

## **Mediation Rules and Procedures**

### **1. Agreement of Parties**

These Dispute Resolution System (hereafter “DRS”) Mediation Rules and Procedures shall apply when the parties have agreed in writing to mediation under the Home Sellers/Home Buyers DRS. By mutual written agreement of all the parties to the claim, any specific provision of these DRS Rules and Procedures pertaining to mediation may be modified.

### **2. Initiation of Mediation**

Any party may initiate mediation under these DRS Rules and Procedures by completing, signing and mailing to the Lehigh Valley Association of REALTORS®, (hereinafter “Administrator”), and all other parties, a Request to Initiate Mediation DRS Transmittal Form (hereinafter “Transmittal Form”). Such form shall contain or be accompanied by the following information, to the extent known or readily available:

- a. A copy of the fully executed agreement containing the mediation clause;
- b. A copy of such other written agreement invoking these DRS Rules and Procedures;
- c. In the absence of a contract clause or other such written agreement, a written request by any party seeking to have the mediation vendor attempt to persuade one or more of the others to submit an existing dispute or claim to mediation under these DRS Rules and Procedures;
- d. The names, addresses and telephone numbers of the parties to the case, including the name of every insurance company known to have received notice of the dispute or claim and the corresponding insurance company file or claim number;
- e. A brief statement of the facts that give rise to the claim and the damages of relief sought.

**PENNSYLVANIA ASSOCIATION OF REALTOR3~**  
***Home Sellers/Home Buyers Dispute Resolution System Mediation Rules and Procedures***

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**3. Selection of Mediator**

Within five (5) days of receiving the Transmittal Form, the Administrator shall supply a list of qualified mediators and their fee schedules to each party to the dispute. Within ten (10) days, each party will review the list, cross off the name of any mediator who might have a financial or personal interest in the dispute or to whom the party objects, and return the list to the DRS Administrator. The Administrator will appoint the first available, commonly acceptable mediator to the dispute. The Administrator will then place the name of the selected mediator at the bottom of the list of qualified mediators.

No person shall serve as a mediator in any dispute if that person has any financial or personal interest in the results of the mediation unless, after full disclosure, the parties have given their written consent.

**4. Time and Place of Mediation Conference**

Within ten days of his appointment, the mediator and the parties shall set the date, time and place of the mediation conference provided, however, such date shall not be more than sixty days from date of receipt of the DRS Transmittal Form, and shall allow for not less than twenty days advance notice of the conference, which notice shall be given by the mediator to all parties.

**5. Conduct of Mediation Conference**

At the mediation conference, the parties will be expected to produce all information reasonably required for the mediator to understand the issues presented. Such information will usually include relevant written materials and a description of any witnesses and the content of their testimony. At the election of the mediator, the parties shall provide written materials or information in advance of the mediation conference.

At the mediation conference, the mediator will conduct an orderly settlement negotiation. Parties at the mediation shall have authority to enter into and sign a binding written agreement to settle the dispute. The mediator will be impartial in such proceedings and has no authority to force the parties to agree to a settlement.

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The mediator has no authority to render an opinion or bind the parties to his or her decision, but rather may assist the parties in defining the matters in dispute and reaching an ultimate, mutually agreeable solution.

Formal rules of evidence shall "NOT" apply to the mediation conference.

**6. Representation by Counsel**

Any party may be accompanied by and represented at the conference by counsel. A party who intends to be represented by counsel shall notify the mediator and other parties of such intent at least ten days in advance of the conference.

**7. Confidentiality**

No aspect of the mediation shall be relied upon or introduced as evidence in any arbitration, judicial or other proceeding, including but not limited to views expressed or suggestions made by a party with respect to a possible settlement of the dispute; admissions made in the course of the mediation; proposals made or views expressed by the mediator or the response of any party thereto.

No privilege shall be affected by disclosures made in the course of mediation.

No transcription or recording shall be made of the mediation without the prior written consent of all parties and the mediator.

Disclosure of any records, reports, or other documents received or prepared by the mediator or Administrator cannot be compelled.

Neither the mediator nor Administrator shall be compelled to testify in any proceeding as to information divulged or representations made in the course of the mediation or in any communication made to the mediator or Administrator in confidence, nor shall the mediator and Administrator be compelled to produce any document of whatever nature made by any party pursuant to and in the course of mediation, with the exception of any Agreement which was reached in the course of mediation and signed by all the parties.

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**8. Mediated Settlement**

The mediated settlement shall be reduced **to** a written agreement by the mediator which shall be signed by all parties within ten days of the conclusion of the mediation conference. Every reasonable effort should be **made to reduce the settlement to a** written agreement for signing at the conclusion of the mediation conference.

**9. 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, SHALL BE DEEMED NECESSARY OR INDISPENSABLE PARTIES IN ANY JUDICIAL PROCEEDINGS RELATING TO MEDIATION UNDER THESE DRS RULES AND PROCEDURES. NEITHER THE ADMINISTRATOR, MEDIATOR, NATIONAL ASSOCIATION OF REALTORS®, PENNSYLVANIA ASSOCIATION OF REALTORS®, NOR ANY LOCAL BOARD SERVING UNDER THESE PROCEDURES SHALL 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~**

All Mediation fees will be charged and payable pursuant to the terms set forth in the attached fee schedule.