

# CAPITAL CITY MEDIATIONS, LLC

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## CASE EVALUATION AGREEMENT

\_\_\_\_\_ hereinafter the (“Captioned Case”)

This Agreement effective this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ is by and between Capital City Mediations, LLC and \_\_\_\_\_ (“Client”).

**For good and valuable consideration, the adequacy of which is hereby acknowledged by the parties to this Agreement and by mutual promises, Capital City Mediations, LLC (hereinafter “CCM” or the “Case Evaluator”), and the undersigned parties hereby agree that CCM will provide case evaluation services as an independent consulting firm as follows:**

### **1. CASE EVALUATOR’S ROLE**

The Case Evaluator agrees to conduct case evaluation services for Client with commercially reasonable care based on information provided. However, the parties agree that CCM cannot and does not guarantee a particular outcome in the subject case which is being evaluated. Nor does CCM take responsibility to verify the accuracy of information provided by Client to CCM. The case evaluators are not attorneys. Consequently, all case evaluations provided by CCM do not constitute the giving of legal advice and should be carefully reviewed by an attorney. Information contained in the case evaluation expresses the opinion of the Case Evaluator, but CCM assumes no responsibility for the management of the Captioned Case. Client agrees that it is responsible for all aspects of litigation of the Captioned Case, including, but not limited to, substantive and procedural requirements, court appearances, preparing and the filing of documents, pleadings or any other aspects of managing the case.

### **2. CASE EVALUATION RATES AND FEES**

Subject to the minimum retainer amount stated below, the fees for services will be charged at \$150.00 per hour, which shall include conference time for review of written documents and memoranda. Non-session fees, which may include case evaluation preparation, document review, and necessary follow-up services, will also be billed at the professional hourly fee stated above. The parties agree to pay the non-refundable Retainer Fee of \$2500.00 at the time the Captioned Case is assigned for case evaluation. The retainer fee shall be deemed earned as a minimum consultation and service fee.

3. **ADDITIONAL FEES AND COSTS**

Client shall reimburse CCM for postage, photocopying, travel and other expenses which have been authorized in advance, in writing.

4. **HOW OUR FEES WILL BE SET**

Rebekah Ratliff will have primary responsibility for your account on behalf of CCM. Generally, our fees are based on the time spent by the case evaluator who works on the matter. The Case Evaluator will charge for all time spent in providing case evaluations on Client's behalf, including, by way of illustration, telephone and office conferences with Client and Client's representatives, consultants (if any), opposing counsel, and others; research; responding to your requests for CCM to provide information to Client in connection with reviews or evaluations; drafting evaluations and related documents and travel, if any. CCM will keep accurate records of the time CCM devotes to Client's work in units of quarters of an hour.

The hourly rates of our Case Evaluators are reviewed and generally adjusted periodically to reflect current levels of case evaluation experience, changes in overhead costs, and other factors. Although CCM may from time to time, at the Client's request, furnish estimates of case evaluation fees and other charges that CCM anticipates will be incurred, these estimates are by their nature inexact (due to unforeseeable circumstances) and, therefore, the actual fees and charges ultimately billed may vary from such estimates.

5. **CONFIDENTIAL AND PRIVILEGED**

All that occurs during the case evaluation process shall be confidential and shall not be revealed to any third parties by CCM. The parties hereto agree not to subpoena CCM to testify or produce any records or do anything, at any future legal proceedings pertaining to the Captioned Case. If Client does so, Client hereby agrees to indemnify and hold harmless, CCM including the individual serving in the role of case evaluator on behalf of CCM, for any liability, expense and cost, including attorney fees, incurred by CCM, or the individual serving in the role of case evaluator on behalf of CCM as a result of such action.

6. **CONFLICTS OF INTEREST**

The Case Evaluator has, to the best of its knowledge, disclosed to the parties any prior dealings the Case Evaluator has had with any party or any competing interest in connection with the Captioned Case. If, in the course of its work on behalf of Client, the Case Evaluator becomes aware of any circumstances that might reasonably be considered to affect its capacity to act in Client's interest, the Case Evaluator will immediately inform Client of those circumstances. The parties will then confer and, if agreed, continue with the case evaluation or terminate the case evaluation engagement.

7. **EXCLUSION OF AND LIMITATION LIABILITY AND INDEMNIFICATION**

CCM or any individual serving as a case evaluator on behalf of CCM, will not be liable to Client, except in the case of gross negligence or fraud by CCM, for any act or omission by CCM or any individual serving as a case evaluator on behalf of CCM in the performance or purported performance of CCM's obligations under this Agreement. Client agrees to work for the release of CCM or any individual serving as a case evaluator on behalf of CCM, from any third party claims and indemnifies CCM or any individual serving as a case evaluator on behalf of CCM, against all claims by third parties of any liability of any kind whatsoever (whether involving alleged negligence or not) arising out of or in any way involving any act or omission (except fraud) by CCM or any individual serving as a case evaluator on behalf of CCM, in the performance or purported performance of CCM's obligations under this Agreement. CCM assumes no responsibility for the outcome of the Captioned Case above and shall not be liable for any direct, indirect, special, consequential or incidental damages, including without limitation, lost profits, lost fees or other revenues, costs or losses, arising out of or related to the use of the case evaluations provided under this Agreement. All information is the case evaluations provided pursuant to this Agreement are provided without any special warranty of any kind expressed or implied as to the outcome of the Captioned Case. Further, Client hereby agrees that the limit of liability of CCM for any case evaluation provided to Client shall be the amount paid for such case evaluation. Such limit of liability shall be deemed pre-negotiated liquidated damages between the parties to this Agreement.

8. **LIMITED RELIANCE**

The case evaluation produced by CCM may be used or relied only by Client and solely for the Captioned Case being evaluated. Further, such case evaluations speak only as of the date on which it is issued. The Case Evaluator has no obligation to update the case evaluation for applicability to Client or to take into account changes in the law or changes in the facts or any other developments that may occur after the case evaluation issue date.

9. **DISPUTE RESOLUTION**

Should any dispute arise concerning the services provided to Client by CCM or the statements forwarded to Client, Client and CCM shall first try in good faith to settle the dispute directly. If the dispute is not resolved, it shall be submitted to third party neutral facilitation in accordance with the mediation rules of the American Arbitration Association. If the Dispute is not resolved through mediation, the Dispute shall be settled by binding arbitration in accordance with the laws of the State of Georgia. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association except as modified here. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The mediation and arbitration proceedings, including any hearings, shall be held in the Atlanta Metropolitan area. Both Client and CCM agree that neither party is entitled to or shall request or claim punitive or exemplary damages and that the arbitrators shall not have the authority to award punitive or

exemplary damages or any other damages in excess of damages allowed under this Agreement.

**IN WITNESS WHEREOF**, the parties have signed this Case Evaluation Agreement and agree to the terms and conditions stated above.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CAPITAL CITY MEDIATIONS, LLC**

Signature: \_\_\_\_\_

Print Name: Rebekah Ratliff

Title: President

Signed by _____ representing _____	
(print name)	(name party)
on _____ in _____	
(date)	(city, province)
_____ Signature	_____ Email address