

MEDIATION

Dispute Resolution Rules and Regulations & Request to Initiate Mediation

1. Agreement of Parties The Rules and Procedures of the Dispute Resolution System (DRS) apply when the parties have agreed in writing to mediate under DRS. The written agreement can be achieved by a standard clause in an agreement of sale, an addendum to an agreement of sale, or through a separate written agreement.

2. Initiation of Mediation If a dispute exists, any party may start the mediation process by submitting a completed Request to Initiate Mediation DRS Transmittal Form (Transmittal Form follows these rules and procedures) to the local Association of REALTORS® (hereafter “Administrator”). The Transmittal Form should be available through the Administrator’s office. The initiating party should try to include the following information when sending the completed Transmittal Form to the Administrator:

- a. A copy of the written agreement to mediate if there is one, OR a request by the initiating party to have the Administrator contact the other parties to the dispute to invite them to join the mediation process.
- b. The names, addresses and telephone numbers of the parties involved in the dispute, including the name of every insurance company known to have received notice of the dispute or claim and the corresponding file or claim number.
- c. A brief statement of the facts of the dispute and the damages or relief sought.

3. Selection of Mediator Within five days of receiving the completed Transmittal Form, the Administrator will send each party to the dispute a copy of the Transmittal Form and a list of qualified mediators and their fee schedules. Each party then has ten days to review the list of mediators, cross off the name of any mediator to whom the party objects, and return the list to the Administrator. The Administrator will appoint the first available mediator who is acceptable to all parties involved. A mediator who has any financial or personal interest in the dispute or the results of the mediation cannot serve as mediator to that dispute, unless all parties are informed and give their written consent.

4. Mediation Fees Mediation fees will be divided equally among the parties and will be paid *before* the mediation conference. The parties will follow the payment terms contained in the mediator’s fee schedule.

5. Time and Place of Mediation Conference Within ten days of being appointed to the dispute, the mediator will contact the parties and set the date, time and place of the mediation conference. The mediator must give at least twenty days’ advance notice to all parties. The mediation conference should not be more than sixty days from the mediator’s appointment to the dispute.

6. Conduct of Mediation Conference The parties attending the mediation conference will be expected to:

- a. Have the authority to enter into and sign a binding settlement to the dispute.
- b. Produce all information required for the mediator to understand the issues of the dispute. The information may include relevant written materials, descriptions of witnesses and the content of their testimony. The mediator can require the parties to deliver written materials and information before the date of the mediation conference.

The mediator presiding over the conference:

- a. Will impartially conduct an orderly settlement negotiation.
- b. Will help the parties define the matters in dispute and reach a mutually agreeable solution.
- c. Will have no authority to render an opinion, to bind the parties to his or her decision, or to force the parties to reach a settlement.

Formal rules of evidence will not apply to the mediation conference.

7. Representation by Counsel Any party who intends to be accompanied to the mediation conference by legal counsel will notify the mediator and the other parties of the intent at least ten days before the conference.

8. Confidentiality No aspect of the mediation can be relied upon or introduced as evidence in any arbitration, judicial or other proceeding. This includes, but is not limited to, any opinions or suggestions made by any party regarding a possible settlement; any admissions made during the course of the mediation; any proposals or opinions expressed by the mediator; and any responses given by any party to opinions, suggestions, or proposals. No privilege will be affected by disclosures made in the course of the mediation.

Transcripts or recordings of the mediation will not be allowed without the prior, written consent of all parties and the mediator.

Records, reports, and other documents received or prepared by the mediator or Administrator cannot be compelled by an arbitration, judicial, or other proceeding, with the exception of an agreement that was reached in the course of mediation and signed by all the parties. Neither the mediator nor the Administrator can be compelled to testify in any proceeding regarding information given or representations made either in the course of the mediation or in any confidential communication.

9. Mediated Settlement When a dispute is resolved through mediation, the mediator will put the complete agreement in writing and all parties will sign the written agreement within ten days of the conclusion of the mediation conference. Every reasonable effort will be made to sign the written agreement at the end of the conference.

10. Judicial Proceedings and Immunity NEITHER THE ADMINISTRATOR, THE MEDIATOR, THE NATIONAL ASSOCIATION OF REALTORS®, THE PENNSYLVANIA ASSOCIATION OF REALTORS®, NOR ANY OF ITS MEMBER BOARDS, WILL BE DEEMED NECESSARY OR INDISPENSABLE PARTIES IN ANY JUDICIAL PROCEEDINGS RELATING TO MEDIATION UNDER THESE RULES AND PROCEDURES, NOR WILL ANY OF THEM SERVING UNDER THESE PROCEDURES BE LIABLE TO ANY PARTY FOR ANY ACT, ERROR OR OMISSION IN CONNECTION WITH ANY SERVICE OR THE OPERATION OF THE HOME SELLERS/HOME BUYERS DISPUTE RESOLUTION SYSTEM.



Centre County Association of REALTORS
 2040 Sandy Drive, Ste D. State College, PA 16803
 814 238-7622 phone

**Home Buyers/Home Sellers - Dispute Resolution System Request to initiate
 MEDIATION – TRANSMITTAL FORM**

DATE _____

1. NAMES OF ALL PARTIES TO THE DISPUTE

2. HAS A PRIOR AGREEMENT TO MEDIATE BEEN SIGNED BY THE PARTIES TO THE DISPUTE? Yes No **If YES, please attach a copy of the signed agreement.**

3. PARTY REQUESTING MEDIATION

Name _____ Phone No. _____ FAX _____

Address _____

- Buyer Seller Agent for Seller Subagent for Seller Agent for Buyer
 Builder/contractor Other _____

Professional Liability Insurance Company: _____

Name and Address of Legal Counsel or Other Representative:

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

4. OTHER PARTIES

- (4A) Buyer Seller Agent for Seller Subagent for Seller Agent for Buyer
 Builder/contractor Other _____

Name _____ Phone No. _____ FAX _____

Address _____

Insurance Company: _____

Name and Address of Legal Counsel or Other Representative:

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

- (4B) Buyer Seller Agent for Seller Subagent for Seller Agent for Buyer
 Builder/contractor Other _____

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

Insurance Company: _____

Name and Address of Legal Counsel or Other Representative:

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

(4C) Buyer Seller Agent for Seller Subagent for Seller Agent for Buyer

Builder/contractor Other _____

Name _____ Phone No. _____ FAX _____

Address _____

Insurance Company: _____

Name and Address of Legal Counsel or Other Representative:

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

(4D) Buyer Seller Agent for Seller Subagent for Seller Agent for Buyer

Builder/contractor Other _____

Name _____ Phone No. _____ FAX _____

Address _____

Insurance Company: _____

Name and Address of Legal Counsel or Other Representative:

Name _____ Phone No. _____

Firm _____ FAX _____

Address _____

5. BRIEF DESCRIPTION OF CLAIM (Attach additional pages, if needed:

6. AMOUNT OF MONEY INVOLVED: _____ (\$ _____)

7. **Have there been any formal court pleadings filed in this case?** Yes No

If yes, are there any trial dates or time limitations involved?

Date _____ Court _____

County _____ Judge _____

Court Docket# _____

8. **Do you have authority to enter into and sign a binding written agreement to settle this on behalf of the party you represent?** Yes No

Comment: _____

9. **Has a prior agreement to mediate been signed by the parties?** Yes No

If yes, please attach a copy of the signed agreement.

Name: (signature)

Name: (signature)

Name: (printed)

Name: (printed)

PLEASE MAIL THIS FORM and relevant attachments to the request TO THE DRS MEDIATION ADMINISTRATOR WHO IS IDENTIFIED BELOW TOGETHER WITH AS MANY COPIES AS THERE ARE PARTIES, PLUS one copy for the mediator.

Lyn Gotwalt
Executive Officer
Centre County Association of REALTORS®
2040 Sandy Drive, Ste D
State College, PA 16803