



## BRAR MEDIATION

**JESSE S. BRAR**  
MEDIATOR/ATTORNEY

### AGREEMENT TO MEDIATE

This Agreement is among the parties, their undersigned representatives, counsel, and other participants (“Participants”) and the Mediator, Jesse Brar (“Mediator”) to enter into mediation in an effort to reach a settlement of their disputes. All the undersigned understand the confidential nature of this process. It is expressly understood and agreed as follows:

#### 1. Nature of Mediation

The parties understand that mediation is a process in which the mediator assists parties in negotiating and reaching agreement in a collaborative, consensual and informed manner. The parties understand that the mediator's objective is to facilitate the parties themselves reaching their best agreement.

#### 2. Scope of Mediation

The parties understand that it is for the parties, 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 parties state their good faith intention to complete their mediation by resolving their dispute. It is, however, understood that any party may withdraw from or suspend the mediation process at any time, for any reason or no reason.

The parties also understand that the mediator may suspend or terminate the mediation if the mediator feels that the mediation will lead to an unreasonable result; if the mediator feels that an impasse has been reached; or if the mediator determines that he can no longer effectively perform his facilitative role.

#### 4. Confidentiality

Parties understand that the mediation process requires open and honest communication in order to succeed. It is understood by the Participants and the Mediator that the mediation will be strictly confidential. All communications by the parties during the course of the mediation, including any pre-mediation or post-mediation conferences with the mediator concerning the subject matter of the mediation, shall be treated as strictly confidential by the mediator, by the parties and by their representatives, and shall not be disclosed to anyone outside the mediation proceeding, except as expressly agreed by the parties and the mediator. Any and all statements made during the mediation and any notes or written materials created during the mediation cannot and will not be used as evidence in any judicial, arbitration, or administrative proceeding. Any party making a



## BRAR MEDIATION

confidential disclosure to the mediator during a caucus will advise the mediator of the confidential status of the disclosure and the mediator will ensure that confidentiality is maintained.

In order to maintain confidentiality, the parties and their representatives, by this Agreement, agree not to call the mediator as a witness in any proceeding or to subpoena or otherwise seek discovery of any written materials in his possession developed for or in the course of this mediation. To the extent that the law permits such discovery from the mediator, the parties hereby waive their rights thereto.

The exception to the confidentiality rules stated above is that this Confidentiality Agreement and any written agreement made and signed by the parties as a result of the mediation may be used in any relevant proceeding, unless the parties, by written agreement, decide otherwise.

Nothing in this Agreement shall be construed to prevent or excuse the mediator from reporting matters such as crimes, imminent threats of bodily injury to a child or another person, or such other matters as to which the law imposes a duty to report.

In accordance with Utah law, parties agree and confirm that they will not record the mediation session in any form.

### 5. Mediator Impartiality and Neutrality

The parties understand that the mediator is an impartial third party whose purpose is to promote communication and help the parties reach an agreement that is acceptable to both parties. The mediator will affirmatively reveal any operative biases and will disclose any and all prior contacts with the parties and their legal counsel.

### 6. No Liability on the Part of the Mediator

All Participants acknowledge that the Mediator is not authorized to give legal advice to any participant nor to counsel any participant, examine the law, or pass upon the legal effect of any act, document, or law. The parties are encouraged to obtain legal or other professional advice throughout the mediation process. All Participants hereby agree that the Mediator shall not be liable to any party for any act or omission during the course of or in connection with the mediation. In the event that the Mediator participates in any manner in the preparation of a written settlement agreement, the parties hereby acknowledge that they have been advised to have such agreement independently reviewed by legal counsel before signing the Agreement.

### 6. Disclosures

The parties have chosen the Mediator. The Mediator and the parties and their counsel confirm that they have no past or present relationship with the Mediator that would influence the Mediator's impartiality and have disclosed to the other party any prior relationship with the Mediator, or any facts that might reasonably give rise to a claim that the Mediator is impaired or biased as to any



# BRAR MEDIATION

matters that are subject to this mediation. The Mediator has run a conflicts check and the conflicts check shows that the Mediator has not had any relationship any party.

## 7. Mediation Fees

The parties and the mediator agree that the fee for the mediator shall be \$5000 for one full day of mediation. The parties and their counsel shall be jointly and severally liable for the mediator's fees and expenses.

Payment of such fees and expenses is due to the mediator at the conclusion of the mediation session unless otherwise agreed in writing.

We affirm that we have read, understand, and agree to the terms of this Agreement to Mediate.

---

Printed Name	Signature	Date
--------------	-----------	------

---

Printed Name	Signature	Date
--------------	-----------	------

---

Printed Name	Signature	Date
--------------	-----------	------

---

Printed Name	Signature	Date
--------------	-----------	------

---

Printed Name	Signature	Date
--------------	-----------	------

---

Printed Name	Signature	Date
--------------	-----------	------

---

Mediator	Signature	Date
----------	-----------	------