

## AGREEMENT TO MEDIATE – WAIVER AND CONSENT FORM

\_\_\_\_\_ and \_\_\_\_\_  
(collectively referred herein as the “parties”), agree to have \_\_\_\_\_  
\_\_\_\_\_ (hereinafter collectively referred to as “mediator”)  
administer the mediation of their dispute, concerning \_\_\_\_\_,

on the following terms and conditions:

1. The parties are involved in a dispute which they voluntarily wish to submit to mediation. Mediation is a voluntary, structured problem-solving process in which one or more neutral, impartial third persons assist the parties to a dispute in negotiating a voluntary agreement resolving the dispute. The mediator facilitates the negotiations, but does not impose his or her views of what the agreement should be.
2. The mediator believes that the dispute can be resolved. However, because the mediation itself and any agreement resolving the dispute will be the voluntary acts of the parties, the mediator cannot and does not guarantee that the dispute will be resolved.
3. While participating in mediation, each party agrees to make a good faith attempt to reach a reasonable resolution of this dispute through mediation, to cooperate with the mediator and the other parties, to allow the other parties to present their positions without unnecessary interruptions or objections, and to be open, candid and complete in its efforts to resolve the dispute. The mediator assigned to this case agrees to pursue the mediation diligently.
4. The parties understand that the mediator has no authority to decide any case and is not acting as representative, advocate or legal advisor for any party, and is not to provide legal advice to any party involved in mediation. Each party specifically agrees to obtain legal advice on any issue of interest to him/her from their own attorney, and not to rely upon the mediator for such advice.
5. Each party agrees to hold the said mediator harmless for any observations, suggestions, or implications that he/she may make in the course of mediation and/or for any other claim arising from the mediation process. Each party waives any right of action that he/she may have against the mediator for any allegation of wrongful conduct on his/her part while acting in the course of the mediation herein agreed to.
6. The parties have been informed of grievance, EEO and/or MSPB processes, and the time frames associated with them. This agreement to mediate does not negate or suspend any statutory or Collective Bargaining Agreement time frames.
7. Each party understands that mediation can be terminated at any time by any party or by the mediator.
8. Each party agrees that he/she will not call any mediator who mediates this case to act as witness in any pending or future arbitration or administrative or judicial proceeding, to testify to facts concerning or relating to the subject matter here being mediated. No party will depose a mediator or subpoena, compel production of, or otherwise seek documents or information about this case, which may have been retained by a mediator.

9. The confidentiality of the dispute resolution proceeding is established in the Administrative Dispute Resolution Act of 1996. The parties agree that statements made or documents prepared for the mediation process will remain confidential to the fullest extent as permitted by law, except for the limited purpose of implementation and enforcement of a resulting negotiated settlement agreement. In addition, parties agree to keep the discussions held in all sessions, including but not limited to the joint session of the mediation, confidential.
10. Each party agrees to treat everything said or otherwise disclosed by the opposing party, as part of an offer to compromise and settle the dispute being mediated. Each party further agrees that all information provided during the mediation session is without prejudice and will be inadmissible as evidence, in any pending or future arbitration or administrative or judicial proceeding. However, evidence which is otherwise admissible shall not be rendered inadmissible as a result of its use in the mediation.
11. Each party specifically agrees, however, that a fully executed settlement agreement can be admitted to any arbitration or administrative or judicial proceeding, as evidence of such settlement, and will not object to such admission.
12. I understand that no party to this mediation shall be bound to anything said or done at the mediation, other than this Agreement to Mediate and any written settlement agreement executed by all necessary parties. Before its execution, the terms of any settlement agreement are to be approved by any representative of each party. Once executed, a settlement agreement shall be binding upon all parties to the agreement.
13. Each party understands that he/she may have a representative present during the mediation and/or to review a proposed settlement agreement prior to its signing.

By signature below, I agree and consent to these terms and waive the rights herein specified. I know that I have the right to consult legal counsel or other representative, before executing this document.

Signed:

\_\_\_\_\_  
Party Representative

\_\_\_\_\_  
Party Representative

\_\_\_\_\_  
Mediator Mediator

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