

AGREEMENT TO MEDIATE

In consideration of services rendered and payment by parties, it is agreed and understood as follows, subject to the guidelines:

- A. The mediator will not give legal advice to either party. Both parties are advised to seek separate legal counsel during the mediation process and before signing any final agreement. The mediator may give legal information to both parties in order to make informed decisions.
- B. The basic fee for mediation services is \$600, of which \$150.00 represents an administrative fee for the ECBA and \$450.00 represents prepayment of the mediator fee for the preparation and attendance at the initial mediation session. The initial mediation shall consist of up to three (3) hours in duration, unless otherwise discussed and agreed upon by both parties and the mediator. The basic fee is payable in advance to the Erie County Bar Association with the submission of the Request for Mediation form. Unless otherwise agreed upon, the fee shall be shared equally between the parties. All time thereafter will be billed at the rate of One Hundred Fifty Dollars (\$150.00) per hour.

Any representation by the mediator stating how many sessions the case will take are only estimates, as it is impossible to predict how long a case will take to mediate, or whether or not a case will end in a resolution.

- C. Prior to the conclusion of the mediation session, the parties agree to prepare a Civil Settlement Agreement form, or in the case of a domestic mediation a Memorandum of Understanding.

D. CONFIDENTIALITY STATEMENT:

All statements made during the course of the mediation are intended by the parties to be privileged settlement discussions made without prejudice to any party’s legal position and non-discoverable for any purpose in any legal proceeding. Any information disclosed by any party, or by a representative of a party, or by a witness on behalf of a party to the mediator is intended to be confidential. No privilege is intended to be waived by any such disclosure.

Disclosure of any records, reports or other documents received by the mediator cannot be compelled. The mediator shall not be compelled to disclose or turn over any written materials or to testify in any proceeding as to information disclosed or representations made in the course of the mediation conference or communicated to the mediator in confidence.

The parties agree that no party to this mediation will attempt to subpoena the mediator for testimony, deposition or discovery related to any documents or discussions arising during ADR. If a party breaches this Agreement and attempts to subpoena the mediator, that party will be liable for and shall indemnify the mediator for any costs, expenses, liabilities and/or fees, including attorneys’ fees, that might be incurred by the mediator in objecting to the subpoena. The parties agree to maintain the confidentiality of the mediation conference and shall not in any proceeding attempt to rely on or introduce discussions regarding settlement, admissions made by any party during the course of the mediation, or any matter relating to proposals made and/or views expressed by the mediator.

The parties intend that the provisions of 42 Pa.C.S.A. §5949 shall apply to this mediation.

The mediator shall have no liability for any act or omission in connection with the mediation. Although the person assigned as mediator will be a member of the Erie County Bar Association, no attorney client privilege attaches to the communications between the parties and the mediator, and the mediator will not be deemed to be serving as an attorney or advocate for any party involved in the mediation.

Date _____ Party _____ Attorney _____

Date _____ Party _____ Attorney _____

Case accepted this date by _____ Mediator _____

The parties should forward this form and the Request for Mediation form, along with the fee of \$600.00, to the Erie County Bar Association Office at 302 West Ninth Street, Erie, PA 16502-1427.