

AGREEMENT to MEDIATE

The undersigned have agreed to participate in a mediation of their dispute conducted by Mediator Anne Bachle Fifer, and agree as follows:

1. Mediation Process. The purpose of this mediation is to allow the parties to discuss the differences between them so as to reach a mutually-agreeable resolution. All actions in connection with this mediation are subject to this Agreement and to applicable provisions of Michigan law, including MCR 2.411. By signing this agreement, it is acknowledged that:

- Participation in this mediation is voluntary, and anyone can terminate this process at any time before an agreement is reached.
- The Mediator has no decision-making authority, and will not impose an outcome on the parties, acting rather to facilitate the communication among the parties and assist them in reaching an agreement.
- The Mediator will conduct this mediation in accordance with the Michigan Standards of Conduct for Mediators.
- The Mediator is authorized to conduct joint and separate communications with the parties during the mediation.
- The Mediator is not acting as an attorney or advocate for any party, and nothing said by the Mediator constitutes legal advice. The parties are free to seek the advice of legal counsel regarding this matter; if they have counsel, their counsel has explained this Agreement to them.
- Should an agreement result from this mediation, the Mediator's only role is to record the terms dictated by the parties; the mediator is not responsible for ensuring that the agreement is complete or enforceable.
- All participants will refrain from bringing weapons of any kind into the mediation.
- In advance of the mediation, counsel and parties will notify Mediator of any circumstances that would raise concerns about the physical or emotional safety of any participant.

2. Confidentiality. In order to encourage full settlement of all matters underlying the dispute, the parties agree that all communications made in connection with this mediation are confidential. This includes any communications between the Mediator and any party as well as communications made in mediation sessions. They are not subject to discovery, are not admissible in a proceeding, and may not be disclosed to anyone other than mediation participants, except as provided in MCR 2.412(D). Exceptions include threats of imminent physical harm or incidents of actual harm that occur during the mediation; allegations of abuse or neglect of children or vulnerable adults; or behavior by an attorney that is contrary to the Michigan Rules of Professional Conduct. Accordingly, parties agree not to record any portion of the mediation with any type of recording device. Evidence that the parties entered into a written settlement agreement during the mediation may be disclosed and is admissible to the extent necessary to enforce the agreement.

3. Exclusion of Mediator Testimony. The parties understand that the Mediator will not voluntarily testify on behalf of a party in any proceeding, nor voluntarily produce any documents or information in the Mediator's possession. Even if all parties agree in writing, the Mediator retains a privilege not to testify. The parties agree not to subpoena the Mediator, her notes or files, or otherwise compel the Mediator to testify in any proceeding related to this mediation, nor to provide a finding as to any fact or issue relating to the mediation. The Mediator will promptly inform all parties if she is ordered or requested to testify, to produce documents or to respond to a court order. A party that is responsible for any court order to the Mediator shall pay the Mediator her hourly rate and reasonable expenses, including attorney fees and administrative costs, to resist the subpoena or to respond to the court order.

4. Mediator's Compensation. The Mediator's compensation shall be shared equally by the undersigned parties. The parties agree to compensate the Mediator at the rate of \$200 per hour for her mediation services, including actual mediation time as well as other case-related work, and \$50 per hour for travel time. The parties will reimburse the Mediator for all costs incurred, such as room rental, mediator mileage, and refreshments. An agreement in mediation that one party will pay any portion of another party's mediation fees does not alter each party's obligation to compensate the Mediator pursuant to this Agreement. Prior to the mediation, each party will deposit \$1,000 with the Mediator as an advance towards that party's anticipated share of the Mediator's compensation, \$200 of which is non-refundable. The balance of the mediator fee, and any additional costs, will be invoiced and due upon receipt of that invoice. Any unused portion of the deposit will be refunded to the parties. Counsel for the parties guarantee payment of all fees and expenses. If the mediation is canceled for any reason, the parties will compensate the Mediator for mediator services performed up to the time of cancellation.

5. Conflict of Interest; Dispute Resolution. The parties and their counsel have disclosed to the Mediator, and the Mediator has disclosed to each of them, all information that each reasonably believes requires disclosure pursuant to MCR 2.411. Any dispute arising between the Mediator and any party or counsel shall be resolved through mediation.

Dated: _____

Dated: _____

By: _____
(Party Signature)

By: _____
(Party Signature)

(Party Name)

(Party Name)

By: _____
(Attorney Signature)

By: _____
(Attorney Signature)

(Attorney Name)

(Attorney Name)