**STIPULATION, DISCLOSURE AND CONFIDENTIALITY AGREEMENT FOR**

**ONLINE DISPUTE RESOLUTION: ARBITRATION OR MEDIATION**

Re: Matter of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Case #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We, the undersigned, acknowledge and agree to the items and terms stated below and agree to participate in an online dispute resolution proceeding with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Mediator.

**I. TECHNICAL INSTRUCTIONS FOR THE CONFERENCE:**

A. The parties acknowledge and understand that resolution of their dispute using online platforms may include email, telephone, chat, and web-enabled video conferencing. If your panelist uses Zoom, you may download a free version of the Zoom platform from the Internet (see, https://zoom.us. Then click on "SIGN UP IT'S FREE," for publicly available information).

B. You must provide your email address and phone number for your location during the meeting. For the conference, you must be able to access that email account from the device you are using for the conference. Your email address will remain confidential and not disclosed without your permission.

C. The meeting may include connections from several locations. Wherever the parties, counsel or other representatives may be for the mediation, you stipulate to removing as many distractions from the process as you are able and that all parties to the mediated dispute, and their necessary representatives and/or principals, will attend and participate. **No unauthorized persons should be able to overhear the session.** Your conference environment should be quiet, private, and well lit.

D. Internet access is required. While at home, or using a standard home Internet connection, you must limit other high demand Internet use (streaming video or music, for example) while the mediation is in process.

E. You must have a “webcam” whether installed on your computer or peripheral. You must also have audio input and output. You may wish to use a headset with microphone.

F. You must remain at or near your computer for the entire mediation unless excused. There will be breaks and the parties will be left in their respective, private “break-out rooms.” Absence or inaccessibility during the mediation will be disruptive, may compromise confidentiality, and may delay or otherwise negatively affect the process.

G. All participants rely on the security measures provided by the Internet service provider being used.

**II. CONFIDENTIALITY FOR MEDIATION PROCESSES**

A. The entire mediation process is deemed to be settlement negotiations for the purpose of all state and federal rules protecting disclosures made during such process from later discovery and/or use in evidence. The parties shall not subpoena the mediator, or any documents submitted to or prepared by the mediator during or in connection with the mediation process. The mediator shall not testify voluntarily on behalf of any party.

B. The provisions of California Evidence Code §§ 1115-1129 and 703.5 apply to this mediation. This confidentiality agreement ("agreement") extends to all present and future civil, judicial, quasi-judicial, arbitral, administrative, or other noncriminal proceedings. The holding in *Cassel v. Superior Court* (2011) 51 Cal. 4th 113, shall also apply to all communication, activity, exchanges of documents and negotiation conducted “in the course of or pursuant to” this mediation. In the event that this mediation includes, by any interpretation, an insurance coverage issue, the parties expressly agree to a “White Waiver” as described in *White v. Western Title Insurance Co.* (1985) 40 Cal.3d 870, and that no offers or demands made in this mediation shall be admissible in any subsequent proceeding between these parties on any cause of action or theory.

C. The participants' sole purpose in conducting or participating in mediation is to compromise, settle or resolve their dispute, in whole or in part.

D. The privileged character of any information or documents is not altered by disclosure to the mediator.

E. Because the participants are disclosing information in reliance upon this Agreement, 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 of any such confidential information in violation of this Agreement.

**III. CONTINUING NATURE OF AGREEMENT**

The mediation process may continue after the date appearing below. Therefore, the mediator's subsequent oral and written communications with the mediation participants in a continuing effort to resolve the dispute are subject to this Agreement, as permitted by Evidence Code §1125. This Agreement may be signed before, during or after the mediation.

**IV. ENFORCEABILITY**

A. ANY WRITTEN AGREEMENT PREPARED DURING THE COURSE OF THE MEDIATION IS SUBJECT TO DISCLOSURE, BINDING, ENFORCEABLE, AND ADMISSIBLE to prove the existence of and/or to enforce the agreement under California Code of Civil Procedure § 664.6, if applicable, or otherwise.

B. Electronic documents may be exchanged for signing or digital signing “during the course of” the online mediation. You acknowledge the necessity and statutory requirement for party signatures to render the agreement enforceable under Code of Civil Procedure § 664.6 and that providing your signature on the document (which may be signed in counterparts) will be a material term of any agreement.

**V. ROLE OF MEDIATOR**

A. The mediator is a neutral intermediary and settlement facilitator and does NOT act as an advocate for or advisor to any party. THE MEDIATOR'S STATEMENTS DO NOT CONSTITUTE LEGAL ADVICE TO ANY PARTY. THE PARTIES ARE STRONGLY ENCOURAGED TO SEEK LEGAL ADVICE FROM THEIR OWN COUNSEL.

B. If the mediator assists in preparing any documents and/or a settlement agreement, each participant is advised to have the agreement independently reviewed by his or her own attorney before executing the agreement.

**I agree that participating in or consenting to the conduct of this proceeding in an electronic/teleconferencing forum shall NOT be grounds to set aside, vacate or otherwise void any settlement agreement, award or other orders emanating from this process.**

Executed this \_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

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Plaintiff/Defendant [please designate which party] Print Name & Sign

Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Cell Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Attorney for Plaintiff/Defendant [please designate] Print Name & Sign

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Other Participant Print Name & Sign

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Mediator