

Minnesota Association of REALTORS®
MEDIATION RULES AND GUIDELINES

1. **AGREEMENT OF THE PARTIES:** These Mediation Rules and Guidelines shall apply when the parties have agreed in writing to mediation services provided by the Minnesota Association of REALTORS® (MNAR). Any provisions may be modified by mutual written agreement by all parties to the dispute. The parties understand and acknowledge that neither MNAR nor the assigned Mediation Officer to this matter has the power nor authority to render a decision, compel the parties to settle their dispute, nor to continue to mediate beyond the parties' desire to do so. However, by agreeing to mediate, the parties agree to attempt to resolve their dispute by negotiating in good faith.

2. **INITIATION OF MEDIATION:** Any party may initiate mediation under these Rules and Guidelines by completing, signing and delivering a "Request to Mediate" form (form M-3) to MNAR along with the required administrative fees. The completed and executed request form shall be accompanied by the following documents and information, to the extent they are available.
 - A. A fully executed copy of this document (form M-2);
 - B. A fully executed copy of the Mediation Request (form M-3);
 - C. The names, addresses and phone numbers of the parties to the dispute;
 - D. A summary of the nature and amount of the dispute to be mediated; and
 - E. An arbitration deposit of \$350.

3. **APPOINTMENT OF MEDIATION OFFICER:** MNAR will be authorized to appoint a Mediation Officer, subject to the written approval of the parties. The parties acknowledge and understand that the Mediation Officer is a qualified, independent contractor and is not an agent or employee of MNAR. The Mediation Officer will be advised of the parties participating in the conference and will remove him/herself if a conflict of interest exists. If either party perceives a potential conflict with the appointed Mediation Officer, those concerns must be submitted in writing within five (5) days from the receipt of the notice of the mediation conference and a new Mediation Officer will be appointed. *No person shall serve as a Mediation Officer in any dispute if that person has any financial or personal interest in the results of the mediation, unless, after a full disclosure, the parties have given their written consent.*

4. **SCHEDULING THE MEDIATION CONFERENCE:** MNAR will provide a choice of available dates. MNAR will work with the parties to confirm a mutually agreeable date and time for the mediation conference. The earliest possible date for all parties will be selected. *If all parties are not available on the same date prior to the expiration of 60 days from the initial request, MNAR is authorized to select the best available date and time for the mediation conference.* MNAR will make an attempt whenever possible, to confirm a central location that is in a close proximity to the parties.
5. **REPRESENTATION OF LEGAL COUNSEL:** During the mediation conference and thereafter, neither MNAR nor the Mediation Officer will act as a legal advisor or a legal representative for any of the parties. Any party to the mediation may be represented by legal counsel. However, a party who intends to do so must notify MNAR of such intent when executing the “Request to Mediate” form (form M-3) or “Agreement to Mediate” form (form M-4). MNAR shall ensure that all parties are made aware of all representations of which it is notified.
6. **AUTHORITY TO MEDIATE:** Parties participating in the mediation conference must have the authority to enter into and execute a binding written settlement.
7. **CONDUCT OF THE MEDIATION CONFERENCE:** The Mediation Officer will conduct an orderly proceeding at the mediation conference. Protocol, behavior and logistical issues will be discussed with the parties prior to the commencement of the conference.

The Mediation Officer will be neutral in these proceedings and will not offer any opinions, impose determinations or make any awards between the parties. The Mediation Officer will attempt to create an atmosphere that facilitates communication and negotiation between the parties. Additionally, neither MNAR or the Mediation Officer has a duty to assert, analyze or protect any legal right or obligation of the parties as they pertain to the dispute being mediated under the “MNAR Mediation Rules and Guidelines”. MNAR nor the Mediation Officer will not make an independent analysis of the dispute nor raise issues not raised by the parties, nor determine that additional necessary parties should participate in the mediation.

Parties to the mediation conference will be expected to produce all information reasonably required for the Mediation Officer to understand the issues presented. Such information will usually include relevant written materials. In more complex cases, the Mediation Officer may request that the parties provide additional written materials in advance of the mediation conference.

8. **FILING CLAIMS:** The time limitation by which parties may bring claims in accordance with these “MNAR Mediation Rules and Guidelines” is eighteen (18) months from the date of settlement. Claims filed after the time limitation will only proceed with the mutual consent of both parties.
9. **TERMINATION OF THE MEDIATION CONFERENCE:** The mediation conference shall be terminated by the occurrence of any of the following:
 - A. By the execution of a written “Mediation Resolution Agreement” (form M-6) or memorandum between the parties;
 - B. By a declaration by any party that they wish to terminate mediation; or
 - C. By a declaration by the Mediation Officer that in the Mediation Officer’s judgment, “further efforts at mediation would not result in resolution of the dispute”.
10. **CONFIDENTIALITY OF MEDIATION CONFERENCES:** All discussions, representations and statements made during the mediation conference will be privileged as settlement negotiations pursuant to the “Agreement to Mediation” (form M-5), MN Stat. 572.33 et. Seg. and MN Stat. 595.02 Subd. 1(1).
11. **PRIVATE SESSIONS (CAUCUS):** From time to time during the mediation conference, the Mediation Officer may determine that he/she would like to meet with the parties separately. This may be to clarify some matter or to overcome something inhibiting the progress of the mediation. When private sessions occur, the Mediation Officer will consider any discussions to be strictly confidential and will not disclose the contents thereof unless instructed to do so by the party with whom the private session is being held. All discussion held in private session will also be subjected to the provisions of the “MNAR Confidentiality Agreement” (form M-5).
12. **MEDIATION RESOLUTION:** If parties reach a solution to the dispute, a mediated settlement agreement shall be prepared. If parties are un-represented by legal counsel, the Mediation Officer will prepare the resolution using the “Mediation Resolution Agreement” (form M-6). If one or both of the parties are represented by legal counsel, a memorandum shall be prepared by the legal counsel for one of the parties. It shall be signed and dated by all parties agreeing to it’s terms and conditions, prior to the conclusion of the mediation conference.
13. **POSTPONEMENT:** A postponement may be granted if extenuating circumstances arise over which a party has no control, (i.e. death, illness, accident, etc.) Requests for a postponement should be submitted in writing to MNAR. The Mediation Officer will reschedule the conference and all parties shall be advised of the new date.

- 14. WITHDRAWAL PRIOR TO THE MEDIATION CONFERENCE:** If either party elects to withdraw from the mediation, a written letter of the parties intention to withdraw must be received by MNAR at least ten (10) days prior to the conference. The mediation conference will be terminated, the deposits returned to the parties and either party may pursue to resolve the dispute through other channels. If a request to withdraw from mediation is not received, nor a request for a postponement submitted and one of the parties fails to attend the conference, the mediation conference will be terminated. The non-attending party will forfeit their deposit and the deposit will be used to offset the expenses incurred. The deposit of the attending party will be returned.
- 15. JUDICIAL PROCEEDINGS AND IMMUNITY:** Neither MNAR nor the Mediation Officer shall be deemed ‘necessary parties’ in any judicial proceedings relating to the dispute being mediated under these “MNAR Mediation Rules and Guidelines”, nor shall MNAR or the Mediation Officer serving under these guidelines be liable to any party for any act, error or omission made in connection with this service or the operation of the mediation program.
- 16. MEDIATION FEES AND EXPENSES:** All fees and expenses associated with the mediation conference will be in accordance with the administrative fee schedule in effect at the time that mediation is confirmed by MNAR. All fees and expenses due MNAR will be paid by the party who initiates the request to mediate. All fees due may be charged to valid Visa, MasterCard, American Express or Discovery Card accounts if there is sufficient credit available to do so or paid by a personal check.

**Current Administrative Fee: \$350 Total
To be paid by party initiating the request.**

Please sign to acknowledge receipt of mediation rules.

Print or Type Name _____

Signature_____

Signature_____

Date_____

Please return this form to:

**MINNESOTA ASSOCIATION OF REALTORS®
5750 Lincoln Drive, Edina, MN 55436**

MNAR Form M-2