

## MEDIATION GUIDELINES

### 1. REPRESENTATION BY COUNSEL

Any party may either represent himself or be represented by an attorney at a mediation session.

### 2. MEDIATION AGREEMENT

Mediation is a voluntary process, and is voluntary for *all* parties. After deciding to engage in mediation, but prior to the commencement of a mediation session, the parties (and counsel, if present) will execute a written agreement to mediate. The agreement harmonizes the understanding of the parties about the mediation *process*, but does not obligate either party to adopt in advance a particular result.

### 3. THE MEDIATOR

The mediator shall have no personal or financial interest in the outcome of the underlying dispute(s). If they mediator does have such an interest, he will decline to mediate the matter. In addition, prior to the mediation, the mediator will disclose to the parties any circumstances which may reasonably tend create a of conflict of interest, bias or impropriety. In response, each party shall have the right to request the disqualification of the mediator.

### 4. DATE, TIME & PLACE OF MEDIATION SESSION

The parties and mediator shall agree upon the time, place and date of the mediation session. Notice of the mediation will be sent to the parties at least ten (10) days prior to the mediation unless agreed to by the parties. Both parties may agree to notification via email, with each party acknowledging email's inferior confidentiality relative to conventional mail.

### 5. WRITTEN MEDIATION SUMMARY

A party may submit to the mediator, no less than five (5) business days prior to commencement of the mediation session, a written summary or memorandum relevant and directly relating to the subject matter of the dispute to be mediated. Such written summary or memorandum may not exceed two typewritten pages in length. A copy of any such summary or memorandum or documents should ordinarily be submitted to all parties contemporaneously.

A party may elect to submit a *confidential* mediation summary or memorandum to the mediator. If such a submitted summary or memorandum is clearly marked as confidential, its contents shall not be disclosed by the mediator to the other parties. Such written confidential summary or memorandum may not exceed one typewritten page in length.

The mediator may inform the other parties that such a confidential mediation summary has been provided to him, but may not disclose its contents.

## 6. DOCUMENTS

With prior approval of the mediator, a party may submit to mediator and all other parties document(s) or photograph(s) directly relevant to mediation of the dispute, no less than ten (10) days prior to the mediation.

## 7. TIME INCURRED FOR SUMMARY/DOCUMENT REVIEW

Reasonable mediator time required to review submitted summaries and/or documents will constitute billable events (in addition to the mediation itself), for which the mediator shall be paid.

## 8. ATTENDANCE AT MEDIATION SESSION

Each party must timely arrive at and attend the entire mediation session whether or not they are represented by an attorney. Each party in attendance must have full authority to settle the dispute through mediation, at the time of mediation. Telephonic or streaming audio/video mediation can only be arranged with ten (10) day prior approval both of the mediator and all other parties.

## 10. CONDUCT OF MEDIATION SESSION

Relative to trials and other venues of dispute-resolution, mediation is informal and non-adversarial in nature. Nevertheless, mediation represents and encompasses the parties' good faith attempt to resolve their differences in a professional manner. Each party is expected to proceed accordingly.

The mediation will be conducted in a manner that permits each party with a fair opportunity to present their position and discuss resolution of the dispute. The mediator may choose to have one or more private conferences with each/either party.

The mediator will facilitate the parties' attempt to arrive at a resolution or understanding of the dispute that is acceptable to both parties.

## 11. PRESENTING YOUR SIDE AT THE MEDIATION HEARING

Each party should be well prepared to discuss all relevant issues involved in the dispute.

Each party will be given a reasonable opportunity to state his/her position.

## 12. CONFIDENTIALITY

All parties and mediator understand and agree that *all* content of, and communications made within and as part of the mediation process are confidential communications and are not subject to disclosure in any judicial, administrative or private proceeding. Furthermore, in association with the mediation, the mediator will not be deposed, subpoenaed, named or called as a witness in any judicial, administrative or private proceeding.