

**NIBLOCK
MEDIATION
SERVICES**

Over 30 Years in Court-Now Helping You Stay Out of It.

Court/Jurisdiction/Case Number:

Parties:

_____, **Plaintiff**

_____, **Defendant**

Additional Parties/Attendees:

_____, _____

_____, _____

AGREEMENT TO MEDIATE

The parties hereby agree to submit the above-captioned dispute to mediation and covenant and agree as follows:

1. Designation of Mediator

Raymond L. Niblock, of Niblock Mediation Services, has been designated and requested to serve as Mediator and is authorized to conduct the mediation of this matter.

2. Governing Law

In all respects, the mediation shall be governed by and conducted in accordance with Ark. Code Ann. § 16-7-201 et seq., all applicable Arkansas case law, the rules and policies of the Arkansas Alternative Dispute Resolution Commission, and this Agreement.

3. Role and Authority of the Mediator

The Mediator serves as a neutral and impartial facilitator of negotiations. The Mediator is not the legal representative of any party, will not decide the outcome of the dispute, will not act as an advocate for any party, and does not provide legal, medical, therapeutic, financial, or other professional advice. While the Mediator may suggest possible options for resolution, the Mediator does not recommend or direct any particular outcome. All decisions remain solely with the parties. The mediation process is consensual, and the Mediator has no authority to bind the parties without their agreement.

4. Facilitative and Evaluative Mediation

The primary style of mediation is facilitative, though the Mediator may engage in evaluative mediation where appropriate. Any evaluative input is provided only if the parties request it, the Mediator determines it is appropriate and necessary, the Mediator is qualified, sufficient information exists, and any evaluation is expressed in broad and qualified terms. The Mediator does not predict specific outcomes or direct the parties to take any particular course of action.

5. Co-Mediation and Subject-Matter Experts

The parties acknowledge that mediation may be conducted using co-mediation (with the unanimous consent and agreement of the parties), including the participation of subject-matter experts as co-mediators. Any co-mediator participating in the mediation acts solely in the role of a mediator, regardless of any separate professional license or background, including, but not limited to, an attorney, physician, therapist, counselor, or other licensed professional. No such participant is acting in a professional advisory, treatment, or legal capacity, and no professional-client relationship is created by their participation in the mediation.

Each party acknowledges that any statements, evaluations, or observations by the Mediator or any co-mediator are non-binding and shall not be relied upon as legal or professional advice in any capacity but are provided solely as information for the receiving party to consider independently or in consultation with their own counsel or advisors.

6. Confidentiality

All mediation sessions are private, confidential, and privileged pursuant to Ark. Code Ann. § 16-7-201 et seq. Confidential Matters include all statements, documents, communications, and materials generated in or for the mediation, including intake, screening, and scheduling activities. Subject to statutory exceptions, Confidential Matters shall not be disclosed outside the mediation, shall not be used in any judicial, regulatory, or administrative proceeding, nor may the Mediator, a co-mediator, nor anyone associated with Niblock Mediation Services be compelled to testify, and no documents or materials in the Mediator's custody may be subpoenaed. The fact and substance of any settlement agreement shall not be confidential unless the parties expressly agree otherwise.

7. Remote / Zoom Mediation (and confidentiality thereof, and agreement)

Mediation may be conducted in whole or in part by videoconference, including via Zoom or a similar platform. The same privileges and confidentiality apply if mediation or a party to the mediation participates by Zoom. As such, no party or participant may audio or video-record the mediation, in whole or in part, without the express written consent of all parties and the Mediator.

Participation in a Zoom or other remote mediation session—including appearing on the videoconference, joining the session, or otherwise accepting the videoconference invitation—constitutes each participant's agreement to mediate and assent to the terms of this Agreement to Mediate, whether or not a physical or electronic signature has been executed. Each participant agrees that remote participation satisfies any appearance requirement for mediation and acknowledges that the confidentiality, authority, and fee provisions of this Agreement apply equally to remote mediation.

Technical interruptions or connectivity issues shall not affect the enforceability of this Agreement or the confidentiality of the mediation.

8. Ex Parte Communications

The Mediator is expressly permitted to meet privately with any party and to engage in ex parte communications before, during, and after the mediation, as the Mediator determines appropriate. In addition, unless the Mediator is permitted to share any aspect of an ex parte communication with other parties, such communications shall remain confidential between the Mediator and the parties engaging in the ex parte communication.

9. Good Faith and Authority to Settle

The parties agree to participate in the mediation in good faith, with the intent to explore resolution.

Each undersigned represents that they have actual authority to negotiate during mediation and to execute a settlement agreement, in whole or in part, if one is reached. If the Mediator assists in preparing a written settlement agreement, each party is advised to have it independently reviewed by their own independent counsel before execution.

10. Duration and Termination of Mediation

Mediation shall continue until terminated by the parties or the Mediator. The Mediator may terminate the mediation at any time if the Mediator determines that an impasse has been reached or that the mediation should not continue for any other reason. Whether a party or the Mediator terminates the mediation, the terms of the mediation, including the Mediator's fees, remain in effect.

11. Fees and Costs

Fees and costs for this mediation are in accordance with Exhibit A to this agreement, which is incorporated herein by reference.

Counsel for a party to mediation is responsible for their side's share of the mediation fees and costs. All mediation fees are earned upon execution of this Agreement and the commencement of the mediation process, including preparation, scheduling, and the initial mediation session, unless otherwise agreed. Fees may include administrative or preparation fees, professional mediation fees (including minimum or fixed fees), hourly fees for time exceeding the scheduled session, and co-mediation or subject-matter expert fees. Unless otherwise agreed, fees are split equally among the parties.

12. Limitation of Liability

The Mediator and Niblock Mediation Services, including its independent contractors, agents, and employees, shall not be liable for any act or omission relating to the mediation.

