

MEDIATION AND FEE AGREEMENT

Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, between:

\_\_\_\_\_  
(party); of \_\_\_\_\_, and  
\_\_\_\_\_  
(party); of \_\_\_\_\_, and  
\_\_\_\_\_  
(party); of \_\_\_\_\_, and  
\_\_\_\_\_  
(the "Mediator").

The Parties have agreed to participate, as described, in a voluntary mediation conducted by the Mediator with respect to the matter as described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A. DUTIES AND OBLIGATIONS

1. The Parties agree to participate in the Mediation with civility toward all Parties and Mediator. The Parties agree that no Party is required to resolve any particular issue through Mediation, but the Parties to the mediation agree to disclose fully all information germane to the settlement of the *above-referenced* dispute, and agree to participate fully and in good faith to achieve a reasonable and fair resolution of the issues raised.
2. The Parties agree to submit to Mediator in timely fashion any documents requested by Mediator prior to the Mediation, acknowledging that Mediator, in his sole discretion, might not request any documents, and in any event will not retain any requested and submitted documents.
3. The Mediator will attempt to impartially facilitate an understanding or resolution of the dispute between the Parties which both Parties find acceptable.
4. Prior to the Mediation, the Parties agree to limit communication with the Mediator. Pre-mediation communication may include preliminary assessment of

the dispute and suitability of mediation between identified Parties and with the named Mediator and submission of Mediator-requested documents, *if* any. Additional pre-Mediation communication with the Mediator shall be limited to procedural, technical, logistic and administrative matters, unless all Parties and Mediator agree beforehand. Communication violative of this provision shall be disclosed to any other Parties.

5. Notwithstanding the above, any of the Parties may terminate his/her participation in the mediation for any reason by written notification to the Mediator and the other Parties to the mediation. Absent natural disaster or other similar extenuating circumstance, a party canceling mediation less than five days prior to a scheduled mediation shall be required to remit to Mediator his/her portion of the Mediation Fee, forfeiting such payment if already made.
6. The Parties agree that the entire mediation process, including negotiations conducted prior to and during mediation, is to be considered and treated as confidential, to the greatest extent permitted by law. For the purposes of Federal evidence law, state evidence law, or other adjudicatory or investigatory processes, the Parties agree that all mediation content and process are to be construed and treated as inadmissible compromise and/or negotiation.
7. The Parties and the Mediator will not disclose any information, including offers, promises, conduct, statements or settlement terms, whether oral or written, made by any of the Parties, their agents, employees, experts and attorneys in connection with the mediation.
8. Unless all Parties and the Mediator agree in writing, all Parties agree that he/she/they shall not:
  - (i) name or call the Mediator as a witness in any pending or future investigation, action or proceeding relating to the subject matter of the mediation (including any investigation, action or proceeding that involves persons not party to this mediation); or
  - (ii) subpoena the Mediator or any documents in the Mediator's possession in any such investigation, action or proceeding, and

Further, the Parties agree to oppose any effort to subpoena Mediator and/or any mediator held documents.

9. Any Party, agent, employee or assignee or a Party, who requests any testimony, appearance, discovery or documents from Mediator relative to the mediation proceedings, conduct or content shall be responsible both for compensating mediator for all Mediator time expended on such matters and for defending and indemnifying mediator for any harm or injury that may result from such testimony, proceedings or actions.

10. The Mediator will maintain the confidentiality of communications related to the subject and content of the mediation.
11. The Parties agree that neither Mediator nor Gollub Law Office, P.C. nor animaldisputeresolution.com shall be liable to him/her/them for any act or omission in connection with services performed under this agreement.

## B. ACKNOWLEDGEMENTS

1. The Parties acknowledge that the Mediator is not undertaking and will not undertake to provide legal advice on behalf of any of the Parties in connection with the mediation. No affiliation of Mediator will render or convert the Mediator's services or the mediation itself to the provision of legal advice, or legal case evaluation. Parties further acknowledge that they alone, and not Mediator or Mediator-associated entities, bear the sole responsibility for exploring or managing legal considerations, options or obligations.
2. The Parties acknowledge that successful resolution through or resulting from mediation cannot be and is not being guaranteed.
3. The Parties acknowledge that during mediation, unequal division of time or discussion between Mediator and a particular party may occur. The Parties acknowledge that apportionment of time will neither affect nor provide offset for past, present or future mediation fees.
4. The Parties acknowledge having been advised to consult and/or engage his/her own individual attorney to independently assist him/her during the mediation process and to review and advise with respect to the working draft of any written agreement prepared by mediator. Parties acknowledge further that if he/she agrees to and signs any draft of an agreement without the advice of legal counsel, he/she agrees and signs knowingly, intelligently and voluntarily.

## C. REPRESENTATIONS

1. Each Party attending the mediation shall have full authority to settle his/her portion of the dispute. The signature of a Party to any agreement generated through mediation represents that Party's understanding of the agreement and intention to honor it.
2. No person shall create a stenographic, video or audio record of any mediation.
3. Parties have reviewed the Mediation Guidelines, understand them, and agree to comply with them with respect to mediation of the matter described above.

#### D. COMPENSATION

1. The Mediator shall be compensated for time expended in reasonable preparation for and in connection with the mediation at the rate of \$270 per hour, due and payable prior to the commencement of the Mediation, and prior to the commencement of each session of mediation if more than one session is needed and occurs.
2. With the prior agreement of the Parties and the Mediator in appropriate circumstances, the Parties shall compensate the Mediator at the rate of \$925 (nine-hundred and twenty-five dollars) for three hours of the Mediator's time,
3. The Parties agree to divide equally and pay in advance the costs of the Mediation prior to commencement of the mediation, substantive consultation or document review, if applicable. The Parties further agree that no Mediation can occur until *each* Party has paid his/her portion of the Mediation costs.

#### E. DISCLOSURE OF PRIOR RELATIONSHIPS

The Mediator has made a reasonable effort to learn and has disclosed to the Parties in writing:

1. all business or professional relationships the Mediator and/or the Mediator's firm has had with the Parties;
2. any financial interest the Mediator has in any Party;
3. any significant social, business or professional relationship the Mediator has had with an officer of a Party or with an individual representing a Party in the mediation; and
4. any other circumstances that may create doubt regarding the Mediator's impartiality in the mediation.

#### F. FUTURE RELATIONSHIPS

1. Neither the Mediator nor the Mediator's firm shall undertake any conflicting work for or against a Party regarding the subject matter of the mediation, other than continued mediation involving and agreed upon by both Parties.
2. The Mediator or Mediator's firm may work on matters for or against a Party if such matters are unrelated to the subject matter of the mediation. The Mediator shall establish appropriate safeguards to ensure that other members and

employees of the Mediator's firm working on such matters do not have access to any confidential information obtained by the Mediator during the course of the mediation.

3. The Mediator shall not personally work on any matter directly for or against a Party, regardless of subject matter, until two months after termination of his services as a Mediator in the mediation.

#### G. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument.

#### H. EXECUTION OF AGREEMENT

Each party agrees that:

He/she has read this Agreement carefully and understands its terms. He/she has had the opportunity to consult with an attorney in regard to this Agreement. If he/she has not done so, he/she has not done so as a result a deliberate choice. He/she now executes this Agreement knowingly, intelligently, and voluntarily, and with his/her signature agrees to its terms.

\_\_\_\_\_ (Party)                      \_\_\_\_\_ (date)

\_\_\_\_\_ (Party)                      \_\_\_\_\_ (date)

\_\_\_\_\_ (Party)                      \_\_\_\_\_ (date)

\_\_\_\_\_ (Mediator)                      \_\_\_\_\_ (date)