

Sample Agreement to Mediate

BETWEEN:

(name of party involved in dispute)

AND:

(name of party involved in dispute)

AND:

(the "Mediator")

Because:

The parties wish to settle matters in dispute between them without resorting to the adversarial process.

The parties, their lawyers and the Mediator will make a serious attempt to resolve all issues fairly in mediation.

The Parties Agree:

1. Process

Mr./Ms. _____ will be the Mediator.

The Mediator will act as an impartial facilitator to assist the parties in a negotiation aimed at the resolution of issues between them. All parties will work with the Mediator to isolate points of agreement and disagreement, to identify their interests, to explore alternative solutions and to consider compromises or accommodations.

2. Disclosure

There will be full and timely disclosure by each of the parties to the other, and to the Mediator, of all information and documents relevant to the matters under discussion.

3. Exchange of Documents

At least seven days before the mediation conference, the parties will exchange all relevant information and documents.

4. Summary Reports

Each party (or their counsel) will prepare a brief summary of the issues in dispute and their views on them. The parties will deliver the summaries to the Mediator at least seven days before the mediation begins.

5. Without Prejudice Communications and Inadmissibility

All communications between the parties, either with one another or with the Mediator privately, are settlement negotiations conducted on a without prejudice basis. All communications occurring in the context of the mediation are confidential, and are inadmissible in any legal proceeding. No party will subpoena the Mediator to testify or to produce records or notes. No party will disclose or attempt to compel disclosure of:

- a) any views expressed or suggestions made by another party in respect of the possible settlement of the dispute;
- b) any admissions made by a party in the course of the mediation;
- c) the fact that another party had indicated a willingness to accept a proposal made by any party to the mediation.

6. Confidentiality of Information Disclosed to the Mediator

Parties will discuss with the Mediator the matter of confidentiality of information disclosed to the Mediator.

7. Authority to Settle

To have an effective mediation it is important that a representative of each party with authority to settle a dispute be present at the mediation conference.

8. Effecting a Settlement

Where a settlement is reached in the dispute, the parties and their counsel will formalize the terms of the settlement agreement as soon as possible, either in a written agreement or in a court order.

9. Independent Legal Advice

The mediator does not act as legal counsel for any party during the mediation. Each party is encouraged to secure independent legal advice to ensure that legal rights and obligations, and the consequences of any potential settlement are fully understood.

10. Ending the Mediation

Participation in mediation is voluntary. A party or the mediator may end the mediation at any time.

11. Mediation Fees

Mediation costs will include the mediator's fees and any out-of-pocket expenses incurred by the mediator for telephone calls, correspondence, etc. The Mediator's fees will be calculated as follows:

The parties will share the fees and expenses as follows:

[Signed by all parties, counsel and the mediator]