

AGREEMENT TO PARTICIPATE IN MEDIATION

This is an agreement between the following parties:

_____ and _____, hereinafter "parties,"

and **Shannon Fritts-Penniman of Freelancers Mediation**, hereinafter "mediator".

The parties and the mediator understand and agree as follows:

1. Nature of Mediation

The parties hereby appoint Shannon Fritts-Penniman of Freelancers Mediation as mediator for their negotiations. The parties understand that mediation is an agreement-reaching process in which the mediator assists parties to reach agreement in a collaborative, consensual and informed manner. It is understood that the mediator has no power to decide disputed issues for the parties.

The parties understand that mediation is not a substitute for independent legal advice. The parties are encouraged to secure such advice throughout the mediation process and are strongly advised to obtain independent legal review of any mediated agreement before signing that agreement.

The parties understand that the mediator's objective is to facilitate an agreement between the parties that is constructive and fair in accordance with the parties' own goals. The parties also understand that the mediator has an obligation to work on behalf of each party equally and to maintain neutrality.

2. Scope of Mediation

The parties understand that it is for the parties to determine the subject matter of the mediation and this will be accomplished early in the mediation process in consultation with the mediator.

The parties understand that "mediation process" means the time period from the initial contact by one party to the mediator to schedule a case all the way through to the completion of the mediation by the signing of a written agreement. If no agreement is reached, the mediation process ends when the parties depart from the last mediation session.

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3. Mediation Is Voluntary

Mediation is a voluntary process. All parties hereby state their good faith intention to participate in the mediation towards an agreement. It is, however, understood that any party may withdraw from or suspend the mediation at any time, for any reason.

The parties also understand that the mediator may suspend or terminate the mediation for any reason, including but not limited to the following: the mediator feels that an impasse has been reached, the draft agreement reached by the parties would cause immediate harm to an identifiable person, or if the mediator determines that s/he can no longer effectively perform his/her facilitative role.

4. Absolute Confidentiality

It is understood that the mediation will be strictly confidential and that the entire mediation shall constitute settlement negotiations for purposes of federal and state rules of evidence. Mediation discussions, written and oral communications, draft resolutions, and any unsigned mediated agreements shall not be admissible in any court proceeding. Only a mediated agreement, signed by the parties, may be admissible. The parties further agree to not call the mediator as a witness to testify concerning the mediation or to provide any materials from the mediation in any court proceeding.

The parties furthermore agree not to disclose their mediation agreement to the media nor to the public at large, unless a different agreement on public disclosure has been reached in writing and is included in the agreement.

5. Full Disclosure of Evidence Encouraged

Each party agrees to fully and honestly disclose all relevant information and writings, as requested by the mediator or by the other party, if the mediator determines that the disclosure is relevant to the mediation discussions. The mediator will not disclose these documents and writings to any other person unless authorized by the party who provided them.

6. Communication with Attorneys

The parties agree that the mediator may discuss the parties' mediation process with any attorney that a party has retained prior to or during the mediation process. Such disclosures will not include the content of a mediation discussion unless the attorney was present. The mediator will provide copies of correspondence, draft agreements, and written documentation to independent legal counsel at a party's request.

7. Litigation Discouraged

The parties agree to refrain from pre-emptive maneuvers and adversarial legal proceedings (except in the case of an emergency) while actively engaged in the mediation process.

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8. Mediation Fees Must Be Paid

The parties and the mediator agree that the fee for the mediator shall be \$ 160 per hour for time spent with the parties and for time required to study documents, research issues, correspond, telephone call, prepare draft and final agreements, and do such other things as may be reasonably necessary to facilitate the parties' reaching full agreement. Time will be billed in ¼ hour increments. A deposit payment of \$ 320 toward the mediator's fees and expenses is required at the time of scheduling a mediation session. Any unearned amount of this deposit fee will be refunded to the parties who paid said fees.

The parties shall be jointly and severally liable for the mediator's fees and expenses. This means that if one party does not pay their fair share, the other party will be responsible for the entire amount. The parties may elect to split the fee as follows: as between the parties only, responsibility for mediation fees and expenses shall be: _____.

The parties will be provided with an accounting of fees and expenses within 15 days of the completion of the mediation process. Payment of such fees and expenses is due to the mediator no later than 15 days following the date of such billing.

If collection or court action is taken by the mediator to collect fees and/or expenses under this agreement, the prevailing party in any such action and upon any appeal therefrom shall be entitled to attorney fees and costs incurred.

9. Cancellation Fee

The parties understand that they shall be responsible to pay for two hours of the mediator's time at the above stated rate for any appointment which they both do not attend and do not provide at least 24 hours advance notice of the cancellation.

SIGNED: _____

SIGNED: _____

SIGNED: _____
Shannon Fritts-Penniman, Freelancers Mediation

DATE: _____