

AGREEMENT TO MEDIATE

This is an agreement between

Click here to enter text.

AND

Click here to enter text.

(Referred to in the agreement as the parties)

AND

Click here to enter text.

(The mediator)

We the parties agree:

Appointment of mediator

1. A dispute has arisen between the parties relating to Click here to enter text. (the dispute).
2. The parties and the mediator agree that the mediator will mediate the dispute.
3. This agreement governs the process and conduct of the mediation.

Good faith and cooperation

4. The parties agree to co-operate with the mediator and each other, to act in good faith and to use their best endeavors to resolve the dispute.

Role of mediator

5. The **parties understand that it is the mediator's role to be neutral and impartial.** This means that the mediator will not be on the side of any party but will listen and assist the parties to resolve the issues between them.
6. The mediator will assist the parties to explore options for possible resolution of the dispute by helping the parties to:
 - a. isolate the issues in dispute;
 - b. identify the interests of each party;
 - c. develop options for the resolution of the issues; and
 - d. explore to what extent each option meets the interests of each party.

7. The mediator will not:
 - a. give legal advice to either party;
 - b. make a decision for either party; and/or
 - c. accept any appointment in relation to any proceedings concerning the dispute.
8. Prior to the commencement of the mediation, the mediator shall disclose to the parties to the best of his/her knowledge any prior dealings with any of the parties and/or any interest in the dispute.
9. If the mediator becomes aware of any facts that may reasonably be considered to affect his/her capacity to act impartially, during the course of the mediation, he/she will immediately inform the parties of such circumstances. The parties will then decide whether or not the mediation should continue.

Communication and Confidentiality

10. The mediation (including any separate meetings) shall be entirely confidential unless otherwise authorised. There will be no disclosure outside the mediation of any information or documentation disclosed during the mediation, including the preliminary steps, by any party or the mediator except for the purpose of obtaining legal advice or unless that party or the mediator is required to do so by this agreement or by order of a court or by law.
11. The mediator will not maintain confidentiality if he/she has reason to believe that any person is threatened or in danger of physical harm and will report to the Police any such threats of harm.
12. Any information, whether written or spoken during the mediation is privileged and it shall not be used by any party in any judicial, arbitration or tribunal proceeding unless all parties agree. This includes:
 - a. any settlement proposal made by a party or the mediator;
 - b. any view expressed on a settlement proposal by a party or the mediator;
 - c. any admissions made;
 - d. any exchanges (oral or documentary) made by a party or the mediator;
 - e. any information or documents whatsoever prepared for the mediation including notes made within the mediation by any party or the mediator.
13. The mediation shall be without prejudice. This means that all parties reserve their respective rights should the mediation not result in a settlement being reached between them.
14. The parties will not subpoena the mediator as a witness in any court, tribunal or arbitration proceeding.
15. Non-parties present at any time during the mediation will be required to sign the confidentiality agreement below.

Authority to Settle

16. The parties agree to attend with authority to settle within any range of options that can reasonably be anticipated, or where this is not possible, with reasonable access to a person who holds such authority.

Representation

17. The parties acknowledge that each party may have one or more other persons to support them subject to the agreement of the other party.
18. Each party may be legally represented at the mediation.

Termination/adjournment of the mediation

19. The parties understand that mediation is voluntary.
20. **A party may terminate the mediation at any time after consultation with the mediator.**
21. **The mediator may terminate his/her involvement in the mediation if after consultation with the parties the mediator considers she/he is unable to achieve a resolution of the dispute**

Enforcement

22. The parties agree to give effect to and implement the agreement.
23. Any party may enforce the terms of the agreement by judicial proceeding. For the purpose of such proceedings, evidence may be called of the agreement.

Exclusion of Liability and Indemnity

24. Excluding fraud, the parties jointly and severally release, discharge and indemnify the mediator in respect of all liability of any kind (whether negligent or not) which may be alleged to arise in connection with or result from or relate in any way to the mediation.

Defamation

25. The parties and the mediator agree that no statements or comments, whether written or oral, made or used by them or their representatives during the mediation shall be relied upon to found or maintain any action for defamation, libel, slander or any related complaint, and this document may be pleaded in bar to any such action.

Our Fee

26. The parties jointly and severally agree to pay the mediator the agreed mediation fee set out in Appendix A within 7 days after the conclusion of the mediation.
27. The cost of the mediation fee shall be shared equally between the parties unless otherwise agreed prior to the mediation.
28. If full payment of the mediation fee is not made on the due date then interest on the amount overdue shall be charged on a daily basis and be calculated by adding 3% per annum to the overdraft rate payable by the mediator to her/his bankers at the time of and during such default, and interest shall continue to accrue both before and after any judgment is obtained.
29. If full payment of the mediation fee is not made on the due date then the parties will be jointly and severally responsible for all actual costs (including solicitor and debt collection costs) incurred by the mediator in recovering the fee and any default interest payable.

We have had this agreement explained to us by the mediator, and have read, understood and agree to the conditions of this agreement.

Click here to enter text.

Signature

Click here to enter text.

Signature

Click here to enter text.

Mediator's name

Signature

Date: Click here to enter a date.

Agreement to keep confidentiality of the mediation process

The individuals named below, who attend the mediation in a support role, will treat as confidential all written and oral communications as well as documents presented at or before mediation.

Any information, whether written or spoken, about what occurred in mediation is privileged and shall not be used for or against any party unless all parties agree.

The following persons attended the mediation and agree to abide by the above.

Click here to enter text.

Supporter's name

Signature

Click here to enter text.

Supporter's name

Signature

Date: Click here to enter a date.
