

24 Elba Street

Brookline, MA 02446-6759

Phone: 617-734-3278 Fax: 617-738-6946

mli@markirvings.com www.markirvings.com

## **AGREEMENT FOR MEDIATION**

The undersigned agree to participate in mediation, and to retain Mark L. Irvings to serve as the impartial mediator, under the following conditions:

1. The mediator's goal is to help the parties reach a settlement that the parties feel is reasonable under the circumstances. The mediator does not represent a party, does not provide legal advice or counsel, or make any decisions which are binding on the parties. All decisions are made by the parties and their counsel.
2. The mediation sessions are private and shall not be recorded, either on tape or by a stenographer.
3. To encourage and protect the candid exchange of information and ideas, the mediation is a confidential proceeding. Under this agreement, all aspects of the mediation, including all oral and/or written communications between and among the participants and the mediator, with the exception of a signed memorandum of agreement, shall not be subject to disclosure in any judicial or administrative proceeding. No participant may subpoena the mediator or his notes in any proceeding. Any participant who violates this confidentiality agreement shall indemnify the mediator for any costs incurred by the mediator related to enforcing this agreement. With the exception of any oral and/or written communication between a participant and the mediator, any documents or other written, graphic or physical evidence that would otherwise be discoverable or admissible in the absence of mediation shall not be rendered inadmissible or undiscoverable by its presentation in the mediation.
4. The mediator shall not be liable to any participant for any act or omission in connection with the administration and mediation of this dispute.
5. All parties necessary to the resolution of this case shall be present at the mediation. This means that people with knowledge of the dispute and people with the necessary authority to settle shall attend. Any exceptions to this rule shall be arranged between the parties and their counsel in advance. If a party comes to a mediation session without a necessary person, and without having attained the agreement of the other side, that party shall pay the full cost of the scheduled session. If a party postpones or cancels a mediation session with less than two weeks notice, that party shall be liable for the entire fee for that session.
6. While the mediation is proceeding, the participants and their counsel will not communicate directly regarding settlement proposals without first notifying the mediator.
7. If the dispute is resolved, a written agreement shall be drafted and signed by the parties. If a suit or complaint is currently pending, plaintiff's counsel shall be responsible for filing the

necessary papers with the clerk of the appropriate court or agency to dismiss or withdraw the suit or complaint with prejudice.

8. The mediator's fee is \$700 per hour, with a minimum of six hours, for all time spent in administration, preparation, and mediation of the case, as well as travel time in excess of one hour. Actual travel expenses will be billed. The fee shall be shared equally by the parties, unless they agree to a different arrangement.

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