

PRIVATE ARBITRATION AGREEMENT

SOLE ARBITRATOR

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By this Agreement, we do hereby:

- A. Confirm our mutual agreement to submit to private arbitration under the provisions of RCW Chapter 7.04A and, to the extent applicable, 9 U.S.C. Chapter 1, the dispute between us
- pending in Forum/Court: [REDACTED] under Cause/Docket Number [REDACTED] (“the Lawsuit”); *or*
 - described generally in the attachment to this arbitration agreement.
- B. Mutually ratify the appointment of Philip E. Cutler as sole arbitrator, with all powers given to an arbitrator under RCW Chapter 7.04A and, to the extent applicable, 9 U.S.C. Chapter 1.

In connection therewith, we hereby agree as follows:

1. Neither Mr. Cutler nor his law firm, Cutler Nylander & Hayton P.S., nor any person employed by or affiliated with his firm, shall be liable to us or any of us for any act or omission in connection with this arbitration.
2. We will not commence any action or proceeding, in arbitration or otherwise, against Mr. Cutler, his law firm, or any person employed by or affiliated with his firm, concerning Mr. Cutler’s service as arbitrator.
3. We will not subpoena Mr. Cutler, his law firm, or any person employed by or affiliated with his firm, to testify in any action or proceeding, in arbitration or otherwise, arising out of or connected in any way with the arbitration proceeding or Mr. Cutler’s service as arbitrator in it.
4. Neither Mr. Cutler nor his law firm are necessary parties in any judicial proceedings relating to the arbitration.
5. We consent to the entry of judgment on any arbitration award made by Mr. Cutler in any federal or state court having jurisdiction thereof in accordance with the provisions of RCW Chapter 7.04A and/or 9 U.S.C. § 1 *et seq.*, as appropriate.
6. We will compensate Mr. Cutler for his service as arbitrator at the aggregate rate of

\$450 per hour (including time spent on case administration), plus normal costs and disbursements (*e.g.*, photocopying, long distance telephone, fax transmission and receipt, necessary travel). Mr. Cutler's compensation and expenses are payable by each separately represented party hereto in equal shares. If we cancel the arbitration hearing on fewer than 30 calendar days notice to Mr. Cutler, we will compensate Mr. Cutler for one-half of his total anticipated compensation for the arbitration hearing, plus his accrued fees and expenses.

7. Based on the number of days we have reserved for hearing, Mr. Cutler estimates that total anticipated arbitrator compensation will be approximately \$ [REDACTED]. We will each deposit with Mr. Cutler's law firm one half of the total anticipated arbitrator compensation and expenses according to the schedule set forth below in paragraph 8 below. Further deposits may be required if, in Mr. Cutler's discretion, such appear to be necessary. If any deposit is not made when required, Mr. Cutler may in his discretion suspend further proceedings in the arbitration pending submission of the required deposit. Mr. Cutler will hold our deposits in his firm's IOLTA trust account pending Mr. Cutler's billing for his compensation and expenses. With entry of his arbitration award, or at any time following suspension of the proceeding for non-payment of any required deposit, Mr. Cutler will submit his billing for accrued fees and expenses, which billing is due and payable upon receipt. A late charge of 1% will be added to any balance remaining due as of the last day of the month following the month of billing. Excess monies shall be returned to us promptly following Mr. Cutler's entry of his arbitration award on the claim(s) submitted to him.
8. For the arbitration, we will each deposit with Mr. Cutler's law firm the sum of \$ [REDACTED] later than [REDACTED], 20 [REDACTED]. Such deposits will be held and applied as set forth above in paragraph 7 of this agreement.
9. Notwithstanding our equal deposits to cover Mr. Cutler's anticipated arbitrator compensation and expenses, unless we agree otherwise in writing Mr. Cutler may in the arbitration award allocate among us his compensation and expenses among us in any proportion he may direct.
10. We hereby acknowledge receipt of Mr. Cutler's ADR profile, together with any disclosures Mr. Cutler may have made in connection with his appointment, and acknowledge and agree that no fact or circumstance disclosed by Mr. Cutler constitutes a conflict of interest or raises an appearance of fairness issue requiring him to decline this appointment or justifying his removal. If we or any of us determine that any fact or circumstance of which we may later become aware constitutes a conflict of interest or raises an appearance of fairness issue that might justify removal of Mr. Cutler as arbitrator in this matter, we shall jointly notify Mr. Cutler either (1) we have jointly stipulated to Mr. Cutler's recusal as arbitrator, in which event Mr. Cutler shall promptly recuse himself and we will select a

replacement arbitrator in the manner specified by our arbitration agreement for appointment of an arbitrator, or (2) that an objection to his continued service as arbitrator has been lodged (without identifying the party who has objected) and thereafter promptly bring the matter before the Court/Forum identified above for resolution or, if no Court/Forum is identified above, before the King County (Washington) Superior Court. Unless the Court/Forum has entered an order staying further proceedings in this matter, Mr. Cutler may in his discretion continue the arbitration or suspend further proceedings in the arbitration pending resolution of the matter by the Court/Forum.

11. This agreement may be executed by counsel for any party on that party's behalf and, if so executed by counsel for a party, shall:
 - A. Constitute an express representation and warranty to all other parties and to Mr. Cutler and his firm that the attorney has full power and authority from his or her client to enter into this agreement on the client's behalf and shall bind the attorney and the attorney's client to the same extent as an agreement under CR 2A, Washington Civil Rules for Superior Court.
 - B. Constitute the attorney's agreement to defend, indemnify and hold completely harmless all other parties and Mr. Cutler and his firm from any claim that the attorney was not so authorized.

12. For the convenience of the parties, this agreement may be executed in counterparts, the whole of which together shall constitute one agreement.

In witness whereof, we have affixed our signatures below:

CLAIMANT(S)

RESPONDENT(S)

(Signature)

(Signature)

Printed
Name: _____

Printed
Name: _____

Party: _____

Party: _____

Title/Capacity
in which signing: _____

Title/Capacity
in which signing: _____

CUTLER NYLANDER & HAYTON P.S.

PHILIP E. CUTLER

Philip E. Cutler, President

Philip E. Cutler