



# MEDIATION PACKAGE

INTERESTED IN SAVING

**TIME  
AND  
MONEY?**

**MEDIATION**  
IS THE WINNING SOLUTION



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## The National Association of REALTORS® Preferred dispute Resolution

Mediation is the preferred dispute resolution of the National Association of REALTORS®. GMAR has trained members to provide mediation services to association members and their clients.

Mediation is a voluntary process in which disputing parties meet with a neutral third party (the mediator) to create a mutually acceptable resolution of a dispute. Mediators are impartial facilitators of resolution; they do not decide innocence or guilt, give legal advice nor impose a decision on either party.

Mediation is an alternative to adversarial, expensive and time consuming litigation. It is non-adversarial, confidential, informal and offered at no cost. Mediation is now widely recognized as a forum of choice for the resolution of conflicts and misunderstandings; it is where the parties control the outcome of a dispute.

If the parties agree upon a resolution of the dispute, the agreement is usually written as a legally binding contract which the parties sign. Parties do not forfeit their legal rights to arbitrate or litigate the dispute if mediation is unsuccessful.

### The types of mediation services offered by include the following:

#### Mediation Prior to Arbitration:

By written agreement of both the complainant and the respondent to mediate prior to hearing of a filed arbitration. GMAR's mediators are used to assist the parties in finding a resolution to the dispute. A successful mediation cancels the need for an arbitration hearing.

A signed resolution of the dispute ensures that the parties will receive their \$250 arbitration filing fees back upon the final settlement.

#### Ethics Mediation:

Any party (member of the public, another REALTOR®, or a licensed real estate agent) may request ethics mediation with GMAR members by calling the Association and filling out the appropriate request form. Ethics mediation is an attempt to resolve a dispute before it becomes a written complaint and there is no charge for the service.

# MEDIATION

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### Key Features:

- Voluntary and Confidential Process
- Parties decide to enter the mediation process
- Parties can leave the mediation process at any time
- Parties have complete control over the outcome
- Neutral/Impartial Mediator
- Understands issues quickly because the facilitator is familiar with real estate practices and customs.
- Mediator remains neutral and impartial
- Facilitates and assists with negotiations – controls the process, not the substance
- Honors the concepts of self-determination, respect and civility
- Enhances the parties abilities to understand their own and each others needs
- Helps parties understand the alternatives to settling.

### Why Use Mediation?

#### Mediation

- Low or no cost
- Quick
- Win/win outcome
- Collaborative
- Maximum range of solutions
- Improves relationships
- Parties control outcome

#### Arbitration

- Moderate cost
- Time consuming
- Win/lose outcome
- Adversarial
- Results limited to monetary regard
- May damage relationships
- Arbitrators control outcome

### Why Mediation Works?

Most disputes are successfully resolved at low or no cost with a faster speed. Mediation also helps to maintain or improve relationships and clarify any misunderstandings because the parties have an opportunity to come together to talk. Mediation also offers creative solutions to the dispute rather than a win/lose situation.

## Mediation Procedures

1. Arbitration request is received by GMAR
2. Parties will be advised on their mediation options prior to review of the arbitration request by the Grievance Committee.
3. Agreement to Mediate Form Signed by Complainant
4. Agreement to Mediate Form Signed by Respondent
5. Upon receipt of completed forms, GMAR will assign a mediator, and provide information to each parties along with date, time and location of Mediation Conference.

If the Mediation Conference resolves the dispute, the Mediator will provide the signed Resolution Agreement to GMAR.

If the Mediation Conference DOES NOT resolve the dispute, the Mediator will notify GMAR that the conference has been terminated without a resolution of the dispute and the Request for Arbitration will be forwarded to the Grievance Committee for review.

## Pre-Mediation Process Overview

Parties agree to mediate and a mediator is selected/appointed by random rotation, mutual request – objection can be made to a proposed mediator.

Arrangements are made and confirmed. Date and time are typically scheduled at the convenience of the parties within 30 days of the request for mediation. Witnesses and/or attorneys may attend but this isn't necessary because the process is not adversarial; it does not invoke findings of facts.

Information is exchanged between all parties. Parties need not prepare exhibits or extensive documentation. If a document will clarify an issue, it may be used, but parties are reminded that mediation is not a fact-finding conference.

## Mediation Conference Overview

The assigned mediator will provide an opening statement, explain the process, goals and rules and answer any questions. Each party then has an opportunity to provide their initial statements and questions.

With the assistance of the mediator, crosstalk begins where parties can respond to each other and explain/explore information, needs and feelings. The mediator may also meet privately with parties to clarify needs and explore options for resolution and proposals.

With the mediator's assistance, parties then explore and refine workable solutions. When an agreement is reached a document will be signed prior to leaving the mediation. All must agree to the solution, in writing, or must agree that no further progress can be made, in which case parties are free to pursue arbitration.

AGREEMENT TO  
**ARBITRATE**



# AGREEMENT TO ARBITRATE



## Greater Metropolitan Association of Realtors® Agreement to Arbitrate

The undersigned agree that they are involved in a contractual dispute defined by Article 17 of the Code or in a specific noncontractual dispute as outlined in Standard of Practice 17-4.

The undersigned agree to submit this dispute to mediation in accordance with the mediation guidelines, as set forth in the Code of Ethics and Arbitration Manual of the Greater Metropolitan Association of Realtors®.

Any Agreement signed by the parties, pursuant to the mediation conference, shall be binding.

As a party to the mediation process I understand and agree as follows:

Parties to mediation may withdraw from the process at any point prior to reaching an agreement. Parties to mediation that do not reach an agreement shall be free to pursue arbitration of the dispute in accordance with the guidelines set forth in the Code of Ethics and Arbitration Manual of the National Association of REALTORS®. The parties acknowledge that the mediator is not providing legal representation, legal advice, or legal services, and that the parties are advised of their right to be represented by counsel at the mediation and also of their right to obtain independent legal advice (if counsel are not at the mediation) before signing any final settlement agreement.

Any offers of settlement that were not accepted or any suggested resolution proposed by the Mediation Officer that was not accepted will not be introduced as evidence nor considered in any manner should the matter require arbitration by the Board's Professional Standards Committee. However, if the parties agree to a settlement of the dispute, and the settlement is reduced to writing and has been signed by all of the parties, the matter shall be considered resolved, and shall not be the subject of a subsequent arbitration hearing. In the event that either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party should be encouraged to have the settlement agreement judicially enforced by a court of competent jurisdiction.

No aspect of this mediation conference shall be relied upon or introduced as evidence in any ethics, 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. Disclosure of any records, reports, or other documents received or prepared by the Board or Mediation Officer shall not be compelled. Neither the Board or the Mediation Officer shall be compelled to disclose or to testify in any proceeding as to information disclosed or representations made in the course

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of the mediation or communication to the Mediator in confidence. Neither the Mediation Officer, the Greater Metropolitan Association of REALTORS®, the Michigan REALTORS® nor the NATIONAL ASSOCIATION OF REALTORS® or any of its Member Boards shall be deemed “necessary parties” in any judicial proceedings relating to mediation under this Agreement. The parties acknowledge that the mediation proceedings will not be recorded and that weapons of any type are prohibited.

Are the circumstances giving rise to this request for Mediation the subject of civil or criminal litigation or in any proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency? \_\_\_\_\_ Yes \_\_\_\_\_ No

By my signature on this Agreement to Mediate, I acknowledge my rights and agree to the terms of the mediation procedures as stated above. I hereby affirm that I have the authority to enter into and sign a binding written agreement to settle this dispute.

Complainants

\_\_\_\_\_  
Type/Print name

\_\_\_\_\_  
Signature

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Date

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