



**BYLAWS
OF
HICENTRAL MLS,
LTD.**

March 30, 2012



BYLAWS

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BYLAWS
OF
HICENTRAL MLS, LTD.

ARTICLE I

NAME

The name of this organization shall be HICENTRAL MLS, LTD., hereinafter referred to as "the Service," all the shares of stock of which are solely and wholly-owned by the HONOLULU BOARD OF REALTORS®.

ARTICLE II

PURPOSES

A multiple listing service 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 nonagency capacities defined by law); by which cooperation among Participants is enhanced, by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).

ARTICLE III

SERVICE AREA

The area within which the Service shall function shall at all times be coextensive with or within the territorial jurisdiction of the HONOLULU BOARD OF REALTORS®.

ARTICLE IV

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 multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current valid real estate broker's license and offer or accept 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 the multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by the Service where access to such information is prohibited by law. (Amended 11/08)

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and on-going basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a Virtual Office Website ("VOW") (including a VOW that the Participant uses to refer customers to other Participants) if the

Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant "actively endeavors during the operation of its real estate business" to "offer or accept cooperation and compensation" only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so.

The membership requirement shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)

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 service, and shall accept all obligations to the Service for the Participant's firm, partnership, or corporation, and for compliance with the bylaws and rules and regulations of the Service by all persons affiliated with the Participant who utilize the Service.

Any applicant for multiple listing service participation and any licensee (including licensed or certified appraisers) affiliated with a multiple listing service Participant who has access to and use of multiple listing service-generated information may be required to complete an orientation program of no more than eight (8) classroom hours devoted to the multiple listing service rules and regulations and computer training related to multiple listing service information entry and retrieval within thirty (30) days after access has been provided.

Participation in the multiple listing service is also available to nonmember principals who meet the qualifications established in the HONOLULU BOARD OF REALTORS® Bylaws and the rules and regulations of the Service. However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service participation or membership unless they hold a current, valid real estate broker's license and offer or accept 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 the Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right or access to information developed by or published by the Service where access is prohibited by law. The nonmember principal of any firm, partnership, or corporation as the Participant shall have only those rights, benefits, and privileges as specified by the Service, and shall accept all obligations to the Service for the Participant's firm, partnership, or corporation, and compliance with the bylaws and rules and regulations of the Service by all persons affiliated with the Participant who utilize the Service.

SECTION 1: 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 Service and made available to any principal of any firm, partnership, corporation, or the branch office manager designated by said firm, partnership or corporation 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 Service as from time to time amended or adopted.

SECTION 2: DISCONTINUANCE OF SERVICE

Participants of the Service may discontinue the multiple listing service by giving the Service five (5) days written notice, and may reapply to the Service after ninety (90) days by making formal application in the manner prescribed for new applicants for participation provided all past dues and fees are fully paid.

SECTION 3: SUBSCRIBERS

Subscribers (or users) of the multiple listing service include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants. 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 an MLS Participant or the Participant's licensed designee.

ARTICLE V

SERVICE CHARGES

The charges made for participation in the Service shall be as determined, and as amended from time to time by the board of directors of the Service.

ARTICLE VI

GOVERNANCE OF THE SERVICE

The governance of the Service shall be vested in a board of directors comprised of the elected officers and directors nominated and elected as described in this article.

SECTION 1: OFFICERS OF THE SERVICE

The officers of the Service, 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.

SECTION 2: BOARD OF DIRECTORS

There shall be a total of fifteen (15) directors, eleven (11) of whom shall be elected directors. The board of directors shall be comprised as follows:

- (a) No less than eight (8) REALTORS® who are Participants in the Service;
- (b) No more than three (3) non-REALTORS®, with business, financial or technical expertise.
- (c) In addition to the elected directors, the current president of the HONOLULU BOARD OF REALTORS® (Shareholder) or a person appointed by the president, the president-elect of the HONOLULU BOARD OF REALTORS® (Shareholder), the immediate past president of the HONOLULU BOARD OF REALTORS® (Shareholder), and
- (d) The Chief Executive Officer of the HONOLULU BOARD OF REALTORS® (Shareholder) who shall serve as secretary-treasurer of the Service, shall serve as director, *ex-officio*, with no voting privileges.

Elected directors cannot serve simultaneously on the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), or as an officer or a member of the board of directors of any other multiple listing service in the State of Hawaii.

SECTION 3: NOMINATION AND ELECTION OF OFFICERS AND DIRECTORS

The directors of the Service shall be elected by the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), except that the office of secretary-treasurer shall be filled by the CEO of the HONOLULU BOARD OF REALTORS® (Shareholder), or his or her designee. Nominees for the positions of elected officers and directors shall be selected in accordance with the procedures set forth below:

- (1) Selection of Proposed Nominees: Nominees for the positions of elected directors shall be selected by the directors of the Service, by Participants of the Service, and by the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), in accordance with the procedures set forth below.
- (2) Notice of Proposed Nominees: The directors of the Service shall prepare a list of proposed nominees for the positions of directors to be elected by the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder). The president shall cause the list of proposed nominees, selected by the directors, to be forwarded to the Participants of the Service, setting forth the time, and other pertinent conditions, for submitting petitions for additional proposed nominees. The notice to the Participants of the Service shall be distributed on a date at least sixty (60) days prior to the date on which the proposed nominees are submitted to the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder) for election.
- (3) Rights of Participants to Select Additional Nominees: The names of additional proposed nominees may be added to the list selected by the directors, by a petition submitted to the secretary of the Service, with signatures of three (3) per cent of the Participants of the Service, with said petition received on or before the deadline date designated in the notice of proposed nominees.
- (4) Nominees Submitted to Shareholder for Election: Nominees for elected directors of the Service for the forthcoming fiscal year selected by the directors and petitioned by the Participants shall be submitted to the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder) for election. The directors of the HONOLULU BOARD OF REALTORS® (Shareholder) may add additional names to the list of nominees. Upon election by the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), the individuals so elected shall be considered directors-elect and shall assume their respective offices on January 1st.

The term of office for officers and directors of the Service 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 HONOLULU BOARD OF REALTORS® (Shareholder), and upon notice of such failure of election, the president of the Service shall select a

proposed Participant or Participants, as required, subject to confirmation by the board of directors of the Service, for submission as nominee(s) to the board of directors of the HONOLULU BOARD OF REALTORS® (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 Service to the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), as provided in these bylaws, then the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder) shall exercise rights as sole and exclusive shareholder to elect a Participant or Participants of the Service to fill any existing vacancy or vacancies as officers or directors of the Service.

- (5) Each year, at the first meeting of the Board of Directors of the Service, the members of the board of the service shall select, from the elected REALTOR® members of the board, a president and a vice-president. The officers shall take office immediately upon their election.

SECTION 4: TERMS OF OFFICE

The officers shall serve for a one-year term. The elected directors shall serve for staggered two-year terms with one-half 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 consecutive terms.

SECTION 5: DUTIES OF OFFICERS AND DIRECTORS

The duties of the officers and directors are as follows:

- (1) The president shall preside at meetings of the Service 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 (who shall be the chief executive officer of the HONOLULU BOARD OF REALTORS®, or his or her designee) shall be the custodian of the funds of the Service 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 Service, and shall have charge of the corporate seal and affix the same to all documents properly requiring such seal.
- (4) There shall be a chief executive officer (CEO) who shall be appointed and employed by the board of directors upon and subject to the terms and conditions of a written contract of employment specifying duties, authority, compensation and other benefits. The chief executive officer may be the chief executive officer of the HONOLULU BOARD OF REALTORS®, or another person selected by the board of directors of the Service. The chief executive officer shall be the head of and shall supervise the administrative staff, and shall perform such other duties as may be delegated to the chief executive officer by the board of directors. Unless waived by the board of directors, the chief executive officer shall provide a fidelity bond in a corporate surety qualified to do business in the State of Hawaii in such amount as shall be prescribed by the board of directors, the cost of which bond shall be paid by the board.
- (5) The board of directors of the Service shall be the governing body of the Service and shall have control of all of the affairs of the Service and shall authorize all expenditures of funds. The board of directors shall employ such executive, legal, and office personnel it deems necessary to care for and maintain the properties of the Service and otherwise conduct the administrative business of the service. The board of directors shall have the right to make an audit of all books and accounts at any time without notice. The board of directors shall have the power from time-to-time to adopt such rules and regulations that they may deem appropriate. Except as otherwise provided in these bylaws and rules and regulations, the action of the board of directors shall be final.
- (6) In the event that an officer or director has two (2) consecutive unexcused absences from meetings of the board of directors, or is otherwise deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, or should the officer or director violate the Service's conflict of interest policy, the

officer or director may be removed from office under the following procedure:

- (a) A majority vote of the board of directors of the Service.
- (b) Any vote taken by the board of directors of the Service to remove an officer or director must ultimately be confirmed by a majority vote of the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder). Notwithstanding the foregoing, the Shareholder may remove an officer or director by a majority vote of the board of directors of the Shareholder.

SECTION 6: AUTHORITY TO EXECUTE DOCUMENTS

All checks, drafts, notes, bonds, acceptances, deeds, leases, contracts, and other important instruments shall be executed on behalf of the Board by such person or persons as shall be designated and authorized by resolution adopted by the board of directors. In the absence of a resolution applicable to any such instrument, the instrument shall be executed on behalf of the board by the president, the secretary or the chief executive officer.

SECTION 7: CONTRACTS AND LIABILITY

- (a) No contract or other transaction between the board of directors and a director, officer or chairperson or other member of a committee, and a firm, partnership, corporation, or trust in which the director, officer or chairperson or other member of a committee if pecuniarily or otherwise interested or of which he or she is a principal, partner, corporate director or officer, or trustee, shall thereby be invalidated if such interest is disclosed to the board of directors prior to the contract or other transaction. Any director so interested shall not be counted in determining the existence of a quorum at the meeting of the board of directors at which the contract or other transaction is to be authorized and shall not vote on the resolution authorizing the contract or other transaction.
- (b) No director, officer, or chairperson or other member of a committee of the Service shall be liable for the negligence or misconduct of any other director, officer, or chairperson or other committee member, or for any loss suffered by the Service, unless caused by his or her own gross negligence or willful misconduct.

SECTION 8: LOANS TO DIRECTORS AND OFFICERS PROHIBITED

No loans shall be made by the Service to its directors or officers. Any director or officer who assents to or participates in the making of a loan shall be liable to the Service for the amount of the loan until it is repaid. For the purposes of this Section, any director who votes against the making of a loan shall be deemed not to have assented to or participated in the making of the loan.

ARTICLE VII

CONFLICTS OF INTEREST

The Service shall have a conflicts of interest policy, adopted by board resolution. The board of directors, or any relevant committee thereof, shall resolve any question of a conflict in accordance with the conflicts of interest policy. This policy shall be reviewed by the board of directors periodically.

ARTICLE VIII

INDEMNIFICATION

The Service shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding, whether civil, criminal, or administrative, hereinafter called a "proceeding" (other than an action by or in the right of the Service) by reason of the fact that such person is or was an officer, director, employee or agent of the Service, or any predecessor multiple listing service, or who is or was serving at the request of the Service in any such capacity of another multiple listing service or other entity or enterprise, hereinafter called an "agent," against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding (including attorneys' fees and expenses of establishing a right to indemnification hereunder), if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Service and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Service, or that the person had reasonable cause to believe that the person's conduct was unlawful.

Further, the Service shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the Service to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Service, against expenses of the type described above actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Service, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Service, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

To the extent that an agent has been successful on the merits or otherwise in defense of any proceeding described above, or in defense of any claim, issue or matter therein, the agent shall be indemnified by the Service against expenses actually and reasonably incurred by the agent in connection therewith. Any such indemnification shall be made only as authorized in the specific case upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth above. Such determination shall be made (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding, or (2) if such a quorum is not obtainable if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the shareholders, or (4) by the court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such applicant by the agent, attorney or other person is opposed by the Service.

Expenses incurred in defending any proceeding may be paid by the Service in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall ultimately be determined that the agent is entitled to be indemnified by the Service as authorized in this section.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any law, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has

ceased to be an agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

The Service shall have power to purchase and maintain insurance on behalf of any agent of the corporation, against any liability asserted against or incurred by the agent in any such capacity or arising out of the agent's status as such, whether or not the Service would have the power to indemnify the agent against such liability under the provisions of this section.

ARTICLE IX

PARTICIPANT'S ANNUAL AND SPECIAL MEETINGS

SECTION 1: ANNUAL MEETING

The annual meeting of the Participants of the Service shall be held at such time and place as may be specified by the board of directors.

SECTION 2: SPECIAL MEETINGS OF THE SERVICE

Special meetings of the Participants of the Service may be called from time to time by the president, the board of directors, or by five (5) per cent of the Participants of the Service. Written notice stating the day, place, and hour of the meeting, the purpose or purposes for which the meeting is called (which purpose or purposes must be consistent with the powers of Participants granted under these Bylaws), shall be delivered to all Participants in the Service not less than fifteen (15) days prior to said meeting

SECTION 3: QUORUM AND VOTING AT SPECIAL MEETINGS OF THE SERVICE

- (a) For the transaction of the business, ten (10) per cent of the Participants of the Service 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.
- (b) A Participant may, by written instrument filed with the chief executive officer or with the presiding officer of a meeting of the Participants of the Service, appoint another Participant present in person at the meeting, as his or her proxy, in which event he or she shall be deemed present for purposes of ascertaining the presence of a quorum and the proxy may cast his or her vote.

SECTION 4: PRESIDING OFFICER

At all meetings of the Participants of the Service, 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 service shall appoint a temporary chairperson.

ARTICLE X

MEETINGS OF THE BOARD OF DIRECTORS

SECTION 1: MEETINGS

- (a) The board of directors may meet at any time it deems advisable on the call of the president or at least twenty-five percent (25%) of the then serving members of the board of directors, upon written notice thereof to each director fixing the time, place, and purpose thereof not less than two (2) days nor more than ten (10) business days after the date of such written notice. A majority of all directors then serving 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.
- (b) Proxies are not permitted for meetings of the board of directors.

SECTION 2: PRESIDING OFFICER

At all meetings of the 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 service shall appoint a temporary chairperson.

ARTICLE XI

COMMITTEES

The president, with the approval of the 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 a minimum of three (3) Participants in the Service. At least one of such Participants shall be named as chair of said committee. In addition, a committee may also include Subscribers or members of the board of directors of the Service.

ARTICLE XII

FISCAL YEAR

The fiscal year of the Service shall commence on January 1st and shall end on December 31st.

ARTICLE XIII

AMENDMENTS TO BYLAWS

Amendments to these bylaws shall be by the Participants of the Service, and shall be determined at an annual meeting or special meeting of the Service in accordance with the provisions of Article IX, concerning meetings of the Service. Amendments to the bylaws of the Service approved by the Participants shall further be subject to approval of the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder).

When amendments to the bylaws of the Service have been approved by the board of directors of the HONOLULU BOARD OF REALTORS® (Shareholder), said amendments shall be effective immediately or as stated in the amending resolution.

If the proposed amendments to the bylaws of the Service fail approval of the board of directors of the Shareholder, the board of directors of the Service shall be informed, and advised that the proposed amendment or amendments to the bylaws be further considered and resubmitted to the Shareholder as approved by the Participants of the Service.

Notwithstanding any of the foregoing, the board of directors may, at any regular or special meeting of the board of directors at which a quorum is present, approve amendments to the bylaws which are mandated by NATIONAL ASSOCIATION OF REALTORS® policy.

SECTION 1: AMENDMENTS TO RULES AND REGULATIONS

Amendments to the rules and regulations of the multiple listing service shall be by consideration and approval of the board of directors of the Service in accordance with the provisions of Article X, Section 1, concerning meetings of the board of directors.

The amendments of the rules and regulations of the multiple listing service shall be effective immediately or as stated in the amending resolution.

ARTICLE XIV

DISSOLUTION

In the event this service shall any time terminate its activities, the board of directors of the service 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 HONOLULU BOARD OF REALTORS® (Shareholder). Said plan shall provide for the collection of all assets, the payment of all liabilities, and that the remaining portions thereof be assigned to the parent corporation, namely, the HONOLULU BOARD OF REALTORS®.