



AGREEMENT TO ENGAGE IN PRIVATE MEDIATION

WE, THE UNDERSIGNED PARTIES, HEREBY STIPULATE AND AGREE, to the terms of this Agreement to Engage in Private Mediation ("Agreement").

1. We agree to submit the disputed claim between _____

_____ to **ADR HAWAII, INC.** ("ADR HAWAII") for a private mediation in accordance with the following terms and guidelines.

2. We agree to make a good faith attempt to resolve the issues submitted to this mediation.

3. We agree and do appoint THOMAS E. CROWLEY to act as the Mediator.

4. We agree to compensate **ADR HAWAII** for the neutral services of the Mediator at the rate of \$275.00 per hour. The fees of the Mediator shall be borne by the parties equally.

5. We agree to hold harmless, release and discharge the mediator and **ADR HAWAII** from and against any and all claims, demands, actions, or damages concerning the conduct of the mediation, any settlement achieved through mediation, or any other outcome of the mediation.

6. We expressly agree to maintain the confidentiality of the mediation. This means that no statements shall be made to non-parties by the Mediator, **ADR HAWAII**, or any party to the mediation concerning the negotiations, the course of the mediation or the various positions of the parties or papers submitted in the mediation, without the agreement and prior approval of all parties to the mediation. The parties acknowledge and agree that disclosures made during the mediation shall be governed by Hawaii Rules of Evidence, Rule 408.

7. We agree that the Mediator and/or **ADR HAWAII** may not testify in any judicial proceeding as to any statements made in the course of mediation or any other matter, occurrence or observation arising out of the mediation, except by express written agreement of all parties to the mediation. This clause is not applicable to litigation to enforce the terms of any agreement reached by the parties in the course of the mediation wherein the meaning or content of such agreement is put in issue.

8. We agree that no written record or transcript or any discussion had in the course of this mediation is to be kept, absent express agreement by the parties.

9. We agree that the laws of the State of Hawaii shall govern this mediation. This Agreement shall be binding upon and inure to the benefit of ourselves, and our respective heirs, personal representatives, successors, and assigns.

10. In the event that we reach a settlement agreement, we will abide by and perform the settlement, and we will stipulate to an arbitration award ("Award") which embodies the Settlement Agreement.

11. This Agreement may be executed in counterparts.

Dated: _____
[Name of party]

By _____
Its

Dated: _____
[Name of party]

By _____
Its

Dated: _____
[Name of party]

By _____
Its

Dated: _____
[Name of party]

By _____
Its