moxie -INC-

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 Michael Goldfarb, MSW, LICSW.

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 parties "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. The parties also acknowledge that the mediator is memorializing their agreements as scrivener only and not as legal counsel.

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 $350.00 per hour, including time spent in telephone conferences, preparation for and time in mediation sessions, and the drafting of summaries and letters. A $1,400.00 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. **A minimum fee of four (4) hours will be charged.** 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. **Notice Pursuant to Rule 114.13A, subd. 7 of the General Rules of Practice for the District Courts**:
    a. The mediator must follow the Code of Ethics for Court-Annexed ADR Neutrals and is subject to the jurisdiction of the ADR Ethics Board.
    b. The mediator has no duty to protect the interests of the parties or provide them with information about their legal rights.
    c. No agreement reached in this process is binding unless it is put in writing, states that it is binding, and is signed by the parties (and their legal counsel, if they are represented) or put on the record and acknowledged under oath by the parties.
    d. Signing a settlement agreement may adversely affect the parties' legal rights.
    e. The parties should consult an attorney before signing a settlement agreement if they are uncertain of their rights.
    f. In a family court matter, the agreement is subject to the approval of the court.

9. Termination. Any party or the mediator may terminate the mediation at any time, either verbally or in writing.

10. Curriculum Vitae. A copy of Michael Goldfarb's CV is available online at www.moxieinc.com.

_____ _____
Signature Date

_____ _____
Signature Date

_____ _____
Mediator's Signature Date