



BBMS APPLICATION-Enrollment

Please complete this Application/Enrollment Form and submit it WITH YOUR GABB Application to obtain access to the GABB proprietary Business Brokerage Management System. (BBMS) Be sure that you have read the accompanying Rules & Regulations for use and privileges, rights and responsibilities. You will be eligible for access as soon as your GABB Application has been accepted. If you are an Agent, your Broker or office administrator should orient you to the system. If you are the Qualifying Broker member for your office and you are NOT contacted soon after your GABB acceptance, phone our BBMS Chairperson, Greg DeFoor at 678-581-5966 to get an access number and basic orientation on the system. He will work with you or put you into contact with our service provider, BizMLS, at 866-881-7861. Affiliate Members may also have a limited access option for a minimal fee. Just ask Henry Hicks or Ken or Ariel at BizMLS if you are interested.

Please remember that your membership is INDIVIDUAL. If you have other people in your office, your membership does NOT convey to any of these people any rights or privileges of GABB Membership. This includes access to the BBMS. This system contains confidential information. As a member with access to the system, it is your responsibility to safeguard your access and your password and to not allow anyone else to use your access rights and privileges. Your membership is also not transferable to another person.

You will be billed directly by the service provider, BizMLS. These are Fees for the Brokerage:

Initial Installation:	\$125.00 (Once per office)
3 Month Service Fee	\$105.00
One-Time Internet Link	<u>\$ 35.00</u>
Total Basic Start Up Fees	\$265.00

OPTIONAL features are available to link your website to listings & buyers.

Your Name: _____ **Title:** _____

Check one: Agent? _____ **Qualifying Broker?** _____ **Affiliate?** _____

Active Member –Qualifying BROKER Company Name: _____

Primary/Qualifying Broker Contact's Name(Person): _____

CompanyAddress: _____

Office Phone: _____ **Fax Number:** _____

Your Pager: _____ **Your Cell:** _____

Your E-mail Address: _____ **Web Address:** _____

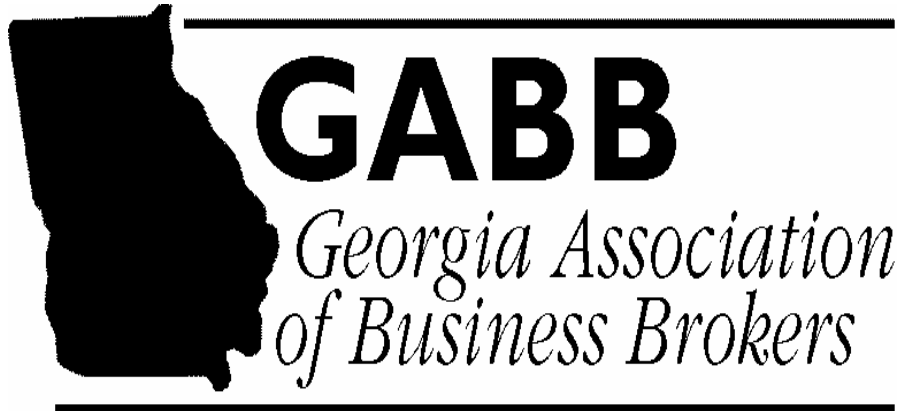
Your Home Phone: _____ **Broker: Password for BBMS** _____

Your Signature

Broker's Signature

Date

Georgia Association of Business Brokers, Inc.
Atlanta, Georgia



Business Brokerage Management System

Rules and Regulations

2004

Sections 1.03, 3.04, 4.01, and 8.01 Were Amended September 25, 2007

The Georgia Association of Business Brokers, Inc. operates an on-line application software provider (ASP) Website for the benefit of its membership and their customers by contracting with BizMLS, Inc. of Sunrise, Florida. The operating rules, regulations, and procedures are a combination of system-imposed requirements and specific policies enacted by the Board of Directors in accordance with the By-law amendment adopted by majority vote of the membership.

This publication must be used in conjunction with the “Administrator and Agent Manuals For BBMS” which are available on-line to broker and associate members. Possession of a copy of this document does not convey any right to reproduce or further distribute the confidential information contained herein. This publication is intended solely for the use of members of GABB. All rights are reserved to GABB.

BBMS
Rules and Regulations

TABLE OF CONTENTS

Section 1	Statement of Intent and Policy	Page 3
Section 2	Membership Policy	Page 4
Section 3	Cooperation Between Members	Page 5
Section 4	Listings	Page 7
Section 5	Confidentiality	Page 11
Section 6	Showings	Page 13
Section 7	Escrow Funds	Page 14
Section 8	BBMS Access	Page 16
Section 9	Miscellaneous Topics	Page 18
Section 10	Disciplinary Actions And Fees	Page 21

BBMS
Rules and Regulations

Section 1 - Statement of Intent and Policy

1.01 Article Twenty of the GABB By-laws provides that the current version of the BBMS Rules and Regulations and the Operating Manuals for the BBMS (formerly known as GABBMLS) shall constitute a supplement to the By-laws and shall have the full force and effect as if they were included within the By-laws. It is the intent of the Board of Directors that these publications shall be reviewed annually and the Board shall either validate the then existing versions for another year, or ratify the proposed changes into a new current version. Either publication may be changed from time-to-time, approved by the Board of Directors by resolution, and distributed to BBMS brokers without such action constituting any further amendment to the By-laws. Such annual review shall be conducted during the November Board of Directors meeting.

1.02 Violation of the provisions of the Rules and Regulations could also constitute a violation of the Code of Ethics under certain circumstances. In any event, members who violate the Rules and Regulations can be referred to the Professional Standards Committee (PSC) for review of their actions, and the PSC may recommend to the Board of Directors that certain fines, letters of reprimand, or termination of membership privileges be imposed upon members who violate these Rules and Regulations. The Board of Directors is the only authority that can impose disciplinary action upon members.

1.03 Standard Forms are published from time-to-time by GABB to assist members in the conduct of their business. Use of these forms is strongly encouraged to simplify coordination between brokerage members. Current forms authorized by the Board of Directors can be found at GABB/BBMS, Main Menu, Forms. Members should be aware that, from time to time, new forms are added and old forms may be updated. It is incumbent upon each member to be certain that forms stocked in the brokerage are the most current version. The form code is followed by a date, e.g., ELA 100, 06/01/2000, and the forms are not amended each year, but if your forms are more than three years old, you may need to verify the current version by downloading the current forms from BBMS on-line.

BBMS
Rules and Regulations

Section 2 - Membership Policy.

2.01 In order to participate in the BBMS, a person must be a broker-member or Agent (and Associate GABB member) for a broker-member of GABB, and be in good standing with all membership obligations having been met. Both broker-members and their Agent (Associate GABB member)s must hold a current and appropriate Real Estate License in their state of residence. Affiliate (non-brokerage) members are not eligible to list and advertise businesses or real estate for sale through BBMS regardless of licenses held.

2.02 If the membership is by delegation from a “qualifying broker” for a firm, the “Broker Delegation & Acknowledgement Letter” on the firm’s letterhead must be on file, and the delegated Agent (Associate GABB member) of the brokerage must hold the appropriate real estate license for his/her affiliation with the firm.

2.03 All broker-members or Agent (Associate GABB member)s for broker-members must participate in the BBMS concurrent with their membership in GABB.

2.04 The BBMS Rules and Regulations provide for certain administrative fines and reprimands that may be imposed by the Board of Directors. These administrative punitive actions may be imposed without suspension of membership privileges or waiver of membership responsibilities, and may be cumulative to the extent that repeated failure to comply with the Rules and Regulations may result in termination of membership.

2.05 Termination of membership for any reason also terminates participation in BBMS, and termination of BBMS participation also terminates GABB membership.

BBMS
Rules and Regulations

Section 3 - Co-operation Between Members.

3.01 When two separate members from different brokerages work together to complete a sale, with one member being the listing broker and one member bringing the purchaser to the transaction, that shall be defined as co-brokerage (cooperating brokerage). All provisions of GABB Form CA 100 "Cooperation Agreement", as currently published, are hereby incorporated into these Rules and Regulations, and by membership in BBMS all members agree to abide by that document as if it were signed between the members for each transaction. In the event that commissions are not to be shared equally, then member-brokers shall enter into a separate Form CA 100 with the commission arrangements fully defined before an offer is presented to a seller.

3.02 Agent (Associate GABB member)s of broker-members may sign the Cooperative Agreement if so authorized by their broker-member and the Agent (Associate GABB member)'s execution of the document is acceptable to the other broker-member.

3.03 Unless agreed differently in writing prior to presentation of an offer to a seller, it shall be construed that the division of fees earned from the sale shall be equal between broker-members. Broker-members shall be responsible for payment of fees to their Agent (Associate GABB member)s and no broker-member shall disburse funds to an Agent (Associate GABB member) for another broker-member. A broker-member may unilaterally reduce or alter its fee as long as the share paid to other brokers in the transaction remains unchanged from the original agreement between the cooperating broker-members. The listing broker shall be solely responsible for all fee/commission negotiations and agreements with the seller.

3.04 Broker-members shall post to the BBMS, in accordance with Paragraph 4.01 herein, all exclusive right-to-sell listings (including non-residential real estate) obtained by their office(s) and shall make available promptly such information as a fellow broker-member may require to properly represent the listing to prospective purchasers. A member may elect to not post to the BBMS any listing with a selling price equal to or in excess of \$3,000,000. Failure to post the listing or share information may result in disciplinary action by the Board of Directors after investigation by the PSC.

3.05 The listing broker-members shall promptly arrange showings with sellers, and whenever possible should be present when the showing takes place.

3.06 Broker-members shall arrange to promptly deliver to a listing broker-member any written offers received, and the listing broker-member shall encourage the seller to have the selling broker present when the offer is presented; however, it shall be at the seller's sole discretion whether or not the selling broker attends the offer presentation.

3.07 Escrow funds shall be handled as provided in Section 7 between the broker-members.

3.08 Members of GABB will not disclose one purchaser's offer to another purchaser without prior written permission of the seller.

3.09 No listing broker-member can specify the form or format to be used by another broker-member to present an offer to purchase, so long as the form or format used complies with the contract laws for Georgia. Each party to a transaction shall always be provided a copy of the latest document they have signed at the time they sign. Faxed signatures are legal in Georgia and it shall be the listing broker's responsibility to keep a legible copy of all offers, counter-offers, amendments, addendums, etc. to a transaction that will constitute a "record" set for the seller. The selling broker should do likewise for the buyer.

3.10 Broker-members will not advertise any listing not listed by their office without the prior written permission of the listing broker-member contracting with the seller.

3.11 A broker-member who cannot freely and candidly cooperate with another broker-member shall so notify the other broker-member as to the reasons in writing with a copy to the PSC. Cooperation between broker-members is mandatory unless a formal complaint based upon facts has been referred to the PSC for resolution of a conflict between broker-members.

3.12 A broker-member shall be responsible in every event for the acts of Agent (Associate GABB member)s of the broker-member. Lack of knowledge of the other person's actions may be a mitigating circumstance, but not a waiver of supervisory responsibility by the broker-member.

BBMS

Rules and Regulations

Section 4 - Listings

4.01 All exclusive right-to-sell listings to include exclusive right-to-sell listings that exclude certain buyers (effectively an agency listing with regard to named buyers) must be posted to the BBMS data base within 7 days following the listing effective date. Likewise, any changes must be posted to the data base within 7 days of the effective date. A member may elect to not post to the BBMS any listing with a selling price equal to or in excess of \$3,000,000. Open or per party listings are specifically restricted from posting to the shared data base, but may be entered into the "Our Office Listings" for internal office purposes, and then circulated between cooperating brokers in any other agreed manner. All BBMS members shall cooperate with all other BBMS members on all listings that have been openly advertised, whether exclusive right-to-sell, agency, open, or per party.

4.02 In the event that a broker-member learns of an open listing from another broker-member (or Agent (Associate GABB member)s) or is advised by the seller that another broker-member has an open listing, then that listing shall be honored between brokers as if it were in the BBMS for co-brokerage, except that the seller may enter into an exclusive-right-to-sell listing with another broker at any time. If a BBMS member enters into an exclusive-right-to-sell listing with a seller who previously granted open listings to brokers, then the BBMS member will advise the seller to contact such brokers and request a written list of any buyers to whom the business was disclosed prior to the effective date of the exclusive-right-to-sell listing. For a BBMS member to enter into an open listing with a seller who has already granted an open listing to another BBMS member is defined as a predatory practice and is a violation of Paragraphs 3.03 and 10.3(e) herein.

4.03 If a seller requests that certain information not be made available through BBMS, that information can be withheld upon written instruction from the seller. If information is withheld, then a copy of the seller's instruction must be faxed to Central prior to upload of the listing. If the seller requires that the listing be totally withheld from the BBMS, then the listing broker-member shall attached that written instruction signed by the seller to the listing file retained in the listing office for inspection by a BBMS representative, if necessary.

4.04 The reason for sale should be accurately stated on the data base; however, real estate licensees have requirements that they cannot indicate to prospective purchasers that a seller may be under duress or compulsion, which would provide the purchaser an unfair advantage in negotiations, without prior permission from the seller. This is probably a good practice that best represents the seller's interests; however, if you have the seller's permission to post a reason for sale such as "seller has cancer", etc., it should be filed with the listing in your office for possible inspection by a BBMS representative.

4.05 The sale of a business and its assets normally includes the operating inventory. It is strongly recommended that the listed sale price include the operating inventory. The Uniform Standards of Professional Appraisal Practice (USPAP) require that operating inventory and the fair value for management be used when recasting financial statements to arrive at the owner's benefit (net discretionary cash). If you cannot obtain the seller's permission to include the inventory in the listed sale price, it is suggested that you make the listed price in the data base inclusive of inventory and provide a comment that the net price of the business can be negotiated exclusive of inventory value.

4.06 Financial information for the most recent year of a listing must be for a year-ending period within the prior 24 months, and use of most current year-end and current year-to-date information is encouraged...it should make your listing easier to sell with the most current information.

4.07 Financial documentation for a listing MUST be on-file in the listing broker's office, excluding Data Source Codes 6, 7, and 8. The code you select for the source of listing financial data communicates to cooperating brokers the quality of information, e.g., a Data Source Code 1 (Tax Return) will convey more credibility than a 4 (Owner Estimate). The listing summary sheet provides for three years of data and the Data Source Code for each year can be different from the other years. If it's a new listing and you need to get it entered into the system, but haven't yet received all information, your initial input might show a 3, 4, or 5 Data source code...then you can "edit" to a 1 or 2 later.

4.08 The listing data base information is the responsibility of both the listing broker and the Agent (Associate GABB member) of the broker who actually wrote the listing. If the "brokerage" becomes aware that the data base contains inaccurate information, then the data base should be "edited" to contain the most correct information. As an example, if a listing has been through due diligence a couple of times but no sale closed because the net discretionary cash could not be validated, the data base should be updated to contain the correct net discretionary cash (with a possible adjusted sale price too). There are serious legal issues related to misrepresentations, especially for real estate licensees, but all brokers are accountable under Georgia consumer protection laws for honest and fair dealing. The "innocent conduit" defense has not worked for several years in Georgia, i.e., "I just took the seller's information and passed it to the buyer." Brokers are held to a higher level of knowledge and responsibility because they are paid for professional services...we are expected (by judges) to know when seller/buyer representations are illogical or distort the facts. Any changes to the listing data base should be entered on the next business day after the seller authorizes the changes in writing, and must be entered within 7 days following the effective date (just like a new listing).

4.09 A listing is a written contract that is legally binding upon the parties (at least to some extent), but to be enforceable, it must have been entered into correctly by parties empowered to take those actions (or at least who represented themselves to be so empowered). The signature(s) for the seller are crucial to enforcing the listing

agreement. For a **sole proprietor** business, it is recommended that both the husband and wife sign the listing. If the business is a **partnership**, then legally any partner can obligate all others unless specifically prohibited by written agreement between the parties, so you should get a copy of the partnership agreement or the signatures of all partners to be absolutely certain; if there is no written partnership agreement, then all partners are equally obligated under law. **Corporations and limited liability companies** normally have specific delegated authorities for offices/directors/owners, so a listing broker should obtain a copy of the board of directors resolution or management agreement authorizing the sale of company assets. In many corporations, a sale of assets that effectively liquidates the business will require a vote by shareholders rather than the board of directors, so be certain you know who makes the ultimate “sell” decision for the seller. A quick check with the GA Secretary of State’s office at www.SOS.State.GA.us/ will allow you to verify that the corporation is currently registered and provide the “of record” corporate officers names. Many small business corporations are administered in a sloppy manner and the “corporate veil” has been pierced so that the shareholders are legally functioning with the same liability protections of a sole proprietor...be certain the listing file has the necessary documents from the day the listing enters the data base.

4.10 In the event that a seller signs an exclusive right-to-sell listing with two BBMS brokerages, Central will notify each broker that a duplicate listing has been entered by two brokerages. Usually, the brokerage with the earliest dated listing will be considered the “listing broker”, but if the two brokerages cannot agree, then the matter should be referred by the brokers to the GABB Professional Standards Committee, who can then consider any unique circumstances and recommend decision alternatives to the Board of Directors.

4.11 BBMS members are not permitted to advertise or promote the BBMS list of businesses as being their own list of businesses for sale. If you distribute lists from the BBMS data base that includes listings from other brokerages, then the distributed materials must clearly contain BBMS identification and must be printed exactly as they appear on the Internet site. Brokerages with “home pages” of their own are specifically prohibited from transposing the BBMS business list on to their home page or posting the entire BBMS Internet site to the brokerage home page. “Hot links” to the BBMS site are permitted.

4.12 While members of BBMS have agreed to cooperate among themselves, this does not include one broker advertising another broker’s listings without prior written permission. In Georgia, you must have prior written permission to advertise or represent a person’s property as being for sale and the listing agreement meets that requirement. Real estate rules and regulations are even more restrictive. If two brokerages wish to advertise each others listings, just be certain your agreement is written and a copy filed in the listing file at each brokerage.

4.13 The listing broker has the contract relationship with the seller and the absolute responsibility to be the controlling party among brokers who may be participating in a transaction in some manner. As a matter of professional courtesy, no cooperating broker

should ever discuss the provisions of a listing agreement with a seller without the listing broker being present. No cooperating broker should directly contact a seller without the prior permission of a listing broker. No cooperating broker should discuss commissions or fees with the listing broker in the presence of a seller, unless the listing broker has given his prior permission to the cooperating broker.

BBMS
Rules and Regulations

Section 5 - Confidentiality

A confidential and proprietary publication of the Georgia Association of Business Brokers, Inc., intended solely for the exclusive use of broker and associate members participating in the BBMS.

5.01 It is the responsibility of the selling broker to know with whom they are dealing. **The seller's information has been provided to the selling broker on a confidential basis and should not be made available to unqualified buyers.** Many buyer prospects use a nickname and/or an Americanized pseudo name, so a non-disclosure form provides little or no protection for either the seller or the brokers. It is highly recommended that brokers obtain a copy of a driver's license, or other photo I.D., from buyer prospects at the first meeting and keep this on-file for any future need. Some couples do not use the same last name, so both parties should be asked for photo identification.

5.02 The GABB "Buyer's Confidentiality Agreement" (Form BCA 100) should be used to obtain the buyer's signature prior to disclosing any confidential information about a business. Unless you have been granted sub-agency by the listing broker (a very rare occurrence), the confidentiality agreement exists between the listing broker, the seller and the buyer. The listing broker's information should be entered on the form and the selling broker can sign "for" at the time the buyer signs. **A copy of the Form BCA 100 must be transmitted (fax or mail) to the listing broker within 24 hours after buyer's signature.** In order to protect brokerage rights for commission payment after a listing expires, if the seller and buyer complete a transaction within one-year, the listing broker must provide to the seller a written listing (with return receipt proof of delivery) of all parties to whom the business was disclosed during the listing period. Failure to provide the form copy to the listing broker may insure that both brokers do not receive any commission for this type of transaction.

5.03 It is the responsibility of the selling broker to pre-qualify buyers on a particular business before confidential information is provided. Qualifying a buyer is more than "do they have the money", since certain businesses require specific licenses, expertise or experience. Buyers that are not "qualified" for a particular type of business are wasting your time, but you are at least providing entertainment for them.

5.04 It is the responsibility of the selling broker to determine if a prospective buyer is a competitor or has an affiliation with a competitor of the seller. If the buyer has a competitor relationship with the seller, then no further discussions about the seller's business should take place until authorized by the seller. If this circumstance develops, the selling broker must immediately contact the listing broker and provide information about the prospective buyer, and it is then the listing broker's responsibility to contact the seller and receive written instruction whether to provide information to the prospective buyer or terminate the contact entirely.

5.05 Information requested by the selling office should be provided promptly by the listing office, either by fax or overnight mail, after receipt of the buyer signed Form BCA 100 at the listing office. It is recommended that brokerages establish a procedure to promptly provide detailed information to a selling office if the listing broker/Agent (Associate GABB member) is away from the office for more than the balance of that

business day. Sometimes the selling office has the buyer present and needs fast response with more detailed information...TREAT THESE REQUESTS AS IF YOU WERE ON THE RECEIVING END and everyone will be well served.

5.07 For certain sensitive businesses, it may be appropriate to have the selling broker sign a separate confidentiality agreement before proprietary information is forwarded for a buyer. This requirement should be highlighted in the data base so a selling broker knows up-front that the situation is highly sensitive and the seller has imposed non-routine restrictions, e.g., detailed financial qualification of buyers, etc.

5.08 On rare occasions, a listing broker may not disclose in the data base the actual address or seller's identity for sensitive confidentiality reasons. This is a big clue to selling offices to contact the listing broker and find-out about the seller's sensitivities, so that the general issues can be also discussed with a prospective buyer upon the initial disclosure of information to the buyer.

5.09 In the event of a confidentiality breach, it is the responsibility of the first broker becoming aware of the situation to try and determine the facts and circumstances and to notify any other brokers involved about the situation. Only the listing broker should contact the seller directly. In these circumstances, emotions can be high and factual information scarce, so the brokers must maintain an objective approach. After the best interests of the seller have been protected, there will be time to determine if any legal action is appropriate to recover for damages sustained. Also, if the brokers cannot resolve any issues from the event, then the matter should be referred to the Professional Standards Committee for investigation and preparation of recommendations for the Board of Directors. It is more desirable to settle broker disputes professionally and quickly rather than having rumors circulate about what may or may not have happened. A listing broker should not be in a position of withholding listing information because the selling broker is not "trustworthy". We must all cooperate together through trust as professional peers, and those who do not support our Code of Ethics and Professional Standards should be removed from our association after due process under the By-laws.

BBMS
Rules and Regulations

Section 6 - Showings

6.01 Scheduling showings is exclusively the responsibility of the listing broker and a selling broker/Agent (Associate GABB member) should not have any contact with a seller except through the listing broker, even when it's inconvenient to wait for the listing broker to complete arrangements. A selling brokerage must NEVER show a business without the prior permission of the listing brokerage. The selling broker must attend all showings of the business; however, the listing broker may elect not to be present after coordination with the seller and selling broker.

6.02 The selling broker should never "send" the buyer to see the seller without either the listing or selling broker being present at the initial meeting. It is recommended that seller and buyer should not meet without a broker present prior to the commencement of due diligence.

6.03 The listing broker should never be asked to do the work of the selling broker.

6.04 It is strongly recommended that the initial meeting between buyer and seller be at a location other than the business, such as a nearby restaurant, and all parties can continue the meeting at the business following a preliminary discussion. Using a restaurant provides a location where telephones are available if one party is going to be late, usually ample parking, and an easy way not disclose the business address to the buyer prior to the initial meeting. It also prevents the buyer from arriving "early" and having his own meeting with the seller at the business before the arrival of brokers.

6.05 It is strongly recommended that a buyer not be given a business name and address and told to "drive by and take a look". While some businesses such as restaurants and other retail types may lend themselves to a buyer "taking a look" after the confidentiality agreement has been signed, this practice is discouraged without first verifying that the listing broker has not posted special showing instructions in the data base and advising the listing broker that an unaccompanied buyer prospect may visit the business. As a matter of professional courtesy, a selling broker should not deviate from the showing guidance provided by the listing broker.

6.06 Following a showing within 24 hours, a selling broker should provide the listing broker a "showing report" summarizing the buyer's reactions to the showing, and any observations by the selling broker about how the showing was handled. This information will permit the listing broker to keep the seller informed promptly, and may provide an opportunity to work with the seller to improve initial impressions at subsequent meetings with the same buyer, or initial showings with a new buyer.

BBMS
Rules and Regulations

Section 7 - Escrow Funds

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7.01 When the sale transaction involves the conveyance of an interest in real estate, which includes a lease by the Georgia Real Estate Commission definitions, then earnest money and other funds that may be paid into escrow as the transaction evolves will be handled in accordance with O.C.G.A. 43-40-20, Trust or escrow checking account for real estate business, and Georgia Real Estate Commission (GREC) Rules and Regulations, Chapter 520-1-.26, Designated Trust or Escrow Account, and Chapter 520-1-.30, Handling Trust Funds.

7.02 Usually the listing broker will account for escrow funds when a contract comes into being, unless the cooperating brokers agree otherwise in writing.

7.03 Some business brokers who are not required to operate a trust account under Georgia licensing rules and regulations prefer to make escrow deposits directly to an escrow (closing) attorney.

7.04 Sales contract forms and listing agreements should clearly define the relationship between a listing broker and the seller as to the disbursement of escrow funds for a sale that does not close. Likewise, a sales contract form should clearly define for the buyer when earnest money deposits will be deposited, and under what circumstances the funds will be disbursed back to the buyer, or to other parties. Unless clearly defined in the written sales agreement as such, the escrowed funds are not liquidated damages or non-returnable deposits, and should be promptly returned to the buyer when a sale does not close.

7.05 License requirements for business brokerage in Georgia are covered by Georgia Real Estate Commission (GREC) Rules and Regulations, Chapter 520-1-.19, Business Brokers, as follows:

“Unless otherwise excepted from licensure requirements by O.C.G.A. 43-40-29, a person who brokers the sale of a business must hold an appropriate license issued by the Commission if the sale of the business involves the transfer of any interest (including but not limited to, leasehold or ownership interest) in real property. A business broker and any of the business broker’s associates who do not hold licenses issued by the Commission may not negotiate or attempt to negotiate or assist in procuring prospects for the sale of a business where:

- (1) that sale involves the transfer of any interest in real property, or*
- (2) where the payment of all or part of a commission or fee to the business broker or any of the business broker’s associates in the sale of a business is contingent upon the transfer of an interest in real estate.*

Any unlicensed broker may not perform or attempt to perform the acts in the preceding sentence³ and then secure a person licensed by the Commission to approve that transaction.

Authority – O.C.G.A. 43-40-1; 43-40-2; 43-40-29; and 43-40-30.”

BBMS
Rules and Regulations

Section 8 - BBMS Access

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8.01 Each firm must have an officer as a member, or a qualifying broker letter of delegation on file, for that firm to be a member of BBMS and all other GABB Associate members of that firm are then considered as represented by the officer member (*delegated Agent (Associate GABB member)*) for matters pertaining to BBMS. Each brokerage member shall have one (1) vote on matters pertaining to BBMS. Each GABB Associate member of a broker-member firm is assigned a BBMS access identification number that is a suffix added to the brokerage membership number. The brokerage is responsible for the conduct of its associates with regard to the BBMS, and misconduct by a GABB Associate member could result in disciplinary action or loss of membership by the brokerage (see Section 10).

8.02 BBMS access numbers are not to be shared with non-GABB members, even within the same firm. The brokerage membership does not entitle all members of the firm access to the BBMS data base, and access is specifically restricted to GABB individual members.

8.03 In larger firms that may have several departments or offices, individual membership in BBMS is restricted to individuals specializing in business brokerage who can otherwise meet the membership requirements. Membership in GABB will not be approved simply to provide individuals access to the BBMS.

8.04 Firms with multiple offices will not achieve across-the-board membership for all offices when a single officer and some individuals are approved for membership in GABB, and each office's participation in BBMS will be considered individually on its merit in accordance with the then current membership policies.

8.05 The BBMS operating systems contain certain security measures that permit tracking of individual access numbers. In the event of a confidentiality breach or use of the system by unauthorized persons, it may be possible to create a record of access usage by a particular number to fix responsibility for certain acts. The system cannot tell if the person using the access code is the authorized person, so the brokerage and the individual member issued the access number will be held fully responsible to safeguard the computers with access into the system and for the proper use of access codes.

8.06 In brokerages with an office staff, the broker-member may designate a staff person as the systems administrator and authorize that person to use the broker-member access code (01) for systems maintenance access. This person should be specifically cautioned about operating the BBMS for the benefit of non-GABB members of the firm.

8.07 BBMS members will not provide summary reports to other non-GABB member brokers, even if they routinely co-broker with non-GABB members. Use of the data base and systems is a benefit of GABB membership and should not be compromised by distribution of information to non-members. BBMS provides a public access Internet site to encourage the public to select GABB member-brokers, and non-GABB brokers should not benefit simply because they know a GABB member.

8.08 In the event that BBMS information or access is discovered in the possession of unauthorized persons, every BBMS member has the responsibility to immediately notify an officer or director of GABB so that the matter can be referred to the Professional Standards Committee for prompt investigation.

8.09 In order to have access to the BBMS data base, a brokerage must have a minimum of two (2) listing posted during 2002 at all times. If the brokerage does not have the minimum number of listings posted, access will be denied for upload and download of data after a thirty (30) day “grace” period. To reinstate brokerage access, the brokerage will be assessed the “re-install” fee by the service provider (currently \$50.00). In the event that Agent (Associate GABB member)s of the broker-member fail to have the minimum number of listings posted (2002 = two), the brokerage access will continue so long as it meets the minimum requirement, and the broker-member shall take such steps as are necessary to insure that all Agent (Associate GABB member)s meet the minimum requirements for participation. If the Agent (Associate GABB member) who has fallen below the minimum number of listings does not correct the situation within thirty (30) days, that individual’s access number will be terminated within the system and future access will be denied. To re-instate a terminated access number, the broker-member will be assessed a “reconnect” fee by the service provider (currently (\$25.00).

BBMS **Rules and Regulations**

Section 9 - Miscellaneous Topics

9.01 Code of Ethics. Each GABB member has signed the Code of Ethics, which provides a broad guideline for our professional conduct with the general public and among brokers. If a question about proper conduct is not specifically addressed in these Rules and Regulations, reference to the Code of Ethics may help resolve the question.

9.02 Open Listings. The BBMS will permit the entering of open listing data, but those listings will not be transmitted to Central for other brokerage members' information via download. This feature is provided so that each office can have one standard data base and system for dealing with confidentiality and co-brokerage. Be careful when you enter open listings to invoke the "do not transmit to Central" feature. If in doubt, refer questions to BizMLS for clarification.

9.03 Selling Office Buyer Approaches Listing Office. There may be times when a buyer decides to work directly with the listing broker, either because of perceived time savings or personal preference. The listing broker must refuse these approaches and refer the buyer back to the selling broker with regard to the business introduced to the buyer by the selling broker. If a buyer approaches a listing broker about a business other than the one disclosed by the selling broker, and the only contact the listing broker has ever had with the buyer was from the introduction by the selling broker, then the listing broker should contact the selling broker to resolve who should work with the buyer. It is an established fact that no broker "owns" a buyer, except to the extent of protection through the disclosure process, and buyers often work with many brokers for a wider exposure to available businesses. BBMS policy is that the two brokers should resolve among themselves who will work with the buyer on specific businesses. In the event that one broker believes that another broker has "stolen" a buyer, then the matter should be referred to the Professional Standards Committee by a written summary of the facts and circumstances with reference to these Rules and Regulations and the Code of Ethics. Even when no damages were incurred or the brokers could not resolve the matter, it is important that an objective solution based upon facts be sought, rather than having discord between members and trial by innuendo and rumor.

9.04 Stealing Buyers. Listing offices receiving information about buyers from confidentiality forms submitted from selling brokers will not use that information to approach these buyers about other business opportunities. This predatory practice, or even the appearance of such, is specifically prohibited between members of BBMS. Paragraph 9 of the "Cooperative Agreement" states: "Listing Broker will not directly nor indirectly initiate contact with Selling Broker's potential Buyer(s) regarding other opportunities except through the Selling Broker for a period of one year..."

9.05 Allocation of Sale Price. It is strongly recommended that BBMS members not unilaterally allocate the sale price on closing documents. This procedure and advice to seller and buyer should be left for the legal and financial advisors to each party, although the broker does have an important role in getting this negotiation concluded early in the due diligence process so the closing attorney can be instructed. Establishing the value of assets to be conveyed upon sale for the listing agreement is a crucial step in establishing the asking price, but the final allocation of sale price on closing documents may vary significantly from the original listing by agreement between the buyer and seller.

9.06 Delivery of Offers. It is the obligation of the selling broker to convey the offer and all supporting documents to the listing broker for presentation to the seller, and

subsequently, the listing broker's obligation to convey back to the selling broker the seller's actions on an offer. Timeliness of communications between buyer and seller, through the brokers, can often be the deciding factor to having a deal, or not. During the period that an offer is open between two parties, each party has enforceable rights in that relationship.

9.07 Attachments To Offers. When the offer includes conveyance of a real estate interest, there are added forms that must be attached to the offer to comply with the Georgia "Brokerage Relationships in Real Estate Transactions Law", commonly referred to as BRRETA. As a matter of procedure, if the offer is following closely after disclosure to the buyer, attaching the listing broker's copy of the buyer's confidentiality agreement with the offer would insure prompt delivery. All attachments, addendums, amendments, exhibits, etc., to an offer should be correctly identified in the body of the offer and clearly marked when attached.

9.08 Multiple Offers. If several offers are received on behalf of a seller by the listing broker, a careful record should be made of the date and time each written offer was available for presentation to the seller, e.g., in the listing broker's possession. The offers should be presented to the seller in the order received, but the seller is not required to accept, counter or reject one offer before reviewing another...the seller can consider all the alternatives concurrently, but must answer the offers in the order received. It is often a good position for a seller holding multiple offers to designate one as the "back-up" subject to the conclusion of negotiations with another party...or keep all offers active by making them "subject to" specifically referenced preceding offers in the date-time sequence received. Since the listing broker may be faced with presenting offers that have unusual structure or terms, it may be helpful to have the selling broker present to best explain the buyer's intent. At the minimum, the listing broker should be prepared to analyze the offers and advise the seller as to the strengths and weaknesses of each offer/buyer with regard to the seller's objectives for the sale transaction. When the listing broker is holding offers from within his firm and offers received through other brokerages, it is important that all offers be presented objectively and that the seller select the course of action without regard to which brokerages are the source of the offers.

9.09 Reporting the Sale. The listing broker is responsible to input the sale data for BBMS listings. This should be accomplished immediately after sale closing and not later than within seven (7) days following sale closing. Requirements for sale credit for the "Million Dollar Club" recognition are in the current version of the "Million Dollar Club Rules and Regulations" published as a separate document. A business must first appear in BBMS as listed for sale BEFORE it can be reported as sold. Removing sold businesses from the data base is a service to fellow-brokers so that they do not work on selling a business that is no longer available.

9.10 Complaints About Other BBMS Members. If you have a factual basis upon which to believe that another member has not conducted business in accordance with the GABB Code of Ethics, these Rules and Regulations, the GABB Bylaws, or to the standards for professional conduct common in the trade, then you have a serious

obligation to bring the matter to the attention of the Professional Standards Committee. We do not want lingering dissension between members over disagreements, or “loose cannons” creating unprofessional impression with the general public. No member of BBMS should engage in slander or proliferation of rumors about the professional competence of fellow members.

9.11 Business Name/Address Printed on BLI. Buyers should NEVER be provided with a BLI containing the business name/address unless it is an open listing. The BBMS provides two information formats: (1) Agent (Broker or Associate GABB member)’s Form and (2) Buyer’s Form. Any broker providing the Agent’s Form to buyers, which contains details about business name, address and seller’s identity, are committing a serious confidentiality breach. Any member who discovers a buyer in possession of an Agent’s Form should make a copy and notify an officer or director of GABB. Each form that is printed has a code that will identify the access number used to obtain the data, so it will be easy and quick to identify the source.

9.12 Promoting The MLS. The system is designed to provide a “user friendly” public access on the Internet. Customers should be encouraged to check for new listings on the site, and if you are handling them professionally, they will probably ask you to get more information rather than dealing with a multitude of listing offices. BBMS members are expected to promote the system in all dealings with customers and clients to enhance the public impression that professional business brokers are GABB members. References to your GABB and BBMS membership on business cards, stationery, advertisements, and contacts with the general public will help to make our organization stronger and more widely accepted.

BBMS **Rules and Regulations**

Section 10 - Disciplinary Actions And Fees

10.1 Compliance with the BBMS Rules and Regulations must come from personal integrity and commitment to the improvement of our organization to provide professional services to the community. In order to establish some guidelines, this section is included so that members will not be uninformed about possible consequences for their actions.

10.2 BBMS reserves the right using BizMLS, Inc. or resources of GABB to audit member offices for compliance with these Rules and Regulations and the Operating Manual For The BBMS System. It is the intent of GABB and BizMLS, Inc. that all members work together to comply from understanding of the need for the rules, regulations and standards, and not from fear of penalties that might be imposed.

10.3 Sanctions and penalties for most circumstances are designed to assist a member to resume full compliance rapidly, rather than suffer any long-term consequences from these punitive measures. The Board of Directors has established the following penalties as a guideline only, and reserves the right to impose such measures as it deems appropriate in each circumstance:

- a. Advertising a listing eligible for but not posted in BBMS - \$ 50.00
Second Incident \$100.00
Third Incident within 24 months - Referral to PSC
- b. Failure to enter an eligible listing within the deadline \$ 50.00
Second Incident \$100.00
Third Incident \$200.00
Fourth Incident within 24 months - Referral to PSC
- c. Failure to post correct information/changes to listing \$ 50.00
Second Incident \$100.00
Third Incident \$200.00
Fourth Incident within 24 months - Referral to PSC
- d. Providing Agent (Associate GABB member)'s Form BLI to Buyer \$ 50.00
Second Incident - Referral to PSC
- e. Other procedural violations \$ 50.00
Second Incident \$ 50.00
Third Incident \$100.00
Fourth Incident within 24 months - Referral to PSC
- f. Improper use of access codes \$100.00
Second Incident - Referral to PSC
- g. Sustainment of Code of Ethics violation - Membership Termination
- h. Loss of GABB membership - BBMS membership terminated

10.04 Referral to the Professional Standards Committee will result in an investigation into the facts and circumstances, and the PSC will make a recommendation to the Board of Directors as to appropriate actions to resolve the matter. The Board of Directors is the

only entity that can impose disciplinary actions such as fines, letters of reprimand, membership suspension or membership termination.

10.05 Administrative fees for 2001 that may be charged by the service provider are established as:

Initial Installation	\$125.00
Internet Link (One-time)	35.00
Monthly Service Fee (Paid Qtrly)	35.00 (Billed \$105.00)
Re-install Fee (Brokerage)	50.00
Program Reconnect (Inactivity)	25.00
Associate GABB member	
Off-premises (Per Month)	10.00