



## **CHARLESTON TRIDENT MULTIPLE LISTING SERVICE BYLAWS**

*As of June 2012*

### **ARTICLE I - AUTHORITY**

SECTION 1.1. NAME - The name of this organization shall be the Charleston Trident Multiple Listing Service, Inc., hereinafter referred to as the service, all shares of stock of which are solely and wholly owned by the Charleston Trident Association of REALTORS®, Inc.

SECTION 1.2. SEAL - The seal of the corporation shall be circular in form and mounted upon a metal die suitable for impressing same upon paper. About the periphery of the seal shall appear the words "Charleston Trident Multiple Listing Service, Inc." And in the center of the seal shall appear the word "Seal".

SECTION 1.3. STOCK - There shall be one share of class b "voting" stock of one dollar (\$1.00) Par value. This stock is to be owned and held by the Charleston Trident Association of REALTORS® and its successors. It is nontransferable, and the holder of said share of stock has the sole right to vote for the directors of this corporation.

SECTION 1.4. DEFINITIONS - The "Board of Directors" shall be taken to mean the Board of Directors of the Charleston Trident Association of REALTORS®. The word "Association" shall be taken to mean the legal entity known as the Charleston Trident Association of REALTORS® as distinguished from its governing board. The word(s) "Director" or "MLS Director," shall be taken to mean the directors of the Charleston Trident Multiple Listing Service, Inc. The word "Participant" shall be taken to mean an individual who meets the criteria outlined in Article 4 of these bylaws. The word "Non-participant" shall be taken to mean individuals who are licensed to sell real estate but do not participate in the service. The word "Subscriber" shall be taken to mean an individual as identified in Article 4.3 of these bylaws.

### **ARTICLE II - PURPOSES**

MLS is a means:

- By which authorized Participants make blanket unilateral offers of compensation to other Participants (acting either as subagents, buyer agents, or in other agency or non-agency 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 data bases.
- To provide a facility for the orderly correlation and dissemination of listing information among authorized Participants in the Service, so they may better serve their clients and customers and the public.
- To provide a facility to encourage cooperation between members and to encourage members to consistently uphold the high standards of professional conduct expressed in the Code of Ethics of the National Association of REALTORS®.
- Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease).

While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional, a listing broker's obligation to compensate a cooperating broker who was the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS 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 broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker 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 broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.

### **ARTICLE III - SERVICE AREA**

The area within which the Service shall function shall all times be coextensive with or within the territorial jurisdiction of the Charleston Trident Association of REALTORS®.

### **ARTICLE IV - PARTICIPATION**

SECTION 4.1. PARTICIPATION DEFINED - Any REALTOR of this or any other Association of REALTORS® who is a principal, partner, corporate officer, branch manager, or broker-in-charge 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 or property manager in charge 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 an Association 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 an Association Multiple Listing Service where access to such information is prohibited by law. (Amended 12/08)

MLS Participation shall be available to any REALTOR (principal) or any firm comprised of REALTORS (principals) irrespective of where they hold primary membership subject only to their agreement to abide by the MLS Rules and Regulations: agreement to arbitrate disputes with other Participants; and payment of any MLS dues, fees, and charges.

The REALTOR Principal of any firm, partnership or 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. Each Participant shall have one vote on MLS matters.

Participation in the Multiple Listing Service shall be personal and shall not survive the death of an individual participant and may not be transferred by any means without the approval of a majority of the MLS Directors. Requests for transfer of participation may be made, in writing, to the MLS Directors.

Brokers or salespersons other than the chief principal officer are not considered Participants in the service but have access to and use of the service through the Participant with whom they are affiliated.

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 ongoing 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.

SECTION 4.2. APPLICATION FOR PARTICIPATION - Application for participation shall be made in such manner and form as may be prescribed by the MLS Directors and made available to any REALTOR® (Principal) from this or any other Association of REALTORS® 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 4.3. DISCONTINUANCE OF SERVICE - Participants may discontinue the service by giving the service thirty (30) days written notice and may reapply to the service any time by making formal application in the manner prescribed for new applicants for participation provided all past dues and fees are fully paid and provided that said applicant is in good standing with the Association of REALTORS® having jurisdiction over them. A Participant whose resignation is less than a year old may have services restored by paying MLS fees times the number of months the resignation was in effect dating back to the date of resignation within the current calendar year or by paying the \$1000 application fee, whichever is less.

SECTION 4.4. SUBSCRIBER - Where the terms "subscriber" or "user" are used in connection with the Multiple Listing Service, they refer to non-principal brokers, sales licensees, and licensed and certified real estate appraisers affiliated with an MLS Participant.

SECTION 4.5. ORIENTATION - Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who desires access to and use of MLS-generated information shall complete an orientation program, as approved by the MLS Directors, of no more than eight (8) classroom hours devoted to the MLS Rules and Regulations and computer training related to MLS entry and retrieval within (60) days after licensee is affiliated with Participant.

## **ARTICLE V - SERVICE CHARGES**

The charges made for participation in the Service shall be as determined, and amended from time to time, by the Board of Directors of the Service, and specified in the Rules & Regulations of the Service.

## **ARTICLE VI - GOVERNING BODY**

SECTION 6.1. GOVERNMENT OF THE SERVICE - The government of the service shall be vested in the Board of Directors of the Service (MLS Directors) comprised of Officers and Directors nominated and appointed as described in this article.

SECTION 6.1. OFFICERS OF THE SERVICE - The Officers of the Service who shall also be Directors, shall be a President, a Vice President, a Secretary and a Treasurer, and shall have such duties as described in this article. Only the office of Secretary and Treasurer may be combined.

SECTION 6.2. BOARD OF DIRECTORS - There shall be a total of eleven (11) Directors, including the President, Vice President, Secretary and Treasurer. Directors will be appointed from among the Participants and Subscribers of the service, except that not more than six (6) Directors may be REALTORS® other than Participants, who are affiliated with Participants and serve with consent of the Participants as their representatives. In addition to the appointed Directors, the Immediate Past President of the Charleston Trident Multiple Listing Service and the President Elect of the Charleston Trident Association of REALTOR® shall serve as Directors, ex-officio, with full voting privileges. No less than two (2) Directors shall be Commercial or Residential subscribers. The number of Directors may be increased or decreased from time to time by amendment of these Bylaws or lengthening the term of any incumbent member.

SECTION 6.3. NOMINATION AND APPOINTMENT OF OFFICERS AND DIRECTORS - The Officers and Directors shall be nominated and appointed as follows:

- (A) NOMINATING COMMITTEE. - The Nominating Committee shall consist of the MLS President, the Immediate Past President of MLS, and the President and President-Elect of the Association of REALTORS® and the chair of the Nominating Committee of the Association. The Nominating Committee will meet to prepare a slate of suggested Officers and Directors. This slate will be reviewed and must be approved by the MLS Directors prior to being forwarded to the Board of Directors of the Association of REALTORS®. The suggested Directors should attend all meetings beginning in July of the calendar year prior to their term of service with no voting privileges.
- (B) APPOINTMENT - No later than the November regular meeting of the Board of Directors of the Association of REALTORS®, the President of the Association will appoint the slate of MLS Officers and Directors, subject to the confirmation of the Board of Directors.
  - (1) If any person(s) on the slate is not confirmed by the Board of Directors, the Nominating Committee shall select alternate nominees, as required, subject to the review of the MLS Directors of the Association of REALTORS®.
  - (2) In the event that nominees are not duly or timely provided by the Service to the Board of Directors of the Charleston Trident Association of REALTORS®, as provided in these Bylaws, then the Board of Directors may, at their option, exercise rights as the sole and exclusive shareholder to fill any existing Officer or Director vacancy(ies) utilizing the criteria found in Article 6.2.

SECTION 6.4. TERMS - The Officers shall serve for a one (1) year term. The elected Directors shall serve staggered three (3) year terms. The elective year shall be the same as that of the Charleston Trident Association of REALTORS®. No Officer or Director shall be nominated and elected to the same office for more than two (2) consecutive terms.

SECTION 6.5. DUTIES OF OFFICERS AND DIRECTORS - The duties of the Officers and Directors shall be as follows:

- (A) THE PRESIDENT - The President shall preside at all meetings of the Corporation and the Directors, and shall perform all the duties of the President subject to declared policies and, as required, subject to confirmation of the Directors. The MLS President shall be an ex-officio member of the Board of Directors of the Association of REALTORS®, with the right to vote, and shall attend the regular meetings of the Board of Directors.
- (B) THE VICE PRESIDENT - The Vice President shall, in the absence of the President, perform all of the duties of the President or such other duties as these Bylaws may require or that the MLS Directors may prescribe. The Vice President shall be an ex-officio member of the Board of Directors of the Association without voting rights.
- (C) THE SECRETARY - The Secretary shall attend all meetings of the Corporation and of the MLS Directors and shall keep or cause to be kept, in a book provided for that purpose, a true and complete record of the proceeding of such meetings, and shall perform, as required, like duty for all standing committees appointed by the Directors. The Secretary shall perform such other duties as these Bylaws may require or that the Directors may prescribe. At the option of the Board of Directors, the Secretary and Treasurer may be the same person.
- (D) THE TREASURER - The Treasurer shall monitor the records of account and financial statements prepared or maintained by the MLS staff. The Treasurer shall furnish these statements of financial condition at the MLS Directors' meetings or whenever requested by the President or a duly appointed representative. Annually, in October, the Treasurer shall submit the annual budget for the MLS Directors' approval. The Treasurer shall also be responsible for overseeing the annual audit required at the end of the MLS fiscal year. The Treasurer shall also perform such duties as these Bylaws may require or that the Directors may prescribe. At the option of the Board of Directors, the Secretary and Treasurer may be the same person.
- (E) THE BOARD OF DIRECTORS - The MLS Directors shall be the governing body of the Service and shall have control of all the affairs of the Service and shall authorize all expenditures of funds. The MLS Directors shall, prior to the end of each fiscal year, prepare a budget reflecting projected costs and expenses of the service for the next fiscal year, indicating projected income from all sources. This budget shall be submitted to the Board of Directors of the Charleston Trident Association of REALTORS® for approval. The MLS Directors shall not incur an obligation in excess of \$7,500 over the total budget without the authorization by vote of a two-thirds majority of the Directors present and voting unless such excess is the result of an increase in the number of users of the Service or the volume of listings processed by the Service over that projected in preparing the annual budget. The MLS Directors shall employ such executive, legal, and staff personnel it deems necessary to care for and maintain the properties of the Service and otherwise conduct the administrative business of the service. The Directors shall have the right to authorize a certified public accountant to perform an audit of all books and accounts at any time, subject to final approval of the Board of Directors of the Charleston Trident Association of REALTORS® (shareholder). The Directors shall adopt rules and regulations governing Participants in the Service including charges to be made for such participation, and shall have full power and authority to add to or to amend such rules and regulations at any time, provided said amendments and changes are not retroactive in effect. All actions so taken are subject to approval by the Board of Directors of the Charleston Trident Association of REALTORS® (shareholder). Except as otherwise provided in these Bylaws and Rules and Regulations, the action of the MLS Directors shall be final.

SECTION 6.6. REMOVAL OF OFFICERS AND DIRECTORS - In the event that an Officer or Director of the Multiple Listing Service is deemed to be incapable of fulfilling the duties for which elected, but will not resign from office voluntarily, the Officer or Director may be removed from office under the following procedure.

- (A) A petition requiring the removal of an Officer or Director and signed by not less than one-third of the Participants or a majority of all Directors of the MLS shall be filed with the President of the MLS, or if the President is the subject of the petition, with the next-ranking officer, and shall specifically set forth the reasons the individual is deemed to be disqualified from further service.
- (B) Upon receipt of the petition, and not less than twenty days or more than forty-five days thereafter, a special meeting of the Participants of the MLS shall be held, and the sole business of the meeting shall be to consider

the charge against the Officer or Director, and to render a decision on such petition.

- (C) The special meeting shall be noticed to all Participants at least ten days prior to the meeting, and shall be conducted by the President of the MLS unless the President's continued service in office is being considered at the meeting. In such a case, the next-ranking officer will conduct the meeting or the hearing by the Participants. Provided a quorum is present, a three-fourths vote of the Participants present and voting shall be required for removal from office.
- (D) Any vote taken by the Participants to remove an Officer or Director must ultimately be confirmed by a majority vote of the Directors of the shareholder(s). Notwithstanding the foregoing, the shareholder(s) may remove an Officer or Director by a majority vote of the Directors of the shareholder(s).

SECTION 6.7. VACANCIES – Vacancies in unexpired terms shall be filled as in the case of original appointees. Directors appointed to fill vacancies shall complete the unexpired terms of their predecessors.

SECTION 6.8 EXECUTIVE COMMITTEE - There shall be an Executive Committee consisting of the President, Vice President, Secretary/Treasurer, Immediate Past President, President Elect of the Association, the Chief Executive Officer and the Director of the Multiple Listing Service. The Director of the Multiple Listing Service and Chief Executive Officer of the Charleston Trident Multiple Listing Service, Inc. shall serve in an advisory capacity, without the right to vote.

- (A) The Executive Committee is to meet only for the purpose of making recommendations to the Board of Directors.
- (B) Minutes of all Executive Committee meetings shall be kept and shall become part of the minutes of the next Board of Directors' meeting.
- (C) Meetings of the Executive Committee shall be set by the President.

SECTION 6.9. THE CHIEF EXECUTIVE OFFICER - The Chief Executive Officer shall oversee the operations of the Charleston Trident Association of REALTORS® and the Charleston Trident Multiple Listing Service, Inc. to fulfill the mission and strategic initiatives of the Association and Multiple Listing Service and to ensure cooperation and coordination between the Association and Multiple Listing Service. The Chief Executive Officer is responsible for the hiring and supervision of the Multiple Listing Service staff.

SECTION 6.10. THE DIRECTOR OF THE MULTIPLE LISTING SERVICE - The Director of the Multiple Listing Service is responsible for the day to day operation and administration of the Service and shall, unless excused from attendance by the president or Chief Executive Officer, attend all meetings of the Corporation and of the MLS Directors as a non-voting member and shall render such reports as deemed necessary by the MLS Directors. The Director of the Multiple Listing Service shall assist the Secretary in the preparation of the various minutes and the Treasurer in the preparation of the annual budget. The Director of the Multiple Listing Service shall also perform such other duties as required by these Bylaws, the Directors, or the Chief Executive Officer.

SECTION 6.11. DELEGATION OF AUTHORITY - In the case of the absence of any Officer of the Corporation or for any other reason that the Directors may deem sufficient, they may delegate the powers or duties of such Officer to any Directors or employee of the Corporation, for the time being, provided a majority of the entire Directorship concurs therein.

## **ARTICLE VII - MEETINGS**

SECTION 7.1. ANNUAL MEETING - The annual meeting of the Participants of the Service shall be held at such time, place and hour designated by the MLS Directors. The Charleston Trident Association of REALTORS®, as owner of the only voting share of this Corporation, shall determine the manner in which its vote is to be cast on matters arising at said meeting.

SECTION 7.2. SPECIAL MEETINGS OF THE SERVICE - Special meetings of Participants of the Service may be called from

time to time by the President, the MLS Directors, the President of the Charleston Trident Association of REALTORS®, or by 10% of the Participants of the service. Written notice stating the day, place, and hour of the meeting, and the purpose or purposes for which the meeting is called, shall be sent to all Participants no less than seven (7) days prior to said meeting.

SECTION 7.3. QUORUM AND VOTING AT MEETINGS OF THE SERVICE - For the transaction of business, 20% 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.

SECTION 7.4. MEETINGS OF THE DIRECTORS OF THE SERVICE - Meetings of the MLS Directors, regular or special, may be held either within or without the city of Charleston, South Carolina.

(A) REGULAR MEETINGS - The Directors will designate the time and place of the regular monthly meeting.

(B) OTHER MEETINGS - Other meetings of the Directors may be held at the discretion of the President or by a majority vote of the Directors.

(1) NOTIFICATION OF MEETINGS - Notification of meetings shall be by letter, telephone, email, fax or otherwise, to be received not later than two (2) days preceding the day of such meeting.

(2) QUORUM - A majority of the number of MLS Directors, as appointed, shall constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting, at which a quorum is present, shall be the act of the Directors of the Service.

(3) ATTENDANCE - Any MLS Director, who after having been properly notified, fails to attend three regular and/or special meetings, without an excuse acceptable to the MLS Officers, shall be deemed to have resigned as a Director. The vacancy shall be filled as herein provided for original appointments.

SECTION 7.5. PRESIDING OFFICER - At all meetings of the Participants of the Service, or 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.

SECTION 7.6. ELECTRONIC TRANSACTION OF BUSINESS - To the fullest extent permitted by law, the Board of Directors or membership may conduct business by electronic means.

SECTION 7.7. CONSENT AGENDA - The President may place on a consent agenda those items which will not require discussion or explanation prior to board action, such as routine or non-controversial matters, or are those items which have already been discussed and/or explained and do not require further discussion or explanation. Any item on the consent agenda may be moved to the regular agenda upon the timely request of the President by any Director. A request is timely if made prior to the vote on the consent agenda. The request does not require a second or a vote by the Board. An item removed from the consent agenda will then be discussed and acted on separately immediately following the consideration of the consent agenda. Consent agenda items are approved en masse by one vote of the Board. The consent agenda items shall be separately recorded in the minutes.

## **ARTICLE VIII - COMMITTEES**

In carrying out its governing function, the President, with the approval of the Directors may appoint committees of Participants and Subscribers, call meetings of Participants and in other ways coordinate its governing with the desires and wishes of the Participants, insofar as these desires and wishes do not conflict with the purpose or principles of this Corporation, the Code of Ethics, or Bylaws of the Charleston Trident Association of REALTORS®. All actions so taken are subject to approval by the Board of Directors of the Charleston Trident Association of REALTORS®. The Directors shall establish two (2) standing committees: Residential MLS and Commercial MLS.

## **ARTICLE IX - FISCAL YEAR**

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

## **ARTICLE X - ANNUAL AUDIT**

At the end of each fiscal year, a certified public accountant shall perform an annual audit of all books and accounts of the Charleston Trident Multiple Listing Service. This audit will be completed in a timely manner and presented to the Directors at their next regular meeting after the completion of the audit.

## **ARTICLE XI - AMENDMENTS**

The Bylaws contained herein may be altered, amended or repealed by an affirmative vote of not less than two-thirds in number of the MLS Directors being necessary to exercise such power. All actions so taken are subject to approval by the Board of Directors of the Charleston Trident Association of REALTORS®.

## **ARTICLE XII - INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Service shall indemnify any MLS Officer or Director or former Officer or Director of the Service, his or her heirs, executors and administrators for all reasonable expenses incurred by such Officer or Director in connection with the defense of any action, suit or proceeding in which he or she is made a part by reason of being or having been such Officer or Director, except in relation to matters as to which he or she shall be adjudged in such misconduct in the performance of duty. The Service may also reimburse any Officer or Director for all reasonable expenses actually necessarily incurred by said Officer or Director in settling said action, suit or proceeding should the service decide that it was to the best interests of the service that such settlement be made. The foregoing right of indemnification shall not be deemed exclusive of any other rights to which such Officer or Director may be entitled.

## **ARTICLE XIII - DISSOLUTION**

In the event this service shall at any time terminate its activities, the MLS Directors 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 Charleston Trident Association of REALTORS® (shareholder). Said plan shall provide for the collection of all assets, the payment of all liabilities, and the remaining portions thereof be assigned to the Parent Corporation, namely, the Charleston Trident Association of REALTORS®.