

*MLS Hawaii, Inc.*  
*dba*  
**HAWAII INFORMATION SERVICE**  
**RULES and REGULATIONS MANUAL**

Adopted 9/30/98  
Revised 12/22/98  
Revised 5/10/99

**ARTICLE 1 – PURPOSE**

Hawaii Information Service (HIS) provides for the orderly collection and dissemination of real estate information including, but not limited to, listing information, tax data, and comparable data. This information is provided so that system users may better serve their customers, clients, and the public.

**ARTICLE II – GENERAL RULES**

Sec. 1            HIS shall not fix, control, recommend, suggest or maintain rates or fees for services rendered by any Principal Broker Subscriber. Hawaii Information Service shall not fix, control, recommend, suggest or maintain the division of commissions or fees between cooperating PBSs and/or between PBSs and non-subscribers. HIS shall not disclose in any manner the total commission negotiated between Seller/Lessor and Listing PBS.

Sec. 2            The Board of Directors retains the right to amend, modify, add or to delete from the HIS Rules & Regulations Manual at their sole discretion.

Sec. 3            PBS agrees that in connection with all listings placed in the database, the offer of compensation to subagents or Buyer/Tenant agents shall be specified so that an HIS Cooperating PBS shall know what compensation is being offered. The Listing PBS may offer compensation other than the compensation indicated on the listings as published in HIS, provided the Listing PBS informs the Cooperating PBS in writing in advance. The Listing PBS retains the right to determine the amount of compensation offered to Cooperating PBSs (acting as subagents, Buyer/Tenant agents or in other agency or nonagency capacities defined by law) which may or may not be the same as the compensation indicated on the listings. Compensation shall be stated as a percentage of the asking price or a dollar amount with notice whether the commission is dual or variable.

Offers of compensation are unconditional except that entitlement to compensation is determined by the Cooperating PBS's performance as the procuring cause of the sale or lease. The Listing PBS's obligation to compensate any Cooperating PBS as the procuring cause of the sale or lease may be excused if it is determined through arbitration that, through no fault of the Listing PBS and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible to collect a commission

pursuant to the listing agreement. In such instances entitlement to cooperating compensation offered through HIS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to; why it was impossible or financially unfeasible for the Listing PBS to collect some or all of the commission established in the listing agreement; at what point in the transaction did the Listing PBS know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the Listing PBS communicated to Cooperating PBS that the commission established in the listing agreement might not be paid.

Sec. 4            If PBS or any Subscriber associated with a PBS has any ownership interest in a property, the listing of which is to be disseminated through HIS, that person shall disclose that interest when the listing is filed with HIS and such information shall be disseminated to all HIS subscribers. If a PBS or any licensee (including licensed and certified appraisers) affiliated with a PBS wishes to acquire an interest in property listed with another PBS, such contemplated interest shall be disclosed, in writing, to the listing PBS not later than the time an offer to purchase is submitted to the listing PBS.

Sec. 5            HIS reserves the right to refuse listings that do not meet the requirements of these Rules & Regulations.

Sec. 6            PBS may reproduce data compilations from HIS and distribute a reasonable number of single copies of property listing data contained in the database which are related to any properties in which the prospective client/customer are or may, in the judgment of the Subscriber, be interested.

Nothing contained herein shall be construed to preclude any PBS from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the PBS.

Any MLS 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 PBS and those Associate Subscribers 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 listing 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 MLS 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 user of such information is unauthorized and prohibited by these rules and regulations.

Sec. 7 The provision of information or assistance in any form by any Subscriber to any person not a Subscriber enabling that person, persons, or entity to gain access to the HIS database shall be considered a violation of these Rules & Regulations and shall subject the Subscriber to the provisions of Article V. In addition it shall be the policy of HIS, to the extent permitted by law, to consider the provision of such information or assistance by a Subscriber to a non-Subscriber as a violation of the Hawaii Penal Code, Hawaii Revised Statutes Chapter 708, Part IXD, and HIS may, at its option, apply to the appropriate prosecuting authority for redress through the criminal justice system.

Any information provided to HIS by the PBS shall be considered official information of HIS. Such information shall be considered confidential and exclusively for the use of PBSs and Associate Subscribers and Appraiser Subscribers.

The information published and disseminated by HIS is communicated verbatim, without change by HIS, as filed with HIS by the PBS. HIS does not verify such information provided and disclaims any responsibility for its accuracy. Each PBS agrees to hold HIS harmless against any liability arising from any inaccuracy or inadequacy of the information such PBS provides.

Sec. 8 It shall be the policy of HIS, to the extent permitted by law, to treat any damage to the HIS database or software as a violation of the Hawaii Penal Code, Hawaii Revised Statutes Chapter 708 Part IX, and to seek criminal prosecution therefor. Such damage may include, but not be limited to, the adding of unauthorized data or software codes, the unauthorized changing of any data or software codes, the unauthorized deleting of any data or software or firmware residing on any HIS computer. In addition, HIS shall be authorized to initiate appropriate legal action to recover any monetary losses suffered by HIS on account of any damage to the HIS databases or software.

Sec. 9 Shareholder Boards and non-Subscribers who are actively engaged in real estate management, brokerage, mortgage financing, land development, appraising, or building but who do not subscribe to HIS are nonetheless entitled to receive by purchase or lease all information other than current listing information that is generated wholly or in part by HIS, including "comparable" information, "sold" information, and statistical reports. This information is provided for the exclusive use of Non-Subscribers and individuals affiliated with Non-Subscribers 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 & Regulations.

Sec. 10 All data input into the HIS database by PBS or Associate Subscribers, and/or licensed personal assistants and/or unlicensed personal assistants shall comply with all Federal and State laws, including but not limited to the Federal Fair Housing Act.

Sec. 11. Any listing filed with HIS automatically expires on the dates specified in the agreement, unless renewed by the Listing PBS and notice of renewal or extension is filed with HIS..

If notice of renewal or extension is dated after the expiration date of the original listing, and the original listing has not otherwise been revived, then a new listing agreement must be signed by the Seller and published as a new listing.

Sec. 12 Any listing filed with HIS shall not be made available to any broker or firm not a PBS without the prior written consent of the Listing PBS

Sec. 13. By the act of submitting any property listing data to HIS the PBS represents that he has been authorized to grant and also thereby does grant authority for HIS to include the property listing data in its copyrighted compilation and also in any statistical report on comparables.

Sec. 14.1. All right, title, and interest in each copy of every compilation created and copyrighted by HIS and in the copyrights therein shall at all times remain vested in HIS.

Sec. 14.2. Each PBS shall be entitled to acquire from HIS a number of copies of each compilation sufficient to provide the PBS and each person affiliated as a licensee (including licensed or certified appraisers) with such PBS with one copy of such compilation. The PBS shall pay for each such copy the rental fee set by HIS.

Sec. 15. PBSs and those persons affiliated as licensees with such Principal Broker Subscribers shall be permitted to display the compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said compilation.

Sec. 16. Information from HIS compilations of current listing information, from statistical reports, and from any sold or comparable report of HIS may be used by PBSs as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other PBSs, or which were sold by other PBSs (as either listing or cooperating broker).

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 HIS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

“Based on information from Hawaii Information Service for the period from \_\_\_\_\_ to \_\_\_\_\_.”

Sec. 17. Subscribers shall not solicit a listing on property filed with HIS unless such solicitation is consistent with Article 16 of the Realtors Code of Ethics, its Standards of Practice, and its Case Interpretations.

## ARTICLE III – DEFINITIONS

### Sec. 1 **Definitions**

- A. HIS – MLS Hawaii, Inc. dba Hawaii Information Service
- B. Subscriber

B.1 **Principal Broker Subscriber (PBS)** A PBS is the individual, licensed to sell real estate in the State of Hawaii, who is, under Hawaii Revised Statutes, responsible for the activities of the real estate firm and who is, therefore, capable of offering and accepting compensation to and from other PBSs. PBS shall be entitled to Active Access.

B.2 **Associate Subscriber** An individual who is associated with a Principal Broker Subscriber, either as a licensed employee or independent contractor or as a licensed or unlicensed assistant. Associate Subscribers shall be entitled to Active Access

B.3 **Appraiser Subscriber** An individual or entity licensed to appraise real property pursuant to HRS Chapter 466k. Appraiser Subscribers shall be entitled to Active Access.

B.4 **Affiliate Subscriber** Attorneys/Title Companies/Lending Institutions and Government Agencies. Affiliate Subscribers shall be entitled to Passive Access that specifically limits access to confidential fields.

**Note 1.** Affiliate Subscribers are subject to the Rules & Regulations, the payment of any applicable fees and charges, and the limitations and restrictions of state law

**Note 2.** None of the foregoing shall diminish the ultimate responsibility of the PBS to ensure compliance with the Rules & regulations of HIS by all individuals affiliated with the PBS.

B.5 **Reciprocal Subscriber** – A member of a Board of REALTORS® whose Boards have entered into reciprocal agreements to allow submission of listings located on the islands of Hawaii and Kauai to HIS without becoming a Principal Broker Subscriber. Reciprocal Subscribers shall not be entitled to any Access except to submit listings.

### **C. Levels of Access.**

C.1 Active Access shall entitle the user to the following services:

- C.1.a On-line access to the Research™/WebREsearch™ database & all related on-line programs
- C.1.b Privilege and obligation to submit property listing information for all residential, condominium, land, business, and commercial

properties (subdivisions & projects optional) listed for sale by PBS to the HIS database

- C.1.c Purchase of printed compilations of HIS database
- C.1.d Training in the use of the on-line computer system

C.2 Passive Access shall entitle the user to the following services:

- C.2.a On-line access to the REsearch™/WebREsearch™ database
- C.2.b Training in the use of the on-line computer system

C.3 Reciprocal Access shall entitle the user to the following services

- C.3.a Submit listings to HIS without becoming a PBS. A maximum of two (2) listings per year may be submitted on a reciprocal basis without becoming a Principal Broker Subscriber.
- C.3.b Purchase of printed compilations of HIS database

- D. By-laws – The By-laws of HIS.
- E. Board of Directors – The Board of Directors of HIS.
- F. Seller/Lessor – The person or entity who lists a property for sale or lease with a PBS.
- G. Buyer/Tenant - The person or entity who is attempting to buy or lease a property listed with a PBS.
- H. Listing Principal Broker Subscriber – The PBS with whom a property is listed for sale, lease, exchange, or other disposition.
- I. Cooperating Principal Broker Subscriber – The PBS who obtains or attempts to obtain a Buyer/Tenant for a listed property; i.e., a sub-agent of the Seller/Lessor or an agent of the Buyer/Tenant.
- J. Exclusive Right to Sell – A written agreement appointing the PBS the agent for the sale, exchange or other disposition of the property for a specified period of time
- K. Exclusive Agency/Office Listing – A written instrument giving one PBS the right to sell the property for a specified time but reserving the right of the Seller to sell the property himself without the payment of a commission.
- L. Office Exclusive Listing – A written instrument signed by the Seller who has stated thereon that the availability of the property shall not be published in HIS.
- M. Open Listing – An agreement between a Seller/Lessor and a PBS where the PBS earns a commission only if he procures a Buyer/Tenant for the property or otherwise completes the performance under the open listing agreement and not if the Seller/Lessor or another PBS procures a Buyer/Tenant or completes performance.
- N. Owner – The legal/beneficial owner of real property.
- O. Net Listing – An employment contract in which the PBS receives as his commission all excess moneys over and above the minimum sales price agreed upon by PBS and Seller.

- P. Partial Interest – An interest in real property (whether fee or leasehold) which constitutes less than 100% of the legal and/or equitable title held by the Owner. For purposes of these Rules and Regulations a leasehold interest, without further qualification, shall not be considered a partial interest; i.e., a leasehold interest shall be considered a whole interest unless a portion of the leasehold is being listed for sale; i.e., 1/6<sup>th</sup> interest in a Bishop Estate Lease.Q. REsearch™ - The HIS computer-based database access system.
- R. Rules & Regulations – These Rules & Regulations of HIS, as well as any policies and procedures, as outlined in these Rules & Regulations.
- S. Access– The ability to use the HIS databases and its related services.
- T. WebREsearch™ - The HIS computer-based database access system using a customized version of Internet Explorer™.
- U. Compliance Committee – Nine (9) PBSs appointed by the Board of Directors (or the Board of Directors) to determine whether a violation of these Rules & Regulations has occurred and to recommend sanctions to the Board of Directors of HIS.
- V. Dual or Variable Rate Commission Agreement – An agreement in which the Seller/Lessor agrees to pay a specified commission if the property is sold by the Listing PBS without assistance and a different commission if the sale results through the efforts of a Cooperating PBS; or one in which the Seller/Lessor agrees to pay a specified commission if the property is sold by the Listing PBS either with or without the assistance of a Cooperating PBS and a different commission if the sale results through the efforts of the Seller/Lessor.
- W. Contract Date – The date when the contract becomes binding upon Buyer/Tenant & Seller/Lessor.
- X. Days on Market – The number of days between the current listing date and the contract date
- Y. Service – Hawaii Information Service

**Sec. 2 Types of Listings Accepted**

- A. Exclusive Right to Sell
- B. Exclusive Agency.

**Note:** Net Listings & Open Listings may not be accepted.

**Sec. 3 HIS Information**

- A. Each Subscriber shall be responsible for maintaining the security and integrity of all data whether provided in written or printed form, electronically or any other form or format.
- B. The information found in the HIS system is deemed reliable but is not guaranteed. The information as published and disseminated by HIS is communicated verbatim, with changes as entered into the service by the Subscriber or other source. HIS does not necessarily verify the information provided and disclaims any responsibility for its

accuracy. Each Subscriber agrees to hold HIS harmless against any liability (including attorney's fees and litigation costs) arising from any inaccuracy of the information provided.

C. All rights, title, and interest in each and every HIS database compilation created by HIS, and in the ownership of the copyright therein, shall at all times remain vested in HIS. HIS shall have the right to license such compilations or portions thereof to any entity pursuant to the terms agreed upon by the HIS at no cost to HIS. Title to the information supplied by the PBS shall remain with PBS as the owner of such listing information.

#### Sec. 4           **Use of the Term REALTOR®**

A       Nothing in these Rules & Regulations or in any other rule or policy of HIS or NATIONAL ASSOCIATION OF REALTORS® shall grant to a Non-REALTOR® Subscriber the right to use in any form or manner the terms REALTOR® or REALTORS®.

B.       The Non-REALTOR® Subscriber shall take reasonable efforts to make clear that he/she is not a REALTOR®.

### **ARTICLE IV - STANDARDS OF CONDUCT**

Sec. 1           Subscriber shall not engage in any practice or take any actions inconsistent with the agency or other exclusive relationship recognized by law that other PBSs have with clients.

Sec. 2           Subscribers, acting as subagents or as Buyer/Tenant's agents, shall not attempt to extend a Listing PBS's offer of compensation to other PBSs without the consent of the Listing PBS.

Sec 3           Subscribers shall not solicit a listing or other agency relationship which is currently listed exclusively with another PBS. However, **if** the Listing PBS, when asked by a PBS, refuses to disclose the expiration date and nature of such listing or other agency relationship: i.e., an exclusive right to sell, an exclusive agency or other such contractual agreement between the Listing PBS and the client, the Cooperating PBS may contact the Seller/Lessor to secure such information and may discuss the terms upon which the PBS might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing.

Sec. 4           Subscribers shall not use information obtained by them from the Listing PBS, by way of offers to compensate through HIS or other sources authorized by the Listing PBS, for the purpose of creating a referral prospect to a third PBS, or for creating a Buyer/Tenant prospect, unless such use is authorized by the Listing PBS.

Sec. 5           The fact that an agency agreement has been entered into with a Subscriber shall not preclude or prohibit any other Subscriber from entering into a similar agreement after the expiration of the prior agreement.

Sec. 6           The fact that a client has retained a Subscriber as an agent or other exclusive relationship in one or more past transaction does not preclude other Subscribers from seeking such former client's future business.

Sec. 7           Subscribers are free to enter into contractual relationships or to negotiate with Seller/Lessors/, Buyer/Tenants or others who are not represented by an exclusive agent, but shall not knowingly obligate them to pay more than one commission, except with informed consent.

Sec. 8           When Subscribers are contacted by the client of another Subscriber regarding the creation of any agency relationship to provide the same type of service, and Subscribers have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agency agreement or, alternatively, may enter into an agency agreement which becomes effective upon expiration of any existing exclusive arrangement.

Sec 9           In cooperative transactions, PBSs shall compensate Cooperating PBS and shall not compensate, nor offer to compensate, directly or indirectly, the Associate Subscribers employed by or affiliated with other PBSs without the express knowledge and consent of the Cooperating PBS.

Sec 10          Subscribers are not precluded from making general announcements to prospective customers describing their services and the terms of their availability even though some recipients may have entered into agency agreements with another Subscriber. A general telephone canvass, general mailing, or distribution addressed to all prospective customers 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.

Sec. 11          The following types of solicitations are prohibited:

1.               Telephone or personal solicitation of property Owners or other Seller/Lessors who have been identified by a real estate sign, HIS compilation or other information service as having exclusively listed their property with another Subscriber.

2.               Mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another Subscriber when such solicitations are not part of general mailing but are directed specifically to property Owners or other Seller/Lessors identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information intended to foster cooperation with Subscribers.

Sec 12          Prior to entering into an agency agreement or other exclusive relationship, Subscribers 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.

Sec. 13          Subscribers are not precluded from contacting the client of another PBS 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 Broker Subscriberage). However, information received through HIS or any other offer of cooperation may not be used to target clients of other HIS Subscribers to whom such offers may be made.

Sec. 14 Subscribers, acting as subagents or Buyer/Tenant's agents, shall not use the terms of an offer to purchase/lease to attempt to modify the Listing PBS's offer of compensation to subagents or Buyer/Tenant's agents, nor make the submission of an executed offer to purchase/lease contingent on the Listing PBS's agreement to modify the offer of compensation.

Sec. 15 All dealings concerning property exclusively listed, or with Buyer/Tenant who are exclusively represented, 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 except where such dealings are initiated by the client.

Sec. 16 These rules are not intended to prohibit ethically aggressive or innovative business practices and do not prohibit disagreements with other Subscribers involving commissions, fees, compensation or other forms of payment or expenses.

Sec. 17 Subscribers shall not knowingly or recklessly make false or misleading statements about competitors, their businesses or their business practices.**ARTICLE V.**

#### **ARBITRATION/STANDARDS OF CONDUCT**

##### **Sec. 1 Arbitration/Standards of Conduct**

By becoming and remaining a PBS, each PBS agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions between Principal Broker Subscribers in different firms arising out of their relationships as PBSs under the following conditions and subject to the following qualifications:

Disputes subject to arbitration:

- (a) Where a listing PBS has compensated a cooperating PBS and another cooperating PBS subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating PBS as respondent and arbitration may proceed without the listing PBS being named as a respondent. Alternatively, if the complaint is brought against the listing PBS, the listing PBS may name the first cooperating PBS as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction.
- (b) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing PBS, and the listing PBS, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating PBS claims to be the procuring cause of sale or lease. In such cases the complainant may name the first

cooperating PBS as a respondent and arbitration may proceed without the listing PBS being named as a respondent. Alternatively, if the complaint is brought against the listing PBS, the listing PBS may name the first cooperating PBS as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction.

- (c) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing PBS reduces the commission owed by the seller or landlord and subsequent to such actions, another cooperating PBS claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating PBS as respondent and arbitration may proceed without the listing PBS being named as a respondent. Alternatively, if the complaint is brought against the listing PBS, the listing PBS may name the first cooperating PBS as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction.
- (d) Where two or more listing PBSs claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing PBSs has been compensated by the seller or landlord, the other listing PBS, as complainant, may name the first listing PBS as respondent and arbitration may proceed between the PBSs.

Subject to the following conditions:

- a. If all disputants are members of the same Board of Realtors®, they shall arbitrate pursuant to the procedures of that Board/Association of Realtors®.
- b. If the disputants are members of different Boards of Realtors they remain obligated to arbitrate in accordance with the procedures of the Hawaii Association of Realtors®.

#### **ARTICLE VI- NON-COMPLIANCE WITH THE RULES & REGULATIONS**

Sec. 1 A processing fee in an amount listed in the HIS Schedule of Fees and Charges as amended from time to time may be charged for noncompliance with the Rules & Regulations.

Sec. 2 The HIS Board of Directors may impose one or more of the following sanctions for any violation of the HIS Rules and Regulations:

- A. A letter of warning,
- B. A letter of reprimand,
- C. An appropriate and reasonable fine as specified in the Schedule of Fees and Charges,

- D. Suspension or termination of the right to use the service.

Sec. 3 Procedures for Complaints

- A. Users are encouraged to resolve complaints before writing to HIS.
- B. All complaints must be in writing and filed with HIS (Reference HIS Form 531)
- C. If the violation of the Rules and Regulations does not involve a charge of alleged violation of the Standards of Conduct or a request for arbitration, it will be investigated by staff within 15 days of receipt of the Complaint.
- D. In the event that HIS staff concludes there is a basis for the complaint, the complaint will be forwarded to a Compliance Panel.
- E. The Subscriber and/or Associate Subscriber shall be informed of the complaint and asked to provide a written response within fifteen (15) days of notification allowing further information to be a part of their investigation.
- F. The Compliance Committee may hold, at its discretion, a hearing into the matter.
- G. Any sanction imposed by the Compliance Committee may be appealed in writing to the Board of Directors of HIS unless the Board of Directors of HIS was sitting as the Compliance Committee in which case the decision of the Compliance Committee shall be final. Appeals must be received within twenty (20) days after receipt of notification of the sanction. Any fine appealed must be paid prior to any action regarding the appeal. HIS will hold fines until a decision has been made on the appeal.

**ARTICLE VII - COMPLIANCE COMMITTEE**

Sec. 1 The Compliance Committee shall consist of nine (9) PBSs appointed by the Board of Directors of HIS. The Compliance Committee will interpret the rules and regulations as needs or disputes arise and oversee their enforcement.

Sec. 2 Subcommittees of three members shall meet to give consideration to alleged violations of the HIS Rules and Regulations and to recommend any sanctions.

**ARTICLE VIII- HIS FEES AND CHARGES**

Sec. 1 A schedule of fees is set forth in the Subscriber License & Access Agreement.

Sec. 2 Waiver. A PBS may obtain a waiver of the payment of fees and charges for any licensee associated with the PBS subject to the following conditions:

- 2.1 The person must be eligible for a waiver according to VIII Sec. 2.5 of the Rules & Regulations

- 2.2 Written application is submitted to HIS on the form provided by HIS
- 2.3 The term of the waiver shall not exceed one (1) year; it shall expire on the last day of each calendar year
- 2.4 New applications are required annually by PBS to continue waiver eligibility
- 2.5 Those licensed persons who shall be eligible for a waiver of fees and charges are defined as those whose professional position in the firm requires an active real estate license but who do not actively participate in any of the functions intended to result in a sale or lease of real property. Further, they do not receive any direct income, whether by way of commission, wages or referral fees, from the sale, lease or purchase of real estate.

Such persons may include, but are not limited to,

\*Property Managers

\*Corporate officers, directors and/or shareholders associated with a PBS who do not actively participate in the sales activity of the firm and who are required to be licensed by law

\*Partners associated with the PBS who do not actively participate in the sales activity of the firm and who are required to be licensed by law

- 2.6 In the event a waiver is found to have been granted in violation of the Rules & Regulations or the position of the eligible licensee changes and they are no longer eligible for a waiver, HIS has the authority to revoke the waiver retroactive to the date of granting of the waiver, and the PBS shall be liable for all fees accrued against the licensee during the waiver period.

### **ARTICLE IX - TRAINING**

Sec. 1 All Subscribers of HIS shall complete a mandatory training program devoted to HIS Rules and Regulations and the operation of the HIS system. Access will be provided after completion of the training program.

Sec. 2 If a user is unable to attend the scheduled training program, 48 hours (including weekends and holidays) notice of cancellation must be received by HIS to avoid a no-show fee as specified in the Schedule of Fees and Charges.

Sec. 3 HIS shall maintain a help desk to answer questions regarding access to and use of the HIS database. Telephone support will be made available during normal business hours.

### **ARTICLE X - LISTING PROCEDURES**

Sec. 1 All listing agreements shall be carefully and accurately completed on a data input form supplied by HIS and signed by the Seller/Lessor. Required listing information shall be entered into the service within 48 hours (excluding weekends and holidays) after all

necessary signatures of the Seller/Lessors have been obtained unless otherwise requested in writing by the Seller/Lessors.

Sec. 3 All listings in the service are subject to the HIS Rules and Regulations.

Sec. 4 Exempted Listings - If the Seller/Lessor refuses to authorize the listing to be entered into HIS, the listing information will not be entered into HIS by the agent. Certification by the Seller that he/she does not want the listing to be entered into HIS shall be kept on file by the PBS. PBSs are encouraged to add listing information on comparable properties after sale.

Sec. 5 If a property is listed with two or more PBSs, only one PBS will be allowed to enter the listing into the HIS system. Identification of the other PBS must be entered into the system under remarks. This shall not prevent one PBS from entering an exclusive sale listing and another an exclusive rental listing provided that this arrangement is reported under "Remarks" by both PBSs.

Sec. 6 Prior to adding a listing to the system, the Listing PBS shall check to verify that the property is not already entered into the system with another PBS. Adding a listing when a property is entered into the system with another PBS shall result in an additional processing fee. Extending a listing in the service without a signed extension shall result in an additional processing fee.

Sec. 7 All arrangements, agreements or contingencies (exclusive of gross commissions) concerning the agency of the Listing PBS shall be fully revealed in the listing data and made available to all Subscribers.

Sec. 8 Failure to enter or maintain accurate and complete information relating to the listed property information will result in an additional processing fee as specified on the Schedule of Fees and Charges.

Sec. 9 Listings with named excluded prospects should be clearly noted as such in the remarks section. The excluded prospects should not be named, but rather the remarks should indicate that certain prospects are excluded and all inquiries should be directed to the Listing PBS.

Sec. 10 A PBS may enter one or more sample listings with respect to any development or subdivision containing, new dwellings which have never been occupied, or vacant residential building lots, and describe on such sample listings all other properties in the development or Subdivision. When any property described on a sample listing other than the sample itself is sold, such property must be entered into HIS and simultaneously reported as sold. If a sample is sold before all other properties described on the listing for such sample have been sold, a new sample listing must be entered.

Sec. 11 Listing Price Specified - The full list price stated in the listing agreement will be included in the information published in any compilation of current listings unless the property is subject to auction.

Sec. 12 Listing Multiple Unit Properties - All properties which are to be sold or which may be sold separately must be indicated in the listing. When part of a listed property has been sold, notification of such sale shall be entered into the service within 48 hours (excluding weekends and holidays) after the sale. Properties that can be sold separately shall be entered into the system separately.

Sec. 13 Duplicate Listing Submission - When a property falls into two or more classes of listings, the property may be listed in each of the appropriate classes provided that each listing is complete and accurate in itself and cross-referenced by listing number with the other listing for the same property. When sold or removed from the active listings, the PBS shall report only one submission as sold, the other as withdrawn.

Sec 14 Termination Date on Listings – Listings filed with HIS shall bear a definite and final termination date as negotiated between the listing PBS and Seller/Lessor.

Sec 15 Listings must represent actual property that is currently available for sale or rent

Sec. 16 A listing, when entered into HIS by a Subscriber, shall be complete, current and accurate in every detail as specified on the Property Profile Sheet (Exhibit A to the listing contract) HIS does not require, but reserves the right, to obtain a copy of the listing agreement and/or amendments upon request.

Sec. 17 Only listings of the designated types of property within the jurisdiction of HIS are required to be entered into HIS. Listing of property located outside HIS's jurisdiction will be accepted if submitted voluntarily by the Subscriber. For properties outside HIS's jurisdiction, HIS is not required to maintain information such as, but not limited to, tax information, maps, photographs, etc.

Sec. 18 A listing shall not be advertised by any PBS other than the Listing PBS without the prior consent of the Listing PBS.

#### **ARTICLE XI - CHANGE OF STATUS/REPORTING PROCEDURES**

Sec. 1 Any change in price or terms in the listing or sales agreement must be executed in writing, signed by the Seller and PBS, and entered into the service within 48 hours (excluding weekends and holidays) of the effective date. Failure to enter the change in a timely manner will result in an additional processing fee.

Sec. 2 Listings of properties may be withdrawn from HIS by the Listing PBS before the expiration date of the listing agreement provided a written agreement is executed by the Seller/Lessor and the Listing PBS. Sellers do not have the unilateral right to require HIS to withdraw a listing without the listing PBS's concurrence. However,

when a seller can document that his exclusive relationship with the PBS has been terminated, HIS may remove the listing at the request of the seller.

## **ARTICLE XII- LISTINGS OF SUSPENDED OR EXPELLED SUBSCRIBERS**

Sec. 1 When a Subscriber is suspended or expelled from HIS for failing to abide by the HIS Rules & Regulations, including failure to pay appropriate dues, fees, or charges, and the Subscriber has active listing(s) in the system, the Subscriber's PBS shall, within three (3) days of notification of the suspension or expulsion, designate a new Subscriber for the active listings(s). In the event that the PBS does not designate a new Subscriber, the active listing(s) will be removed from the system.

Sec. 2 If the PBS has been suspended or expelled from HIS for failure to pay appropriate dues, fees or charges, HIS is not obligated to provide services including the inclusion of the suspended or expelled PBS's listings in the HIS compilation of current listing information.

## **ARTICLE XIII - LISTINGS OF RESIGNED PRINCIPAL BROKER SUBSCRIBERS**

Sec. 1 When a PBS resigns from HIS, HIS is not obligated to provide services including continued inclusion of the resigned PBS's listing(s) in the HIS compilation of current listing information.

Sec 2 Prior to any removal of a resigned PBS's listing from the HIS database, the resigned PBS will be advised electronically or by other means of the intended removal by HIS so that the resigned PBS may advise his or her clients.

## **ARTICLE XIV - FAIR HOUSING**

Sec. 1 No listing may be entered into the system or revised to contain language which violates the Federal Fair Housing Act, as amended from time to time.

Sec. 2 If a listing is found to contain offensive language, HIS Staff will notify (through the HIS Intranet Site, or e-mail. or facsimile. or telephone. or US Mail or by other means) the listing agent and PBS that the offensive language must be changed within 48 hours (including weekend and holidays). Failure to change the offensive listing within the specified time frame will result in removal of the listing from the HIS system.

## **ARTICLE XV - SHOWING**

Sec. 1 All appointments for showing of listed property filed with HIS shall be conducted through the Listing PBS unless the Listing PBS gives the Cooperating PBS specific authority to show directly or, after reasonable effort, the Cooperating PBS cannot contact the Listing PBS or his representative. However, the listing broker, at his option, may preclude such direct negotiations by cooperating PBSs.

Sec. 2. All listings entered into the system shall be available for showing within 48 hours (excluding weekends and holidays) from the effective date of the listing. It is the duty of the listing Principal Broker Subscriber to be certain that the seller is aware that the property will not be entered into the system if the property is not available for showing by all agents within 48 hours (excluding weekends and holidays)

#### **ARTICLE XVI - PRESENTATION OF OFFERS**

Sec. 1 The Listing PBS must make arrangements to present all offers as soon as possible or give the Cooperating PBS (subagent or Buyer/Tenant's agent) a satisfactory reason for not doing so.

Sec. 2 All appointments for negotiations with the Seller/Lessor for the purchase of listed property filed with HIS shall be conducted through the Listing PBS unless, after reasonable effort, the Cooperating PBS cannot contact the Listing PBS or his or her representative. However, the Listing PBS, at his or her option, may preclude such direct negotiations by the Cooperating PBS (subagent or Buyer/Tenant's agent or both, as the case may be.)

Sec. 3 The Listing PBS shall submit to the Seller/Lessor all written offers until closing unless precluded by law, government rules, regulations, or agreed otherwise in writing between the Seller/Lessor and the Listing PBS. Unless the subsequent offer is contingent upon the termination of an existing contract, the Listing PBS shall recommend that the Seller/Lessor obtain the advice of legal counsel prior to acceptance of the subsequent offer.

#### **ARTICLE XVII - NEGOTIATIONS**

Sec. 1 Rights of Cooperating Principal Broker Subscribers. The Cooperating PBS or his or her representative shall have the right to participate in the presentation to the Seller/Lessor of any offer he or she secures to purchase or lease. The Cooperating PBS does not have the right to be present at any discussion or evaluation of that offer by the Seller/Lessor and the Listing PBS. However, if the Seller/Lessor gives written instruction to the Listing PBS that the Cooperating PBS not be present when an offer that the Cooperating PBS has secured is presented, the Cooperating PBS has the right to a copy of the Seller/Lessor's written instructions. None of the foregoing diminishes the Listing PBS's right to control the establishment of appointments for such presentations.

Sec. 2 Rights of Listing Principal Broker Subscriber – The Listing PBS or his/her representative has the right to participate in the presentation of any counter-offer made by the Seller/Lessor. He/she does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee except where cooperating PBS is a subagent. However, if the purchaser or lessee gives the written instructions to the Cooperating PBS that the Listing PBS not be present when a counter-offer is presented, the Listing PBS has the right to a copy of the purchaser's or lessee's written instructions.

## **ARTICLE XVIII - REPORTING SALES**

Sec. 1 The Listing PBS shall make all necessary changes in the HIS database within 48 hours (excluding weekends and holidays) that a contingency on file has been removed, modified or renewed, or the contract amended or canceled.

Sec. 2 Acceptance by a Seller/Lessor of a contract of sale on a listed property shall be reported to HIS by the Listing PBS within 48 hours (excluding weekends and holidays) after acceptance unless the negotiations were carried on under Article XV and XVI of these rules in which case the cooperating PBS shall report, sending a copy of the sales agreement to the listing broker within twenty-four (24) hours after acceptance.

Sec. 3 Once settlement has occurred on the purchase and sale of a listed property, the Listing PBS shall change the status in the HIS data base within 48 hours of settlement (excluding weekends and holidays) to "Sold".

Sec. 4 The Listing PBS shall notify HIS of any cancellation of any pending sale. The listing shall be reinstated immediately if the listing period has not expired.

## **ARTICLE XIX – USE OF BULLETIN BOARD AND MAILBOX FUNCTIONS**

Sec. 1 The HIS bulletin board and mailbox will have communication options available to users. Advertisements for items other than real estate are prohibited from the bulletin board.

Sec. 2 Any defamatory or obscene statements or use of the bulletin board or mailbox which violates federal, state, or local laws or the rights of other parties are expressly prohibited.

Sec.3 HIS has the specific unilateral right to cancel, suspend or terminate any participant's or user's access to the bulletin board without notice.

Sec. 4 Help Desk will monitor its e-mail box during normal business hours for inquiries and support requests and respond to such inquiries and requests as soon as practicable under the circumstances.