***FOR USE IN EEO RELATED CASES***

**AGREEMENT TO MEDIATE AND CONFIDENTIALITY AGREEMENT**

**ORM Case No.:**

This is an agreement by the parties identified below to participate in mediation and adhere to the confidentiality provisions applicable to the mediation process as described in the Administrative Dispute Resolution Act of 1996, 5 U.S.C. § 574 (ADRA).

1. The parties understand that mediation is being used to discuss, and potentially resolve, issues that have arisen in the workplace and are the subject of the above-referenced EEO complaint. The parties understand that the mediator’s role is to facilitate communication among the parties and assist them in exploring options for resolving the dispute. The mediator(s) does not make decisions for the parties, render a determination on the merit of the issue(s) raised, or act as an advocate for either party. Should either party designate an individual to serve as their representative, providing advice and counsel during the process, such information will be shared with all parties in advance of the session.

2. Mediation sessions are not recorded or transcribed. All notes taken by the mediator(s) are destroyed at the completion of the mediation process. The parties agree not to subpoena the mediator(s) or compel the mediator(s) to produce documents provided by a party in a pending or future administrative or judicial procedure. Also, the mediator(s) will not voluntarily testify on behalf of a party in any pending or future administrative or judicial proceeding.

3. The parties understand that any oral statement, or any written communication prepared specifically for the mediation, which is provided only to the mediator(s) in confidence will be kept confidential by the mediator(s) with the exception of information concerning fraud, waste, abuse, criminal activity, sexual harassment, or threats of imminent harm. The parties also understand that oral and written communications shared with all parties are not protected and may be disclosed and matters that are admissible in a court of law or other administrative process continue to be admissible even though brought up in the mediation process. The parties understand that they have the option of contracting to increase their own confidentiality obligations by initialing the **statement in the box below**.

4. Although communications made in the presence of all parties and written materials shared with all parties may be disclosed, no party shall be bound by anything said or done during the mediation process unless a written agreement is reached and executed by all necessary parties.

5. If an agreement is reached, it shall be reduced to writing and when signed and approved by the appropriate authorities for all parties, the document shall be legally binding upon the parties to the agreement.

6. If the matter is not resolved through mediation, a party may pursue other available avenues of redress. However, it is that party’s responsibility to be aware of and comply with all time limits and deadlines associated with those processes. By electing to use mediation, such deadlines are not waived or tolled unless otherwise agreed to in writing.

**Expanded Confidentiality Statement**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_In addition to the confidentiality described above, we further agree that oral communications made with all parties present or otherwise confidential documents a party makes available to all parties will be confidential in this mediation. We also understand that despite this agreement for additional confidentiality, outside parties may still have access under the Freedom of Information Act to documents which a party makes available to all other parties and that a party’s failure to comply with any confidentiality obligations beyond the protections of ADRA may not be enforceable .

BY SIGNATURE BELOW, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND, AND AGREE TO THE PROVISIONS OF THIS AGREEMENT.

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Aggrieved Party/Complainant Date

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Aggrieved Party/Complainant’s Representative Date

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Management Official Date

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Management Official’s Representative Date