

Appendix M

Tips for Negotiating a DRS Service Agreement/Contract

Before negotiations are initiated, the association should confirm that the mediation provider meets the requirements of the program and has the capability and resources to accommodate the geographical and administrative needs of program.

The DRS Service Agreement (or contract) should specify:

- Parties to the agreement (association and mediation provider).
- Duration of contract (effective dates).
- Services which provider will perform, e.g., administrative, promotion, training, pre-conference and post-conference activities, etc.
- Services which provider will not perform.
- Any fees, other than mediation fees that will be paid by the parties, that the association agrees to pay to the provider for services performed; payment terms.
- All terms and conditions of the relationship including those recommended by NAR.

NAR recommends that the following conditions be included in the association's Exclusive DRS Service Agreement:

1. Provider must agree to abide by and follow the DRS Procedures and use the DRS Forms.
2. Provider must agree to defend, indemnify, save and hold the Association of REALTORS[®] harmless against claims brought by third parties relating to the provider's handling of mediation conferences pursuant to the Agreement.
3. Provider must agree to a fee schedule for the duration of the Agreement.
4. The mediation provider should agree that DRS fees agreed to with the association are equal to or less than fees the provider may set in connection with other similar programs.
5. Provider must agree not to use the name or logo of the Association of REALTORS[®] without prior written consent from the association, and must further agree not to use the name or logo of the NATIONAL ASSOCIATION OF REALTORS[®] without prior written consent from NAR.

6. Neither the Association of REALTORS[®] nor NAR shall be responsible for payment of mediation fees to the provider in the event of default by any party.
7. Provider must agree to waive the Terms of Agreement, without penalty to the association, if an individual who is a party to the real estate transaction has agreed to mediate under the DRS Procedures but objects to mediation by the provider on the grounds of economic or other bias.

Note: The association should consult legal counsel before executing any agreement or contract, and may wish to have counsel negotiate the terms and conditions of the agreement with the mediation providers.