AGREEMENT TO MEDIATE

This agreement is made between the undersigned counsel and parties (hereinafter referred to collectively as "the Parties") and Charlotte A. Drew/Patric P. McCallum with Drew & McCallum PLLC (hereinafter referred to as "the Mediator").

This matter has been referred to mediation pursuant to a Court Order, Local Court Rule, or by agreement of the Parties. The Parties have agreed to use Charlotte A. Drew/Patric P. McCallum as the Mediator. The signing of this Agreement to Mediate (hereinafter referred to as the "Agreement") is intended to be, and shall be construed to be, an indication of the Parties' desire and intent to mediate this matter in good faith and to work with the Mediator to try to resolve the lawsuit and claims at issue in the mediation.

Therefore, in consideration of the above, the Parties contract and agree as follows:

1. Place and Fees for Mediation: Mediation will be conducted by either Charlotte A. Drew or Patric P. McCallum (as previously agreed by the Parties), in the offices of Drew & McCallum, located at 25231 Grogan's Mill, Suite 350, The Woodlands, Texas 77380. Drew & McCallum will be compensated $495 per party for a half day mediation, and $900 per party for a full day mediation, and this fee shall be paid prior to the start of mediation. The Mediator may cancel the mediation if this fee is not received from each party prior to the start of mediation. The mediation is scheduled for the date and times set forth in the correspondence confirming the scheduling of this mediation. The mediation fee is intended to compensate the Mediator for time spent in reviewing information relative to the disputed issues and in office conferences and/or telephone conferences with the Parties, their respective attorneys and other professionals, and for all other time and tasks spent in mediation. If further mediation sessions are required beyond the time stated hereinabove, such session(s) will be subject to a new Agreement to Mediate. If a half day mediation is scheduled, and the Parties during the course of the mediation agree to extend the session to a full day (subject to the Mediator's availability and agreement), the Parties shall pay the full day mediation fee, and such fee shall be paid at the time the Parties agree to a full day mediation, or at such time and in such manner as the Mediator may require., in his/her sole discretion.

2. Cancellation Policy: If a party or his/her/its counsel cancels or postpones the mediation within five (5) business days of a scheduled mediation, a 25% cancellation fee may be charged to the cancelling party and his/her/its counsel. Whether such a fee will be charged to the party and/or his/her/its counsel is within the Mediator's sole discretion. This fee may also be charged to any Party and/or his/her/its counsel that refuses to proceed with mediation if the Mediator refuses to allow any non-party or non-representative's attendance at mediation, or if the Mediator's permission for such person(s) attendance at mediation is not secured prior to the day of mediation, as set forth in paragraph 12 herein.

3. Governing Law and Rules: Mediation will be governed and conducted in accordance with the terms of this Agreement, Tex. Civ. Prac. & Rem. Code §154.001 et seq., applicable Texas law, and the "Mediation Rules".

4. Agreement to Abide by Rules: The Parties and their respective counsel each acknowledge that they have received, read, understand, and agree to abide by the Mediation Rules which are provided herewith, and acknowledge the Mediation Rules are made a part of this Agreement. The Parties and their counsel agree to abide by all of the Mediation Rules during the mediation process, and they will each act in good faith in all attempts to resolve the disputes that are being mediated.

5. Mediator Will Not Render Legal Advice: The Parties acknowledge, agree, and understand that the Mediator does **NOT** represent any party to this matter and will not render any legal advice or services to any party. The Parties acknowledge that the Mediator shall serve as a neutral intermediary only, and will not act as an attorney or advocate for either party. Compensation to attorneys and other professionals consulted by the Parties is separate and apart from the fees paid to the Mediator for services rendered in connection with mediation services. In the event mediation is not successful in resolving the disputes at issue between the Parties, the Parties acknowledge that the Mediator and Drew & McCallum, or any attorneys associated therewith, cannot represent any party in connection with the issues addressed at mediation.

6. Mediation is Private and Confidential: All mediation sessions shall be private and confidential, and shall be privileged from discovery. The Mediator shall not be required to disclose any information revealed by any Party, unless authorized by the party providing the information, or as otherwise required by Texas law. Each party agrees not to make any effort to compel any testimony whatsoever from the Mediator or Drew & McCallum regarding or in any way touching upon the mediation of this matter. Likewise, each party agrees not to undertake any effort to compel the Mediator or Drew & McCallum to produce any information or documents regarding the mediation of this matter. However, in the event any party to this Agreement makes any effort to involve the Mediator or Drew & McCallum in litigation relating to the mediation, or attempts to compel testimony from the Mediator or Drew & McCallum, or attempts to require the Mediator or Drew & McCallum to divulge any information or produce any documents relative to the mediation, such party agrees he/she/it will pay all fees and expenses of the Mediator and Drew & McCallum in resisting such efforts, including but not limited to reasonable attorney's fees.

7. Mediation Agreement to be Independently Reviewed: The Parties acknowledge that if a partial or final settlement agreement is reached as a result of the mediation, the Parties and/or their legal counsel shall be responsible for drafting the terms, obligations, and agreements of the Parties in a written mediated settlement agreement. Any assistance provided by the Mediator in drafting the mediated settlement agreement shall be limited only to word processing or otherwise transcribing the terms, obligations, and agreements dictated by the Parties and/or their respective legal counsel. Each party shall have his/her/its independent legal counsel review any proposed mediated settlement agreement prior to signing same. Each party acknowledges neither the Mediator nor Drew & McCallum are providing legal advice, legal services, or advocacy in connection with transcribing any mediated settlement agreement.

8. Mediator May Meet Privately with Parties: The Mediator may meet privately with any of the Parties, their counsel, or any combination thereof, and have such ex parte communications with any of the foregoing, before, during, or after the

mediation, as the Mediator deems necessary and appropriate and within the scope and purpose of mediation and attempted settlement. The parties acknowledge and agree that the Mediator may request the Parties and their counsel to meet in a group and discuss the issues and attempt settlement. In any case, the Parties agree it is within the sole discretion of the Mediator whether private or group sessions will be required.

9. Mediator May Terminate Mediation: The Parties and their counsel acknowledge the Mediator has the discretion to terminate the session at any time if the Mediator believes an impasse has been reached, or that mediation should not be continued for any reason. The Parties agree that mediation will continue until such time as the Mediator terminates the mediation, even if the mediation session extends beyond the conclusion time stated in this Agreement.

10. Mediator to Advise Court of Outcome: The Parties acknowledge that upon completion of mediation, the Court will be advised by the Mediator only whether or not the case was resolved/settled, or whether the mediation was recessed or was reset.

11. Mediation Rules Incorporated Herein: The Parties understand that the general mediation rules ("Mediation Rules") are incorporated into this Agreement, and the Parties represent and acknowledge they have received, read, and will abide by the Mediation Rules.

12. Attendance at Mediation: The Parties agree that the party himself/herself shall attend mediation, or if the party is a company/corporation/business entity or an insurance company/carrier, it will have a designated representative with authority to negotiate in good faith and settle the matter in attendance. Anyone other than a Party or a party's designated representative, and their respective counsel, may not attend mediation without the Mediator's consent. Such consent must be secured prior to the day of mediation. The Mediator has the discretion to exclude any non-party or non-representative from attendance at mediation.

AGREED this ____ day of _____, 2010

_____	_____
ATTORNEY FOR PLAINTIFF/ PETITIONER	ATTORNEY FOR DEFENDANT/ RESPONDENT
_____	_____
PLAINTIFF/PETITIONER	DEFENDANT/RESPONDENT