

MĪZĀN MEDIATION GUIDELINES

Mediation is a non-adversarial procedure in which a neutral assists the parties to reach a settlement. The Mediator employs techniques which stimulate productive negotiations. Throughout, counsel and clients remain in complete control, and ultimately decide whether and how a case will be settled.

1. REPRESENTATION BY COUNSEL

Any party may either represent themselves or be represented by an attorney or other authorized representative at a mediation session before Mīzān Mediation (MM).

2. MEDIATION AGREEMENT

Mediation is voluntarily entered into by both parties. Prior to the commencement of the mediation session, the parties and their counsel or authorized representatives shall agree in writing to the mediation of their dispute and the mediation being administered by MM. For this purpose, a MM Agreement for Mediation will be provided to the parties incorporating by reference these guidelines.

The parties by mutual agreement may vary any part of these guidelines including, but not limited to, agreeing to conduct the mediation via telephone or other electronic or technical means.

3. INITIATION OF MEDIATION

Parties to a dispute may initiate an administered mediation by completing the MM Submission to Mediation form and paying the initial filing fee. Submission instructions can be found at the top of the form.

The party filing the mediation form shall provide the following information to MM, as applicable:

The names, regular mail addresses, email addresses and telephone numbers of all parties to the dispute and their representatives, if any, in the mediation.

A brief description of the nature of the dispute and the relief requested.

The name of the mediator who has been mutually agreed upon by the parties to the mediation.

4. THE MEDIATOR

The parties shall jointly agree upon the selection of a mediator from the MM panel of mediators.

The mediator shall have no personal or financial interest in the outcome of the dispute. In advance of the mediation session, the mediator shall disclose to the parties any circumstances which may create a presumption of bias or conflict of interest. In the event of such disclosure, the parties shall have the right to request the disqualification of the mediator.

5. DATE, TIME & PLACE OF MEDIATION SESSION

The parties and MM shall agree upon the time, place and date of the mediation session. Notice of the mediation shall be mailed to the parties at least seven (7) days prior to the mediation unless agreed to by the parties.

6. WRITTEN MEDIATION SUMMARY

A party may submit to MM, prior to commencement of the mediation session, a brief written summary or memorandum and/or other documents concerning the relevant issues involved in the dispute. A copy of any such summary or memorandum or documents should ordinarily be submitted to all parties. A party may, however, elect to submit a confidential mediation summary or memorandum or documents to the mediator. If such a summary or memorandum or documents are clearly marked as confidential, their contents shall not be disclosed by the mediator to the other parties. The mediator may inform the other parties that such a confidential mediation summary or documents have been provided to him/her, but shall not disclose their contents.

7. ATTENDANCE AT MEDIATION SESSION

It is necessary for all parties to attend the mediation session whether or not they are represented by counsel or other authorized representative(s). It is not necessary for any witnesses to attend the mediation session. If counsel is representing an insurance company or an insured, it is necessary that the insurance representative, with full authority to settle the dispute, attend the mediation. In any event, any person with actual authority needed to settle the dispute must attend the mediation. If such person(s) cannot attend the mediation, or even if they can only participate by telephone or teleconference, MM and all other parties must be notified as soon as possible before the mediation session.

8. CONDUCT OF MEDIATION SESSION

Unlike a trial, a mediation is informal and non-adversarial in nature. The mediator shall conduct the mediation session in a manner that permits a fair opportunity for each party to present their position and discuss resolution of the dispute. The mediator shall assist the parties to reach their own negotiated resolution of the dispute, with the best interests of all parties in mind.

The mediator is authorized to conduct separate meetings and other communications with the parties and/or their representatives before, during, and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online, in person, or otherwise.

The parties are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the mediator, as necessary, in a separate communication to the mediator.

The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.

In the event a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation session(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement.

9. PRESENTING YOUR SIDE AT THE MEDIATION HEARING

Although the mediation session is informal in nature, the parties should be well prepared to discuss all relevant issues involved in the dispute. Each party will be given a full opportunity to state their position in a manner that is comfortable for them. Each party will be allowed to submit relevant documents that are necessary for the mediator to review in order to fully understand the dispute.

10. PRIVACY

Mediation sessions and related mediation communications are private proceedings. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator.

11. CONFIDENTIALITY

It is important that all participants at a mediation session understand and agree that any and all communications made in the course of the mediation process relating to the subject matter being mediated are confidential communications and are not subject to disclosure in any judicial, administrative or private proceeding, and that the mediator will not be called as a witness in any judicial, administrative or private proceeding.

Subject to applicable law or the parties' agreement, confidential information disclosed to a mediator by the parties or by other participants (witnesses) in the course of the mediation shall not be divulged by the mediator. The mediator shall maintain the confidentiality of all information obtained in the mediation, and all records, reports, or other documents received by a mediator while serving in that capacity shall be confidential.

The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding the following, unless agreed to by the parties or required by applicable law:

Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute;

Admissions made by a party or other participant in the course of the mediation proceedings;

Proposals made or views expressed by the mediator; or

The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

12. MM AND MEDIATOR NOT ACTING AS LEGAL COUNSEL OR EXPERT

MM and the mediator are not a legal representative of any party and have no fiduciary duty to any party. During the mediation and thereafter, neither MM nor the Mediator will act as legal counsel or legal representative for any of the parties; and neither MM nor the Mediator has a duty to assert, analyze or protect any legal right or obligation, including lien rights, statutes of limitation, or any other time limit or claim requirement. Nor will MM or the Mediator have the power or authority to compel a party to participate in mediation.

13. TERMINATION

The mediation shall be terminated in any of the following circumstances: By a settlement agreement between the parties; by a declaration by the Mediator to the effect that, in his or her judgment, further efforts at mediation would likely prove futile; by a declaration by any party that they wish to terminate the mediation; and/or when there has been no communication between the mediator and any party or party's representative for 21 days following the conclusion of the mediation conference.

14. EXCLUSION OF LIABILITY

Neither MM, nor any mediator is a necessary party in judicial proceedings relating to the mediation. Neither MM nor any mediator shall be liable to any party for any error, act, or omission in connection with any mediation conducted under these procedures.

15. ISLAMIC ETIQUETTES THAT PARTIES ARE EXPECTED TO MAINTAIN

- a.** All the parties, without any exception, should have sincere intention to try and achieve a solution for their disputes. If they are Muslims, they should depend on Allah (SWT).
- b.** Parties should be careful not to tell a lie in their discussions and during the mediation. They should also be careful not to cheat/lie in providing supporting documents.
- c.** Parties should not abandon their brotherly relationship following the possible settlement of their disputes, if they are Muslims.
- d.** Parties should not neglect their blood relationship following the settlement of their disputes, if they have this type of relationship.

- e. Parties should strive to forgive each other unless it is related to a worldly interest such as right of a piece of land. However, this type of right also can be forgiven, if the right owner wants to do so.
- f. Parties should not harm each other: Parties should not insult each other. Parties should not disclose shortcomings or faults of each other during mediation which have nothing to do with the issue under mediation. They should not hate each other. They should not give bad names or titles to each other. They should respect each other during the time of mediation.
- g. If the conflict is related to the right of the conflicting parties such as the right of a piece of land for example, the mediator is advised to warn them about the consequences of wrong ownership in the Day of Judgment.
- h. Once the settlement is completed, they should try and forget the past and intend to have a new start for maintaining good brotherly relationship among themselves.
- i. None of the parties should consider himself/herself free from committing mistakes and shortcomings because this quality belongs to Allah (SWT).