

abc's of ADR

FAQs and more

Your guide through the Mediation process

Service Provided by
OM SERVICES

for the
Maryland REALTORS®
Mediation Program

Disclosure of Entity (ies)

OM Services (OMS) is the authorized mediation service provider for the Maryland REALTORS® “Buyer-Seller” Mediation Program.

OMS is an independent commercial service provider of Ombudsman and Mediation Services and which conducts or transacts business directly with the consumer public. OMS does not derive any financial gain directly from Maryland REALTORS®.

Maryland REALTORS® “Buyer-Seller” Mediation Program has been developed and designed by OMS for the benefit of REALTOR® members and their associated clients and customers. OMS reserves the right to accept or reject any requests for mediation where a REALTOR® contract of sale has been used without the benefit of an agency relationship with a REALTOR® professional (FSBO contracts) and such requests may be subject to increased administrative and mediator fees.



MARYLAND REALTORS® is the state trade association dedicated to supporting all segments of its membership (REALTOR®) and their specialties. As part of the adopted mission, Maryland REALTORS® seeks to “assist members in serving the public ethically and successfully with the highest degree of professional ability in real estate matters”.

Maryland REALTORS® “Residential Contract of Sale “ and “Unimproved Land Contract of Sale” are copyrighted and are intended for the exclusive use by the association’s REALTOR® members.

Use of term(s) REALTOR®



The REALTOR® trade name and logo is an exclusive trademark and logo for authorized use only by members of the local, state and National Association of REALTORS®. REALTOR®, REALTORS®, REALTOR-ASSOCIATE®, the REALTOR® Block “R” logo, REALTOR.com, and REALTOR.org are trademarks, service marks, membership marks, and/or logos of the NATIONAL ASSOCIATION OF REALTORS®. Non-REALTOR® mediators may not use the REALTOR® trademark name or logo under any circumstances while providing mediation services on behalf of OMS.

You are receiving these materials because your real estate sales or listing agreement has required you to submit your dispute for mediation in an attempt to resolve any disputes that occur as a result of that agreement.

WHY DOES YOUR SALES AGREEMENT INCLUDE MEDIATION?

- MEDIATION IS CONSUMER FRIENDLY!
- Mediation is easier, faster and less expensive than litigation.
- Mediation is non-adversarial.
- A Mediator does not pass judgment.
- A Mediator serves to help the parties open communication, identify their differences and reach agreement on how to resolve their differences.
- A Mediator assists disputing parties in reaching a mutually acceptable solution to everyone's satisfaction.
- In mediation, when an agreement is reached, a *written* agreement (Memorandum of Understanding) is developed which outlines the terms of the settlement.
- If the parties cannot reach a mutually agreeable settlement through mediation, they are free to arbitrate or litigate their dispute as if the mediation never took place.

OM Services is the authorized service provider for the Maryland REALTORS® “BUYER-SELLER” & “BROKER-CLIENT” Mediation Program. All inquiries regarding this packet of materials should be directed to:

OM Services
Maryland REALTORS® Mediation Program
Program Administrator
P.O. Box 686
Elkton, MD 21922-0686

1-888-412-6740 toll free voice
www.mediate.com/mdrealtors

WHAT IS “ADR”?

“ADR” is a catchall term for **ALTERNATIVE DISPUTE RESOLUTION** and refers to the ways in which one can resolve a dispute or conflict. The most commonly used or preferred methods of ADR processes are negotiation, mediation, arbitration & litigation.

The following ADR definitions and related terms are provided to you as an educational resource. We hope that they will be helpful to you in understanding the alternatives and options available in resolving your dispute.

ADR TERMS & DEFINITIONS

ARBITRATION

A process in which a third party (Arbitrator) hears both sides of a dispute, gathers evidence & documents as submitted by parties and makes a final determination or decision. The decision is usually binding, unless both sides agree to participate in non-binding arbitration. The arbitrator will likely be a retired judge, an experienced lawyer, or an expert on a particular issue relevant to the dispute.

LITIGATION

Is a process in which most people are familiar, whether by experiencing it themselves or by the media’s coverage of court activities. Litigation is the process in which a suit (dispute/claim) is filed with the court system and ends with the dismissal of the suit or enforcement of the judgment entered in the suit or of a final decision on appeal. In litigation, parties are typically represented by attorneys.

MEDIATION

Mediation is the process in which an impartial third party (Mediator) intervenes to help people communicate with one another in order to reach a mutually acceptable resolution. Advantages are its cost effectiveness and timeliness, in addition to the disputing parties having control of the outcome for settlement. With mediation, there is potential for long lasting agreements because the parties take a major role in resolving their dispute.

OMBUDSMAN (OMBUDS)

An Ombuds is an independent and impartial (neutral) person who has been designated by an organization to investigate complaints - either within the organization or against the organization. The purpose of the Ombuds role is to provide resources and information to help parties identify options available as a means to prevent or resolve disputes.

NEGOTIATION

Negotiation is described as essentially any form of communication among two or more individuals for the purpose of directly addressing a dispute without an intermediary or third party.

SETTLEMENT CONFERENCES

Settlement conferences are generally used to resolve cases pending before the courts. A process in which the parties and their attorneys meet with a judge or an experienced lawyer, who will discuss the potential outcome of their case, the costs of litigation, and possible options for resolving the case.

FAQs
(Frequently Asked Questions)

Q: My sales agreement *requires or compels* me to mediate my dispute. Isn't mediation a "voluntary" process?

A: Yes, mediation is voluntary; whereby the process is not statutorily mandated - meaning that there is no state law or legislation that requires you to mediate your sales agreement dispute. Because the Maryland REALTORS® Residential & Unimproved Land Contracts of Sale include a provision to mediate, parties obligate themselves to the process by agreement.

Q: If the law does not *require* me to mediate, then why was the mediation paragraph put into the sales agreement?

A: Maryland REALTORS® have joined with other major service industries and trade associations by incorporating a "Mediation of Disputes" paragraph in their contract and encourages the use of Alternative Dispute Resolution to their members, clients & customers.

Most notably, the State of Maryland is a front-runner in the conflict resolution movement nationally! The Mediation and Conflict Resolution Office (MACRO) was formed several years ago for the purpose of spreading the use of ADR (mediation) through the court systems, as well as creating many community mediation centers statewide.

For more information on MACRO

Contact: (410) 260-3540 or visit the website at <http://www.courts.state.md.us/macro/>

Q: How does mediation differ from arbitration?

A: An Arbitrator has the authority to render a *binding* decision - similar to a judge in a court of law. The parties, therefore, forfeit their right to have their dispute tried in a court of law. Mediators, on the other hand, have no authority to render a decision but merely assist the parties in arriving at a mutually agreeable solution. If the parties fail to reach a settlement, they are free to pursue other forms of dispute resolution including arbitration and litigation. In successful mediations all parties leave as winners - there are no losers. The advantage with mediation over arbitration is that the parties are in control of working out the terms of the eventual settlement, not anyone else.

Q: What are the fees or costs to mediate?

A: Parties are each expected to pay an administrative or convening fee in addition to payment for the services of the Mediator.

The administrative or convening fee (\$200) covers the preparation and distribution of all necessary documents to all required parties and includes certified mail delivery notification, courtesy reply mail, coordination and scheduling of the mediation conference and selection of the facility and Mediator.

The Mediator fee, due at the completion of the mediation conference, will be a 2-hour minimum fee charged to the parties the day of the mediation conference. Mediator fees are \$200 per hour with a two hour minimum. The 2-hour fee is shared (or split) between the parties. **parties will be notified regarding the mediator fee charges prior to the scheduled mediation conference and will receive an invoice for charges with the notice of scheduled mediation confirmation.*

Q: Are there other expenses for mediation?

A: Sometimes it is necessary to compensate the Mediator for travel costs. Depending on the location or circumstances, the charges levied are for distances of 30 miles or more (one-way). You will be notified prior to your mediation conference regarding any charges that would apply.

Q: Will my REALTOR® be attending the mediation conference?

A: Although REALTORS® (agents) are not parties to the contract you may invite your agent to attend the mediation conference, however the agent is under no obligation to attend. If you elect to invite your agent to attend the mediation conference, you must notify OM Services via the Requesting or Responding Party forms or a separate registration form to be completed and returned to OM Services *prior* to the scheduling of the mediation conference. Agents who agree to attend the mediation conference must also adhere to the program’s policies and rules regarding confidentiality and will be expected to sign the Agreement to Mediation & Confidentiality along with all parties to the mediation. Scheduling of the mediation conference will not be predicated upon the availability of the agent to attend the conference.

Q: Can parties be represented by an attorney or legal counsel?

A: Yes. All we require is that you notify OM Services, prior to the scheduling of your mediation conference, of who your attorney or legal counsel will be so that we may be able to coordinate the paperwork and scheduling with them. Any legal fee(s) for personal representation is the responsibility of each party.

Q: Who are the Mediators?

A: The Mediation Program Mediators are highly qualified and respected leaders in the field of real estate and law who have undergone extensive training in conflict resolution. All of the program mediators are required to maintain continuing education training in addition to being covered by errors & omissions insurance. Consistent with State law, all Program Mediators have read and will abide by the Maryland Standard of Conduct for Mediators during the mediation.

Q: Who selects the Mediator for my dispute?

A: OM Services works with the parties to determine who can be selected and will work closely with the parties to seek out the most appropriate mediator for your case. Special attention is paid to making sure that the selection of the Mediator will not conflict with any party’s personal interest or real estate brokerage affiliation.

Q: Where will the mediation conference be held?

A: Depending on the availability of facilities, the mediation conference can either be held at one of the local REALTOR® Boards or Associations in the county or region associated with the contractual dispute or at the office of the Mediator assigned the case.

Q: What happens if my dispute is not resolved by mediation?

A: Since you have not waived any legal rights by participating in this process, you can still pursue other legal remedies such as arbitration or litigation.

Q: I have other questions regarding the mediation process that aren’t listed here. Is there someone I can call for help?

A: **ABSOLUTELY!** *We’re glad you asked!* For your convenience we have a **TOLL-FREE VOICE MAIL** number where you can call & leave your name & number. Throughout the workday we’ll retrieve your message and will have our “OMBUDS” return your call. The toll-free voice number to call is: **1-888-412-6740** or go to our website: www.mediate.com/mdrealtors

THE PROCESS

(This is a brief overview of the administrative process.

Please refer to the program rules and guidelines for more detailed and specific information.)

The process begins by either party (Buyer or Seller) requesting mediation. The party that *initiates* the request for mediation is the REQUESTING PARTY. The party that *receives* the request for mediation is the RESPONDING PARTY. Parties can elect to be represented by an attorney or legal counsel, however it is not a requirement.

REQUESTING PARTY

The Requesting Party will need to fully complete the forms 1RQP-5RQP; attach the first page and the last (signatory) page of the contract of sale and submit the \$200 administration fee. Once the request is received, a certified letter and Responding Party Forms 1RSP-5RSP* will be mailed to the Responding Party in addition to a copy being sent to the attorney or legal counsel that is identified as the representative of the Responding Party.

The Requesting Party and their respective legal counsel will be sent a copy of the requesting letter only (no RSP forms will be included - just a 'cc' copy of the letter only). *RSP forms are computer auto-fill generated with party information that has been submitted by the Requesting Party. Responding Parties are required to complete the forms that have been sent to them and cannot submit blank forms that are intended for Requesting Parties.

RESPONDING PARTY

The Responding Party will have 30 days total to respond to the Request For Mediation. *The "30 days" begins on the date that the requesting letter is sent. The 30 days is not calculated on when the mail is received by the Responding Party.* When the certified letter is sent, the Responding Party is asked respond within a two week time period. If the response is not received within the first two weeks, another letter will be sent (by 1st class U.S. mail) that informs the Responding Party that the case file will be closed if the response is not received by the 30 day deadline and the date of the deadline will be stated.

At the end of the 30 day time period, the Response to Mediation must be received in order for the scheduling of the mediation conference may begin. If the Responding Party does not respond (or refuses/declines), the case file will be considered closed and a closing letter will be rendered that reports that the Responding Party has failed to respond to the Request For Mediation in accordance with the rules and guidelines of the program.

SCHEDULING THE MEDIATION CONFERENCE

When the response is received within the required 30 day period, scheduling of the mediation conference will begin. Parties or their legal representatives are contacted and are given three possible dates to schedule the mediation conference. If the parties cannot agree upon a common date, then OM Services may elect to close the case file due to the inability to arrange for a mutual conference date; or OM Services will select the date of the mediation conference and notify the parties of their obligation to attend. The program rules & policies incorporate a 60 day time frame for both the processing & scheduling of the mediation conferences. The purpose of imposing a limitation on the time for scheduling mediation conferences is to insure that due process of the claim is not denied.

Once the mediation conference has been scheduled, the parties & their designated counsel will be sent confirmation notices by U.S. priority mail - delivery confirmation. The confirmation notice will inform the parties of the date, time & place of the mediation conference. Additionally, we will provide a directional map on how to locate the facility where the conference will be held and the parties will also be provided with an invoice for the Mediator fee which is due at the conclusion of the mediation conference.

SAMPLE

AGREEMENT TO MEDIATION & CONFIDENTIALITY

1. The parties agree to try to resolve this case through mediation. The parties understand that settlement during mediation is entirely voluntary.
2. The parties understand that the Mediator has no power to decide who wins or loses this case and will not express an opinion on who is right or wrong. Rather, the Mediator is going to try to help the parties reach their own resolution of this case by facilitating the discussion. Consistent with State law, the Mediator has read and will abide by the Maryland Standard of Conduct for Mediators during the mediation.
3. The parties understand that the Mediator is not going to act as an advocate or attorney for any participant and that each party has the right to have a representative during mediation.
4. The parties agree that all mediation conference communications are strictly confidential and understand that the purpose of mediation is to explore whether the parties can reach a resolution, not to gather information for a hearing or trial. The parties agree not to subpoena the Mediator or any observer to testify about what was said in mediation.
5. The Mediator and all parties to the mediation process agree not to voluntarily testify on behalf of any party and will not report anything said during this mediation *UNLESS* one of the participants makes a genuine threat of physical harm, or a report of criminal activity or fraud.
6. The mediation session will not be recorded by anyone (either video or audio) and no transcription of the session will be produced.
7. The parties understand that any documents prepared for or during mediation (such as case summaries presented to the Mediator or notes taken by the Mediator) are for settlement purposes only and may not be subpoenaed for, or used in, a hearing or trial.
8. The parties understand that no participant will be bound by anything said or done in mediation, unless and until there is a written settlement agreement.

SAMPLE

2018 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 under the Maryland REALTORS® “BUYER - SELLER” Mediation Program as provided by OM Services. Any provisions may be modified by mutual written agreement by all parties to the dispute. The parties understand and acknowledge that neither OM Services, Maryland REALTORS®, nor the assigned Mediator to this matter has the power or authority to render a decision, compel the parties to settle their dispute, or 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:** Buyers or Sellers may initiate mediation under these Rules and Guidelines by fully completing all items on the REQUESTING / RESPONDING PARTY AUTHORIZATION & CHECK-OFF LIST (with required attachments and payment) to OM Services. **BUYERS & SELLERS ARE THE ONLY PARTIES THAT CAN BE NAMED. ANY INCOMPLETE INFORMATION WILL DELAY THE PROCESSING OF YOUR REQUEST OR RESPONSE**

3. **SELECTION OF MEDIATOR:** 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. OM Services reserves the right to select all Mediators for assignment.

4. **MEDIATION CONFERENCES / SCHEDULING:** Will be held at facilities located within, or in close proximity to the county in which the dispute occurred. It is OM Services’ custom and practice to schedule mediations no less than 14 days nor more than 60 days from the initial request. If all parties are not able to agree upon a date, at the expiration of 60 days, OM Services is authorized to select the best available date and time. Parties are required to list any restrictions or special accommodations on the scheduling form provided. (Refer to the Mediation Scheduling & Contact Information forms [4RQP & 4RSP] for complete details.)

5. **REPRESENTATION BY LEGAL COUNSEL:** During the mediation and thereafter, neither OM Services nor the Mediator will act as legal advisor or legal representative for any of the parties. Any party may be represented at the conference by legal counsel. Any party who intends to do so shall notify OM Services of such intent when executing the “Requesting/Responding Party Contact Information” form(s). OM Services shall insure that all parties are made aware of all representations of which it is notified.

6. **CONDUCT OF THE MEDIATION CONFERENCE:** The Mediator will conduct orderly proceedings at the mediation conference. Protocol, behavior and logistical issues will be discussed with the parties prior to commencement of the mediation. Parties participating in the mediation conference must have the proper authority* to enter into and execute a binding written Memorandum of Understanding setting forth the terms and conditions of their understanding in the event an acceptable resolution is reached. *Proper authority includes parties who would be represented by another person and has granted that person the legal right to represent them in this matter. Parties electing to be represented by another must submit a written Power of Attorney to OM Services prior to the convening of the mediation conference. Such representative, unless an attorney authorized to practice law, must avoid engaging in the unauthorized practice of law.

The Mediator will be neutral in these proceedings and will not offer any opinions, impose any determinations or make any awards between the parties. Moreover, neither the mediation service provider nor the Mediator 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 “Rules & Guidelines.”

Neither will the mediation service provider nor will the Mediator make an independent analysis of the dispute or raise issues not raised by the parties, or determine that additional necessary parties should participate in the mediation. The Mediator will attempt to create an atmosphere that facilitates communication and negotiation between the parties. Parties to the mediation conference will be expected to produce all information reasonably required for the Mediator to understand the issues presented. Such information will usually include full copies of the contract of sale and related addenda. In more complex cases, the Mediator may request that the parties provide written materials in advance of the mediation conference. Materials provided to OM Services by the parties, other than the OMS required forms, will not be reproduced or distributed to other parties prior to the mediation conference.

7. **ATTENDANCE: (PARTY/IES)** Attendance at the mediation conference is limited to the named parties and/or their attorney. All named parties to the contract must be in attendance at the mediation conference and must have the **proper authority*** to enter into and execute a binding written Memorandum of Understanding setting forth the terms and conditions of their understanding in the event an acceptable resolution is reached. *Proper authority includes parties who would be represented by another person and have granted that person the legal right to represent them in this matter. Parties electing to be represented by another must submit a written Power of Attorney to OM Services prior to the convening of the mediation conference. Such representative, unless an attorney authorized to practice law, must avoid engaging in the unauthorized practice of law.

BECAUSE OF CONFIDENTIALITY RESTRICTIONS, WE DO NOT PERMIT CONFERENCE CALL MEDIATIONS.

ATTENDANCE: (AGENT) Real estate agents are not parties to the contract. You may invite your agent to attend the mediation conference although the agent is under no obligation to attend. If you elect to invite your agent to

attend the mediation conference, you must submit complete contact information to OM Services via the Requesting / Responding Party forms prior to the scheduling of the mediation conference. Agents who agree to attend the mediation conference must also adhere to the program's policies and rules regarding confidentiality and will be expected to sign the Agreement to Mediation & Confidentiality along with all parties to the mediation. Scheduling of the mediation conference will not be predicated upon the availability of the agent to attend the conference.

ATTENDANCE: (OTHER PERSONS) Because mediation is not an evidentiary hearing or an adjudicatory process, attendance at the mediation conference is limited to the named parties and/or their attorney. All other persons attending the mediation conference must be registered with OM Services *before* the scheduling of the mediation conference or they will not be allowed to participate. Parties wishing to include persons other than agents to attend the mediation conference are responsible for notifying those persons regarding the scheduled conference date, time and location. Scheduling of the mediation conference will not be predicated upon the availability of the other persons to attend the mediation conference.

ATTENDANCE: (OBSERVER) OM Services reserves the right to have an Observer present at the mediation conference as a means to review Mediator skills and evaluate performance. Observers would not participate in the process but will be expected to sign the "Agreement to Mediation & Confidentiality". Parties will be notified prior to the mediation conference if an Observer will be in attendance.

8. TIMING OF CLAIMS: CLAIMS MUST BE FILED WITHIN 1 YEAR OF ACTUAL CONTRACT SETTLEMENT DATE OR WHEN SETTLEMENT SHOULD HAVE OCCURRED; however the time limitation by which parties must bring claims in accordance with these "Mediation Rules & Guidelines" is to be governed by Maryland law. Consult local legal counsel regarding this issue.

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 "Memorandum of Understanding" between the parties;
- B. By a declaration by any party that they wish to terminate the mediation; or
- C. By a declaration by the Mediator that in the Mediator's assessment, "further efforts at mediation would not result in resolution of the dispute".

10. CONFIDENTIALITY OF MEDIATION CONFERENCES: All mediation conferences will be held in accordance with and will be subject to the "Agreement to Mediation & Confidentiality". All parties, attendees or invitees participating in the Mediation Conference will be required to sign and execute the "Agreement" prior to the commencement of the Mediation Conference. Consistent with State law, the Mediator will abide by the Maryland Standard of Conduct for Mediators during the mediation.

11. PRIVATE SESSIONS (caucus): From time-to-time during the mediation conference, the Mediator 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 Mediator 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 discussions held in private session will also be subject to the provisions of the "Confidentiality Agreement".

12. MEMORANDUM OF UNDERSTANDING: Should the parties agree to resolve their dispute through mediation, a "Memorandum of Understanding" shall be written by either the legal counsel for one of the parties, or by the Mediator if the parties are un-represented. The "Memorandum of Understanding" shall be signed and dated by all parties agreeing to its terms prior to the conclusion of the mediation conference.

13. JUDICIAL PROCEEDINGS AND IMMUNITY: Neither the mediation service provider nor the Mediator shall be deemed 'necessary parties' in any judicial proceedings relating to the dispute being mediated under these "Rules and Guidelines", nor shall the mediation service provider or the Mediator serving under these "Rules and 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.

14. ADMINISTRATIVE FEE: Both Requesting and Responding Parties will be charged an administrative fee which is **NON-REFUNDABLE**. All administrative fees associated with the scheduling of the mediation conference will be in accordance with the Administrative Fee Schedule in effect at the time that the mediation request is confirmed by OM Services. Administrative fees may be paid by check, money order or charged to a valid MasterCard or VISA account if there is sufficient credit available to do so. **CURRENT NON-REFUNDABLE ADMINISTRATIVE FEE: \$200 PER PARTY**

15. MEDIATOR FEE / EXPENSE: In addition to the Administrative Fee, the Requesting and Responding Parties will be charged a Mediator fee and any travel expenses in addition to the OM Services' Administrative fee. All Mediator fees or expenses will be in accordance with the Mediator Fee Schedule in effect at the time that the mediation request is confirmed by OM Services. OM Services will notify the parties prior to the mediation conference regarding the Mediator fee charges or expenses.

***MEDIATOR FEES AND/OR EXPENSES ARE TO BE PAID DIRECTLY TO
THE MEDIATOR THE DAY OF THE MEDIATION CONFERENCE, UNLESS OTHERWISE ARRANGED.***
Mediator fees may be paid by check or money order. NO CREDIT CARD PAYMENTS WILL BE ACCEPTED.



EXAMPLE—1st page—CONTRACT OF SALE

RESIDENTIAL CONTRACT OF SALE

This is a Legally Binding Contract; If Not Understood, Seek Competent Legal Advice.

THIS FORM IS DESIGNED AND INTENDED FOR THE SALE AND PURCHASE OF IMPROVED SINGLE FAMILY RESIDENTIAL REAL ESTATE LOCATED IN MARYLAND ONLY.

TIME IS OF THE ESSENCE. Time is of the essence of this Contract. The failure of Seller or Buyer to perform any act as provided in this Contract by a prescribed date or within a prescribed time period shall be a default under this Contract and the non-defaulting party, upon written notice to the defaulting party, may declare this Contract null and void and of no further legal force and effect. In such event, all Deposit(s) shall be disbursed in accordance with Paragraph 20 of this Contract.

1. DATE OF OFFER: _____

2. SELLER: _____

3. BUYER: _____

4. PROPERTY: Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property") known as _____ located in _____ City/County, Maryland, Zip Code _____ together with the improvements thereon, and all rights and appurtenances thereto belonging.

5. ESTATE: The Property is being conveyed: _____ in fee simple or _____ subject to an annual ground rent, now existing, in the amount of _____ Dollars (\$) payable semi-annually, as now or to be recorded among the Land Records of _____ City/County, Maryland.

6. PURCHASE PRICE: The purchase price is _____ Dollars (\$ _____).

7. PAYMENT TERMS: The payment of the purchase price shall be made by Buyer as follows:
(a) An initial Deposit by way of _____ at the time of this offer. _____ Dollars (\$ _____)
(b) An additional Deposit by way of _____ in the amount of _____ Dollars (\$ _____) to be paid _____

(c) All Deposits will be held in escrow by: _____ (If not a Maryland licensed real estate broker, the parties may execute a separate escrow deposit agreement.)
(d) The purchase price less any and all Deposits shall be paid in full by Buyer in cash, wired funds, bank check, certified check or other payment acceptable to the settlement officer at settlement.
(e) Buyer and Seller instruct broker named in paragraph (c) above to place the Deposits in: **(Check One)**
 A non-interest bearing account;
OR An interest bearing account, the interest on which, in absence of default by Buyer, shall accrue to the benefit of Buyer. Broker may charge a fee for establishing an interest bearing account.

8. SETTLEMENT: Date of Settlement _____ or sooner if agreed to in writing by the parties.

9. FINANCING: Buyer's obligation to purchase the Property is contingent upon Buyer obtaining a written commitment for a loan secured by the Property as follows:

- | | | |
|--|---|--|
| <input type="checkbox"/> Conventional Financing Addendum | <input type="checkbox"/> USDA Financing Addendum | <input type="checkbox"/> Owner Financing Contingency |
| <input type="checkbox"/> FHA Financing Addendum | <input type="checkbox"/> Assumption Addendum | <input type="checkbox"/> No Financing Contingency |
| <input type="checkbox"/> VA Financing Addendum | <input type="checkbox"/> Gift of Funds Contingency Addendum | <input type="checkbox"/> OTHER: _____ |

10. FINANCING APPLICATION AND COMMITMENT: Buyer agrees to make a written application for the financing as herein described within _____ (_____) days from the Date of Contract Acceptance. If a written financing commitment is not obtained by Buyer within _____ (_____) days from the Date of Contract Acceptance: (1) Seller, at Seller's election and upon written notice to Buyer, may declare this Contract null and void and of no further legal effect; or (2) Buyer, upon written notice to Seller, which shall include written evidence from the lender of Buyer's inability to obtain financing as provided in Paragraph 9 of this Contract, may declare this Contract null and void and of no further legal effect. In either case, the deposit shall be disbursed in accordance with the Deposit paragraph of this Contract. If Buyer has complied with all





EXAMPLE—1st page—CONTRACT OF SALE

UNIMPROVED LAND CONTRACT OF SALE

This is a Legally Binding Contract; If Not Understood, Seek Competent Legal Advice.
THIS FORM IS DESIGNED AND INTENDED FOR THE SALE AND PURCHASE OF RESIDENTIAL UNIMPROVED REAL ESTATE LOCATED IN MARYLAND ONLY. NOT FOR USE FOR THE SALE OF IMPROVED REAL ESTATE/COMMERCIAL OR INDUSTRIAL REAL ESTATE.
APPROPRIATE ADDENDA MAY BE REQUIRED.

TIME IS OF THE ESSENCE. Time is of the essence of this Contract. The failure of Seller or Buyer to perform any act as provided in this Contract by a prescribed date or within a prescribed time period shall be a default under this Contract and the non-defaulting party, upon written notice to the defaulting party, may declare this Contract null and void and of no further legal force and effect. In such event, all Deposit(s) shall be disbursed in accordance with Paragraph 20 of this Contract.

1. **DATE OF OFFER:** _____

2. **SELLER:** _____

3. **BUYER:** _____

4. **PROPERTY:** Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property") known as _____ located in _____ City/County, Maryland, Zip Code _____ together with all rights and appurtenances thereto belonging. Buyer and Seller agree that the Property subject to the Contract is estimated to contain _____ (____) acre(s) of land, or _____ (____) square feet of land, more or less. Unless an addendum pertaining to the acreage or square feet and/or the configuration of the Property is specifically included as a part of the Contract, Buyer shall purchase the Property and Seller shall sell the Property without any adjustment in the purchase price regardless as to the actual size or configuration of the Property.

5. **ESTATE:** The Property is being conveyed: _____ in fee simple or _____ subject to an annual ground rent, now existing or to be created, in the amount of _____ Dollars (\$) _____ payable semi-annually, as now or to be recorded among the Land Records of _____ City/County, Maryland.

6. **PURCHASE PRICE:** The purchase price is _____ Dollars (\$ _____).

7. **PAYMENT TERMS:** The payment of the purchase price shall be made by Buyer as follows:

(a) An initial Deposit by way of _____ in the amount of _____ Dollars (\$ _____) at the time of this offer.

(b) An additional Deposit by way of _____ in the amount of _____ Dollars (\$ _____) to be paid _____

(c) All Deposits will be held in escrow by: _____

(If not a Maryland licensed real estate broker, the parties may execute a separate escrow deposit agreement.)

(d) The purchase price less any and all Deposits shall be paid in full by Buyer in cash, wired funds, bank check, certified check or other payment acceptable to the settlement officer at settlement.

(e) Buyer and Seller instruct broker named in paragraph (c) above to place the Deposits in: **(Check One)**

OR A non-interest bearing account;
 An interest bearing account, the interest on which, in absence of default by Buyer, shall accrue to the benefit of Buyer. Broker may charge a fee for establishing an interest bearing account.

8. **SETTLEMENT:** Date of Settlement _____ or sooner if agreed to in writing by the parties.

9. **FINANCING:** Buyer's obligation to purchase the Property is contingent upon Buyer obtaining a written commitment for a loan secured by the Property as follows:

- Conventional Financing Addendum
- Assumption Addendum
- Gift of Funds Contingency Addendum

- Owner Financing Addendum
- OTHER: _____
- No Financing Contingency

10. **FINANCING APPLICATION AND COMMITMENT:** Buyer agrees to make a written application for the financing as herein described within _____ (____) days from the Date of Contract Acceptance. If such written financing commitment is not obtained by Buyer within _____ (____) days from the Date of Contract Acceptance:

(1) Seller, at Seller's election and upon written notice to Buyer, may declare this Contract null and void and of no further legal effect; or (2) Buyer, upon written notice to Seller, which shall include written evidence from the lender of Buyer's inability to



Buyer _____ / _____

10/16

Seller _____ / _____



the Property, with certain rights and responsibilities relative to the ground rent. (If the Property is subject to ground rent: See Property Subject to Ground Rent Addendum.)

32. SALE/SETTLEMENT OR LEASE OF OTHER REAL ESTATE: Neither this Contract nor the granting of Buyer's loan referred to herein is to be conditioned or contingent in any manner upon the sale, settlement and/or lease of any other real estate unless a contingency for the sale, settlement and/or lease of other real estate is contained in an addendum to this Contract. Unless this Contract is expressly contingent upon the sale, settlement and/or lease of any other real estate, Buyer shall neither apply for nor accept a financing loan commitment which is contingent upon or requires as a pre-condition to funding that any other real estate be sold, settled and/or leased.

33. LEASES: Seller may neither negotiate new leases nor renew existing leases for the Property which extend beyond settlement or possession date without Buyer's written consent.

34. DEFAULT: Buyer and Seller are required and agree to make full settlement in accordance with the terms of this Contract and acknowledge that failure to do so constitutes a breach hereof. If Buyer fails to make full settlement or is in default due to Buyer's failure to comply with the terms, covenants and conditions of this Contract, the initial Deposit and additional Deposits (the "Deposit") may be retained by Seller as long as a Release of Deposit Agreement is signed and executed by all parties, expressing that said Deposit may be retained by Seller. In the event the parties do not agree to execute a Release of Deposit Agreement, Buyer and Seller shall have all legal and equitable remedies. If Seller fails to make full settlement or is in default due to Seller's failure to comply with the terms, covenants and conditions of this Contract, Buyer shall be entitled to pursue such rights and remedies as may be available, at law or in equity, including, without limitation, an action for specific performance of this Contract and/or monetary damages. In the event of any litigation or dispute between Buyer and Seller concerning the release of the Deposit, Broker's sole responsibility may be met, at Broker's option, by paying the Deposit into the court in which such litigation is pending, or by paying the Deposit into the court of proper jurisdiction by an action of interpleader. Buyer and Seller agree that upon Broker's payment of the Deposit into the court, neither Buyer nor Seller shall have any further claim, demand or action against Broker regarding the release of the Deposit, and Buyer and Seller, jointly and severally, shall indemnify and hold Broker harmless from and defend such rights and claims of the court. In the event of such dispute and election by Broker to file an action of interpleader as herein provided, Buyer and Seller further agree and hereby expressly and irrevocably authorize Broker to deduct from the Deposit all costs incurred by Broker in the filing and maintenance of such action of interpleader including but not limited to filing fees, court costs, service of process fees and attorneys' fees, provided that the amount deducted shall not exceed the lesser of \$500 or the amount of the Deposit held by Broker. All such fees and costs authorized herein to be deducted may be deducted by Broker from the Deposit prior to paying the balance of the Deposit to the court. Buyer and Seller further agree and expressly declare that all such fees and costs so deducted shall be the exclusive property of Broker. If the amount deducted by Broker is less than the total of all of the costs incurred by Broker in filing and maintaining the interpleader action, then Buyer and Seller jointly, and severally, agree to reimburse Broker for all such excess costs upon the conclusion of the interpleader action.

MEDIATION OF DISPUTES PARAGRAPH

35. MEDIATION OF DISPUTES: Mediation is a process by which the parties attempt to resolve a dispute or claim with the assistance of a neutral mediator who is authorized to facilitate the resolution of the dispute. The mediator has no authority to make an award, to impose a resolution of the dispute or claim upon the parties or to require the parties to continue mediation if the parties do not desire to do so. Buyer and Seller agree that any dispute or claim arising out of or from this Contract or the transaction which is the subject of this Contract shall be mediated through the Maryland Association of REALTORS®, Inc. or its member local boards/associations in accordance with the established Mediation Rules and Guidelines of the Association or through such other mediator or mediation service as mutually agreed upon by Buyer and Seller, in writing. Unless otherwise agreed in writing by the parties, mediation fees, costs and expenses shall be divided and paid equally by the parties to the mediation. If either party elects to have an attorney present that party shall pay his or her own attorney's fees.

Buyer and Seller further agree that the obligation of Buyer and Seller to mediate as herein provided shall apply to all disputes or claims arising whether prior to, during or within one (1) year following the actual contract settlement date or when settlement should have occurred. Buyer and Seller agree that neither party shall commence any action in any court regarding a dispute or claim arising out of or from this Contract or the transaction which is the subject of this Contract, without first mediating the dispute or claim, unless the right to pursue such action or the ability to protect an interest or pursue a remedy as provided in this Contract, would be precluded by the delay of the mediation. In the event the right to pursue such action, or the ability to protect an interest or pursue a remedy would be precluded by the delay, Buyer or Seller may commence the action only if the initial pleading or document commencing such action is accompanied by a request to stay the proceeding pending the conclusion of the mediation. If a party initiates or commences an action in violation of this provision, the party agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the other party to enforce the obligation as provided herein. The provisions of this paragraph shall survive closing and shall not be deemed to have been extinguished by merger with the deed.

36. ATTORNEY'S FEES: In any action or proceeding between Buyer and Seller based, in whole or in part, upon the performance or non-performance of the terms and conditions of this Contract, including, but not limited to, breach of contract,

Buyer _____ / _____

Seller _____ / _____

Brief Overview of the Mediation Process

Welcome & Introduction(s) by Mediator

- Background of Mediator
- Definition and review of Mediation process
- Role of the Mediator
- Role of the Participants
(and invited support persons)
- Role of Legal Counsel / Attorney (if present)
- Questions before beginning Mediation process

Setting the “Ground Rules” of the Mediation Process

- Review Agreement to Mediate & Confidentiality
(must be signed by all parties & attendees before the mediation conference may begin)
- Each party will have an opportunity to speak without interruption
- Parties are asked to refrain from the use of any foul language or name calling
- Either party, Mediator or Attorney may call for a recess, a caucus, or a halt to the mediation
(recess is limited to 1 hour)

Mediation Process

- Mediator will begin by asking the Requesting Party to talk about the reason(s) why the Mediation process was initiated (Opening Statement)
- Once the Requesting Party has completed their Opening Statement, the Mediator will then ask the Responding Party to address or respond to the information provided by the Requesting Party
- Joint Discussion(s)
 1. clarifications
 2. questions asked by mediator and/or other party
 3. identify objectives (to reach acceptable resolution)
- Caucus (if necessary or appropriate)
- Reconvening of joint session
- Reaching agreement

Close of Mediation

- Writing of the Agreement (Memorandum of Understanding)
or
- Writing of No Agreement (parties do not waive any legal rights)
- Parties are requested to complete session survey
- Compensation of Mediator