

## CONFIDENTIALITY AGREEMENT

This Agreement is entered into this \_\_\_\_\_ of \_\_\_\_\_, 200\_, by and between the parties signing below.

As the parties acknowledge that they are currently engaged in a dispute concerning certain matters that they wish to resolve in a cooperative fashion; and as the parties wish to promote communication among themselves to achieve a resolution of the dispute, the parties engage the services of Name of Mediator to act as mediator.

1. The mediator serves as a neutral intermediary and shall not act as an advocate for any party, nor shall the mediator provide any legal advice whatsoever.
2. The mediation session shall be private.
3. All records, reports or other documents considered by the mediator shall be confidential. Notwithstanding the foregoing, any evidence known to or in the possession of any of the parties prior to the mediation and otherwise admissible or subject to discovery independent of the mediation shall not be excluded from discovery or admission into evidence or otherwise considered confidential or privileged simply as a result of it having been used in connection with the mediation process.
4. The parties agree that all state and federal rules protecting from later discovery or use in evidence all disclosures made during settlement negotiations shall apply to any mediation conducted hereunder.
5. Any statements whatsoever made in the course of the mediation are not admissible in evidence, and disclosure of any such evidence shall not be compelled in any later civil or administrative proceeding.
6. Unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to the mediation is admissible in evidence, and disclosure of any such document shall not be compelled in any later civil or administrative proceeding.
7. The parties agree that the mediator shall not be compelled to divulge confidential materials or testify about the mediation in any later civil or administrative proceeding.
8. The parties agree to maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any later civil or administrative proceeding the following:
  - (a) views expressed or suggestions made by a party with respect to a possible settlement of the dispute;
  - (b) admissions made in the course of the mediation proceedings;
  - (c) proposals made or views expressed by the mediator or the response of any party, and
  - (d) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

9. These provisions shall apply to anything said, done or occurring in the course of the mediation, including any private caucus or discussions between the mediator and any party or counsel before or after the joint mediation session.
10. All conduct, statements, promises, offers, views, and opinions, whether oral or written, made during the mediation by any party or party's agent, employee, or attorney are confidential and, where appropriate, are to be considered work product and privileged, and as such shall not be subject to discovery or admissible for any purpose, including impeachment, in any proceeding involving the parties. However, any evidence that is discoverable independent of the mediation shall not have the privilege protection simply because such evidence was part of a mediation settlement process.

AGREEMENT ENTERED INTO BY:

Party A: \_\_\_\_\_

Date: \_\_\_\_\_

Party B: \_\_\_\_\_

Date: \_\_\_\_\_

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