U.S. Department of Labor   Office of Administrative Law Judges
200 Constitution Ave., NW
Room S-4325
Washington, DC 20210
Mediation Program
Alison G. Smith, Mediator
smith.alison.g@dol.gov

In the Matter of:

OALJ Case No.(s) :

v.

AGREEMENT TO MEDIATE

This is an agreement by the parties to mediate a complaint related to the above captioned claim pending before the Office of Administrative Law Judges ("OALJ"), U.S. Department of Labor. Use of mediation is a voluntary process which the parties or the mediator may terminate at any time. The mediator will not act as a representative for either party. Each party is encouraged to consult with an attorney, if they have not done so, before signing any agreement settling a case.

Communications may be in writing, by electronic mail, or by telephone. An in-person conference may also be scheduled. The parties and their representatives will attend mediation sessions unless excused by the mediator. The mediator may suggest the additional participation of an expert or other person to assist in resolving an issue. No one else may participate without the permission of the parties and the consent of the mediator. The mediator may speak or meet with each party separately; in that event, the mediator will not reveal what is said by one party to the other(s) without permission. The parties agree to ex parte communications with the mediator in furtherance of the mediation process when either a party or the mediator considers it necessary or helpful.

By signing this agreement, all participants acknowledge that all mediation sessions and material prepared for the exclusive use of the mediator are confidential and privileged and shall not be disclosed in any subsequent proceeding. Each party agrees not to subpoena the mediator or any documents submitted to the mediator unless those documents are otherwise discoverable. Under no circumstance will the mediator disclose confidential information provided during the course of mediation, testify voluntarily on behalf of either party, or submit any type of report to any court in connection with this case. The completed Agreement to Mediate and Request for Mediation forms are not considered confidential. To the extent that

the parties may have participated in an earlier mediation where confidentiality was agreed to, confidential information exchanged during that procedure should not be submitted to the OALJ mediator unless both parties agree to do so.

With one exception, none of the mediation proceedings shall be construed for any purpose as an admission against interest. In the event that a settlement is reached and a party thereafter defaults and/or breaches the settlement agreement, then the written settlement agreement itself [signed by the parties or their legal representatives] may be used as evidence at any subsequent proceeding to enforce the agreement.

The parties agree that the mediator has the discretion to terminate mediation at any time if s/he believes the case is inappropriate for mediation or that an impasse has been reached. Likewise, any party may withdraw from mediation at any time. Upon termination of the mediation, the mediator will advise the Chief Administrative Law Judge and the presiding Administrative Law Judge of the termination of the mediation and whether or not the parties reached agreement.

Settlement negotiations shall not normally exceed sixty (60) days, absent approval of an extension request by the Chief Administrative Law Judge. (29 C.F.R. § 18.9(e)(4)). Any settlement agreement disposing of all or a part of the proceeding shall be in writing, conform to the requirements of 29 C.F.R. § 18.71, and be signed by the parties. Once a settlement agreement is reached, the parties must submit the agreement and any required documents to the presiding Administrative Law Judge within 14 calendar days of the conclusion of the mediation unless the presiding Administrative Law Judge rules otherwise.

_____   Date _____

_____ ,

_____   Date _____

_____ ,

_____   Date _____

_____ ,

_____   Date _____

_____ ,

Certified By:

_____   Date _____

_____   Date _____

Assigned Mediator:

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____

_____   Date _____