**MEDIATION AGREEMENT**



**RECITALS**

1. The parties herein are involved in [SPECIFY THE CONFLICT, example, lawsuit].

2. That the parties voluntarily, freely, willfully and fully consent to the agreement to submit this matter to a dispute resolution.

1. **Purpose of Mediation**

This Agreement was entered into by the parties for faster, better and more fruitful negotiation process. The parties have signified their understanding that a mediation is a process with the primary goal of reaching a mutual agreement in a consensual, informed and collaborative manner. The parties acknowledged that resolution solely among themselves is not an impossible task, rather a difficult one, hence, a need for a mediator. However, the parties understand that the mediator cannot make a decision for the parties, he is merely there as a referee, moderator and advisor to the parties in order for them to come up with a fair and reasonable resolution of the dispute.

1. **Dispute**

The parties acknowledge that they have issues to be resolved and that the resolution of such issue is better resolved in the presence or with the aid of a mediator. Such dispute arose from [DESCRIBE THE CAUSE OF THE DISPUTE WITH ABSOLUTE CERTAINTY. IT CAN BE PLACED ON THIS SECTION OR CREATE AN ADDITIONAL DOCUMENT SOLELY FOR THE PURPOSE OF DESCRIBING THE SOURCE OF THE DISPUTE. SUCH DISPUTE MAY ARISE FROM CONTRACTUAL OBLIGATIONS, QUASI-CONTRACTUAL, DELICTS OR BASED ON ANY OTHER SOURCES]. The submission of this issue for resolution with the mediator is recognized to be the best and the most speedy solution to dispute settlement.

1. **Appointment and Roles of Mediator**

3.1. The Mediator was appointed with the party’s mutual consent and agreement to settle the dispute described above [OR DESCRIBED ON A SEPARATE DOCUMENT. IF SEPARATE DOCUMENT, SPECIFY THE DOCUMENT TITLE] in accordance with the agreement, provisions, and terms of this Agreement.

3.2. The Mediator is hereby expected to act impartially and fairly in order to assist the parties herein explore, discover, come up, and develop options for the purpose of achieving speedy and expeditious resolution of the Dispute by the Agreement of the parties.

3.3. The Mediator shall not act as an Arbitrator for the purpose of resolving the dispute, nor shall he be allowed to make the decisions on behalf of the parties.

3.4. The Mediator shall inhibit himself from giving legal advice or any other advice to the parties in the course of the mediation proceeding, he is neither allowed to impose a solution or make a decision for the parties to come up with what he thinks as a fair settlement.

3.5. The Mediator is an independent and impartial third party and he does not represent either of the parties in the Dispute. His role is primarily to help and assist the parties to negotiate and come up with a resolution among themselves. He is not allowed to protect or assert any legal rights of either of the parties, nor is he allowed to raise any issues other than those issues raised by the parties and determine who would participate in the Dispute Resolution Process.

1. **Roles and Responsibilities of the parties**

4.1. The parties enter into Mediation process voluntarily in order to come up with a resolution of the Dispute between them, with the aid and guidance of an impartial third party mediator.

4.2. The parties acknowledge and recognize that they are primarily responsible for coming up a Dispute Resolution among themselves, this is not the task of the mediator.

4.3. The parties hereby agree and commit to disclose all information that is relevant to the issue or issues on the dispute within their control, this information necessarily includes relevant financial information, except information that was obtained from privileged communication.

4.4. The parties hereby agree to refrain themselves from initiating or submitting the Dispute subject in this mediation process to any litigation, arbitration or any other adverse legal action or proceedings.

4.5. The Parties agrees to be bound by the solution, agreement and whatever kind of resolution that they can come up after this Mediation. Upon signifying the parties consent to the resolution, the resolution herein shall be deemed and presumed to be fair, reasonable and mutually beneficial to the parties. This has a binding effect on the parties and can be used in any subsequent legal proceedings should either or both parties choose to submit this issues for further resolution to the proper judicial authority.

1. **The Mediation**

5.1. The Mediation shall take place on [SPECIFY THE AGREED DATE ON WHEN THE MEDIATION SHOULD START] at [SPECIFY THE PLACE AND INSERT THE COMPLETE ADDRESS OF THE AGREED LOCATION FOR MEDIATION]. The date and location herein specified are fixed and binding unless otherwise one of the parties or the mediator request a change thereof and such request was duly agreed by all the parties.

5.2. Processes of the mediation, including all necessary preliminary steps, shall be conducted in a manner which the Mediator determines to be the most appropriate taking into consideration and having due regard the unique and distinct nature and circumstances of the Dispute, the set and agreed result and goal of the mediation through an efficient and expeditious manner, and the views and preference of the parties as to the conduct of the mediation proceedings.

5.3. As shown in the above premise, the Mediator does not have the right to make decisions for the parties and make recommendations. However, in respect to the conduct of the mediation, the Mediator may give the following directions.

(a) Order the parties to make the presentations of their retained experts and make joint conferences of the experts respectively retained, if any, of the parties;

(b) Order the parties to be present at the preliminary conference before the mediation proceeding officially starts;

(c) To order the parties to make and take any other steps to clearly define the issue or issues, to narrow down the Disputes and to identify the areas in which they are in agreement or which are not disputed and to present and clarify their respective basis for their disagreements;

(d) Order the parties to submit their respective service on the Mediator before any reports, affidavits, pleadings, submissions, and other documents prepared and filed for the purpose of the Dispute proceeding; and

(e) Order the parties to furnish the opponents, prior to the mediation their respective written reports, affidavits, pleadings, submissions, and other documents prepared and filed which are relevant to Mediation.

5.4. The other party must be furnished with a copy of all the documents submitted to the Mediator except when upon the service of such document to the Mediator, the party submitting clearly indicates that such document is of confidential nature and is only intended for submission to the Mediator.

5.5. The parties herein are expected to give their full cooperation and act respectfully, and at all times be courteous, and must participate throughout the whole mediation process in good faith, and exercise due diligence in order to comply with the reasonable requests given by the Mediator to comply with the procedural requirements in connection with the mediation process.

1. **Conflicts of interest**

The Mediator is expected to exercise impartiality to all parties throughout the whole Mediation process. The Mediator shall not take side a of either of the parties, he shall not champion and favor the cause of one over the other. As part of transparency and ensuring the credibility of the mediation proceeding, the Mediator is hereby required to disclose to the parties should he had prior dealings with one of the parties, to the best of his or her knowledge. Such dealing may either be related or not to the issue subject to the Dispute. At any stage of the Mediation, the Mediator discovers or is made aware of any circumstances which would reasonably and with doubt effect or taint his capacity to act with impartiality, he is duty bound to inform the parties about the existence of such circumstances. The parties have the discretion to allow him to continue mediating despite the existence of such circumstances, however, his failure to inform the parties shall be a ground for the adversely affected party to raise and question the validity of the mediation proceeding.

1. **Representation at the Mediation**

7.1. In pursuant to the provisions of this Agreement, each party must be present at process or proceeding of the mediation until its termination. Provided, however, that there is no agreement to the contrary.

7.2. Should it become very difficult or impossible for the party to appear, he can be duly represented at the mediation with the person with full authorization from the party to negotiate and settle the dispute on his behalf and to sign the agreed settlement that is binding on the parties.

7.3. If the party is a natural person, his attendance and participation are mandatory on the mediation except when such person is a member of the board of director of a corporation, in which such corporation is a party to the dispute and is duly represented with another director having full authority to act and bind the corporation.

7.4. The parties may seek the assistance of a legal practitioner or any other person knowledgeable or expert in the field of the disputed issues.

1. **Communication between the Mediator and a Party**

8.1. For the purpose of attaining a fair and reasonable resolution, the Mediator may meet or communicate either orally or in writing, together as parties or with the particular party alone as he deemed necessary. The Mediator may do so as frequently as appropriate, and in so doing, he need not disclose such meeting to the other party. Provided, that such meeting does taint his impartiality and solely for the purpose of obtaining a speedy and expeditious mediation in order to come up a fair and reasonable resolution.

* 1. Expressly authorized by the party giving such confidential information to share the same, or when he is required by the law to disclose the said information.
1. **Confidentially of the Mediation**

9.1. The parties Mediation proceeding including the Mediator hereby agrees and acknowledges the confidential nature of the proceeding. All submissions such as draft resolutions, any discussions, unsigned mediated agreements and written and oral communications shall not be admissible to any court proceeding. Only a signed mediated agreement can be made admissible in the courts. Should the parties choose to bring the dispute to the proper judicial court, either of the parties may not call the Mediator to testify for them concerning the mediation nor the Mediator be compelled to provide any materials from the mediation proceeding to any courts. The Mediator is considered to be without power, whatsoever, after the termination of the mediation proceeding. However, the parties herein signified their understanding that the Mediator is not precluded from disclosing the said confidential information should the keeping thereof may cause danger, harm or peril on his life or property.

9.2. Should the Mediator have a reasonable belief that the information disclosed to him by one of the parties in a private discussion is significant and would greatly help the mediation process, the Mediator may disclose the same information to the other party at the proceeding and not privately. However, should there be an objection on the part of the disclosing party or that upon the instance of giving such information, the disclosing party expressly prohibits the Mediator from relaying the same to the other party, the Mediator shall not continue in his plan to disclose.

9.3. As the general rule, the Mediator does not have the authority to voluntarily disclose anything said or taken in the Mediation other than the parties thereof. This rule, however, is not absolute, it admits to the following as the exemptions to the general rule:

(a) The Mediator can disclose the above-mentioned information to the duly authorized representative of either party, except that information disclosed in a private meeting with an express reservation on its confidentiality;

(b) The Mediator may disclose information without identifying the party where it came from but solely for the reporting, educational and research purposes;

(c) When the Mediator was issued a summon or other legal services requiring him to disclose information considered to be confidential; and

(d) When there is a written consent from both parties waiving their rights to nondisclosure, where the disclosure thereof is required by law, or when the information disclosed likely contains relevant information which suggests actual or potential danger to national security, life, general health, and safety, or when it is prejudicial to public welfare.

9.4. The parties agree and commit not to introduce as evidence in any legal or judicial proceeding, any statements made by either party or even by the Mediator in the course of Mediation. However, the evidence, though part of the prohibited statements or information, but may be discoverable in any other manner other than digging into the Mediation records, shall be admissible in evidence.

9.5. The parties shall be responsible in making their representatives or any person who attended with them, for them and on their behalf, such as their adviser or their experts, to sign a confidentiality agreement as a precondition to his authority to join the proceeding.

1. **Privilege**

Pursuant to the provisions of this agreement and to other legally or personally imposed obligations, any and all concessions, proposals, admissions or any other statements or documents prepared, made or disclosed in connection with the mediation, except from those settlements which are considered binding shall be without prejudice, retain the nature of being privileged and shall not be disclosed or be the subject of a subpoena to produce documents for evidence in any judicial or arbitral proceedings.

1. **Settlement**

Any and all resolutions of the Dispute, either wholly or partially shall in no manner be binding upon the parties except upon and until the recording of either parties terms of settlement, which must be in writing in a separate document submitted and signed by both parties and their duly authorized representatives prior to the conclusion of the mediation. The parties must be served a copy of the said signed resolution. The parties are not precluded from making further agreements that the terms of the settlement shall maintain its confidential nature except for the purpose of enforcing the same. Either of the parties is free to enforce the provisions of the settlement through a judicial proceeding.

1. **Termination**

Unless otherwise instructed by the court of competent jurisdiction by issuing an adverse order, the mediation proceeding in respect to the subject Dispute shall automatically be terminated upon (i) the lapse of the time allocated for the mediation and the parties does not make a subsequent agreement extending the said period, (ii) there is already a perfected settlement which is duly signed by the parties, and (iii) either of the parties, upon consultation of the Mediator, expresses its intent to withdraw from the Mediation process by submitting a written notice to that effect to the Mediator and to the other party.

1. **Exclusion of Liability**

The Mediator shall not be in any way liable to a party for whatever is the result of the mediation except only upon showing that there is fraud on the part of the Mediator or on any fatal omission on his part in the performance of his duties or obligations under this Agreement. Furthermore, the parties hereby jointly and severally release and free the Mediator from any liability and obligations and shall undertake to indemnify the Mediator should liabilities of any kind arises against the Mediator may it be through neglect or not, so long as it relates or arises to out of any act or omission in the performance of his duties, responsibilities, and obligations as the Mediator herein.

1. **Costs of Mediation**

The parties herein agree to be liable for the Mediator’s expenses and fees as may be necessary for carrying out his duties and responsibilities set out in this Agreement and reimburse him for any expenses not stipulated herein but in relation hereof, so long as such additional expenses are justifiable as to the parties and the Mediator.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed personally by themselves and witnessed and guided by their duly authorized representatives, affixing their signatures below. By executing this Agreement, the undersigned agrees to be bound, and to bind the parties, by the terms and conditions of this Agreement as of the EFFECTIVE DATE.

**Signature of Parties:**

Name of the Party:

Signature:

Date of Signing:

Name of the Party:

Signature:

Date of Signing:

Name of the Counsel or Representative:

Signature:

Date of Signing:

Name of the Counsel or Representative:

Signature:

Date of Signing:

**As Mediated by:**

Name of the Mediator:

Signature:

Date of Signing: