

MEDIATION—SUBMISSION TO MEDIATION AND MEDIATION— CONFIDENTIALITY AGREEMENT

The undersigned parties have agreed to enter into mediation, before Edward J. Costello.

They further agree as follows:

- That the mediator is a neutral intermediary who will assist them in reaching a resolution of their dispute and recording that resolution, but cannot impose a settlement, and will not render legal advice to any party.
- That the parties are free to consult with counsel during any phase of the mediation and are specifically advised to have any settlement agreement reviewed by their counsel before they sign it.
- That this mediation is conducted pursuant to [for example, Section 1115 *et seq.* of the California Evidence Code] and each of the parties acknowledges that they have agreed to mediate for the purposes set forth in [that section].
- That any written settlement agreement resulting from this mediation shall be admissible in evidence in any proceeding to enforce its terms.
- That all the persons who will participate in the mediation have signed below, before the beginning of the mediation.

Dated: _____

PARTY

PARTY

COUNSEL

COUNSEL

EXPERT

MEDIATOR

Comment by Ed Costello: Please note that there is no precise description of the dispute itself in the above form. Since the mediator has no power to determine a result, parties and counsel usually feel comfortable *not* defining the dispute in too much detail. Indeed, many mediations begin before any case has been filed for arbitration or litigation. This document is adequate for submitting a dispute to *mediation*. It does have some language which appears designed to advise the parties (and protect the mediator) concerning the fact that the mediator is not going to give anyone legal advice. If the parties take some or all of that language out, an experienced mediator may well put it right back in.