

AGREEMENT TO MEDIATE

This is an agreement between the following parties:

_____ and _____

all hereinafter referred to as “parties,” which may include any attorneys representing a party, and Mary Ryan Fenlon, Esq., the mediator, to enter into mediation with the intent of resolving disputed issues.

The parties and Ms. Fenlon understand and agree as follows:

1. Nature of Mediation

The parties hereby engage Mary Ryan Fenlon, Esq. as the mediator. The parties understand that mediation is a voluntary process in which the mediator assists the parties in reaching an agreement in a collaborative, consensual and informed manner. It is understood that the mediator has no power to decide disputed issues for the parties. The parties understand that mediation is not a substitute for independent legal advice. The parties have secured attorneys for such advice throughout the mediation process and prior to signing any agreement. The parties understand that the mediator’s objective is to facilitate the parties themselves to reach a mutually-acceptable agreement.

2. Scope of Mediation

The parties understand that it is for the parties, with the mediator’s concurrence, to determine the scope of the mediation and this will be accomplished early in the mediation process.

3. Mediation is Voluntary

All parties here state their intention is to negotiate in good faith in an effort to achieve a mutually-acceptable agreement. It is, however, understood that any party may withdraw from or suspend the mediation at any time, for any reason.

The parties also understand that the mediator may suspend or terminate the mediation if she feels that the mediation will lead to an unjust or unreasonable result, if she feels that an impasse has been reached, or if she determines that she can no longer effectively perform her facilitative role.

4. Confidentiality

It is understood between the parties and Ms. Fenlon that the mediation will be considered a privileged communication in accordance with the Ohio Uniform Mediation Act (Ohio Revised Code Sections 2710.01-2710.10). Mediation discussions, written and oral communications, any draft resolutions, and any unsigned mediated agreements shall not be admissible in any court proceeding unless the parties agree otherwise. Only a mediated agreement, signed by the parties may be so admissible. The parties further agree to not call the mediator to testify concerning the mediation or to provide any materials from the mediation in any court proceeding between the parties. The mediation is further considered by the parties and the mediator as settlement negotiations. The parties understand Ms. Fenlon has an ethical responsibility to break confidentiality if any of the statutory exceptions in the Ohio Uniform Mediation Act arise. All parties and their legal counsel should be familiar with the provisions of the Ohio Uniform Mediation Act.

5. Mediator Impartiality

The parties understand that the mediator must remain impartial throughout and after the mediation process. Thus, she shall not champion the interests of any party over another in the mediation or in any court or other

proceeding. Ms. Fenlon may communicate separately with a party, in which case such "caucus" shall be confidential between the mediator and the party unless the party grants permission otherwise.

Ms. Fenlon shall disclose any potential conflicts of interests. If the mediator becomes aware of conflicts of interests after initiation of the mediation, she shall promptly disclose the conflict. After any disclosure by her, the parties shall decide whether to continue the mediation or to suspend the mediation and select another mediator.

6. Mediation Fees

The parties and Ms. Fenlon agree that the fee shall be _____per hour, (or by way of another fee structure set forth below), for time spent with the parties and for time required to study documents, research issues, correspond, telephone calls, prepare draft and final agreements, and do such other things as may be reasonably necessary to facilitate the parties' reaching full agreement.

The parties shall be jointly and severally liable for Ms. Fenlon's fees and expenses unless agreed otherwise.

By signing below the parties acknowledge that they have read and understand the terms of this agreement and agree to be bound by its terms.

Party: _____ Date: _____

Party: _____ Date: _____

Mary Ryan Fenlon, Esq: _____ Date: _____