

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

V

Civil Docket No.

CONFIDENTIALITY STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties:

1. No party shall be bound by anything said or done during the Mediation, unless either a written and signed stipulation is entered into or the parties enter into a written and signed agreement.
2. The Mediator may meet in private conference with fewer than all of the parties.
3. Information obtained by the Mediator, either in written or oral form, shall be confidential and shall not be revealed by the Mediator unless and until the party who provided that information agrees to its disclosure.
4. The Mediator shall not, without the prior written consent of all parties or an order of the court, disclose to the Court any matters which are disclosed to him or her by either of the parties or any matters which otherwise relate to the Mediation.
5. The mediation process shall be considered a settlement negotiation for the purpose of all federal and state rules protecting disclosures made during such conferences from later discovery or use in evidence. The entire procedure shall be confidential, and no stenographic or other record/recording shall be made except to memorialize a settlement record. All communications, oral or written, made during the Mediation by any party or a party's agent, employee, or attorney are confidential and, where appropriate, are to be considered work product and privileged. Such communications, statements, promises, offers, views and opinions shall not be subject to any discovery or admissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties. Provided, however, that evidence otherwise subject to discovery or admissible is not excluded from discovery or admission in evidence simply as a result of it having been used in connection with this mediation process.

6. The Mediator and his or her agents shall have the same immunity as judges and court employees have under Federal law and the common law from liability for any act or omission in connection with the Mediation, and from compulsory process to testify or produce documents in connection with the Mediation.
7. The parties (i) shall not call or subpoena the Mediator as a witness or expert in any proceeding relating to: the Mediation, the subject matter of the Mediation, or any thoughts or impressions which the Mediator may have about the parties in the Mediation, and (ii) shall not subpoena any notes, documents or other material prepared by the Mediator in the course of or in connection with the Mediation, and (iii) shall not offer into evidence any statements, views or opinions of the Mediator.
8. The Mediator's services have been made available to the parties through the dispute resolution procedures sponsored by the Court. In accordance with those procedures, the Mediator represents that they have taken the oath prescribed by 28 U.S.C. 453.
9. Any party to this Stipulation is required to attend at least one session and as many sessions thereafter as may be helpful in resolving this dispute.
10. An individual with final authority to settle the matter and to bind the party shall attend the Mediation on behalf of each party.

REMOTE MEDIATION AGREEMENT

11. All parties and the mediator consent to participate in an EDNY Mediation via an internet-based video conference platform provided by the mediator, and that it shall be a 'mediation' for the purposes of all applicable legislation, regulations, and rules.
12. No one shall record any portion of an EDNY Mediation to include audio, video, chat and any other aspect of the conference, and they further understand that in the event any person records any portion of a confidential EDNY mediation, that individual will be referred to the EDNY ADR Oversight Judge and may be subject to court ordered sanctions.
13. All parties will appear alone or with counsel at their location and that no one will be able to hear or observe the mediation other than the participants in the mediation. In the event any party wishes for an additional person(s) to participate in the video conference, they must disclose the identity of the additional person(s), and all parties, including the mediator, must consent to their presence. Any additional attendees must also sign this Confidentiality Stipulation and Remote Mediation Agreement.
14. All parties and the mediator affirm that they are using a secure WiFi/Ethernet connection for all conduct related to the mediation session. They further affirm that they will utilize a password or security code that will be required for entry into the video conference and that the password and/or security code will only be accessible to the participants of the mediation and will not be made available publicly.

15. An attorney of record may sign on behalf of one or more clients, and by so signing, the attorney represents that 1) the client has been fully informed of all of the terms of this stipulation, and 2) the client has affirmatively represented to be bound by the terms of this stipulation with the same force and effect as a stipulation made in open court and on the record by an attorney representing a client.
16. This document may be signed in counterparts, and once signed must be sent via e-mail to the mediator and the EDNY ADR Department at nyed_adr@nyed.uscourts.gov.

Dated: _____, 2020

Plaintiff

Defendant

Plaintiff

Defendant

Attorney(s) for Plaintiff(s)

Attorney(s) for Defendant(s)

Consented to: _____
Mediator

Additional participants sign below:
