

In order to foster an open environment during the mediation where parties may freely and frankly discuss issues, the parties to this mediation (including their representatives and the mediator) hereby agree to the following terms of confidentiality:

1. All statements during the mediation session are confidential settlement discussions. The mediation participants agree not to disclose any information discussed during the mediation session to any other party who was not present when the communication was made unless all parties agree. Confidentiality, however, will not extend to threats of physical harm or information indicating a potential or existing fraud, safety or security issue at any facility.
2. The parties agree not to subpoena, or compel, the mediator to testify in any later proceedings nor require him/her to produce any notes or documents, as to any aspect of the dispute that was the subject of the mediation session or otherwise communicated to the mediator in confidence.
3. Confidential settlement discussions are not discoverable or admissible for any purpose in any legal or administrative proceeding. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its disclosure or use during the mediation session.
4. Mediation sessions may not be tape-recorded or transcribed by the mediator or any of the participants. All information or materials provided to or created by the mediator including all notes, records, or documents generated during the course of the mediation shall be destroyed by the mediator after conclusion of the mediation. Parties or their representatives are not prohibited from retaining their own notes.
5. DOE may disclose the terms or the bases of any proposed settlement agreement to DOE employees who have a need to know in approving and processing of the agreement and/or to any third party adjudicator (e.g., EEOC administrative judge) who may request this information.

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Party Name and Signature

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Party Name and Signature

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Mediator Name and Signature

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Other Attendee Name and Signature

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Other Attendee Name and Signature

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Other Attendee Name and Signature

Date:

