

AGREEMENT TO MEDIATE

AND

TERMS OF MEDIATION

1. THE PROCESS AND MEDIATOR'S ROLE

The parties agree to mediate with Kumail Karimjee as mediator to attempt to settle their dispute. The mediator is an impartial facilitator who will assist the parties in reaching their own settlement. The mediator's role is to assist the parties to negotiate. The mediator will not make decisions for the parties on how the matter is resolved.

2. PARTY CONFIDENTIALITY

The parties acknowledge and agree that mediation is a confidential settlement process and is without prejudice.

If the mediation is proceeding by video, the parties confirm that they are participating in a video mediation from a private location and that no other participants (except those disclosed to and agreed upon by the mediator and all parties, and who have also signed this Mediation Agreement) will be present during the mediation session.

The parties and mediator confirm that they will not record the mediation session in any way.

3. MEDIATOR CONFIDENTIALITY

The mediator will not disclose to anyone who is not a party to the mediation anything said or any materials submitted to the mediator, except:

1. to the lawyers or other professionals retained on behalf of the parties, or to non-parties consented to in writing by the parties, as deemed appropriate or necessary by the mediator;
2. to any other individual, providing the parties have provided written consent;
3. where ordered to do so by a judicial authority, or where required to do so by law; or
4. where the information suggests that there will be an actual or potential threat to human life or safety, or the commission of a crime in the future.

4. NO SUMMONS OR SUBPOENA

At no time will any party call as a witness to testify 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 agreement to mediate. Any party or the mediator may produce and rely upon the agreement to mediate as proof of the terms and conditions by which the mediation was governed.

5. PRE-MEDIATION INFORMATION

For civil cases, to facilitate an understanding of the controversy and the issues to be mediated and to comply with the Rules of Civil Procedure, the parties will provide the mediator and other parties with a Statement of Issues (Form 24.1C) not less than seven (7) days prior to the first mediation session.

6. AUTHORITY TO SETTLE

The parties or those representing them at the mediation will have full, unqualified authority to settle the dispute.

7. PARTIES' OWN LAWYERS

The parties agree that they may seek legal representation or advice prior to or during the mediation. They may have lawyers present at the mediation if they so desire. Although the mediator is a qualified lawyer, he will not provide legal representation or legal 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 not raised by the parties themselves, or to determine who should participate in the mediation.

8. COSTS OF THE MEDIATOR

The cost of mediation are as follows: Speed Mediation (preparation and up to one-hour mediation session - \$600.00 plus HST, Half Day Mediation (preparation time and up to three-hour mediation session) - \$2,250 plus HST, and Full Day Mediation (preparation and up to six-hour mediation session) - \$4,000.00 plus HST. If the mediation continues beyond the time allotted, the parties will be charged at the rate of \$550.00 per hour plus HST for additional time spent for attendance at the mediation session.

Unless otherwise agreed, the costs of the mediation session shall be divided equally by the parties. The parties and their legal counsel are jointly and severally responsible for all costs associated with the mediation.

9. CONSENT TO THIS AGREEMENT

I have read this agreement and agree and agree to proceed with the mediation on the terms set out here.

This agreement may be executed electronically and in counterparts.