

## **MEDIATION AGREEMENT**

### INTRODUCTION TO MEDIATION

1. The goal of mediation is to offer the parties an opportunity to express their concerns, to better understand one another's perspectives, and, if possible, to reach a mutually acceptable settlement agreement that would permit the parties to resolve all family issues identified by the parties.
2. All issues are to be negotiated in good faith. Therefore, it is important that both parties share all pertinent information freely.
3. The issues negotiated can include, but are not limited to: division of property, division of debts, spousal support, child support and parenting issues.
4. The mediator assists the parties in their discussions and their attempt to reach a settlement that each believes to be fair and which is acceptable to both of them.

## MEDIATION AGREEMENT

THIS AGREEMENT is made between the undersigned parties, and **CONSTANCE P. BRUNT, ESQUIRE.**

The parties agree:

1. Full Disclosure:

To disclose all assets, debts, financial information, income tax returns, employment compensation and benefits information, and any other information that may have a bearing on any of the issues in our mediation. Note: Subsequent findings of

nondisclosure of appropriate information may constitute grounds for nullifying the agreement.

## 2. Privacy of Mediation

In order to reach an equitable settlement agreement based on all available information, the parties agree that all discussions in mediation are proposed settlement negotiations and will not be admissible as evidence in any court, arbitration or administrative hearing. They agree that neither will call their mediator as a witness to testify or subpoena any records of the mediator, for any court, arbitration or administrative hearing. In the event that either party attempts to subpoena the mediator in any such proceeding, the mediator will be entitled to a protective order to prevent disclosure of any information discussed or disclosed in the mediation process, including without limitation any settlement discussions.

## 3. Confidentiality

The mediator will treat all information provided during mediation sessions as confidential. No information obtained during mediation will be given to any outside person or organization without the concurrence of both parties, unless there are allegations of child abuse. The mediator will inform both clients at the next session of any contact outside the mediation session with the clients, with their attorneys, or other involved professionals.

## 4. Settlement Proposals

The parties agree that concessions, offers of settlement, suggestions by the mediator, admissions by either party, or any other aspect of communications during the mediation process made for the purpose of attempting to reach a settlement may not be used in any subsequent court proceeding. Each party is aware, however, that if negotiations break down, the documents and information disclosed during mediation will be available to the other without the legal procedures that are commonly used to compel disclosure of information.

## 5. Legal Counsel

The mediator does not represent either party and is not acting as an attorney during the mediation process. The mediator's role is as a neutral facilitator, and she will not give legal advice to either party. The parties are encouraged to consult with independent legal counsel early in the mediation process and as they deem necessary throughout the process in order to ascertain the legal parameters of their case and to obtain answers to any legal questions that they may have. The parties will provide their attorneys with information concerning the case. After a tentative settlement is reached in mediation, each party has the right to have it reviewed by their attorney prior to signing the Memorandum of Agreement. Following the conclusion of the mediation and signature of the Memorandum of Agreement, the parties will engage their own legal counsel to prepare a legally binding Marital Settlement Agreement.

## 6. Transfers of Property

During the mediation process, neither party will transfer nor dispose of any assets except in the usual course of business without advance notice to the other. Both clients will refrain from making any changes in existing insurance policies, wills and any other documents in which either party is a named beneficiary without advance notice to the other. While in mediation each client agrees to inform the other of any significant changes that would affect the other.

## 7. Caucus

It is often helpful to moving the process forward for the mediator to meet separately with each party. Either party or the mediator may request such meetings. Even when the mediator meets separately with a party in caucus, she will not keep secrets in mediation.

## 8. Notice of Cancellation

Notice of cancellation of appointments must be given by the parties not less than one full business day in advance of the appointment. Otherwise, full charge will be made for the appointment not kept.

## 9. Memorandum of Agreement

The mediator will develop a Memorandum cataloguing the parties' agreements. This document will be given to the parties' attorneys as well as to the parties themselves. The mediator will produce drafts of this document during the course of the mediation as the parties make progress toward a full agreement.

## 10. Costs of Mediation

The mediator will be compensated at the rate of \$250 per hour for all hours spent in the conduct of mediation sessions. The minimum charge is \$250 for each session, and this fee is payable at the beginning of the session. Any additional fees for sessions longer than 1 hour are payable at the conclusion of the session. The parties also agree to pay the mediator a two hour minimum fee for the drafting of the Memorandum of Agreement. This fee is payable prior to drafting of the Memorandum. Should substantially more time be involved due to multiple drafts or complexity, there may be an appropriate additional charge. Any such additional charges are due before the final draft is submitted for signature.

## 11. Concurrence of Mediator

The mediator may indicate either verbally or in writing that she concurs or does not concur with the final agreement between the parties. Concurrence means that the mediator believes the settlement reflects the integrity of the mediation process, including full disclosure, exchange of documentation, and discussion of the needs and

interests of each party. Nonconcurrence of the mediator, however, shall in no way affect from the legal effectiveness of the agreement reached by the parties.

12 Termination of Mediation.

Mediation is a voluntary process, and any party in mediation may terminate at any time. However, the parties agree that anyone wishing to terminate mediation will do so during a session. The mediator reserves the right to terminate the mediation if she believes that either party is not acting in good faith or is failing to disclose information.

13. Filing for Divorce

The mediator does not represent any parties in court, and does not file legal documents for a divorce. The parties must employ legal counsel to file for a divorce and to take the procedural steps necessary for the entry of a divorce decree or any other appropriate court orders.

**IN WITNESS WHEREOF**, this Agreement is signed by the parties and **Constance P. Brunt, Esquire**, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Husband/Father

\_\_\_\_\_  
Wife/Mother

\_\_\_\_\_  
Constance P. Brunt, Esquire, Mediator