

## Confidentiality Agreement

Case Name: \_\_\_\_\_ No: \_\_\_\_\_

In order to promote communication among the Parties and the Mediator and to facilitate settlement of the dispute, all parties agree as follows:

1. The parties consent to the appointment of \_\_\_\_\_ (MJD) to act as mediator in this matter and elect to mediate their civil dispute under the terms and conditions of Evidence Code §§1115-1128 and/or Rule 408 of the Federal Rules of Evidence. The mediator shall act as an advocate for the resolution and shall use his best efforts to assist the parties in reaching a mutually acceptable agreement. The mediator has no liability for any act or omission in connection with the mediation.
2. Mediation is a voluntary process for settlement negotiation. In this context, mediators act as impartial third parties exclusively and do not represent any disputant or otherwise practice law. The mediator will not give legal advice. Likewise, the mediator is not a judge, nor does the mediator have the power or authority to force a settlement on the parties. Participants are encouraged to consult with their own attorney regarding their legal rights and responsibilities.
3. All statements made and all writings prepared during the mediation process are deemed to be privileged and inadmissible for any purpose in any proceedings. In addition, the parties are not permitted to disclose the statements and writings to any other person or in the media. The parties will not subpoena or otherwise require the mediator to testify or produce records, reports, notes, or other documents reviewed, received, or prepared by the mediator during the course of the mediation process.
4. Since the parties are disclosing sensitive information in reliance upon this agreement of confidentiality, any breach of this agreement would cause irreparable injury for which monetary damages would be inadequate. Consequently, any party to this agreement may obtain an injunction to prevent disclosure of any such confidential information in violation of this agreement.
5. Any party breaching this agreement shall be liable for and shall indemnify the non-breaching parties and the mediator for all costs, expenses, liabilities, and fees, including attorneys fees, which may be incurred as a result of such breach.
6. This Confidentiality Agreement shall be admissible in any subsequent proceeding to prove the existence of the agreement and/or to enforce said agreement. It is the intention of the Parties, notwithstanding paragraph 3 above, that any written settlement agreement prepared in the course of or pursuant to this mediation be admissible, once signed by the settling Parties, as provided in Evidence Code §1123. Executed on \_\_\_\_\_, 2009, at the mediation.

Signature

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