



**AGREEMENT TO MEDIATE**

Lender: \_\_\_\_\_

Borrower(s): \_\_\_\_\_

Mediator: \_\_\_\_\_

Mediation date & time: \_\_\_\_\_

Mediation Case No.: \_\_\_\_\_

Court Case No.: \_\_\_\_\_

We agree to allow \_\_\_\_\_ to serve as our mediator. In mediation, two or more participants negotiate to solve their problem with the help of a neutral third party. The mediator assists by helping the parties define their needs and interests, by generating options that meet those needs, and evaluating those options so they select the best one. In this Agreement, we refer to ourselves as the “Parties,” or “We.”

1. Mediation is Voluntary. We understand that mediation is a voluntary process. No one will be forced to agree to any settlement. Agreements will only be signed if all of the interested parties give their consent to the terms of the Agreement. We understand that participation in mediation does not guarantee that an agreement will be reached. The mediator may suspend or terminate the mediation if, for example : (1) the mediation will lead to an unjust or unreasonable result: (2) further efforts at mediation are not likely to bring about a resolution, or (3) the mediator can no longer effectively perform a facilitative role.

2. Scope of Subject Matter. The mediation session may include negotiation of a modification of the homeowner’s loan, whether by new payment terms, reduction or forgiveness in principal, interest, escrow shortage or advanced costs, surrender or sale of the mortgaged property or otherwise. Disputes of the amount due, application of payments, or other claims are within the scope of mediation only if both parties expressly make such election.

3. No Loss of Legal Rights. We understand that we are not giving up any legal rights or options by engaging in the mediation process. If we are unable to resolve this case, we are in the same legal position as we would have been had we not participated in mediation at all.

4. The Role of the Mediator. We understand that the mediator has no power to decide issues for us. The mediator has an obligation to work on behalf of all parties and cannot give individual legal advice to any one of us. Mediation is not a substitution for independent legal advice. We accept responsibility for representing ourselves or seeking legal advice, if desired. We give the mediator permission to discuss the mediation process with our attorney, but the mediator will engage in negotiation with the attorney only if we tell the mediator that the attorney has negotiating authority. The mediator accepts NO responsibility for the terms of the agreement reached.

5. Legal Representation. The Parties have the right to be represented by attorneys of their choice before and during the mediation process including upon agreeing to a settlement, and understand that the parties should have the settlement agreement independently reviewed by their own counsel prior to its execution. Any Party to the mediation may be accompanied by person(s) of the Party’s choice with the consent of the mediator and the other Parties. These person(s) may or may not be attorneys or advocates.

6. The Role of the Parties. We agree to mediate in good faith in an attempt to resolve the existing dispute. The lender’s representative must have either authority to make a final decision on the modification request or access to an underwriter and/or investor with such authority. This also means that we agree to disclose, fully and accurately, all relevant information and writings, if the mediator determines that disclosure is relevant to the mediation discussions.

The mediator will designate the time and location of the mediation session so that it is convenient and acceptable to all Parties.

7. Mediation is Confidential. Wisconsin Statutes shall govern the confidentiality of the mediation process as set forth in Section 904.085. The Parties and mediator shall maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any subsequent proceeding, whether that proceeding is judicial, administrative, or arbitral, any of the following:

- a. views or suggestions made by another party with respect to a possible settlement of the dispute;
- b. admissions made by another party in the course of the mediations proceedings;
- c. proposals made or views expressed by the mediator; or
- d. the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

The parties may not subpoena the mediator, the records of the mediator session, or any other persons involved in the Wisconsin Foreclosure Mediation Network (“WFMN”).

8. Separate Mediation Meetings. The mediator may meet with us jointly or separately. These private sessions or “caucuses” often improve the mediator’s understanding of our viewpoints. Information gathered by the mediator through such a private session is confidential, unless the participant agrees to have it disclosed in a joint session.

9. Close of Mediation. The Mediator shall cause the mediation process to conclude when:

- a. The homeowner has withdrawn from the mediation process,
- b. The Lender has reached a determination about the Homeowner’s eligibility for a loan modification and the Homeowner has been afforded an opportunity to discuss the determination during a mediation session, or
- c. The Homeowner has failed, after 10 business days, to supply information or documents identified as outstanding by the Lender and the Lender has requested that mediation be closed.

10. Mandatory Reporters. Mediators are by law mandatory reporters. That means they are required to report incidences of bodily harm and other criminal activity, or threats of future bodily harm made by or on behalf of either party. This includes threats made against either party, or persons not present during the mediation session.

11. Authorization for Research and Evaluation. The WFMN receives funding from the Wisconsin Department of Justice and as such, may desire to use anonymous aggregate case file information for the purpose of evaluating services, gathering valuable research information, designing future programs and engaging in academic research, analysis and publication. The parties agree to such use.

12. Exclusion of Liability. The mediator is not a necessary party in any subsequent proceeding relating to the mediation. Neither the WFMN, the Metro Milwaukee Foreclosure Mediation Program, Wisconsin Foreclosure Mediation Services, Inc., nor any individual nor entity working with any of these entities, nor any mediator shall be liable to any Party to this Agreement for any action or omission made in connection with any



mediation conducted under this Agreement. If any Party attempts to, or does bring such a claim, the Party agrees to indemnify the mediator, the Metro Milwaukee Foreclosure Mediation Program and any individual or entity working with the WFMN from any loss or damage, including costs and attorney's fees, incurred in connection with such claim.

13. Expenses. Each Party shall pay the required fee to the Wisconsin Foreclosure Mediation Network for mediation services. Neither the mediator, nor MMFMP or WFMN, will pay for any Party's attorney fees.

**I HAVE READ AND UNDERSTAND THIS MEDIATION AGREEMENT  
AND, BY MY SIGNATURE, AGREE TO ABIDE BY ITS TERMS.**

\_\_\_\_\_  
Attorney for Lender signing on behalf of Lender  
and on their own behalf

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Borrower

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Attendee

\_\_\_\_\_  
Date

Mediator's Disclosure of Financial Interests:

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
Date