



moxie: *The ability to face difficulty with spirit.*

## AGREEMENT TO MEDIATE

This agreement is made between the undersigned parties and Moxie Incorporated.

1. Mediator. This mediation will be conducted by Peggy Cottrell.
2. Function of the Mediator. The parties understand that the mediator is a facilitator but has no power to render a decision. The mediator will not give legal advice.
3. Goal. The goal of mediation is a durable agreement. Accordingly, any agreement reached is subject to the disputants "sleeping on" the agreement, consulting with their respective attorneys, and changing their minds. No mediation agreement will be binding until memorialized into a formal agreement by their attorneys and signed by disputants and their attorneys.
4. Confidentiality. In order to make the mediation as risk-free as possible, the parties agree that nothing said or written in the mediation session may be used in court by one party against the other. Neither the mediator, nor records, nor documents related to the mediation may be subpoenaed in any future discovery or other legal proceeding relative to the issues considered during the process.
5. Exceptions to Confidentiality. Exceptions to confidentiality are as follows:
  - a. Where disclosure is required by statute (abuse or neglect of children or vulnerable adults and/or "duty to warn" obligations); or
  - b. Where disclosure is necessary to prove a claim of mediator misconduct; or
  - c. When mediation is pursuant to a court order, the mediator may disclose the following:
    - i. Whether the parties met with the mediator
    - ii. Whether agreements were or were not reached
    - iii. Whether future sessions are scheduled.

6. Fees. The mediator shall be compensated at the rate of \$300.00 per hour, including time spent in telephone conferences, preparation for and time in mediation sessions, and the drafting of summaries and letters. A \$1,200.00 deposit is required five business days in advance of the mediation session in order to reserve four (4) hours in the mediator's calendar. These funds will be applied to the fees for the mediation session and any additional work before or after. If time spent on the case exceeds four hours, this will be collected at the close of the session.

The parties understand that the mediator's fees are based strictly on time spent on the case, and that there is no correlation between fees and/or success/failure to reach agreement. Any time the parties decline to pay the mediator's fees, the mediator shall no longer be responsible for rendering services to the parties.

Fees will be paid five business days in advance of the mediation session. The fees will be divided between the parties in the following manner:

Party: \_\_\_\_\_ Percentage: \_\_\_\_\_

Party: \_\_\_\_\_ Percentage: \_\_\_\_\_

7. Cancellations. There is no charge for meditation sessions canceled with more than three (3) business days notice. If the mediation is canceled with less than three (3) business days notice, 50% of the deposit will be refunded.
8. Termination. Any party or the mediator may terminate the mediation at any time, either verbally or in writing.
9. Curriculum Vitae. A copy of Ms. Cottrell's CV is available online at [www.moxieinc.com](http://www.moxieinc.com).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mediator's Signature

\_\_\_\_\_  
Date