

## AGREEMENT TO MEDIATE

We, \_\_\_\_\_ and \_\_\_\_\_

hereby agree to retain \_\_\_\_\_

(referred to as the 'Mediator') to assist us negotiating parenting arrangements for our child/children through the process of closed mediation. We understand and agree that this document sets out the terms of the mediation.

**Role of Mediator:** We understand that the Mediator is an impartial facilitator whose role it is to assist us in resolving issues to our mutual satisfaction. The Mediator's role is not to make decisions for us, but she may provide general information about parenting in separation/divorce that may help us make decisions in the best interests of our child/children.

**Independent Legal Advice:** We are aware that the Mediator is not a lawyer and that it is our own responsibility to seek relevant legal advice regarding our rights and responsibilities. We understand that we may consult with our lawyers prior to starting mediation, during the mediation process, and before we sign any legally binding agreement that we may reach as a result of the mediation.

**Mediation Sessions:** We understand that in attempting to bring about an agreement, the Mediator may meet with us individually and/or jointly. The Mediator may include in the mediation the child/children or any other significant third party, such as a new partner, legal counsel, or other relevant individual, having first discussed with us the reasons for involving any third parties.

We understand that for the mediation to be productive, we must be open and honest with one another regarding any issues relevant to our child/children. We hereby affirm our ability and willingness to do so. If either of us feels at any time intimidated when speaking about relevant matters, s/he will immediately advise the Mediator, and may do so privately.

**Other Professionals:** The Mediator may, upon our written consent, obtain information from relevant sources and may consult with other professionals and read any reports, records and documents, as the Mediator deems necessary for helping us arrive at an agreement. We agree to provide our written consent to the Mediator to obtain relevant information.

**Parenting Plan:** If we reach agreement on any issues, the Mediator will draft our Parenting Plan and will provide copies to us and to our respective lawyers. We understand that the Mediator strongly recommends that we seek independent legal advice before signing the Parenting Plan.

**Closed Mediation:** In the event that we are unable to reach an agreement during mediation, we understand that because the mediation is closed, all communications, whether written or verbal that we have made during the mediation will remain confidential and are not admissible in any legal proceedings. Neither of us is permitted to compel the Mediator to testify in any present or future legal proceedings, or produce any of her notes or records for litigation purposes.

**Confidentiality:** The Mediator has a duty to maintain confidentiality and will not disclose to anyone who is not a party to the mediation any written or oral communications that have taken place in the course of the mediation, with the following exceptions:

- To our lawyers, if deemed necessary by the Mediator;
- Upon our written consent, the Mediator may disclose information to any third party experts (such as a custody assessor), whom we have engaged for the purpose of resolving the issues;

- Unless otherwise specifically requested at the time that the information is provided, the Mediator alone may determine whether something we have disclosed to her in a private meeting is relevant to the negotiations and therefore must be shared with the other;
- The Mediator has a duty to report to the appropriate officials if she has a reason to believe that a child is in need of protection, or if she becomes aware of a party's intention to commit a criminal act, or disobey a court order.

**Fees:** We agree to pay the Mediator's fees for all mediation sessions, drafting any document, telephone calls and correspondence, both by mail and e-mail, and all other services rendered in connection with the mediation. We will be additionally charged for the Mediator's disbursement costs, including copying, fax, long distance telephone and postage. We understand that a fee of \$ \_\_\_\_\_ will be charged for drafting of any Parenting Plan and that the fee is payable in advance.

We will share the cost of mediation in proportion of \_\_\_\_\_ % by the Mother and \_\_\_\_\_ % by the Father. The Mediator's hourly rate shall be \$ \_\_\_\_\_ per hour, plus HST if applicable. We will pay after each session. Any accounts that are rendered are payable within 30 days. If one of us, or his/her lawyer, takes the Mediator's time outside the mediation sessions, then the Mediator may charge for that time against him/her alone. We may be charged one-hour's fee for any appointment that is cancelled with less than 48 hour's notice. In the event that one of us fails to show for a scheduled appointment, the cancellation fee may be charged against that person alone.

**Termination:** While we intend to continue the mediation until an agreement is reached, we understand that because mediation is a voluntary process, either one or both of us, may withdraw from the mediation at any time. We agree that if one or both of us decides to withdraw, best efforts will be made to discuss this decision in the presence of both parties and the Mediator.

The Mediator has the right to suspend or end the mediation, if in her opinion, the process is not helpful to us, or if any agreement we may be reaching is obviously not in the best interests of our child/children.

**We hereby acknowledge with our signatures below that we have read and understand the terms set out above. We agree to be bound by the terms and understand that they constitute our Agreement to Mediate.**

\_\_\_\_\_  
Date of Signing

\_\_\_\_\_  
Client

\_\_\_\_\_  
Date of Signing

\_\_\_\_\_  
Client

\_\_\_\_\_  
Date of Signing

\_\_\_\_\_  
Mediator