

# SHARON A. WILLIAMS

ATTORNEY AT LAW – MEDIATOR

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Paralegal

## MEDIATION AND FEE AGREEMENT

### **PARTIES:**

### **RECITALS:**

The parties desire to engage in a process of mediation. This agreement sets forth the terms and conditions of that process.

### **AGREEMENT:**

The parties understand and agree as follows:

1. Process.

a. Mediation is a cooperative process through which an equitable settlement is sought and both the parties' needs are addressed. Each mediation session will be conducted in private. No meeting will take place in the absence of either party, and no other persons will be present, except by mutual agreement.

b. All statements made during the course of the mediation are privileged, are made without prejudice to any party's legal position, and are non-discoverable and inadmissible for any purpose in any legal proceeding.

c. The privileged character of any information is not altered by disclosure to the mediator. Disclosure of any records, reports, or other documents received or prepared by the mediator cannot be compelled. The mediator shall not be compelled to disclose or testify in any proceedings as to (i) any records, reports or other documents received or prepared by the mediator or (ii) information disclosed or representations made in the course of the mediation or otherwise communicated to the mediator in confidence.

d. Since the parties are disclosing sensitive information in reliance upon this agreement of confidentiality, any breach of this agreement would cause irreparable injury for which monetary damages would be inadequate. Consequently, any party to this agreement may obtain an injunction to prevent disclosure for any such confidential information in violation of this agreement.

2. Decisions. Mediation leaves decisions to the parties. The mediator will facilitate discussion and help generate options but will not make decisions for the parties.

3. Representation. The mediator is Sharon A. Williams, Attorney. Acting under current standards of the Oregon State Bar Association, Sharon A. Williams will be neutral as to any conflicting interests. The parties are advised to retain separate legal counsel throughout the mediation and to seek independent legal review of any proposed agreement developed through mediation.

4. Adversary Actions. The parties shall not engage in adversary legal action during the course of mediation. Mediation will be terminated if it is determined that one of the parties is acting in bad faith. Any settlement without such disclosure is subject to being set aside by a court of law.

5. Confidentiality. All written and oral communications made in the course of mediation are confidential, except as provided for below. No party will call the mediator to testify concerning the mediation, any statements or admissions made during the course of mediation, or any recollection of the mediator, nor will a party seek production of any written documents prepared or produced during the course of mediation which are not otherwise discoverable through the legal process, including, but not limited to, the notes, records, and work product of the mediator. In the event either party contravenes this provision, the mediator will move to quash the subpoena or summons and the party in breach will pay all of the mediator's fees and expenses for so doing.

Notwithstanding the preceding paragraph,

a. The mediator may discuss the mediation and any information disclosed by the parties in mediation with the parties' attorneys and any third party advisors or experts engaged by the parties or either of them for the purpose of resolving the matters in issue;

b. The mediator will disclose otherwise confidential information where required by law (e.g., where the mediator suspects child abuse or where the information suggests an actual or potential threat to life or safety or intention to commit a crime), or where ordered to do so by judicial authority (e.g., on public policy grounds);

c. The mediator will not disclose to a party, wholly or in part, any information provided by one of the parties to the mediator in a "caucus", which in the mediator's sole judgment is relevant to resolution of the matters in issue, unless the parties have agreed in advance that the information shall not be treated as "confidential";

d. The mediator may disclose non-identifying information for the purpose of mediation research or educational presentations; and

e. This agreement to mediate and any written agreement made and executed by the parties arising out of the mediation may be used in any related legal proceeding, unless the parties have agreed to the contrary in writing.

6. Withdrawal. Either party or the mediator may withdraw from mediation at any time.

7. Agreement. Any agreements reached in mediation are not legally binding until reduced to writing and signed by both parties. Under certain circumstances, a written and signed agreement may not be binding until reviewed and approved by a court.

8. Fees. Sharon A. Williams will charge \$375 per hour for the time spent in the mediation process at sessions or between sessions as part of the mediation process, for emails, research, phone calls, correspondence with the parties, their attorneys, or third party experts engaged by agreement. Fees for mediation will be collected at the time incurred. In addition, Sharon A. Williams will draft and file legal documents setting forth and implementing the parties' agreements, if both parties agree that they would like her to do so. The retainer for preparation of documents will be determined at or near the time of reaching agreements based upon the complexity of the agreement. Fees for drafting and filing documents will be discussed with the clients in advance of drafting. Paralegal assistance will be billed at \$175 per hour. Each party shall be jointly and severally liable for payment of all fees. If it becomes necessary for Sharon A. Williams to place your account into the hands of an attorney for collection, each party agrees to pay the reasonable attorney fees and collection costs associated therewith, even though no suit or action may be filed. If a suit or an action is filed to collect unpaid attorney fees and advanced costs, each party agrees to pay Sharon A. Williams' reasonable attorney fees, costs and disbursements as fixed by the Court related to or arising from said suit or action, including any hearing, trial or appeal.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

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Dated: \_\_\_\_\_

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Sharon A. Williams, Mediator