



Rita M. Lauria, JD, PhD

Attorney • Mediator

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## MEDIATION AGREEMENT

**Case Name:**

**Case No.:**

The undersigned parties, \_\_\_\_\_ and , \_\_\_\_\_ retain Rita M. Lauria (“Mediator”) to provide mediation services for their dispute relating to \_\_\_\_\_ and further understand and agree as follows:

1. Purpose of Mediation. The purpose of mediation is to develop a satisfactory resolution of issues and disputes without litigation. The role of the mediator is to help identify areas of agreement and disagreement, facilitate communication and help explore options for settlement.

2. Voluntary. Mediation is a consensual and voluntary process. Mediator has no authority to make binding decisions or recommendations. Any decision by the parties to enter into an agreement is voluntary. Participation in mediation does not guaranty that an agreement will be reached.

3. Mediator. Mediator will remain impartial in all contacts with either party and will not advocate any interest of either party over the other. THE PARTIES AGREE THAT MEDIATOR IS NOT EMPLOYED AS AN ATTORNEY TO REPRESENT EITHER PARTY. Mediator will only mediate between the parties, and, consequently, execution of this Mediation Agreement does not create an attorney-client relationship in connection with this matter.

4. Attorney Consultation. The parties have the right to be represented by attorneys of their choice before and during the mediation process and are specifically encouraged to have their respective attorneys review any document prior to its execution. Mediator is acting in a neutral capacity and is not serving as an advocate, representative or fiduciary for anyone. Nothing said by Mediator should be considered legal advice. Mediator is not liable for the outcome of the mediation.

5. Confidentiality of Mediation. All statements and writings made during the course of mediation (including pre-session and post-session conversations and exchanges of information) are confidential, privileged settlement discussions, made without prejudice to any party's legal position, and are inadmissible for any purpose in any subsequent legal or administrative proceeding. The parties shall not disclose the statements and/or writings to any other persons or in the media. Moreover, the parties shall not subpoena or otherwise require Mediator to testify or produce records, reports, notes or other documents reviewed, received or prepared by Mediator during the course of the mediation process. In furtherance of the foregoing, the parties agree that California Evidence Code §§1115-1128 and/or Rule 408 of the Federal Rules of Evidence shall apply to this mediation. The parties agree that breach of this paragraph 5 would cause irreparable injury and that monetary damages would be an inadequate remedy, since the parties are relying on the confidentiality of the mediation in disclosing sensitive business and/or personal information. The parties therefore agree and stipulate that any party to this Mediation Agreement may obtain an injunction to prevent disclosure of any such confidential information in violation of this paragraph 5. Any party breaching the confidentiality provisions of this paragraph 5 shall be liable for, and shall indemnify the non-breaching party(ies) and Mediator for all costs, expenses, liabilities and fees, including, without limitation, attorney's fees, which may be incurred as a result of such breach.

6. Fees. Mediator shall be paid for time spent in preparation for mediation, review of briefs and documents, the mediation conference and any appropriate followup as outlined in the Mediation Fee Schedule described in the mediation confirmation letter and incorporated herein by reference. Payment is due immediately upon confirmation of the reserved mediation date(s). Unless modified by the written agreement of the parties, each party shall bear his/her/its pro rata share of the applicable fees. The parties and their counsel acknowledge that they are jointly and severally liable for all fees assessed in the mediation process. All unused time reserved for mediation is non-refundable. Mediator reserves the right to cancel any mediation session where all fees have not been timely received.



7. Release and Indemnification. The parties release Mediator from any and all claims arising out of a failure to reach agreement or a decision to enter into any agreement or any other aspect of the mediation process. If any party attempts to, or does, bring such a claim, that party agrees to indemnify Mediator from and against any loss, cost, damage or expense, including attorney's fees, in connection with such claim.

8. Termination. Mediator and each party shall have the right to terminate the mediation process at any time upon reasonable written notice to Mediator and the other party(ies). Cancellation fees may apply.

9. Agreement Binding. This Mediation Agreement is a binding and enforceable contract and, notwithstanding paragraph 5 above, shall be admissible in any subsequent proceeding to prove the existence of and/or enforce said agreement. Furthermore, the parties agree that, notwithstanding paragraph 5 above, any written settlement agreement(s) prepared in the course of or pursuant to this mediation shall be admissible, once signed by the settling parties, as provided in California Evidence Code §1123.

10. Miscellaneous. No subpoenas, summons, complaints, or other service of process may be effectuated at or near the site of the mediation conference upon any person attending or in any way connected with the mediation. This Mediation Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. This Mediation Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Mediation Agreement as of the latest date written next to their signatures below.

Date: \_\_\_\_\_ Attorney for Party: \_\_\_\_\_

Date: \_\_\_\_\_ Party: \_\_\_\_\_

Date: \_\_\_\_\_ Attorney for Party: \_\_\_\_\_

Date: \_\_\_\_\_ Party: \_\_\_\_\_

