



MEDIATIONSOPHILEX

AGREEMENT TO PROCEED TO A MEDIATION

And

And

hereafter referred to as “the Parties”

And

Me Dominique Bourcheix

Desaulniers Blvd., suite 315

Saint-Lambert, Quebec

J4P 1L3

hereafter referred to as “the mediator”

WHEREAS there is a litigation involving the Parties regarding....

WHEREAS the Parties wish to explore the possibilities of settling their differences;

THE PARTIES AGREE AS FOLLOWS:

1. **Voluntary process**

The Parties wish to meet to discuss the various aspects of the litigation. This process is entirely voluntary and each Party freely agrees to take an active part in it. As well, each Party may withdraw unilaterally from the process at his discretion.

This process does not deprive the Parties of their rights in any judicial process. The Parties therefore reserve the right to proceed with or pursue any judicial proceedings after the mediation should a settlement not be reached. However, such proceedings shall be suspended during the mediation process until an agreement has been concluded or the process is terminated by either of the Parties or the mediator.

2. **Role of the mediator**

The mediator will act as a facilitator in order to foster proper communication between the Parties on the various aspects of the litigation and to enable them to explore all possibilities of resolving their conflict. The mediator shall work at sustaining the conditions, which facilitate such process namely, ensure

- a full and efficient exchange of information between the Parties;
- communication, between the Parties, of their mutual expectations;
- a search for solutions in keeping with the expectations expressed;
- frank and efficient negotiations;
- the conclusion of a voluntary Agreement among the Parties, that is satisfactory to all.

3. **Impartiality**

The mediator shall act at all times in a neutral and impartial fashion. The mediator's role is not to give legal opinions to the Parties. However, the mediator will be authorized to give, in caucus, relevant feedback based on the exchanges, which will have taken place before her.

4. **Attendance at the Mediation Session**

The Parties will attend the mediation sessions with their attorneys. Each Party must ensure that: 1) he is represented by a person fully authorized to conclude a settlement and 2) individuals with personal knowledge of facts relating to the litigation, to allow for an efficient discussion. *Experts can be present*

5. Confidentiality

The present mediation Agreement and all documents or information exchanged during the process of mediation will be without prejudice, will remain confidential, and will not be admissible as proof in any judicial process through the intermediary of the mediation.

The mediator, the Parties and their attorneys, and any other person present, agree to preserve the confidentiality of the entire mediation process and of any information, document or negotiation exchanged during said process. However, nothing in this Agreement deprives the Party who has provided or divulged a document to produce said document or proof in a judicial process, according to the rules of law. Moreover, if a settlement agreement is reached between the Parties, they will be relieved of the present confidentiality clause in order to prove the existence and contents of the agreement in any homologation procedures. In such a case, they commit to request that these procedures be held confidentially under “huis clos” in order to preserve the confidentiality of the agreement.

The mediator cannot be summoned to testify in any judicial or other procedure regarding the discussions and or offers that were made in mediation, however, the Parties express the specific desire that the mediator can be summoned to testify of the existence or not and contents of any agreement that was reached in mediation so as to be able to prove such agreement in homologation procedures.

Any person signing this Agreement in a capacity other than a “Party, does so with regards to his commitment to respect the confidentiality of the process.

6. Caucuses

The mediator can and shall, if opportune, hold caucuses with one or all the Parties who can also, at their own discretion, request such caucuses in order to discuss privately with the mediator. All information given by a Party to the mediator in Caucus is confidential unless the Party relieves the mediator of the confidentiality of certain elements, which will be identified.

7. Value of Mediated Agreement

In principle, it is not the role of the mediator to judge the value or the appropriateness of the Agreement, which must remain an expression of the will of the Parties, assisted by their attorneys.

Nevertheless, if she is of the opinion that continuing the mediation process carries a risk of serious prejudice to either of the Parties, or creates a situation that is clearly unjust to one Party, she must inform the Parties, and invite them, if possible, to take measures to remedy the situation or, if she deems it necessary for reasons of integrity, she may suspend or terminate the mediation process.

8. Duration of mediation

The Parties agree to the following procedure and undertake to complete it if possible, within a set period of time, in order to expect the mediation process to end April 20th 2016

- Signing of the present Agreement
- Examination of the file and preparation for the mediation
- Mediation session on At the offices of....
- Follow-ups required to finalize the settlement.

9. Fees

The mediator's fees will be based on an hourly rate of \$... plus taxes and disbursements for preparation of the mediation, mediation session (s) and follow-ups if agreed upon. The fees include all necessary procedures to bring the Parties to an active participation in the mediation process. The fees and disbursements will be shared equally among the Parties. *This clause can be different*

10. Miscellaneous

The Parties agree to retain the professional services of the mediator because of her knowledge of mediation and law as well as her position as member of the Québec Bar.

11. Language

This mandate of mediation has been drafted in English at the request of the Parties.

Ce mandat de médiation a été rédigé en anglais à la demande expresse des Parties.

IN WITNESS THEREOF, WE HAVE SIGNED

This,

This,

This,

Me Dominique F. Bourcheix
Mediator and arbitrator