



MEDIATION SERVICES AGREEMENT

This is an agreement between _____ and _____ (“the Parties”), and their respective attorneys of record (if any) who desire to participate in a mediation conducted by REAL ESTATE MEDIATION SERVICE, LLC (“REMS”), a Nevada limited liability company, and Christopher Hanson (“the Mediator”) with the intention of resolving all issues arising from a dispute that has arisen between them. The Parties and the Mediator agree as follows:

MEDIATION

Nature of Mediation.

Mediation is a process in which the mutually selected impartial and neutral mediator assists the parties to reach a negotiated agreement to resolve the disputed issues among them, in a collaborative manner. A mediator has no power to decide issues for the parties.

Role of the mediator: What does a mediator do, or *not* do?

Mediation leaves the decision power totally and strictly with the Parties. A mediator does not decide what is "fair" or "right," does not assess blame nor determine the merits or chances of success if the case were litigated. Rather, a mediator acts as a catalyst between opposing interests, attempting to bring them together by defining issues and eliminating obstacles to communication, while moderating and guiding the process to avoid confrontation and ill will. A mediator will, however, seek concessions from each side during the mediation process.

FORBEARANCE FROM LITIGATION DURING MEDIATION AND SCOPE OF PROCEEDINGS

Forbearance of Litigation.

At the outset of this mediation process, the Mediator may seek agreement from the parties to forbear from litigation during the mediation process; and will seek advance acknowledgment that everything that is said in the various sessions is confidential and not deemed an admission, representation or ‘a thing’ to be used against any party in any other proceeding if the mediation effort fails.

Scope of Mediation.

The Parties will determine the scope of the mediation and, with the assistance of the Mediator, identify the issues to be resolved as early as possible in the mediation.

Voluntariness of Mediation.

While the parties agree they will try to resolve their situation through mediation, as mediation is voluntary, either party may withdraw from the mediation at any time for any reason.

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Legal Advice.

Any party to a mediation may be represented by counsel.

Mediation is not a substitute for obtaining independent legal advice. The parties are encouraged to obtain independent legal advice throughout the mediation process as well as independent legal review of any mediated agreement prior to signing that agreement.

The Mediator does not represent or advocate the position of any party. Statements by the Mediator, even regarding legal issues, do *not* constitute legal advice, but are mere statements of personal opinion. Any help by the Mediator in the preparation of a settlement agreement (including the use of the Mediator's agreement forms) will *not* constitute legal advice. Any such agreement must be independently reviewed and approved by counsel and parties

MEDIATION SCHEDULING AND BRIEFING

Pre-Mediation Caucuses: The Scheduling Meeting.

The Mediator shall schedule a brief joint phone conference before the Mediation session with counsel who will attend the Mediation session to discuss matters such as the scheduling of the Mediation, the procedures to be followed, the terms of this Agreement, the nature of the case, the content of the written Mediation statements, and which client representatives will attend. If more than one pre-session scheduling conference is conducted, all counsel do not necessarily need to participate in every call, but the lead counsel who will attend the Mediation session must participate in at least one pre-session scheduling conference.

Pre-Mediation Caucuses: The Claims Conference.

As part of the Mediation process, it may be helpful for the Mediator to confer with each of the parties (and/or their attorneys if represented) individually - before the Mediation proceeding - about specific aspects of their claims and defenses. This is referred to as a Pre-Mediation Claims Conference. Thus, ten (10) days before the Mediation, the Mediator asks each party to submit – only to the Mediator – a **Confidential Mediation Statement**, as the basis for a discussion about the case to be held in confidence with a Party (or a Party's lawyer, if represented, and/or a Party representative, as appropriate) by telephone. Confidential Mediation Statements may and should address such matters as the party's views about his/her own interests, the interests of the other side, analysis of the best and worst alternatives to a negotiated settlement, the strengths and weaknesses of the legal case, and an estimated budget to litigate the case. The Mediator shall *not* disclose any Party's Confidential Mediation Statement without permission.

Absolute and Contractual Confidentiality.

Each and every party to this Mediation agrees that any Confidential Mediation Statement shall be deemed and remain confidential and privileged and exempt from later disclosure to the other parties to the Mediation, for any reason, under any circumstances. This contractual provision relating to confidentiality and privilege and exemption is in addition to any statutory or decisional law relating to confidentiality or privilege relating to mediations where-ever, and regardless of, the jurisdiction in which the Mediation takes place.

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Non-Confidential Mediation Briefs.

Written **Mediation Briefs** (as opposed to the Confidential Mediation Statements referred to above) ***shall be*** submitted by each Party, to each other and the Mediator.

(a) Time for Submission. No later than seven (7) days before the first Mediation session, unless otherwise directed by the Mediator, each party must submit directly to the Mediator, *and must serve on all other parties*, a written non-Confidential Mediation Brief.

(b) Prohibition Against Filing. The participants in the Mediation agree that the Non-Confidential Mediation Briefs shall not be filed or used in any way in any pending action or proceeding, and the assigned Judge shall not have access to them. The Non-Confidential Mediation Briefs are “non-confidential” in the sense that they shall be shared with the Parties to the Mediation, but not with others, nor used later by an opposing Party in conformance with the laws of the jurisdiction of the dispute. For instance, in California, even Non-Confidential Mediation Briefs (as defined herein) may be deemed “confidential” and their use in the litigation process barred; while in New York, different rules relating to Mediation Briefs may apply. The parties to the Mediation are advised to consult with their individual counsel to determine the applicability of the laws of the relevant jurisdiction with regard to Mediation Brief confidentiality.

(c) Content of Brief. The Non-Confidential Mediation Briefs must be concise, may include any information that may be useful to the Mediator, and must, unless otherwise directed by the Mediator:

- (1) Identify, by name and title or status:
 - (A) The person(s) with decision-making authority, who, in addition to counsel, will attend the Mediation as representative(s) of the Party, and
 - (B) Persons connected with a Party opponent (including an insurer representative, if any) whose presence might substantially improve the utility of the Mediation or the prospects for settlement;
- (2) Describe briefly the substance of the suit, addressing the Party’s views of the key liability issues and damages and discussing the key evidence;
- (3) Identify the discovery or motions that promise to contribute most to equipping the Parties for meaningful settlement negotiations;
- (4) Except to the extent prohibited by applicable laws of privilege or by local court rules, describe the history and current status of any settlement negotiations;
- (5) Provide additional information about any needs, interests or other considerations not described elsewhere in the Mediation Brief that might be pertinent to settlement; and
- (6) Include copies of documents likely to make the Mediation more productive or to materially advance settlement prospects.

PARTICIPANTS

On-Line Video Conference Attendance.

This Mediation session will (typically) take place via on-line video-conference.

All named Parties and their counsel are required to attend the mediation. This requirement reflects the Courts’ and Legislatures’ view that the principal values of mediation include affording litigants

opportunities to articulate directly to the other Parties, and a neutral, their positions and interests and to hear, first hand, their opponent's version of the matters in dispute. Mediation also enables Parties to search directly with their opponents for mutually agreeable solutions. To meet this goal, REMS has adapted its process to substantially conform with the Northern District of California Federal Court Rules relating to mediation attendance as follows:

Corporation or Other Non-Governmental Entity.

A Party other than a natural person (e.g., a corporation or an association) satisfies this attendance requirement if represented by a person (*other than* outside counsel) who has full and final authority to settle, and who is knowledgeable about the facts of the case. If full and final authority to settle is vested only in a governing board, claims committee, or equivalent body and cannot be delegated to a representative, an entity must disclose (in writing or electronically) this fact to all other Parties and the Mediator at least 14 days before the Mediation session will occur. This required disclosure must identify the board, body, or persons in whom final settlement authority is vested. In this instance the Party must identify, and delegate to the person (*other than* and in addition to counsel of record) who has, to the greatest extent feasible, authority to recommend a settlement, and who is knowledgeable about the facts of the case, the entity's position, and the procedures and policies under which the entity decides whether to accept proposed settlements.

Government Entity.

A unit or agency of government satisfies this attendance requirement if represented by a person (other than and in addition to counsel of record) who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements. If the action is brought by the government on behalf of one or more individuals, at least one such individual also must attend.

Counsel.

If represented, each Party must be accompanied at the Mediation by the lawyer who will be primarily responsible for handling the trial of the matter.

Insurers.

Insurer representatives **with full policy limit settlement authority* are *required* to attend*, if the carrier has accepted coverage or the duty to defend, even if subject to a reservation of rights.

Penalty for Non-Attendance.

The Parties agree that the Mediator shall have the authority to make a good faith determination to either excuse the attendance of a person seeking excuse from required attendance at the mediation, or to declare that the Party with whom the person seeking excuse from attendance relates as having cancelled or continued the Mediation - and thus forfeited all fees otherwise due pursuant to the Mediation Fee Agreement.

No Third Party Attendees.

No one other than the Parties, their attorneys and insurance or other "expert" representatives may attend the mediation or appear by video or phone without the consent of the Mediator.

All video attendee participants shall confirm that they are alone in the room and cannot be overheard by anyone else. No participant shall video record or audio record any part of the Mediation session. All participants agree that they will only use a secure Wi-Fi or Ethernet connection for all conduct related to the Mediation session.

MEDIATION SESSION PROCESS

Mediation Procedures: Individual Sessions, then a Joint Session Followed by Private Caucuses. Mediation generally begins with the Mediator meeting with each Party (and their representatives) individually. These individual sessions typically last one hour, and allow the Mediator and the Parties to address issues raised in the Mediation Briefs.

Following the individual Sessions, the Mediator will hold a Joint Session to set an agenda for the day, define the issues to be focused on, and ascertain the position and/or concerns of the parties. This allows the parties to engage in the resolution process either on an issue-by-issue or group-by-group basis.

The Joint Session is then followed by a separate Private Caucus between the Mediator and each individual Party and/or their counsel. This allows each side to explain and enlarge upon their position and mediation goals in confidence. It also gives the Mediator an opportunity to ask questions designed to better understand the nuances of a Party's position, and, often, to challenge a Party's preconceived beliefs about their position.

The form of Mediation session caucuses varies: It can involve conferences conducted separately with each Party and their attorneys; with the attorneys alone; or - with the consent of a Party's attorney obtained in advance - with a Party alone.

If a Party informs the Mediator that information is being conveyed to the Mediator in confidence, the Mediator will not disclose the information so delivered, otherwise, during the Mediation the Mediator is free to discuss and disclose information given to the Mediator by one party with all the other parties at the Mediation session. All information contained in a Confidential Mediation Statement (as opposed to the Non-Confidential Mediation Brief) shall remain confidential unless express permission to disclose has been given.

If, for any reason, a participant over-hears a communication not intended for him or her, that participant must immediately advise the Mediator.

CONFIDENTIALITY

Confidentiality.

To be effective a mediation process must be confidential. Therefore, in order to promote communication among the Parties, counsel and the Mediator, and to facilitate settlement of the dispute, each of the undersigned agrees that the entire Mediation process, is and shall remain for all purposes absolutely confidential as to any and all third parties, as well as administrative and judicial bodies. The Parties hereby expressly waive any rights to discovery related to the Mediation, notwithstanding any statute to the contrary. All statements made during the course of the Mediation are, and shall be deemed privileged settlement discussions, and are made without prejudice to any Party's legal position, and are hereby agreed to be inadmissible for any purpose in any legal proceeding. Offers, promises, conduct and

statements (a) will not be disclosed to third parties except persons associated with the participants in the process, and (b) are privileged and inadmissible for any purposes, including impeachment, under Rule 408 of the Federal Rules of Evidence and any other applicable federal or state statute (such as California's Civil Code section 1152), rule or common law provisions. Anything said by the Parties in mediation may not be disclosed thereafter by the Mediator to any third party.

For those Mediations conducted in California, the Mediation is be governed by the provisions of Section 1119 of the California Evidence Code (as of 2022), which provides in pertinent part as follows:

No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.

The Mediator will not be called as a witness by either party in any criminal, civil, or administrative action.

There are some obvious exceptions to the foregoing provisions.

For instance, and as an example only, all forms adopted for use in marital dissolution proceedings by the Judicial Council of California, including, specifically, the parties' disclosure documents (Schedule of Assets and Debts and Income and Expense Declaration) are not confidential, and may be used by either party for any purpose in accordance with the laws of the State of California.

Similarly, documents (like civil settlement agreements) prepared during the course of mediation that the parties intend to be binding and enforceable agreements (and hence admissible and subject to discovery) are not confidential and should contain a clause in substantially the following form:

The foregoing document is admissible in a court of law, and is not otherwise protected from disclosure. This document shall expressly be deemed admissible in a court of law and otherwise subject to disclosure.

This Mediation Agreement and the Mediator's invoices for services rendered and costs advanced to the parties by the Mediator are not protected from disclosure by mediation confidentiality, and shall be deemed discoverable and admissible into evidence in any civil action.

SELECTION AND APPOINTMENT OF MEDIATOR.

Selection and Appointment of Mediator.

The parties hereby select and appoint Christopher Hanson, CCIM, attorney at law, as the Mediator. Even though the Mediator is an attorney, and a real estate broker, all parties and participants acknowledge and agree that the Mediator does *not* represent both parties jointly, or either party individually, in any capacity.

POTENTIAL CONFLICTS

Disclosure.

The Mediator, each party, and counsel confirm that they have disclosed any past or present relationship or other information that a reasonable person would believe could influence the Mediator's impartiality, and that no conflict of interest or appearance of a conflict of interest exists.

In addition, the Parties acknowledge that from time to time, the Mediator may (or may already have) enter into representation agreements with corporations (including insurance companies), government entities, and other organizations to make available dispute resolution services or expert witness or consulting services in a particular locale, for a specific matter, or type of training, or for a particular period of time. The Parties also acknowledge that the Mediator formerly practiced law in California and because of the nature and duration of the Mediator's legal practice, the Parties should assume that one or more of the other attorneys may have participated in an arbitration, mediation or other dispute resolution proceedings with, or litigation for or against the Parties, counsel, or insurers involved in this case, and may do so in the future.

The Mediator is not aware of any aspect of these relationships that would create a conflict or interfere with his/her acting as an unbiased and neutral Mediator in this matter. The Parties acknowledge that these factors do not constitute a conflict of interest or the appearance of a conflict of interest.

MEDIATION SERVICES

Services.

The Mediator will review the Mediation Statements and/or Briefs supplied by the parties. The Mediator may seek to review depositions taken in the case, or speak with a Party, relevant witnesses, or a Party's experts or consultants prior to the Mediation.

In certain circumstances, where appropriate, and with the prior consent of all parties, the Mediator may conduct a property site inspection.

The Mediator will conduct a joint Pre-Mediation session with the parties or counsel (or both). Thereafter, the Mediator will meet with the Parties in a Joint Session and mediate the case.

In the event of a multi-day mediation, the Mediator will provide the Parties with a brief summary of the Parties' positions or tentative agreements, and any work that must be done by the Parties and the Mediator before the next session, and an outline of the issues that will be discussed at the next session.

Compensation.

The Mediation Fee Schedule is attached hereto and incorporated herein by this reference. The Parties hereto agree to retain the Mediator pursuant to the terms and conditions of the Mediation Fee Schedule.

Closed Files.

In furtherance of public policy to protect the confidentiality of the mediation process, the Mediator does not retain closed files. All documents in the file will be destroyed 30 days after the conclusion of a Mediation. All participants to this Mediation acknowledge and agree to this document non-retention policy.

TERMINATION OF MEDIATION PROCEEDINGS

If a Party wishes to terminate its participation in the Mediation for any reason, it may do so by giving notice to the Mediator and the other parties. The Parties will continue to be bound by the confidentiality provisions of this Agreement (and any additional confidentiality provisions of the jurisdiction of the dispute) and will also continue to be bound by their agreement to pay for those services rendered by REMS and the Mediator up to the point of that Party's withdrawal pursuant to this Agreement.

MEDIATOR'S AND EXCLUSION OF LIABILITY AND INDEMNITY

Each party agrees to make no attempt to compel the Mediator's or any REMS employee's testimony relating to the Mediation in any administrative or judicial proceeding. Each party agrees to make no attempt to compel the Mediator or any REMS employee to produce any document provided to or created by them or the Mediator, or provided by the other Party to the Mediator or to them, including any information regarding the video-conference. The Parties and their respective counsels of record agree to jointly and severally defend and indemnify the Mediator and REMS from any claims, costs, fees or expenses of any kind, including attorneys fees incurred by the Mediator or REMS, relating in any way to this Agreement or Mediation. Should REMS or the Mediator be required to respond to a subpoena from any Party involved in this mediation, that Party will be billed for time and expenses incurred in connection with such response, separate and apart from any attorneys fees incurred by REMS or the Mediator, at the rate set forth in the Mediation Fee Schedule. The Parties agree that neither the Mediator nor REMS is a necessary party in any arbitral or judicial proceeding relating to the Mediation or to the subject matter of the Mediation. Neither REMS nor its employees or agents, including the Mediator, shall be liable to any Party for any act or omission in connection with any Mediation conducted under this Agreement.

The Parties hereto, and their attorneys (if any), having had an opportunity to review the contents of this Mediation Services Agreement agree to its terms and the referenced Mediation Fee Schedule.

Dated:

REAL ESTATE MEDIATION SERVICE, LLC

Christopher DN Hanson

The Parties are requesting:

Half-Day Mediation Full Day Mediation.

The Parties have received, acknowledge and agree to the Mediation Fee Schedule set forth in the attachment to this letter. The parties acknowledge and agree to the Standard Case Management Administration Fee.

The Parties agree that this REMS Mediation Fee Schedule constitutes a billing invoice for the Standard Case Management Administrative Fee and the Mediation Fee Deposit and shall issue payment to Real Estate Mediation Service, LLC within three days. The parties acknowledge that no Mediation date shall be deemed set and reserved until the fees have been received by REMS.

[[Signatures of the participants are on the following pages.]]

Dated:

Party Name

Party Signature

Dated:

Party Name

Party Signature

Dated:

Party Name

Party Signature

Dated:

Party Name

Party Signature

[[Continued on next page...]]

Dated:

Attorney for [Name of Party]

Attorney Signature

Dated:

Attorney for [Name of Party]

Attorney Signature

Dated:

Attorney for [Name of Party]

Attorney Signature

Dated:

Attorney for [Name of Party]

Attorney Signature