

MAYES LAW Mediation Agreement

Between

And

(the Parties)

And

Lesleigh Mayes

(the Mediator)

Appointment and functions of the Mediator

1. The Parties appoint the Mediator, and the Mediator accepts the appointment, to mediate their dispute in accordance with the terms of this agreement.
2. The Mediator will be neutral and impartial and will assist the parties with their lawyers to identify the issues and consider the options for resolution having regard to their legal rights and obligations and practical factors.
3. During the mediation, the Mediator:
 - (a) will not make decisions for or impose a solution on the Parties,
 - (b) may give a legal opinion on the issues involved and the merits or otherwise of a Party's line of argument or proposal.
4. The Mediator's opinions statements and recommendations are not binding on the Parties and will not be recorded.
5. The Mediator has no conflict of interest with any of the issues arising in the Dispute and has not had any prior dealings with any of the Parties in relation to the Dispute.
6. If the Mediator becomes aware of any circumstances that she believes might reasonably be considered to affect the Mediator's capacity to act impartially, she will, to the extent that the Mediator may properly do so, immediately inform the Parties of those circumstances. If the Parties then agree to the Mediator continuing to participate in the Mediation, the Mediator may do so.

Place and time of mediation

7. The Mediation will take place at a time, place and venue agreed to by the Parties and the Mediator.

Costs of the Mediation including Mediator's Fees

8. Each Party will meet their own costs of and in connection with the Mediation.
9. Irrespective of the outcome of the Mediation, the Parties, together and separately and by their solicitor, agree to pay the Mediator the fees described in Schedule 1.
10. Unless the Parties agree otherwise, they will share equally all costs of the Mediation set out in Schedule 1, including the Mediator's fees.
11. The Parties agree that should the Mediation extend beyond the period of time agreed for the Mediation, (4 hours for a standard mediation or 6 hours for a non - standard mediation) the Mediation may be continued with both Parties consent and the fees payable by the Parties will be at the hourly rate in the Schedule 1 plus any additional venue room hire fee.
12. The Parties agree to pay their share of the Mediators Fees under this Agreement into their solicitor's trust account at least 14 days prior to the Mediation.

Representation

13. Each Party must attend the Mediation in person and must be represented by a qualified solicitor or barrister.

Conduct of the Mediation

14. The Mediation, including all preliminary steps, will be conducted in such manner as the Mediator considers appropriate having due regard to the view of each Party as to the manner in which the Mediation should be conducted, and the Mediator may give

directions for the conduct of the Mediation including but not limited to:

- (a) the holding of preliminary conferences;
 - (b) the exchange of experts' reports, the meeting of experts and the preparation of a joint experts' report; and
 - (c) the exchange of and provision to the Mediator of any relevant documents.
15. By 5pm four clear working days prior to the commencement of the Mediation, each party will provide to the other and the Mediator a brief outline of the Dispute from their perspective by completing the Mediation Statement provided by the Mediator or other document agreed between the Mediator and the Parties, together with sufficient supporting documentation to enable the Mediator to understand the nature and issues in the Dispute.
 16. The Parties agree to participate in the Mediation in good faith and to behave appropriately and respectfully towards each other and the Mediator.
 17. Each Party will comply with reasonable requests and directions made by the Mediator in relation to the conduct of the Mediation.
 18. Both Parties agree to use their best efforts in good faith to consider the options for the resolution of the Dispute.

Communication between the Mediator and a Party

19. Information, whether oral or written, disclosed in confidence by a Party to the Mediator may not be disclosed by the Mediator to any other Party unless the Party by whom that information was disclosed consents to such disclosure.
20. The Parties acknowledge that the Mediator has the right to communicate with any person present at the Mediation and their legal representative, either jointly or separately, either in person, or by such other means of communication as the Mediator thinks fit.

Confidentiality

21. The Parties will not, unless required by law to do so, disclose to any person not present at the Mediation, or use, any confidential information furnished during the Mediation unless such disclosure is to obtain professional advice or is to a person within the legitimate field of intimacy of the Party making the disclosure, and the person to whom the disclosure is made is advised at the time of disclosure that the confidential information is confidential.
22. The Mediator will keep confidential all information furnished by a Party on a confidential basis to the Mediator unless required by law to disclose such information.
23. The Parties and their lawyers must sign an acknowledgement and undertaking as to confidentiality as specified in Schedule 2, before the commencement of the Mediation and provide it to the Mediator.

Privilege

24. In any arbitral or judicial proceedings the following will at all times be kept confidential and will be privileged, and the Parties and the Mediator will not disclose or rely on them or issue or cause to be issued any subpoena to give evidence or to produce documents concerning them:
 - (a) any settlement proposal;
 - (b) the willingness of a Party to consider any such proposal;
 - (c) any statement, admission or concession made by a Party;
 - (d) any statement made by the Mediator; and
 - (e) any document prepared exclusively for the purpose of the Mediation except this Mediation Agreement.
25. The Parties agree that any privilege or confidentiality attaching to any document used or disclosed by any Party in relation to the Mediation is not waived by virtue of its use for the purpose of the Mediation.
26. The Parties will not call the Mediator as a witness in any court proceedings.

Termination

27. If the Mediator decides that she is unable to further assist the Parties she may after consultation with the Parties, decline to continue as Mediator and terminate the

mediation.

28. The Mediation terminates when the Mediator closes the mediation meeting.

Cancellation

29. A Party may cancel the Mediation prior to the Mediation by giving written notice to the Mediator and the other party.

30. No fee will be payable to the Mediator provided the Mediator is given written notice at least 7 clear days before the Mediation date.

31. If the Mediation is cancelled by a Party less than 7 days prior to the Mediation date the late cancellation fee set out in Schedule 1 will apply, unless otherwise agreed by the Mediator. If room hire costs are required to be paid by the venue, the Parties must pay these costs in addition to any late cancellation fee.

Settlement

32. If the Parties agree to resolve the Dispute, a note of the essential terms of the settlement may be signed by or on behalf of the Parties before they leave the Mediation.

33. The Parties acknowledge that any agreement they reach in relation to a property settlement will not be binding on them until their agreement is formally approved by a court or set out in a binding financial agreement.

Exclusion of Liability

34. The Mediator will not be liable to a Party for any act or omission by the Mediator in the performance or purported performance of the Mediator's obligations under this agreement unless such act or omission is fraudulent.

35. The Parties together and separately indemnify the Mediator against any claims, demands, actions or suits whatsoever as may arise from the mediation or its conduct and arising out of or in any way related to any act or omission of the mediator in the performance or purported performance of her obligations under this agreement.

36. No statement or comments, whether written or oral, made or used by the Parties or their representatives or the Mediator within the Mediation will be relied on to found or maintain any claim for defamation, libel, slander or any related complaint, and this document may be pleaded as a bar to any such action.

Signed by the Mediator

Dated

Signed by Party

Dated

Signed by Party

Dated

Schedule 1

Mediator's Fees and Expenses

1. Booking fee (non refundable) \$ 200 plus GST
2. For attendance at the mediation including preparation of 1 hour (standard mediation duration up to 4 hours) \$_____plus GST
3. For attendance at the mediation including preparation of 2 hours (non standard mediation duration over 4 hours and up to 6 hours) \$_____plus GST
4. Hourly fee for Mediator for extended hours past agreed Mediation period \$ 400 plus GST
5. Travel expenses (if applicable) At cost
6. Room hire fees (if applicable) At cost
7. Late cancellation fee (if applicable) \$500 plus

Schedule 2

Acknowledgement and Undertaking (to be signed by Parties and their legal representatives)

The Parties and the Mediator have entered into a Mediation Agreement in accordance with which the Mediator will conduct a mediation.

- 1. The undersigned acknowledge by their signatures that they attend the mediation on the basis of their agreement to the terms of clauses 2 and 3 below.
- 2. Each of the undersigned undertakes to the Parties and the Mediator:
 - (a) to keep confidential to themselves and any persons to whom, by reason of the terms of their employment or any contract of insurance they may properly communicate it, all information disclosed during the Mediation including the preliminary steps ("**confidential information**");
 - (b) not to act contrary to the undertaking in sub-paragraph (a) unless compelled by law to do so or with the consent of the Party who disclosed the confidential information;
 - (c) not to use confidential information for a purpose other than the Mediation.
- 3. Each of the undersigned undertakes to the Parties and the Mediator that the following will be privileged and will not be disclosed in or relied upon or be the subject of any subpoena to give evidence or to produce documents in any arbitral or judicial proceedings between the Parties to the Mediation:
 - (a) any settlement proposal;
 - (b) the willingness of a Party to consider any such proposal;
 - (c) any admission or concession made by a Party;
 - (d) any statement made by the Mediator;
 - (e) any document prepared exclusively for the purpose of the Mediation except this Mediation Agreement;
 - (f) any document used or disclosed by a Party for the purpose of the Mediation unless that Party waives privilege over such document.

.....
Signed by Party

.....
Print Name

.....
Signed by solicitor for party

.....
Print Name

.....
Signed by Party

.....
Print Name

.....
Signed by solicitor for party

.....
Print Name