

AGREEMENT TO MEDIATE

1. Each of the undersigned parties agrees to engage in mediation of the dispute between them in good faith, and that it has the authority to make agreements to resolve this matter on such terms as may be agreeable to that party.
2. The mediator agrees to exercise his best efforts to bring the parties together to resolve their differences in a manner acceptable to them, without any bias or prejudice.
3. Each of the parties acknowledges that the discussions which occur during mediation are expressly for the purposes of settlement discussions, and that neither party shall introduce as evidence, or attempt to introduce as evidence, any of the statements of any party, counsel, or mediator.
4. The mediator may from time to time meet with each of the parties separately to discuss the strengths and weaknesses of its case and to determine whether that party is willing to make an offer which may lead to settlement of the dispute. The mediator agrees that he shall not divulge any of the confidences or statements made by the party which whom he is meeting, unless the mediator is authorized to do so. Each of the parties agrees to identify for the mediator those specific confidences which shall not be divulged in the course of mediation. It is specifically understood that the mediator does not and will not provide any legal advice to any party upon which it may rely, and that any such advice must be obtained from independent counsel.
5. Each of the undersigned specifically acknowledges and agrees that all statements or communications, written or oral, made by the parties during the course of mediation are strictly confidential. Each party agrees that it shall not repeat or publish any spoken remarks or statements to any person or party outside of the course of mediation. All discussions, including without limitation, offers, position statements, references to evidence of any kind, as well as the statements of the mediator, shall not be republished and are specifically subject to ER 408 of the Washington Rules of Evidence and Rules 408 through 507 of the Federal Rules of Evidence.
6. Each of the undersigned covenants and promises that it will not record or attempt to record or make any electronic memorialization of the mediation discussions or any meeting with the mediator. In the event that any person, whether a party to the mediation or not, makes any such recording or electronic memorialization, the undersigned agrees that it shall be the property of the mediator and that any such recording or electronic memorialization shall promptly be delivered to him upon his written or oral demand.
7. Each of the parties expressly agrees that the mediator is not a party or participant in this lawsuit. The mediator is a third-party neutral whose sole function is to try to facilitate a discussion between the parties that may lead to the resolution of their disputes and

further involvement in the legal system. Each party expressly acknowledges and understands that a third-party neutral is a person such as a mediator who assists the parties, represented or unrepresented, in the resolution of a dispute or in the arrangement of a transaction, and that the mediator does not represent any party to or participant in the mediation proceedings.

8. Each of the parties expressly agrees that the statements and comments of the mediator are not to be construed as legal advice to any or both of the parties. Each party further agrees that under no circumstances shall the mediator be called as a witness in this proceeding, nor shall he be required to divulge any statement or comment made during the mediation by any party to or participant in the mediation proceedings. If the mediator is ordered to attend court, the party demanding his attendance shall pay him the sum of \$300 per hour for his time.
9. The mediator agrees to provide the above-described professional services for a flat fee of Two Thousand Five Hundred Dollars (\$2,500.00). Plaintiff shall pay one-half (1/2) and Defendant shall pay one-half (1/2) of the flat fee, which shall be paid prior to the mediation proceedings unless the mediator expressly agrees in writing to other payment arrangements.

PLAINTIFF

DEFENDANT

Plaintiff

Defendant

Attorney for Plaintiff

Attorney for Defendant

MEDIATOR

**THE UNDERSIGNED HEREBY ACKNOWLEDGES PARAGRAPHS 5 AND 6,
AND AGREES TO BE BOUND THEREBY;**
