



**MEDIATOR: DEREK V. ABREU**

**MEDIATION AGREEMENT**

Mediation Between:

Date:

Location:

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1. **PURPOSE OF MEDIATION**

The purpose of the mediation is to attempt to settle all outstanding issues between the parties. In order to do so, the parties are prepared to identify points of agreement or disagreement, and will consider compromises, accommodations or alternative solutions.

2. **AUTHORITY TO SETTLE**

It is agreed that in order to have an effective mediation, the parties and their counsel should have authority to settle this dispute at the mediation conference.

3. **PARTY CONFIDENTIALITY**

The parties acknowledge and agree that the mediation is a confidential settlement process, and is without prejudice. It is hereby agreed that to the extent allowed by any law, any admissions made or offers to settle will not be relied upon or admitted into evidence in any further litigation or arbitral proceeding.

4. **SUBSEQUENT PROCEEDINGS**

It is agreed that the parties shall not rely on or introduce as evidence in subsequent arbitral or judicial proceedings:

- any view expressed, or suggestion made by a party in respect of the possible settlement of the dispute;
- any admission made by the other party in the course of the mediation;
- the fact that the other party had indicated a willingness to accept a proposal or recommendation for settlement made during the mediation.

5. **MEDIATOR'S ROLE**

The role of the mediator is to assist the parties to negotiate. It is hereby agreed that Derek V. Abreu, as mediator, is an independent contractor, who is neutral. He will not provide legal representation or advice to any party at any time, and has no duty to assert or protect the legal rights and responsibilities of any party, to raise any issue by the parties themselves, to make any decisions on behalf of the parties, or to determine any issues.

**6. CONFIDENTIAL DISCLOSURES**

It is agreed that the mediator may disclose to any party or to his/her counsel any information provided by the other party which the mediator believes to be relevant to the issues being mediated, unless a party or his/her counsel has specifically requested the mediator to keep certain information confidential.

**7. NO SUMMONS OR SUBPOENA**

At no time will any party call the mediator as a witness to testify as to the fact of the mediation or as to any oral or written communication made at any stage of the mediation. No party will summons, subpoena or seek access to any documents prepared for or in connection with the mediation, including but not limited to, any records, notes, or work product of the mediator other than this Mediation Agreement.

The mediator shall not be liable for anything done or omitted with respect to the mediation process and has the same immunity granted to a Judge or Master by Section 82 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

**7. EFFECTING A SETTLEMENT**

It is agreed that where a settlement is reached in the dispute, the parties and their counsel will carry out the terms of the settlement as soon as possible and will sign appropriate Minutes of Settlement. The agreement reached at the mediation is binding on the parties.

**8. TERMINATION**

It is agreed that the mediation conference may be terminated at any time by any party, his or her counsel, or the mediator for any reason.

**9. NON-PARTIES**

Where agreed by all counsel, non-parties are welcome to participate in the process. However, non-parties are bound to all of the terms of this Mediation Agreement.

**10. CONFLICT OF INTEREST**

The parties and their counsel acknowledge that the mediator is a partner of Bell Temple LLP, and that Bell Temple LLP may have acted for; may presently act for; or may act in



the future for any of the insurers and parties involved in this matter. No party to this mediation will now, or in the future, object to any Bell Temple LLP lawyer advising or representing it, nor advising or representing any client who may be adverse in interest to the parties in this mediation on the basis of Derek V. Abreu acting as the mediator in this mediation, provided that the matter is not directly related to the matter or issue(s) being mediated.

11. **SERVICES**

Fees for the mediation services will be charged by the mediator at the rates set out in the attached Fee and Cancellation Schedule, plus any applicable taxes and any out-of-pocket disbursements. The parties agree that the said fees will be split equally between the parties, unless otherwise agreed to by the parties and their counsel, with such agreement to be provided to the mediator in writing and confirmed by all parties through their counsel.

The counsel for the respective parties will be responsible for the mediator's fees and disbursements and agree to remit payment within thirty days of receipt of the account.

12. **CONSENT TO THIS AGREEMENT**

The parties hereto, by their counsel, have read, understood and agree to the provisions of this Agreement to Mediate.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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●  
Lawyers for the plaintiff(s)

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●  
Lawyers for the defendant(s)

