

# DISPUTE RESOLUTION BOARD

## MEDIATION RULES AND PROCEDURES

### **Definitions:**

1. “Board” is the Dispute Resolution Board
2. “Days” refers to regular business days and does not include weekends or statutory holidays;
3. “Mediator” refers to a person who meets the Dispute Resolution Board mediator criteria and is included on the Dispute Resolution Board roster;
4. “Notice” is written notice delivered to the Board and to each party to a dispute;
5. “Roster” refers to a list of mediators chosen by the Dispute Resolution Board and as amended from time to time;

### **Location:**

1. Any mediations, facilitated by the Dispute Resolution Board, will usually take place in Whitehorse, Yukon Territory. The Dispute Resolution Board may however, authorize mediation to take place in other locations throughout the Territory, having regard for the parties and issues involved in a particular matter.

### **Eligibility:**

2. A party to a Settlement Agreement may refer any of the following matters to mediation pursuant to section 26.6.0 of the Umbrella Final Agreement and the rules and procedures adopted there under by the Dispute Resolution Board:
  - any matter which the Umbrella Final Agreement refers to the dispute resolution process;
  - any matter which a Settlement Agreement, a Yukon First Nation self-government agreement, or any other agreement between the parties to a Yukon First Nation Final Agreement refers to the dispute resolution process;
  - any other matter which at any time all parties to a Settlement Agreement agree should be referred to the dispute resolution process whether or not related to a Settlement Agreement;
  - any matter which a board listed in Section 2.12.0 of the Umbrella Final Agreement and established pursuant to a Settlement

Agreement, acting pursuant to its rules and procedures directs to mediation under the dispute resolution process; and

- any matter arising out of the interpretation, administration, or implementation of that Settlement Agreement, with the consent of all the other parties to that Settlement Agreement, whether the dispute is among the parties to the Settlement Agreement or not.

**3.** Each party to a Settlement Agreement has a right to be a Party to a dispute arising out of that Settlement Agreement.

**4.** Any person whose interests, in the opinion of the mediator, will be adversely affected by a dispute referred to mediation has a right to participate in the mediation on such terms as the mediator may establish.

### **Procedure(s):**

**5.** Any party requesting the dispute resolution process may do so by providing Notice to each of the other parties to the dispute, as well as to the Dispute Resolution Board.

**6.** Upon receipt of Notice, the Board shall contact all parties to the dispute and ascertain their willingness to proceed to mediation.

**7.** Upon confirmation of the cooperation of all the necessary parties to a dispute, the Board shall provide each party with the same list of qualified persons who may act as mediators.

**8.** The parties to a dispute, referred to mediation, shall choose a mediator from the list provided by the Board, within 15 business days of receipt of the list of mediators and inform the Board, in writing, of their choice.

**9.** In the event that the parties cannot agree on a mediator from the list provided by the Board within 15 days, a mediator will be appointed by the Board.

**10.** The mediator, once chosen or appointed, will arrange to meet the parties, prepare and proceed with the mediation as soon as is mutually convenient to the parties to the dispute.

**11.** In preparation for the mediation, the Dispute Resolution Board will provide each of the parties with a Disclosure Form 1. Each party will be requested to complete the Disclosure Form 1 and provide it to the mediator.

**12.** The mediator will arrange to have the parties enter into a written Mediation Agreement which will outline the mediation process, rules, fee and expense structure to which the parties agree.

**13.** The first four hours of the mediator's fees shall be the responsibility of the Dispute Resolution Board. Thereafter, the mediator's fees shall be borne equally by the parties to the mediation.

**14.** The mediation **shall not extend beyond four hours** unless the mediator and the parties to the dispute agree to continue with the process.

**15.** Upon the completion or cessation of the mediation, the mediator may choose to provide the parties with a brief, non-binding written recommendation regarding the dispute. The mediator will provide such a written recommendation to the parties upon their request to do so.

**16.** The mediation and any recommendations of the mediator shall be confidential unless the parties to the mediation otherwise agree.

**17.** Upon the completion or cessation of the mediation, the mediator shall file a report with the Board in Form 2 which shall include a brief outline of the parties, the dispute, and the resolution, if any. The Report in Form 2 is intended as a record for the Dispute Resolution Board and shall not contravene the confidentiality of the parties to the mediation.

**18.** The costs of any mediation pursuant to section 26.4.1.4 shall be determined by the Board.

**19.** The mediator will advise the Board of any facilities, travel expenses or disbursements that may be required to carry out the mediation. The parties to the mediation may make application to the Board for the approval of additional expenses, including but not limited to preparation work, travel expenses and disbursements. The Board must approve all such expenditures prior to them being made.

**20.** These Rules and Procedures may be amended from time to time by unanimous decision of the Board.

**Dispute Resolution Board Documents:**

Roster of Mediators

Form 1 – Disclosure Form

Form 2 – Mediators Report

Last Updated: May 10, 2006