



## **MEDIATION AGREEMENT**

**Between**

**[Full Name of Party A/Complainant/Plaintiffs]**

**and**

**[Full Name of Party B/Respondent/Defendants]**

**and**

**Name of The Mediator**

- A. The parties wish to mediate to attempt to settle their dispute in relation to the above captioned matter.
- B. The Mediator is certified under the Mediation Act of Trinidad and Tobago, Chap 5:32.
- C. The Mediator is a neutral and impartial person who will assist the parties to negotiate a voluntary settlement of issues. The mediator will not make decisions for the parties on how the matter must or should be resolved.

**The Parties Agree that:**

- 1. The Mediator will not act as legal counsel for any Party in connection with this or any related matter.
- 2. Mediation is voluntary and any party can withdraw at any time. The Mediator may suspend or terminate the mediation if he/she feels that an impasse has been reached, or if he/she determines that he/ she can no longer effectively perform his/her facilitative role.
- 3. Any agreement made will be put into writing and signed by the parties.
- 4. Each party will fully disclose in mediation all relevant information he or she has about the issues being mediated. An agreement may not bind the parties if important information has been withheld.

## **Confidentiality**

5. Each party confirms that they have read and understood the provisions concerning confidentiality in mediation at sections 10 and 11 of the Mediation Act, Chap 5:32. These sections are attached for easy reference.
6. No transcriptions will be kept of the mediation conference.
7. All communications made within the mediation process shall remain private and confidential and shall not be disclosed and/or divulged to any third party, save where a settlement agreement has been arrived at and its terms must be disclosed for the purpose of a consent order or enforcement by the parties.
8. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes any proceedings.
9. The Parties shall not rely on or introduce as evidence in subsequent arbitral or judicial proceedings:
  - a) Any of the Parties' views, suggestions or willingness to accept a settlement proposal; or
  - b) Any admissions made by any of the Parties in the course of the mediation.

## **Authority**

10. The parties and/or their counsel shall have full authority to settle the dispute at the mediation or be able to contact the authorising party by telephone, email or other mutually agreed mode of telecommunication.
11. The parties can consult freely with their lawyers before and during mediation. They are encouraged to obtain legal advice before finalizing an agreement.

## **Process**

12. It is agreed that in order to resolve the outstanding issues between the Parties in dispute, there will be an effort to identify points of agreement and disagreement, to explore alternative solutions and to consider compromises or accommodations at the mediation with a view to arriving at a settlement agreed to by both Parties.
13. The Mediator will usually meet with all the parties together, but sometimes the Mediator may hold separate sessions with parties. When that happens, unless a specific agreement is made to the contrary, the Mediator will not be free to share information received from one party with the other parties, unless specifically authorized.

**Effecting a Settlement**

14. It is agreed that if there is an agreement to settle the dispute, the Parties and their attorneys-at-law will execute the terms of the agreement as soon as possible, or as agreed by the Parties in the agreement made at the mediation.

**Mediation Fees and Expenses**

15. It is agreed that:

- a) The Parties to the dispute will each pay one half (50%) of the costs due in connection with the mediation – including the fees due to the Mediator. For the avoidance of doubt, the Claimants shall pay half of the costs and the Defendants shall pay the other half.
- b) That payment will be made by the Parties involved or by their attorneys-at-law.
- c) All fees and applicable disbursements are to be paid within seven (7) days of an invoice being submitted to the Party or his/her attorney.
- d) Additional fees and expenses - In the event the Parties agree that the mediation continue beyond the time scheduled, additional fees will be charged at the rate agreed prior to the commencement of the mediation. All additional fees are to be paid within seven (7) days of an invoice being submitted to the Party or his/her attorney.

**Evaluation**

16. The parties agree that non-identifying information can be used for evaluation purposes approved by the Dispute Resolution Foundation.

The signing of this document is evidence of the agreement of the parties to this dispute, their counsel and/or advisors to conduct this mediation process in a bona fide and forthright manner and to make a serious attempt to resolve this dispute.

**Dated:**

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**Signed by:**

Party A	Witness
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Party B	Witness
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The Mediator	Witness
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MEDIATION ACT

AN ACT TO PROVIDE FOR MEDIATION IN TRINIDAD AND TOBAGO.

[27th February 2004]

This Act may be cited as the Mediation Act.

PART III

CONFIDENTIALITY AND RELATED MATTERS

**10.** For the purposes of this Part “Confidential information” means any information expressly intended by the source not to be disclosed, or which is otherwise obtained under circumstances that would create a reasonable expectation on behalf of the source, that the information shall not be disclosed and includes—

(a) oral or written, communications, made in the mediation process, including any memoranda, notes or work-product of the mediator, mediation party or non-party participants;

(b) an oral or written statement made or which occurs during mediation or for purposes of considering, conducting, participating, initiating, continuing or reconvening mediation or retaining a mediator; and

(c) any other information expressly intended by the source not to be disclosed, or obtained under circumstances that would create a reasonable expectation on behalf of the source that the information shall not be disclosed.

**11.** (1) A certified mediator or any person who in the course of his employment or training, comes into possession of any confidential information obtained in a mediation session shall not disclose any such confidential information obtained in that session.

(2) Subsection (1) does not apply where—

(a) the disclosure is required by or under an Act of Parliament;

(b) the disclosure is made with the consent of the mediation parties;

(c) the disclosure is made with the consent of the person who gave the confidential information; or

(d) the person referred to in subsection (1), believes on reasonable grounds that—

(i) a person’s life or health is under serious and imminent threat and the disclosure is necessary to avert, or mitigate the consequences of its realisation;

(ii) the disclosure is necessary to report to the appropriate authority the commission of an offence or prevent the likely commission of an offence; or

(iii) the disclosure becomes necessary for the purpose of disciplinary proceedings by the Panel.

(3) In this section offence means an “offence” involving—

(a) violence, or the threat of violence, to a person; or

(b) intentional damage to property or the threat of such damage.