



## ReSolution Mediation Agreement

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This is an agreement between \_\_\_\_\_  
and \_\_\_\_\_, "participants,"  
and Neil Geikie, "mediator," to enter into mediation with the intent of resolving issues and  
disputes regarding:

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The participants understand this agreement is to be signed before the commencement of  
the mediation and it is agreed as follows:

### 1. Nature of Mediation

The participants hereby appoint Neil Geikie as mediator for their negotiations. The  
participants understand that mediation is an agreement-reaching process in which the  
mediator assists participants to reach agreement in a collaborative, consensual and  
informed manner.

It is understood that the mediator has no power to decide disputed issues for the  
participants. The participants understand that mediation is not a substitute for independent  
legal advice. The participants are encouraged to obtain legal advice throughout the  
mediation and are strongly advised to obtain independent legal review of any mediated  
agreement before signing that agreement.

The participants understand that the mediator's objective is to facilitate the participants to negotiate in a polite and fair manner and deal with issues constructively and to use of their best endeavours to reach a fair and consensual agreement themselves.

The participants also understand that the mediator has an obligation to work on behalf of each party equally and that the mediator will not give legal advice but will make observations within the mediation.

## 2. Scope of Mediation

The participants understand that it is for the participants and their lawyers (if present), with the mediator's concurrence, to determine the scope of the mediation and this will be accomplished early in the mediation process.

## 3. Mediation Is Voluntary

All participants will negotiate in good faith with the intention to reach agreement during their mediation. It is understood that any party may withdraw from or suspend the mediation at any time, for any reason.

The participants also understand that the mediator may suspend or terminate the mediation if he thinks that the mediation will lead to an unjust or unreasonable result or if the mediator is of the view that an impasse has been reached, or if the mediator determines that he can no longer effectively perform his facilitative role because of the attitude or positions taken by the participants or their lawyers.

The mediator may terminate the mediation if a participant becomes offensive or argumentative and who will not accept guidance from the mediator to curb their behaviour.

If a mediation is terminated, there will be no refund of fees paid unless the mediation is terminated due to the ill health of the mediator.

## 4. Confidentiality

It is understood between the participants and the mediator that the mediation will be strictly confidential. All mediation discussions, including all written, oral and digital communications with both participants and their advisors, any draft resolutions, and any unsigned mediated agreements shall not to be disclosed to anybody for any reason or to be relied upon outside the context of reaching agreement nor to be raised in any court proceedings.

Only a mediated agreement, signed by the participants, may be admissible in court proceedings for the purpose of enforcement or implementation.

The participants further agree not to call the mediator to testify concerning the mediation or to provide any materials from the mediation in any court proceeding between the

participants. It is agreed by the participants and their lawyers (if present) that the mediation and all that takes place within it are settlement negotiations.

The participants accept that the mediator has an ethical responsibility to break confidentiality if he suspects a participant or another person may be in danger of or suffered physical harm.

## 5. Full Disclosure

Each participant agrees to fully and honestly disclose all relevant information and writings as requested by the mediator and all information requested by any other participant of the mediation if the disclosure is relevant to the mediation discussions.

## 6. Mediator Impartiality

The participants understand that the mediator must remain impartial throughout and after the mediation process. The mediator shall not champion the interests of either participant over another in the mediation.

The participants agree that the mediator may discuss the participants' mediation process with any lawyer either participant may retain as counsel. Such discussions will not include any matters personal or confidential to either participant but will include the mediation negotiations, offers and counter offers and legal issues arising from the facts of the case being mediated.

The mediator may communicate separately with an individual mediating party (and their lawyer), in which case such discussions shall be confidential between the mediator and the individual mediating party (and their lawyer) unless there is consent to use this information for the purpose of facilitating the overcoming of an impasse and a settlement.

## 7. Litigation

The participants agree to refrain from pre-emptive interlocutory or other manoeuvres and adversarial legal proceedings (except in the case of an emergency necessitating such action), while actively engaged in the mediation process.

## 8. Mediation Fees

The mediator's fees are:

1. \$2,800 per day of mediation or part thereof. This fee includes 1 hour of reading and preparation time.
2. \$1,400 for a half day provided the half day is booked only as a half day otherwise the daily fee will apply. The half day fee is offered for the purpose of saving participants money if the mediation can be resolved quickly but it must be booked as a half day and a full days fee will apply if the half day goes over 4 hours.
3. \$350 per hour for time spent with the participants for a pre mediation conference (if any) and for time required to study documents, research issues, correspond, telephone call, prepare draft and final agreements, and do such other things as may be reasonably necessary to facilitate the participants' reaching full agreement; if not included in the daily fee.
4. All fees payable are exclusive of GST which is to be paid in addition to the fees.
5. The mediator may require to be reimbursed for all expenses incurred as a part of the mediation process if it is requested the mediator travel a distance of over 200 kilometres to attend the mediation. These expenses shall be reimbursed on an at cost at the time of paying the mediation fee if know in advance or within 14 days of the date of the mediation or the date the mediator advises the cost of the expenses eg: accommodation and travel.
6. **Payment of the mediators fees are to be made 14 days prior to the date of mediation unless otherwise agreed in writing.**
7. The participants shall be jointly and severally liable for the mediator's fees and expenses and as between the participants only, responsibility for mediation fees and expenses shall be shared equally and if the mediation is arranged and booked by lawyers for the participants, those lawyers shall personally ensure the mediators fees and expenses are paid in accord with this agreement.

Should payment not be made in accordance with this agreement, the mediator may stop all work on behalf of the participants, including: not attending the mediation, the drafting and/or distribution of the participants' agreement, and withdraw from the mediation process.

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

Signatures

Participants

Mediator

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