



AGREEMENT TO MEDIATE

Between:

Mediation Party A

And:

Mediation Party B

And:

The Mediator

- A. The parties want to mediate issues from the captioned matter.
- B. The Mediator is certified under the Mediation Act, Chap 5:32 and is a member of the panel of mediators of the Dispute Resolution Centre of Trinidad and Tobago.
- C. The Mediator is a neutral and impartial person who will help the parties to negotiate a voluntary settlement of issues.

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.

THEREFORE EACH PARTY ACKNOWLEDGES AND AGREES THAT:

1. They will try to mediate an agreement.
2. Without taking sides or telling the parties what they should do, the Mediator will help the parties to reach an agreement.
3. The mediator will not act as legal counsel for any Party in connection with this or any related matter.
4. Mediation is voluntary and any party can withdraw at any time.
5. Any agreement made will usually be put into writing and signed by the parties.
6. 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 was withheld.
7. Each party understands what the Mediation Act, Chap 5:32 sections 10 and 11, says about confidentiality in mediation. These sections are attached for easy reference.
8. No transcriptions will be kept of the mediation conference. All notes taken by the mediator at the mediation, if any, will be destroyed at the conclusion of the mediation.
9. 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 may be enforced by the parties.
10. The parties and/or their counsel should have full authority to settle the dispute at the mediation or be able to contact the authorising party by telephone.
11. The parties can consult freely with their lawyers before and during mediation. They are encouraged to get legal advice before finalizing an agreement.
12. The Mediator will usually meet with all the parties together, but sometimes the mediator will ask to meet alone with each of the parties. When that happens, unless a specific agreement is made to the contrary, the mediator will not be free to share all information received from one party with the other parties, unless specifically authorized.
13. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes in the event of any further proceedings.
14. 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.
15. The parties agree that non-identifying information can be used for evaluation purposes approved by the Dispute Resolution Centre of Trinidad and Tobago.

PROCESS

It is agreed that in order to resolve the outstanding issues between the Parties in dispute, there will be an effort to isolate 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.

EFFECTING A SETTLEMENT

It is agreed that if there is an agreement to settle the dispute, the Parties and their attorneys-at-law will carry out the terms of the agreement as soon as possible.

MEDIATION FEES AND EXPENSES

It is agreed that:

- a) The Parties to the dispute will each pay one half (50%) of the costs due to the Dispute Resolution Centre (DRC) 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 directly to the DRC 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 by the DRC to the Party or his/her attorney.

ADDITIONAL FEES AND EXPENSES

It is agreed that the DRC will be paid directly by the attorney-at-law for Parties involved for any additional mediator fees and expenses incurred. In the event the Parties agree that the mediation continue beyond the time schedule, additional fees will be charged at the rate agreed prior to the commencement of the mediation.

Dated: _____ **at** _____

Signed by:

Party A

Witness

Party B

Witness

The Mediator

Witness

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.