or Director and signed by not less than one-third of the Participants or a majority of all Directors of the CIE shall be filed with the President of the CIE, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service. (Adopted 11/96)

2. Upon receipt of the petition, and not less than twenty (20) days or more than forty-five (45) days thereafter, a special meeting of the Participants of the CIE shall be held, and the sole business of the meeting shall be to consider the charge against the Officer or Director, and to render a decision on such petition. (Adopted 11/96)

3. The special meeting shall be noticed to all Participants at least ten (10) days prior to the meeting, and shall be conducted by the President of the CIE unless the President's

continued service in office is being considered at the meeting. In such case, the next-ranking officer will conduct the meeting or the hearing by the Participants. Provided a quorum is present, a three-fourths vote of Participants present and voting shall be required for removal from office. (Adopted 11/96)

4. Any vote taken by the Participants to remove an Officer or Director must ultimately be confirmed by a majority vote of the Directors of the shareholder(s). Notwithstanding the foregoing, the shareholder(s) may remove an Officer or Director by a majority vote of the Directors of the shareholder(s). (Adopted 11/96)

## **Article 7: Meetings**

A—Annual Meeting: The annual meeting of Participants of the Exchange shall be held during the month of \_\_\_\_\_ at the time and place specified by the Exchange Board of Directors.

B—Special Meetings of the Exchange: Special meetings of Participants of the Exchange may be called from time to time by the President, the Exchange Board of Directors, or by \_\_\_\_\_% of the Participants of the Exchange. Written notice stating the day, place, and hour of the meeting, the purpose or purposes for which the meeting is called, shall be delivered to all REALTORS<sup>®</sup> who are Participants in the Exchange not less than \_\_\_\_\_ days prior to said meeting.

C—Quorum and Voting at Meetings of the Exchange: For the transaction of business, \_\_\_\_\_% of the Participants of the Exchange shall be considered a quorum. A majority vote by such Participants present and voting at a meeting attended by a quorum shall be required for passage of motions.

D—Meeting of the Board of Directors of the Exchange: The Board of Directors may meet at any time it deems advisable on the call of the President or any \_\_\_\_\_ Members of the Board of Directors. \_\_\_\_\_ Directors shall constitute a quorum. A majority vote by the Directors present and voting at a meeting attended by a quorum shall be required for passage of motions.

E—Presiding Officer: At all meetings of the Participants of the Exchange, or of the Exchange Board of Directors, the President or, in the absence of the President, the Vice President shall serve as presiding officer. In the absence of the President and Vice President, the President shall name a temporary Chairperson or, upon the President's failure to do so, the Board of Directors of the Exchange shall appoint a temporary Chairperson.

## **Article 8: Committees**

The President, with the approval of the Exchange Board of Directors, shall create such standing or ad hoc Committees as the President deems desirable and shall appoint their members. Each Committee shall consist of not less than \_\_\_\_\_ Participants in the

Exchange, but may also include REALTORS<sup>®</sup> or REALTOR-ASSOCIATE<sup>®</sup>s, employed by or affiliated as independent contractors with REALTOR<sup>®</sup> Participants serving as representatives of said REALTOR<sup>®</sup> Participants and with their consent, and who may serve either as a Chairperson or member of a Committee.

#### **Article 9: Fiscal Year**

The fiscal year of the Exchange shall commence on \_\_\_\_\_ and shall end on \_\_\_\_\_.

#### **Article 10: Amendments**

A—Amendments to Bylaws: Amendments to these Bylaws shall be by the Participants of the Exchange, and shall be determined at an Annual Meeting or Special Meeting of the Exchange in accordance with the provisions of Article \_\_\_\_\_ concerning Meetings of the Exchange. Amendments to the Bylaws of the Exchange approved by the Participants shall further be subject to approval of the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder).

When amendments to the Bylaws of the Exchange have been approved by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder), said amendments shall be effective immediately or as stated in the amending resolution.

If the proposed amendments to the Bylaws of the Exchange fail approval of the Board of Directors of shareholder, the Board of Directors of the Exchange shall be informed, and advised that the proposed amendment or amendments to the bylaws must be further considered and resubmitted to the shareholder as approved by the Participants of the Exchange.

B—Amendments to Rules and Regulations: Amendments to the rules and regulations of the Exchange shall be by consideration and approval of the Board of Directors of the Exchange in accordance with the provisions of Article \_\_\_\_\_, Section \_\_\_\_\_, concerning meetings of the Board of Directors, subject to final approval by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder).

When approved by the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder) as described, the amendments to the rules and regulations of the Exchange shall be effective immediately or as stated in the amending resolution.

If the proposed amendments of the Exchange rules and regulations fail approval by the Board of Directors of the shareholder, the Board of Directors of the Exchange shall be informed, and advised that the proposed amendment or amendments must be further considered and resubmitted as approved by the Board of Directors of the Exchange to the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder).

#### **Article 11: Dissolution**

In the event this Exchange shall at any time terminate its activities, the Board of Directors of the Exchange shall consider and adopt a plan of liquidation and dissolution with the approval of the Participants thereof and of the Board of Directors of the \_\_\_\_\_ Board of REALTORS<sup>®</sup> (shareholder). Said plan shall provide for the collection of all assets, the payment of all liabilities, and that the remaining portions thereof to be assigned to the parent corporation, namely, \_\_\_\_\_ Board of REALTORS<sup>®</sup>.

## EXHIBIT 12

### **2002 Handbook on Multiple Listing Policy Commercial/Industrial Supplement**

#### **Part 10**

#### **Suggested Rules and Regulations for a Commercial Information Exchange Separately Incorporated but Wholly-Owned by a Board of REALTORS<sup>®</sup>**

(Adopted 11/88)

Membership in the Commercial Information Exchange: Any REALTOR<sup>®</sup> (principal) of this or any other Board is eligible to participate in the Exchange upon agreeing in writing to conform to these Exchange rules and regulations and to pay the Service fees and charges as specified in Section 4 of these rules.\* However, no individual or firm, regardless of Board membership status, is eligible for CIE participation or membership status unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. Brokers and salespeople other than principals are not "members" or "participants" of the Exchange but have access to and use of the Exchange through the Participant with whom they are affiliated. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. (Amended 4/98)

#### **Optional Provision for Establishing Nonmember Participatory Rights ("Open Exchange")**

A nonmember applicant for CIE participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the Membership Committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the CIE rules and regulations and computer training related to CIE information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the CIE; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the CIE fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to CIE participation or membership unless they hold a current, valid real estate broker's license and are capable of offering and accepting compensation to and from other Participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Use of information developed by or published by a Board CIE is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. None of the foregoing is intended to preclude a CIE from providing, as a matter of local determination, access to information from CIE compilations to affiliate members of Boards or to others engaged in recognized fields of real estate practice or in related fields. Further, none of the foregoing is intended to convey participation or membership or any right of access to

information developed by or published by a Board CIE where access to such information is prohibited by law. (Amended 11/97)

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the CIE rules and regulations and computer training related to CIE information entry and retrieval may be deleted from this Section at the option of each Board/Association. In states where law requires non-Board members be admitted to the CIE of a Board of REALTORS<sup>®</sup>, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association's Membership Qualification Criteria. However, in states where non-Board member access to the CIE is not a requirement of state law, Boards may, at their discretion, establish additional qualifications for non-Board member participation and membership in the CIE. (Amended 11/96)

*\*Optional qualifications which may be adopted at the local Board's discretion: Any applicant for CIE participation and any licensee affiliated with a CIE Participant who has access to and use of the CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)*

*Boards are not required to establish prerequisites for CIE participation beyond holding REALTOR<sup>®</sup> (principal) membership in a Board. However, if the Board wishes to establish prerequisites for CIE participation or access to the CIE-generated information, the requirement of attendance at an orientation program is the most rigorous prerequisite that may be required. (Amended 2/94)*

Note 2: A Board may also choose to have the Membership Committee consider the following in determining a nonmember applicant's qualifications for CIE participation or membership:

1. all final findings of Code of Ethics violations and violations of other membership duties in any other Association within the past three (3) years
2. pending ethics complaints (or hearings)
3. unsatisfied discipline pending
4. pending arbitration requests (or hearings)
5. unpaid arbitration awards or unpaid financial obligations to any other Association or Association CIE

Responsibility for Conformance with Rules and Regulations: The Exchange Participant is responsible to the Exchange for compliance with the rules and regulations by all of the firm's licensees (including licensed or certified appraisers) who have access to and use of the CIE.

Access to Current Property Information: Only Participants and their affiliated licensees (including licensed or certified appraisers) may have access to and use of the current property information generated by the CIE.

## **Filing Procedures**

Note: In view of the fact that a Commercial Information Exchange is not a Multiple Listing Service, and no offers of cooperation or compensation can be extended through the Exchange, it is not essential that a Participant retained by a property owner to market the property have an exclusive right to sell, exclusive agency, or open listing. Other forms of agreement through which the Participant agrees to provide certain marketing services may be the basis for authorizing the submission of property information to the Exchange. Where the Participant is acting on behalf of a buyer, the Participant may submit information describing the type of property sought to the CIE even though the Participant may not be the buyer's exclusive agent. Where the Participant is acting on behalf of the seller or lessor, it is essential that there be a written agreement between the Participant and the seller or lessor authorizing the Participant to submit information on the property to the CIE. (Revised 4/92)

Section 1—Filing Procedures: Submission of any property information to the CIE is voluntary on the part of the Participant. Information on property for sale, lease, or exchange of the following types located within the territorial jurisdiction of the CIE may be submitted by Participants to the Commercial Information Exchange: (Revised 11/01)

- (a) subdivided vacant land
- (b) land and ranch
- (c) business opportunity
- (d) motel/hotel
- (e) mobile home parks
- (f) commercial income
- (g) industrial
- (h) investment
- (i) office space

(Additional categories of commercial, industrial, investment property may be added by the Exchange.)

While the Commercial Information Exchange does not require a Participant acting on behalf of a seller or lessor to utilize a particular listing contract or other form of agreement, the Exchange shall require use of a standardized property information sheet to submit information on properties for sale, lease, or exchange to the CIE. The Commercial Information Exchange does not require a Participant acting on behalf of a buyer to utilize a written buyer's agent agreement, but shall require use of a standardized property information sheet to submit information on properties sought to the CIE.

The Exchange accepts information on properties which are currently listed on an exclusive right to sell or lease basis, exclusive agency basis, or open listing basis as well as other forms of agreement that make it possible for the Participant to market the property. Any property information submitted on properties for sale, lease, or exchange must include the seller's written authorization for the Participant to submit information on the property to the CIE.

The Exchange will not publish information on properties taken on a net listing basis because such listings are considered unethical and, in most states, illegal.

Section 1.1—Filings Subject to Rules and Regulations of the Exchange: Any property information to be filed with the CIE is subject to the rules and regulations upon filing.

Section 1.2—Detail of Information Filed with the Exchange: Any property information sheet submitted to the Exchange should include a description of the type of property and the price, or a description of the property sought, or any pertinent information as determined by the CIE.

Section 1.3—Change of Status: Any change in price or other change in the terms of the information originally filed shall be submitted to the Exchange within seventy-two (72) hours (excepting weekends and holidays).

Section 1.4—Withdrawal of Filing Prior to Termination: Filings may be withdrawn from the Exchange by the filing Participant through the submission of a written withdrawal notice signed by the Participant.

Section 1.5—Specification of Price: The Participant, acting on behalf of a seller or lessor, shall specify the price at which the property is being marketed unless the property is subject to auction. (Amended 11/92)

Section 1.6—Multiple Unit Properties: Any property which is to be sold, leased, or exchanged, or which may be marketed separately must be so indicated on the property information sheet. When any part of a filed property has been sold, leased, or exchanged, the rules related to notifying the Exchange shall be observed.

Section 1.7—Publication of Information: Property information will be published in the Exchange's compilation for the period specified by the filing Participant (not to exceed ninety [90] days) upon payment of the required filing fee. The information will be withdrawn from the compilation on the date specified by the Participant or ninety (90) days after it is first published (whichever comes first) but may be extended for additional periods (not more than ninety [90] days) upon receipt of an extension notice and an additional filing fee from the Participant.

Section 1.8—Filings of Suspended, Expelled, or Resigned Participants: When a Participant is suspended, expelled, or voluntarily resigns from the Exchange, all property

information filings submitted by the Participant shall be removed from the compilation of current information by the Exchange.

## **Negotiations**

Section 2—Negotiations: The filing of information with the Exchange by a Participant acting on behalf of a seller or lessor does not, in and of itself, constitute an offer of cooperation. Any Participant, or licensee affiliated with a Participant, wishing to cooperate in the marketing of the property must contact the filing Participant to determine the type of cooperation offered, the compensation offered (if any) to Participants procuring a purchaser or lessee, and the terms and conditions upon which the property being offered may be shown. (Amended 4/92)

Any Participant, or licensee affiliated with a Participant, attempting to locate a property on behalf of a buyer must contact the Participant representing the seller/lessor to determine the terms and conditions of cooperation, the compensation offered (if any), and to arrange showings of prospective properties.

Section 2.1—Presentation of Offers: A filing Participant acting as the agent of a seller or lessor shall present all offers to the seller or lessor until closing unless precluded by law, government rule, regulation, or unless otherwise agreed in writing between the seller(s) or lessor(s) and filing Participant. Unless a subsequent offer is contingent upon the termination of an existing contract, the filing Participant shall recommend that the seller(s) or lessor(s) obtain the advice of legal counsel prior to accepting a subsequent offer.

Section 2.2—Right of Participant Producing Offer in Presentation of Offer: The Participant producing the offer or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase, lease, or exchange. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the filing Participant. However, if the seller or lessor gives written instructions to the filing Participant that the Participant producing the offer not be present when an offer the broker secured is presented, the Participant producing the offer has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the filing Participant's right to control the establishment of appointments for such presentations. (Amended 4/92)

Section 2.3—Right of Seller/Lessor Representative in Presentation of Counter-Offer: The Participant representing the seller or lessor, or his representative, has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except where the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the Participant representing the seller or lessor not be present when a counter-offer is presented, that broker has the right to a copy of the purchaser's or lessee's written instructions. (Adopted 11/93)

Section 2.4—Reporting Sales: Sales, leases, or exchanges shall be reported to the CIE by the Participant making the original information filing within seventy-two (72) hours (excluding weekends and holidays) of acceptance of a contract to purchase, lease, or exchange.

Note: The written agreement authorizing publication of information on properties for sale, lease, or exchange in the CIE should expressly grant the filing Participant authority to advertise; to file the information with the Exchange; to provide timely notice of status changes to the Exchange; and to provide contract information, including selling or rental price, to the Exchange upon sale of the property. If the CIE intends to publish contract information including selling or rental price, prior to closing, the agreement should expressly grant the filing Participant the right to authorize dissemination of this information through the CIE to other Participants and to others who have access, by virtue of their Board membership, to comparables, statistical reports, and other historical data developed or maintained by the Exchange.

Section 2.5—Reporting Cancelled Pending Sales: The Participant making the original filing shall report any cancelled sale, lease, or exchange to the Exchange within seventy-two (72) hours and the property information filing shall be reinstated in the compilation of current information.

### **Prohibitions**

Section 3—Information for Participants Only: Property information published through the Exchange may not be made available to any broker or firm not participating in the Exchange without the prior express consent of the filing Participant.

Section 3.1—“For Sale” Signs: Only the “For Sale” signs of the filing Participant may be placed on a property. (Revised 11/89)

Section 3.2—“Sold” Signs: Prior to closing, only the “Sold” sign of the Participant filing information on a property for sale may be placed on the property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. (Amended 4/96)

### **Fees and Charges**

Section 4—Service Fees and Charges: The following service fees and charges are subject to change from time to time in the manner prescribed:

(a) Initial Participation Fee: An applicant for Participation in the Exchange shall pay an initial participation fee of \$\_\_\_\_\_ which shall accompany the application. The initial participation fee shall directly approximate the actual start-up costs incurred by the Exchange in initiating service to the office of a new Participant.

(b) Recurring Participation Fee: The recurring participation fee of each Participant shall be in an amount equal to \$ \_\_\_\_\_ times each salesperson licensed (including licensed or certified appraisers) with the Participant or the Participant's firm who is engaged in the listing, sale, leasing, or appraising of C/I properties.

(b) (Alternate b) Recurring Participation Fee: The recurring participation fee of each Participant shall be \$ \_\_\_\_\_, as determined by the Exchange Board of Directors.

(c) For filing information on a property or a renewal, a fee of \$ \_\_\_\_\_ shall accompany the information when submitted.

(d) Subscription Fees: The Participant may purchase a copy of the compilation of current information for a subscription fee of \$ \_\_\_\_\_. Additional copies of the compilation may be purchased for individuals licensed (including licensed or certified appraisers) with the Participant who are engaged in listing, selling, leasing, appraising, or locating C/I properties, provided, however, that the total number of extra copies of current information purchased shall not exceed the number of licensees and licensed or certified appraisers affiliated with the Participant's firm who are engaged in commercial/industrial activity.

Note 1: Participation in the Commercial Information Exchange is voluntary and submission of information to the Exchange is also on a voluntary basis. The Exchange may not require a Participant to purchase more than one copy of the current property information compilation.

Note 2: Any combination of the above fees and charges may be utilized to finance the operation of the Exchange.

Note 3: A Commercial Information Exchange that chooses to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of CIE information as "subscribers" may, at their discretion, amend Sections 4(b) and (d) as necessary to include such individuals in the computation of CIE fees and charges. (Adopted 4/92)

### **Compliance with Rules**

Section 5—Compliance with Rules: The following action may be taken for noncompliance with the rules:

(a) For failure to pay any service fee or charge within thirty (30) days of the date due, the Exchange shall suspend service until fees or charges are paid in full, provided that at least ten (10) days notice has been given.

(b) For failure to comply with any other rule, the provisions of Sections 7 and 7.1 shall apply.

Note: Generally, a warning or a moderate fine will be a sufficient deterrent to future violations of the rules and regulations. Suspension or termination is an extreme sanction to be used only in cases of extreme or repeated violation of the rules and regulations. If the CIE desires to establish a series of moderate, escalating fines, they should be clearly set forth in the rules and regulations.

Section 5.1—Applicability of Rules to Users and/or Subscribers: Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the CIE are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or subscriber has signed an agreement acknowledging that access to and use of CIE information is contingent on compliance with the rules and regulations. Further, failure of any user or subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users and subscribers affiliated with the Participant. (Adopted 4/92)

Note: Adoption of Section 5.1 is optional and it should be adopted by Commercial Information Exchanges wanting to establish authority to impose discipline on non-principal users or subscribers affiliated with CIE Members or Participants. (Adopted 4/92)

## **Meetings**

Section 6—Meetings: The meetings of Participants in the Exchange or the Board of Directors of the Exchange for transaction of business of the Exchange shall be held in accordance with the provisions of Article 7, bylaws of the Exchange.

## **Enforcement of Rules and Disputes**

Section 7—Consideration of Alleged Violations: The Exchange Board of Directors shall give consideration to all written complaints alleging violations of the rules and regulations. (Amended 2/98)

Section 7.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Exchange and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the Board of Directors of the Exchange, and if a violation is determined, the Board of Directors may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the Professional Standards Committee of the Board in accordance with the bylaws and rules and regulations of the Board of REALTORS<sup>®</sup> within twenty (20) days following receipt of the Directors' decision. (Amended 11/96)

If, rather than conducting an administrative review, the CIE has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to

the Board of Directors of the CIE within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the Professional Standards Committee of the Board of REALTORS® for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®. (Amended 2/98)

#### Optional Provision for Establishing Nonmember Participatory Rights (“Open Exchange”)

Section 7.1—Violations of Rules and Regulations: If the alleged offense is a violation of the rules and regulations of the Exchange and does not involve a charge of alleged violation of one or more of the provisions of Section 14 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the Board of Directors of the CIE, and if a violation is determined, the CIE Board of Directors may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the Professional Standards Committee of the Board in accordance with the bylaws of the Board of REALTORS®. Alleged violations of Section 14 of the rules and regulations shall be referred to the Board's Grievance Committee for processing in accordance with the professional standards procedures of the Board/Association. (Amended 2/98)

If, rather than conducting an administrative review, the CIE has a procedure established to conduct hearings, any appeal of the decision of the hearing tribunal may be appealed to the Board of Directors of the CIE within twenty (20) days of the tribunal's decision. Alleged violations involving unethical conduct shall be referred to the Professional Standards Committee of the Board of REALTORS® for processing in accordance with the professional standards procedures of the Board. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the Board of Directors of the Board of REALTORS®. (Amended 2/98)

Section 7.2—Complaints of Unethical Conduct: All complaints of alleged unethical conduct shall be referred by the Exchange Board of Directors to the Secretary of the Board of REALTORS® for appropriate action in accordance with the Board's professional standards procedures.

#### **Confidentiality of Exchange Information**

Section 8—Confidentiality of Exchange Information: All information provided by the CIE to Participants shall be considered confidential and is provided exclusively for the use of Participants authorized and qualified to act as agents in the sale, lease, exchange, appraisal, or purchase of property filed with the Exchange and for the use of real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants.

Section 8.1—Exchange Not Responsible for Information Submitted by Participants: The information published by the Exchange is communicated without change as filed by the Participants. The Exchange does not verify the information provided and disclaims any liability or responsibility for its accuracy. Each Participant agrees to hold the Exchange harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides.

Section 8.2—Access to Comparable and Statistical Information: Board members who are actively engaged in real estate brokerage, management, mortgage financing, appraising, land development, or building, but who do not participate in the Exchange, are nonetheless entitled to receive, by purchase or lease, all information other than current market catalogs that are generated wholly or in part by the Exchange including “comparable” information, “sold” information, and other historical or statistical reports. This information is provided for the exclusive use of Board members and individuals affiliated with Board members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise provided in these rules and regulations. Any Board member wishing to obtain such information must agree to abide by the applicable CIE rules and regulations regarding use of the information and must agree to pay the costs incidental to receiving the information.

### **Ownership of Exchange Compilation\* and Copyright**

Section 9—By submitting property information to the CIE, the Participant represents that he has been authorized to grant and also thereby does grant authority for the Board to include the property information in its copyrighted Exchange compilation and also in any comparable report, sold report, or other historical or statistical report unless expressly indicated otherwise in writing at the time the information is filed with the Exchange.

Section 9.1—All right, title, and interest in each copy of every Exchange compilation created and copyrighted by the \_\_\_\_\_ Board of REALTORS<sup>®</sup>, and in the copyrights therein, shall at all times remain vested in the \_\_\_\_\_ Board of REALTORS<sup>®</sup>.

Section 9.2—Each Participant shall be entitled to lease from the \_\_\_\_\_ Board of REALTORS<sup>®</sup> sufficient copies of each Exchange compilation sufficient to provide the Participant and each licensee affiliated with the Participant (including licensed or certified appraisers) engaged in commercial/industrial activity with one copy of such compilation. The Participant shall pay, for each copy requested, the rental fee set by the Board.\*\*

Participants shall acquire by such lease only the right to use the Exchange compilation in accordance with these rules.

### **Use of Copyrighted Exchange Compilation**

Section 10—Distribution: Participants shall at all times maintain control over, and responsibility for, each of the Exchange compilations leased to them by the Board of REALTORS<sup>®</sup>, and shall not distribute the compilation to anyone other than subscribers affiliated with the Participant. (Amended 4/92)

Section 10.1—Display: Participants, and licensees with affiliated Participants, shall be permitted to display the Exchange compilation to prospective sellers, lessors, and purchasers only in conjunction with their ordinary business activities of attempting to market properties or to identify suitable properties for buyers or lessees.

#### Option #1

Section 10.2—Reproduction: Participants or their affiliated licensees shall not reproduce any Exchange compilation or any portion thereof, except in the following circumstances.

Participants and their affiliated licensees may reproduce from the Exchange compilation, and distribute to prospective sellers, lessors, and purchasers, a reasonable\*\*\* number of single copies of property information contained in the Exchange compilation.

*\*The term "Exchange compilation," as used in Sections 10 and 11 herein, shall be construed to include any format in which property data is collected and disseminated to the Participants, including, but not limited to, bound book, loose-leaf binder, computer database, card file, or any other format whatever.*

*\*\*This section should not be construed to require the Participant to lease more than one copy of the Exchange compilation. The Participant retains the right to determine how many copies he will purchase for his firm, but may not purchase or lease more copies of the current information than the number of licensees (including licensed or certified appraisers) affiliated with his firm who are engaged in commercial/ industrial activity.*

*\*\*\*It is intended that the Participant be permitted to provide buyers or lessees with information relating to properties which the buyer or lessee has an interest in, or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property information intended to facilitate the decision-making process in the consideration of a purchase, lease, or exchange. Factors which shall be considered in deciding whether the reproductions are reasonable in number, shall include, but are not limited to, the total number of filings in the compilation; how closely the filings reproduced relate to the purchaser(s) or lessee(s) expressed desires and ability to purchase or lease; whether the reproductions were made on a selective basis; and whether the type of properties are consistent with a normal itinerary of properties which would be shown to the prospective purchaser or lessee.*

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property information of properties other than that in which a buyer has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote

interest, or which is necessary to assist a seller or lessor in ascertaining a reasonable market price, does not appear on such reproduction.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Any information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current property information, sold information, comparable, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or Board-owned Commercial Information Exchange has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

#### Option #2

Section 10.2—Reproduction: Participants or their affiliated licensees shall not reproduce any Exchange compilation or any portion thereof, except in the following limited circumstances.

Participants and their affiliated licensees may reproduce from the compilation, and distribute to prospective sellers, lessors, and purchasers, a reasonable\* number of single copies of property information contained in the Exchange compilation.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Any information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current property information, sold information, comparables, or statistical information from utilizing such information to support an estimate of value on a particular property for a particular client. However, only such information that a Board or

Board-owned Commercial Information Exchange has deemed to be nonconfidential and necessary to support the estimate of value may be reproduced and attached to the report as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

*\*It is intended that the Participant be permitted to provide buyers or lessees with information relating to properties which the buyer or lessee has an interest in, or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property information intended to facilitate the decision-making process in the consideration of a purchase, lease, or exchange. Factors which shall be considered in deciding whether the reproductions are reasonable in number, shall include, but are not limited to, the total number of filings in the compilation; how closely the filings reproduced relate to the purchaser(s) or lessee(s) expressed desires and ability to purchase or lease; whether the reproductions were made on a selective basis; and whether the type of properties are consistent with a normal itinerary of properties which would be shown to the prospective purchaser or lessee.*

### Option #3

Section 10.2—Reproduction: Participants or their affiliated licensees shall under no circumstances reproduce any Exchange compilation or any portion thereof.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property information sheets or other compilations of data pertaining exclusively to properties submitted to the Exchange by the Participant.

Note: Concerning Section 10.2, Member Boards are advised to select one rule from the three (3) alternatives presented above as Options 1, 2, and 3, taking into consideration any recommendations or suggestions from the State Association as well as the needs and practices of the local Member Board.

### **Use of Exchange Information**

Section 11—Limitations on Use of Exchange Information: Use of information from the compilation of current property information, from the statistical report, or from any sold or comparable report of the Board or Exchange for public mass media advertising by a Participant or in other public representations, may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the Board or the Exchange must clearly demonstrate the period of time over which claims are based and must include the following, or substantially similar, notice:

Based on information from the Board/Association of REALTORS<sup>®</sup> (alternatively, from the \_\_\_\_\_ CIE) for the period (date) through (date). (Amended 11/93)

## **Changes in Rules and Regulations**

Section 12—Changes in Rules and Regulations: Amendments to the rules and regulations of the Exchange shall be by consideration and approval of the Board of Directors of the Exchange, subject to final approval by the Board of Directors of the Board of REALTORS<sup>®</sup> (shareholder).

Note: Some Boards may prefer to change the rules and regulations by a vote of the Participants of the Exchange subject to approval of the Board of Directors of the Exchange, with final approval by the Board of Directors of the Board of REALTORS<sup>®</sup> which is the sole and exclusive shareholder of the stock of the Exchange corporation.

Optional Provisions (Sections 13 and 14) for Establishing Nonmember Participatory Rights (“Open Exchange”)

## **Arbitration of Disputes**

Section 13—Arbitration of Disputes: By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with Exchange Participants in different firms arising out of their relationships as Exchange Participants subject to the following qualifications: (Amended 11/97)

(a) If all disputants are members of the same Board of REALTORS<sup>®</sup>, or have their principal place of business within the same Board’s territorial jurisdiction, they shall arbitrate pursuant to the procedures of that Board/Association of REALTORS<sup>®</sup>.

(b) If the disputants are members of different Boards of REALTORS<sup>®</sup>, or if their principal place of business is located within the territorial jurisdiction of different Boards of REALTORS<sup>®</sup>, they remain obligated to arbitrate in accordance with the procedures of the (State Association) of REALTORS<sup>®</sup>.

Interboard Arbitration Procedures: Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the Interboard Arbitration Procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular Board/Association of REALTORS<sup>®</sup>. (Amended 11/98)

## **Standards of Conduct for Exchange Participants**

Section 14—Standards of Conduct for Exchange Participants:

Section 14.1—Exchange Participants shall not engage in any practice or take any action inconsistent with the agency or other exclusive relationship recognized by law that other Exchange Participants have with clients. (Amended 1/98)

Section 14.2—Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without the consent of the seller/landlord.

Section 14.3—Exchange Participants acting as subagents or as buyer/tenant agents or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/98)

Section 14.4—Exchange Participants shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the Exchange Participant, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the Exchange Participant may contact the owner to secure such information and may discuss the terms upon which the Exchange Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

Section 14.5—Exchange Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an Exchange Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the Exchange Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the Exchange Participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Amended 1/98)

Section 14.6—Exchange Participants shall not use information obtained from listing brokers through offers to cooperate made through the Commercial Information Exchange or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. (Amended 11/01)

Section 14.7—The fact that an agreement has been entered into with an Exchange Participant shall not preclude or inhibit any other Exchange Participant from entering into a similar agreement after the expiration of the prior agreement. (Amended 1/98)

Section 14.8—The fact that a client has retained an Exchange Participant as an agent or in another exclusive relationship in one or more past transactions does not preclude other Exchange Participants from seeking such former client's future business. (Amended 1/98)

Section 14.9—Exchange Participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an

exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. (Amended 1/98)

Section 14.10—When Exchange Participants are contacted by the client of another Exchange Participant regarding the creation of an exclusive relationship to provide the same type of service, and Exchange Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 1/98)

Section 14.11—In cooperative transactions, Exchange Participants shall compensate cooperating Exchange Participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other Exchange Participants without the prior express knowledge and consent of the cooperating broker.

Section 14.12—Exchange Participants are not precluded from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another Exchange Participant. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed “general” for purposes of this rule. (Amended 1/98)

The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another Exchange Participant; and

Mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another Exchange Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, “for sale” or “for rent” signs, or other sources of information intended to foster cooperation with Exchange Participants.

Section 14.13—Exchange Participants, prior to entering into an agency agreement or other exclusive relationship, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 1/98)

Section 14.14—Exchange Participants, acting as agents of, or in another relationship with, buyers or tenants, shall disclose that relationship to the seller/landlord’s agent or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord’s agent or broker not later than execution of a purchase agreement or lease. (Amended 1/98)

Section 14.15—On unlisted property, Exchange Participants acting as buyer/tenant agents or brokers shall disclose that relationship to the seller/landlord at first contact for that client and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 1/98)

Exchange Participants shall make any request for anticipated compensation from the seller/landlord at first contact.

Section 14.16—Exchange Participants, acting as agents or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. (Amended 1/98)

Section 14.17—Exchange Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage). However, information received through a CIE may not be used to target clients of other Exchange Participants to whom such offers to provide services may be made.

Section 14.18—Exchange Participants, acting as subagents or buyer/tenant agents or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents or brokers, nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 11/98)

Section 14.19—All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's agent or broker, and not with the client, except with the consent of the client's agent or broker or except where such dealings are initiated by the client. (Amended 1/98)

Section 14.20—Participants, users, and subscribers, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 1/98)

Section 14.21—These rules are not intended to prohibit ethical albeit aggressive or innovative business practices, and do not prohibit disagreements with other Exchange Participants involving commission, fees, compensation, or other forms of payment or expenses.

Section 14.22—Exchange Participants shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices.

## **Orientation**

Section 15—Orientation: Any applicant for Exchange Participation and any licensee affiliated with an Exchange Participant who has access to and use of CIE-generated information shall complete an orientation program of no more than twelve (12) classroom hours devoted to the CIE rules and regulations and computer training related to CIE information entry and retrieval. (Amended 11/96)

**Part 11  
Appendices**

**Appendix A**

**License Agreement for Use of  
MLS Service Mark by Member Board\***

THIS AGREEMENT made and entered into by and between the NATIONAL ASSOCIATION OF REALTORS® (hereinafter the “Association”) and the:

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Name of Board

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<hr/> <p>City (hereinafter the “Board”)</p>	State	Zip
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WHEREAS, the Association has coined and is the owner of the Mark shown here (hereinafter “Mark”), and of the REALTOR® and of the “R and Design” marks, which form a part thereof:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Association grants a license to the Board for use of the Mark on the following terms and conditions:

1. That said license shall give the Board the right to use the Mark in connection with the Board’s Multiple Listing Service on a royalty-free basis only for so long as:
  - a. the Board shall remain a member in good standing of the Association;
  - b. the Board shall maintain and operate its Multiple Listing Service in accordance with the Multiple Listing Policy of the NATIONAL ASSOCIATION OF REALTORS®, approved November 15, 1971, as supplemented; it being understood that the Multiple Listing Policy of the NATIONAL ASSOCIATION OF REALTORS® at all times means the policy as

from time to time amended, including any and all supplements thereto which may hereafter, from time to time, be promulgated;

c. the Multiple Listing Service in connection with which the Mark is used by the Board is wholly owned and operated by the Board.

2. The Board shall, at all times present and use the Mark only exactly, as shown herein; and shall at all times utilize the federal registration symbol “®” in connection therewith at the location shown herein.

3. The Board shall use the Mark only on stationery, printed forms, and on the advertisements relating to its Multiple Listing Service, and not on any lapel pins or other types of jewelry.

4. This License Agreement shall terminate automatically upon the Board ceasing to become a member in good standing of the Association or upon the Board’s failure to fully comply with all terms and conditions contained herein.

5. The Board expressly agrees that if at any time the Board ceases to be a member in good standing of the Association, or if the Board’s Multiple Listing Service ceases to be wholly owned and operated by the Board, the Board will immediately take all steps necessary to remove the Mark from any and all materials wherein the Mark is used in connection with the Multiple Listing Service, including, but not limited to stationery, printed forms, advertisements, signs, and the like.

---

\_\_\_\_\_

\_\_\_\_\_ Name of Board

\_\_\_\_\_ By:

\_\_\_\_\_

\_\_\_\_\_ Date

\_\_\_\_\_ By:

\_\_\_\_\_

\_\_\_\_\_ Date NATIONAL ASSOCIATION OF REALTORS®

*\*Approved by Board of Directors, NATIONAL ASSOCIATION OF REALTORS®, February 5, 1974.*

**EXHIBIT 13**

**CIE Start-Up Budget**

**INCOME**

Prepaid Member Dues	1
Member Assessment	1
COB/CS Reserve Funding	1
COB/CS Operating Budget Funding	1
Prepaid Banner Advertising	1
Public Utilities	1
Economic Development Agencies	1
Other	<u>9</u>
<b>TOTAL INCOME</b>	16

**EXPENSES**

Administrative Coordinator	1
Advertising & Promotion	1
Consultant	1
Domain Name Registration	1
Equipment Enhancements	1
High Speed Broadband	1
Legal Fees, Contract	1
Overhead	1
Research Assistant	1
Research Supervisor	1
Software	1
Staffing	1
Sys. License & Operation	1
Tax Database	1
Travel (Contractor Exp.)	1
Vendor Design and Setup Fee	<u>1</u>
<b>TOTAL EXPENSES</b>	16
<b>TOTAL NET INCOME/LOSS</b>	<u><u>\$0</u></u>

**EXHIBIT 14**  
**CIE Ongoing Budget**

	Jan.	Dec.	Year Total
<b>INCOME:</b>			
<b>CIE FEES</b>			
Member Dues	1	1	2
Non-Member Dues	1	1	2
Initiation Fees	1	1	2
Directory Sales	1	1	2
Banner Ads	1	1	2
WEB Pages & Hosting	28	28	56
<b>TOTAL CIE FEES</b>	33	33	66
<b>OTHER INCOME:</b>			
Interest Income	1	1	2
Data licensing	1	1	2
Bad Debt Recovery	1	1	2
Fines/Penalties	1	1	2
Miscellaneous Income	1	1	2
<b>TOTAL OTHER INCOME:</b>	5	5	10
<b>TOTAL INCOME:</b>	38	38	76
<b>EXPENSES:</b>			
<b>LEASE EXPENSE:</b>			
Rent	1	1	2
Insurance	1	1	2
Overhead	1	1	2
<b>TOTAL LEASE EXPENSE:</b>	3	3	6
<b>HARDWARE EXPENSE:</b>			
Support/Repairs/Miscellaneous	1	1	2
Certificates and Licensing Renewals	1	1	2
Data Comm Lines/Redundancy/Off-site	1	1	2
Equipment P/P Tax	1	1	2
Camera Maintenance	1	1	2
Note Payable Interest	1	1	2
Equipment Depreciation	1	1	2
Contingency Budget	1	1	2
<b>TOTAL HARDWARE EXPENSE:</b>	8	8	16
<b>DATA/SOFTWARE EXPENSE:</b>			
CIE Research/Maintenance Staff	1	1	2
Photography Expense	1	1	2
Vendor Contract Fee	1	1	2
Expenses Assoc. W/Conversion	1	1	2
Contingency Allowance	1	1	2
<b>TOTAL SOFTWARE EXPENSE:</b>	5	5	10

	Jan.	Dec.	Year Total
<b>EXPENSES:Continued</b>			
<b>GENERAL &amp; ADMINISTRATIVE:</b>			
Accounting Fees	1	1	2
Director's Salary	1	1	2
Ans.Serv./Telephones	1	1	2
Bad Debt Write-offs	1	1	2
Postage & Freight	1	1	2
Telephone	1	1	2
Bank Charges	1	1	2
Copying/Printing	1	1	2
Dues and Subscriptions	1	1	2
E&O Insurance	1	1	2
Direct Professional Fees (Legal+Accounting)	1	1	2
Meetings	1	1	2
Office Equipment Expense	1	1	2
Office Supplies	1	1	2
One Day Business Planning Session	1	1	2
Postage	1	1	2
Promotional & Web Marketing	1	1	2
Research and Development	1	1	2
Trainers Costs	1	1	2
Travel/Mileage Expense	1	1	2
<b>TOTAL GEN/ADMIN. EXPENSE:</b>	20	20	40
<b>INCOME TAX EXPENSE:</b>			
Federal Income Tax Expense	1	1	2
State Income Tax Expense	1	1	2
<b>TOTAL INCOME TAX EXPENSE:</b>	2	2	4
<b>TOTAL EXPENSES:</b>	38	38	76
<b>TOTAL NET INCOME/(LOSS):</b>	0	0	0

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