

## ARBITRATION AGREEMENT

This is an Agreement between \_\_\_\_\_, \_\_\_\_\_, (the "Parties") and Hon. Michael F. Mullen as arbitrator ("Arbitrator"), to enter into arbitration regarding:

\_\_\_\_\_  
\_\_\_\_\_  
(the "Dispute").

The undersigned Parties, their respective counsel, and the Arbitrator agree to enter into arbitration under the following terms and conditions:

1. Appointment of Arbitrator. The Parties jointly accept Hon. Michael F. Mullen as Arbitrator of their Dispute.

2. Arbitrator Not to Be Witness. The Parties and their counsel agree not to call the Arbitrator as a witness to testify in any proceeding and agree not to subpoena or otherwise seek discovery of any written materials developed for or in the course of this arbitration.

In no event will the Arbitrator voluntarily testify on behalf of any Party. Nothing contained herein shall be construed to prevent the Arbitrator from disclosing such matters as the Arbitrator is required by law to disclose, for example, but without limitation, matters such as imminent threats of bodily injury or matters as to which the Arbitrator is required by court order or the law to disclose. Furthermore, nothing in this Agreement shall prevent the Arbitrator from disclosing facts in connection with collecting a fee pursuant to this Agreement or in defending the Arbitrator in any action or proceeding relating to the liability of the Arbitrator arising from this arbitration.

3. Arbitrator's Role. The Parties understand that, although the Arbitrator is an attorney, the Arbitrator does not provide legal or financial advice and is not functioning as an attorney for any party in the mediation of this matter. The Parties understand that arbitration is not a substitute for legal advice of their own counsel. The Parties are encouraged to secure such legal advice from their own counsel throughout the arbitration process.

4. Arbitrator's Disclosures. The Parties understand that the Arbitrator will remain impartial throughout the arbitration process. The Arbitrator has disclosed any matters which the Arbitrator believes may present a potential conflict or may impact his/her impartiality and/or neutrality in this arbitration. By signing below, the Parties accept the Arbitrator based on the disclosures made.

5. Arbitration Fees and Expenses. The Parties and the Arbitrator agree that the fee for the arbitration shall be as follows:

- Hon. Michael F. Mullen: \$\_\_\_\_\_ per hour

This hourly rate shall apply to all of the Arbitrator's time spent on this Dispute, including preparation time before, during and after the arbitration; time spent in reviewing materials provided by the Parties, researching issues, corresponding, telephoning or otherwise communicating with the Parties or their counsel, time arbitrating the case, travel time to and from the arbitration if the arbitration is held at a location other than the Arbitrator's office, and for time to do such other things as may be reasonably necessary to facilitate the arbitration.

The Parties shall also reimburse the Arbitrator for all expenses incurred as a part of the arbitration process.

The Parties shall be jointly and severally liable for the Arbitrator's fees and expenses.

An advance payment of \$\_\_\_\_\_ toward the Arbitrator's fees and expenses shall be paid to the Arbitrator along with the signing of this Agreement. Any unearned amount of this advance payment will be refunded to the Parties.

As between the Parties only, responsibility for arbitration fees and expenses shall be apportioned as follows:

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The Parties will be provided with a monthly bill of fees and expenses by the Arbitrator. Payment of such fees and expenses is due to the Arbitrator no later than 15 days following the date of such billing, unless otherwise agreed in writing.

6. Arbitration Procedure and Rules of Hearing. The parties agree that this arbitration shall be final and binding on the parties. The Arbitrator will receive evidence in his discretion during the arbitration hearing. The Arbitrator will issue an award in writing. The Parties agree that judgment may be entered on the Arbitrator's award in any court of competent jurisdiction in the State of New York.

The following rules shall apply to the conduct of this arbitration hearing: *[Rules previously agreed to by the parties by contract or, if none, set forth rules governing the taking of evidence, testimony, discovery etc. or, for example, agreement to be governed by AAA Rules for Commercial Cases]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have read, understand and agree to each of the provisions of this Agreement. Entered into and agreed to this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Plaintiff's Counsel

\_\_\_\_\_  
Defendant's Counsel

\_\_\_\_\_  
Arbitrator(s)