

MEDIATION AGREEMENT

THIS IS A MEDIATION AGREEMENT BETWEEN MARK R. CARVER, J.D.,
HEREINAFTER "MEDIATOR," AND

_____ AND _____

TO ENTER INTO MEDIATION WITH THE INTENT OF RESOLVING ALL ISSUES
REGARDING THE FOLLOWING ISSUE OR CONTROVERSY:

THE PARTIES AND THE MEDIATOR UNDERSTAND AND AGREE AS FOLLOWS:

1. Nature of Mediation

The parties hereby appoint and retain Mark R. Carver as mediator for their negotiations. The parties understand that Mark R. Carver is an attorney, but will in this mediation not serve as any party's nor all parties' legal counsel. The parties understand that mediation is an agreement-reaching process in which the mediator assists parties to reach agreement in a collaborative, consensual and informed manner. It is understood that the mediator has no power to decide disputed issues for the parties. The parties understand that mediation is not a substitute for independent legal advice. The parties are encouraged to secure such advice throughout the mediation process and are strongly advised to obtain independent legal review of any formal mediated agreement before signing that agreement. The mediator may come to require one or both parties to have their agreement reviewed by legal counsel to ensure that party is reaching a reasonably informed agreement. The parties understand that the mediator's objective is to facilitate the parties themselves in reaching their best agreement. The parties also understand that the mediator has an obligation to work on behalf of all parties and that the mediator cannot render individual legal advice to any party and will not render therapy nor arbitrate within the mediation. The mediator does not represent any of the parties. The mediator has no duty to provide advice or information to a party or to assure that a party has an understanding of the problem and the consequences of said party's actions. The function of the mediator is to facilitate communication between the parties and the mediator has no responsibility concerning the fairness or legality of any resolution that may be reached. Neither party knows of any circumstances that would cause reasonable doubt regarding the impartiality of the mediator.

2. Duty to Meet.

The parties will attend and pay for all scheduled mediation conferences unless they advise the mediator of their inability to attend at least 24 hours before the conference.

3. Mediation is Voluntary

All parties here state their good faith intention to complete their mediation by an agreement. It is, however, understood that any party withdraw from or suspend the mediation process at any time, for any reason or no reason subject to the Duty to Meet as stated above. The parties also understand that the mediator may suspend or terminate the mediation, if the mediator feels that the mediation will lead to an unreasonable result, if the mediator feels that an impasse has been

reached, or if the mediator determines that he can no longer effectively perform his facilitative role. The mediator or any party may terminate the mediation by written notice from the mediator or any party delivered by certified mail or personally to the other people who have signed this agreement

4. Confidentiality

All parties and the mediator agree that the mediation will be strictly confidential to the extent permitted by law. All discussions, representations, and statements made during the mediation will be privileged as settlement negotiations. The parties agree that they will not attempt to discover or use as evidence in any legal proceeding anything related to the mediation, including any communications or the thoughts, impressions or notes of the mediator. No document produced in mediation, which is not otherwise discoverable, will be admissible by any of the parties in any legal proceedings for any purpose, including impeachment. The parties will not subpoena the mediator, any members of the mediator's staff, or any records or documents of the mediator or Dow, Einhaus, Mattison & Carver, P.A. in any legal proceedings of any kind. If so called or subpoenaed, the mediator and his agents may refuse to testify or produce the requested documents. Should any party attempt to compel such testimony or production, such party shall be liable for, and shall indemnify the mediator against any liabilities, costs or expenses, including reasonable attorney's fees, which the mediator may incur in resisting such compulsion. All parties also understand and agree that the mediator may have private caucus meetings and discussions with any individual party, but that the mediator will not keep the content of such meetings and discussions confidential as between the mediator and the other party unless the caucusing party specifically instructs the mediator to do so. Though the mediator agrees to maintain confidentiality, mediator will not be responsible for enforcing this agreement.

5. Mediator Impartiality and Neutrality

The parties understand that the mediator must remain impartial throughout and after the mediation process. Thus, the mediator will not champion the interests of any party over another in the mediation nor in any court or other proceeding. The mediator is to be impartial as to party and neutral as to the results of the mediation. The mediator will seek to affirmatively reveal any operative biases and will disclose any and all prior contacts with the parties and their legal counsel.

6. Mediation Fees

The parties and the mediator agree that the fee for the mediator shall be \$175 per hour for time spent with the parties and for time required to study documents, research issues, correspond, telephone call, prepare draft and final Agreements and do such other things as may be reasonably necessary to facilitate the parties reaching full Agreement. The mediator shall also be reimbursed for all expenses incurred as a part of the mediation process. A payment of \$1,750 toward the mediator's fees and expenses shall be paid to the mediator along with the signing of this agreement. Any unearned amount of this retainer fee will be refunded to the parties. The parties shall be jointly and severally liable for the mediator's fees and expenses. As between the parties only, responsibility for mediation fees and expenses shall be divided equally. Payment of such fees and expenses is due to the mediator no later than 15 days following the date of billing, unless otherwise agreed in writing.

7. Statement of Qualifications

Mark R. Carver is a trained civil mediator and a qualified neutral pursuant to Rule 114 of the General Rules of Practice – District Courts. He has been a family law practitioner since 1997 and has provided mediation services since 2003. Mark R. Carver was admitted to the Minnesota State Bar in 1997 and to the Federal Bar in 2005. He obtained his Juris Doctor from the University of Minnesota Law School in Minneapolis, Minnesota in 1997 and his Bachelor of Arts from the University of Minnesota in 1991.

I HAVE BEEN TOLD AND UNDERSTAND THAT A MEDIATED SETTLEMENT AGREEMENT IS NOT BINDING UNLESS: (1) IT CONTAINS A PROVISION STATING THAT IT IS BINDING AND PROVISION STATING SUBSTANTIALLY THAT THE PARTIES WERE ADVISED IN WRITING THAT A) THE MEDIATOR HAS NO DUTY TO PROTECT THE PARTIES' INTERESTS OR PROVIDE THEM WITH INFORMATION ABOUT THEIR LEGAL RIGHTS; B) SIGNING A MEDIATED SETTLEMENT AGREEMENT MAY ADVERSELY AFFECT THEIR LEGAL RIGHTS; AND C) THEY SHOULD CONSULT AN ATTORNEY BEFORE SIGNING A MEDIATED SETTLEMENT AGREEMENT IF THEY ARE UNCERTAIN OF THEIR RIGHTS; OR (2) THE PARTIES WERE OTHERWISE ADVISED OF THE CONDITIONS IN CLAUSE (1).

IT IS SO AGREED.

Dated: _____

Dated: _____

Dated: _____

Mark R. Carver, Mediator
202 North Cedar, P.O. Box 545
Owatonna, Minnesota 55060
Telephone: (507) 451-3580