

Request and Agreement to Arbitrate

Date Filed: _____

1. The undersigned, by becoming and remaining a member of the **Berkshire County** Board of REALTORS® (or Participant in its MLS), has previously consented to arbitration through the Board under its rules and regulations.
2. I am informed that each person named below is a member in good standing of the Board (or Participant in its MLS), or was a member of said Board of REALTORS® / MLS at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between (list all principals you wish to name as parties to this arbitration):
- 4.

Complainant(s)		Respondent(s)
_____	vs.	_____
REALTOR® Principal		REALTOR® Principal
_____		_____
REALTOR® Principal		REALTOR® Principal

4. There is due, unpaid and owing to me (or I retain) from the above-named persons the sum of \$_____. My claim is predicated upon the statement attached, marked Exhibit 1 and incorporated by reference into this application. # pages attached: _____
 5. I request and consent to arbitration through the Board in accordance with its Code of Ethics and Arbitration Manual (alternatively, "in accordance with the professional standards procedures set forth in the bylaws of the Board"), and I agree to abide by the arbitration award and to comply with it promptly.
- In the event I do not comply with the arbitration award and it is necessary for any party to this arbitration to obtain judicial confirmation and enforcement of the arbitration award against me, I agree to pay the party obtaining such confirmation the costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.
6. I enclose my check in the sum of **\$ 500** for the arbitration filing fee or, I agree to attempt to resolve this issue through a mediation hearing first, and therefore elect to pay the reduced **\$100** filing fee. (see attached)
 7. I understand that I may be represented by legal counsel, and that I should give written notice no less than fifteen (15) days before the hearing of the name, address, and phone number of my attorney to all parties and the Board. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party(ies) require representation.

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8. Each party must provide a list of the names of witnesses he intends to call at the hearing to the Board and to all other parties not less than fifteen (15) days prior to the hearing. Each party shall arrange for his witnesses to be present at the time and place designated for the hearing.

Additionally, the following Realtor non-principal affiliated with my firm has a financial interest in the outcome of the proceeding and has the right to be present throughout the hearing: _____

8. Under the penalties of perjury, I declare that this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.

9. If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has twenty (20) days from the date of receipt of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.

10. Are the circumstances giving rise to this arbitration request the subject of civil litigation? Yes No

REALTOR® Principal Signature:

Printed Name

Date

REALTOR® Principal Mailing Address: _____

REALTOR® Principal Phone(s) / Email: _____

Arbitration fee for members who attempted mediation \$100, Arbitration fee for Members who refused mediation \$500. The fee is refunded to the prevailing party.

Request and Agreement to Mediation

Date Filed: _____

The undersigned members of the Board agree that they are involved in a dispute arising out of their relationship as REALTORS®. The undersigned agrees to voluntarily submit this dispute to mediation in accordance with the mediation guidelines, as set forth in the Code of Ethics and Arbitration Manual of the Berkshire County Board 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:

Participation in mediation procedures is voluntary. 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®. Parties to mediation may be accompanied by and represented at the conference by legal counsel.

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 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 of the mediation or communication to the Mediator in confidence. Neither the Mediation Officer, the Berkshire County Board of REALTORS®, the Massachusetts Association of 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.

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

Continued from Page 1, Agreement to Mediate.

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.

REALTOR[®] Signature:

Printed Name

Date

____ / ____ / ____
____ / ____ / ____

REALTOR[®] Mailing Address: _____

REALTOR[®] Phone(s) / Email: _____