

AGREEMENT TO MEDIATE

BETWEEN

AND

It is agreed that:

- 1. The parties shall endeavour to settle the dispute referred to in clause 2 by mediation.
- 2. The dispute concerns [.....].
- 3. The mediator shall be [.....].
- 4. The mediator shall endeavour to assist the parties to settle the dispute by reaching consensus. The Mediator will meet with the participants separately and jointly in order to develop the Mediator’s understanding of each participant’s view, and to facilitate mutual understanding and agreement between the parties.
- 5. The Mediator’s role is as a facilitator. The Mediator acts in an impartial and neutral manner and does not give legal advice, or make any findings or recommendations.
- 6. The mediator has the discretion to conduct the mediation of the dispute in such manner as the mediator determines.
- 7. The parties will abide by all decisions of the mediator regarding the administration, process and conduct of the mediation, which shall be done in a manner which ensures expedition and which is as cost effective as the nature of the dispute permits.
- 8. Each party undertakes to cooperate in good faith with the mediator.
- 9. The mediation procedure will be conducted on a without prejudice basis.
- 10. Any information produced or received, whether in a document prepared for the mediation or written or spoken during the mediation, is confidential. It can only be used for the purpose of the mediation and cannot be repeated or referred to in any formal investigation, grievance, disciplinary, court action or other proceedings. This does not apply to any information which would in any event have been admissible or disclosable in any such proceedings or which is necessary to implement any agreement arising out of the mediation. The participants agree

that they will not call the Mediator to give evidence in any formal investigation, grievance, disciplinary, court action or other proceedings, nor ask to see the Mediator's notes.

11. The mediation is a voluntary process, and the Mediator or any of the Participants may terminate the mediation at any time, but not before discussing this with the mediator, and only after:
 - 11.1 a party gives written notice of withdrawal from the mediation, provided that the mediator has been given a reasonable opportunity to mediate
 - 11.2 the mediator gives written notice stating that there is no reasonable prospect of a settlement
 - 11.3 the parties conclude a settlement agreement.
12. In the event that a settlement agreement is not reached, the parties' rights shall not be prejudiced and the matter can be referred elsewhere.
13. Any agreed outcomes or future actions emerging from the mediation may be recorded in a settlement agreement signed by the participants as a record for themselves and, if they all agree, as information for the organisation. The Mediator will assist the parties in the preparation of such a document.
14. The settlement agreement will be final and binding.
15. The mediation shall be administered by the WITS Transformation and Employment Equity Office.

Signed at _____ on _____

PARTY A _____

PARTY B _____

Acceptance by the mediator

I accept the appointment as mediator on the terms of this mediation agreement.

Mediator