

MEDIATOR ENGAGEMENT AGREEMENT

1. **Matter.** Rebecca Callahan is being engaged by the undersigned to facilitate a mediation of the disputes underlying those certain civil disputes which are commonly referred to as _____, _____ Court, Case No. _____ (the "Action").

2. **Scheduling, Fee and Reservation Deposit.** The undersigned have reserved _____ for a [full-day (8 hour) / half-day (4 hour)] mediation which is to convene at _____ .m. The mediation shall be held at the mediator's office located at 5120 Campus Drive, Newport Beach, California. The mediator's fee for the session is \$ _____, and must be funded in advance no later than _____. Professional services in this matter, including extra hearing time and any additional services or work that may be requested by the parties, will be billed at Ms. Callahan's normal hourly rate of \$300 per hour.

3. **Additional Fees.** There is no charge for any pre-mediation conference calls and for the first two hours of reading, study and research time. Parties will be billed for expected reading, study and research time at Mr. Callahan's normal hourly rate of \$300 per hour. If travel is required and is not included in the mediator's rate, travel time is billed at the Ms. Callahan's normal hourly rate of \$300 per hour and travel expenses are billed at cost. There is no charge for food and beverages provided during the mediation.

4. **Payment.** The parties agree to divide payment of the mediator's fee and any additional fees as follows:

50% to _____; and

50% _____

- The parties agree to pay their respective share of the estimated fees and expenses prior to the start of the mediation and according to deadlines set forth above. Unless the mediator agrees otherwise, in writing, she is not bound by agreements that may be entered into between or among the parties or their counsel with respect to payment of her fees.

5. **Cancellation.** Reservation deposits will be fully refunded if the mediator is given at least **5 days** written notice. *If less than 5 days notice is given, a \$500 cancellation fee will be charged and deducted from the refund.*

6. **No Legal Advice or Legal Opinions.** The mediator's role is limited to that of a settlement facilitator. In this regard, the undersigned acknowledge and agree that Callahan Law Corporation, Callahan Dispute Resolution and the mediator have not undertaken to represent or provide legal advice or legal opinions of any kind to any party.

7. **Mediation Conference Statements.** The parties are encouraged to provide the mediator with a Mediation Conference Statement no later than _____. Mediation Conference Statements do not need to be in the form of a formal pleading. For the mediator’s purposes, a memorandum or letter is sufficient. Please make sure that the first page of your Mediation Conference Statement is marked with the following: **“CONFIDENTIAL – NOT TO BE FILED WITH THE COURT.”** The parties are encouraged to exchange copies of their Mediation Conference Statements. If either party has something that is sensitive or confidential, those matters can be submitted to the mediator in a separate confidential statement. If such a separate, confidential statement is submitted, please mark the first page of the document with the following: **“CONFIDENTIAL MEDIATION STATEMENT / MEDIATOR’S EYES ONLY.”**
8. **Party Representatives.** The parties have agreed that they will attend the mediation (in the case of individuals) or will have a representative in attendance with settlement authority (in the case of entity parties). *Please note that the mediation will not be convened if the individual parties and representatives from the entity parties are not in attendance on the date set for the mediation.* If a party is to be excused or allowed to appear via telephone, that needs to be discussed and agreed to in advance of the mediation.
9. **Confidentiality.** The parties agree that Sections 1115 – 1128 of the California Evidence Code are applicable to the communications and any writings exchanged during the mediation, including but not limited to any written settlement agreement prepared in the course of, or pursuant to, the mediation.
10. **Mediator’s File, Etc.** The parties acknowledge and agree that the mediator is not competent to testify in any civil proceeding concerning anything communicated, exchanged, said, done or occurring in the course of the mediation, and that the notes, working papers and file maintained by the mediator belong solely to the mediator and are strictly confidential. In this regard, the parties acknowledge and agree that they have no right, title or interest in the notes, working papers or files maintained by the mediator and that they do not have any right to review, inspect or copy such documents. The parties agree that they will not subpoena or otherwise require the mediator to testify or produce her notes, working papers or files in any proceeding.
11. **Conclusion of Mediation; Retention and Disposition of Documents.** Following the conclusion of the mediation, the mediation statements, mediator notes and any other materials provided to the mediator in connection with the mediation will be maintained as part of the mediator’s files and kept confidential. For various reasons, including the minimization of unnecessary storage expenses, the mediator reserves the right to destroy or otherwise dispose of her notes, working papers and files concerning this mediation once the mediation has been concluded.
12. **Disclosures.** The undersigned mediator has disclosed to all parties that she is the spouse of Richard D. Keys, a member of Bidna & Keys APLC, and _____
_____.

13. **Entire Agreement.** This document constitutes the entire agreement between the mediator and the undersigned regarding the mediator’s engagement in the matter described above. This agreement may not be modified orally. Any modification or amendment must be (a) in writing, and (b) signed by all parties. No obligation or undertaking that is not set forth expressly in this agreement shall be implied.
14. **Effective Date.** This agreement will take effect when all parties have returned a signed copy of this agreement to the mediator with their reservation deposits.
15. **Applicable Law and Venue.** The internal law, and not the law pertaining to choice of laws, of the State of California, shall govern this agreement and the engagement contemplated hereby. The laws of the State of California hereto shall govern all questions with respect to the construction or interpretation of this letter agreement and / or the rights and obligations of the parties.

Dated: _____.

Rebecca Callahan, Mediator

Dated: _____.

By _____

As Counsel for _____

Dated: _____.

By _____

As Counsel for _____

Dated: _____.

By _____

As Counsel for _____