

AGREEMENT TO MEDIATE

This is an agreement between the Center for Resolution of Disputes, Inc. (hereafter "the Center"); _____ and _____ (hereafter identified as "the parties" or "party"). These parties are involved in a dispute, which they wish to submit to mediation.

1) Mediation is a structured problem-solving process in which a neutral, impartial third person or persons assists the parties to the dispute to reach a voluntary agreement to resolve the dispute. The mediator facilitates the negotiations, but does not impose his or her views of what the agreement should be.

2) The mediation process is voluntary and non-binding. Any party may withdraw at any time by notifying the mediator and the other party or parties in writing of its intent to withdraw. If the mediation is court-ordered, permission from the court may be required. While participating in mediation, each party agrees to make a good faith attempt to settle this dispute through mediation, to cooperate with the mediator, and to be open, candid and complete in its efforts to resolve the dispute.

3) The Center has assigned _____ to mediate this dispute. A different mediator or mediators may be assigned if a party advises the Center's President of circumstances which would cause reasonable doubt regarding the impartiality of the assigned mediator.

4) The parties agree that the Center shall be compensated at a rate of _____ Hundred and No/100 Dollars per hour () for mediation services. The Center requires a retainer for ____ () hours which equals \$_____0.00. The retainer and fee shall be divided as follows: _____. The retainer will be deposited in the Center's escrow account and shall be withdrawn as earned. The Center's escrow account is an interest bearing account; the parties agree that the Center shall be entitled to keep the interest. The Center shall be compensated at the hourly rate for preparation time before and during the process, for travel time to and from a mediation site not in Greater Cincinnati, for time spent with the parties and/or their attorneys in joint or separate sessions or contacts, for telephone conferences, and for drafting agreements or memoranda recording the agreements reached between the parties. Travel expenses will be reimbursed. Interest at a rate of 1 1/2% per month shall be charged on any balance which is overdue for thirty days.

- 5) The mediator will control the procedural aspects of the mediation. There will be no direct communication between the parties or between their attorneys without the concurrence of the mediator. The mediator will be free to meet and communicate separately with each party and their attorneys. The mediator will decide when to hold joint and/or separate meetings with the parties and shall, in consultation with the parties, fix the time, place and agenda of each session.
- 6) Each party may be represented by an attorney and other representatives, provided that at least one representative of each party is authorized to negotiate a settlement of the dispute and, provided that that representative participates throughout the mediation process. If attorneys and principals are participating, the mediator, after consultation with the participants, may conduct sessions with just the principals, just the attorneys, or both principals and attorneys present.
- 7) This mediation is subject to the provisions of the Uniform Mediation Act (“UMA”) as adopted in Ohio in Ohio Revised Code §§ 2710.01 *et seq.* To the extent the confidentiality provisions contained in this Agreement are found to be different from or inconsistent with the UMA, the more stringent and restrictive of the provisions shall apply. The parties and the mediator shall not disclose to third parties information about proposals made during the mediation process, settlement terms or, in the case of impasse, the reasons for the impasse, unless the parties agree. The parties agree not to call the mediator to testify as a witness, consultant or expert in any pending or future action relating to the subject matter of the mediation. The parties agree that they will not seek to introduce for any purpose evidence of a statement made or of conduct during mediation at any hearing or trial that may later be held between the parties. The parties also agree that they will not seek to introduce, for any purpose, a document prepared, submitted or exchanged in mediation that is not otherwise discoverable. The mediator will not transmit information given to him/her by any party to another party if requested not to do so.
- 8) The mediator will not provide legal advice or legal representation for any party. All parties are expected and encouraged to retain their own legal counsel and to withhold final approval of an agreement until they are advised by their counsel.
- 9) The mediator may obtain assistance and independent expert advice with the agreement of and at the expense of the parties. Experts shall be bound and protected by

the same rules of confidentiality as those which apply to the mediator and the parties (See paragraph 7 above).

10) Each party will submit to the mediator such material and information as it deems necessary to familiarize the mediator with the dispute. Submissions may be made in writing and orally. The mediator may request any party to provide clarification and additional information. The mediator may request each party, separately or at a joint meeting, to present its case informally to the mediator.

11) Efforts to reach a settlement will continue until (a) a settlement is reached; (b) one of the parties withdraws from the process (if the mediation is court-ordered, consent by the Court for a party to withdraw may be required); or the mediator concludes and informs the parties that further efforts would not be useful.

12) If the parties should fail to develop mutually acceptable settlement terms, the mediator may, before terminating the procedure, submit to the parties a final settlement proposal which he/she considers equitable to all parties. The parties will carefully consider any such proposal, and at the request of the mediator will discuss the proposal with him/her.

13) If a settlement is reached, the parties, or the mediator if requested by the parties, will draft a written settlement document incorporating all settlement terms. This draft will be reviewed by the parties and their attorneys, and, if acceptable, formally executed.

14) Additional rules and procedures for the mediation may be negotiated and agreed upon by the mediator(s) and the parties at any time during the mediation process.

This Agreement is signed by the party or parties and an authorized representative of the

Center for Resolution of Disputes, Inc. on the _____ day of _____, 200__.

Center for Resolution of Disputes, Inc.

by: _____