

Southern Metropolitan Mediation Services

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AGREEMENT TO MEDIATE

Parties have voluntarily contracted with Southern Metropolitan Mediation Services to provide mediation services and agree to participate in this process to resolve the following issues:

In the mediation process, parties and mediator(s) agree to the following:

1. **DUTY TO MEET.** Parties agree to attend all mediation sessions as scheduled in good faith and attempt to reach resolution of the issues outlined above.
2. **TERMINATION.** Mediation is voluntary and may be terminated by any party or the mediator at any point during the process without cause.
3. **ROLE OF THE NEUTRAL.**
 - a. The role of the mediator is to assist parties in reaching a **voluntary resolution of the issues** as presented. The mediator has no authority to decide or determine issues.
 - b. Mediators **do not provide legal advice or representation** to any party during or after the mediation process.
 - c. There is no responsibility on the part of the mediator to ensure the **fairness or legality** of the resolution.
 - d. The mediator will disclose **all conflicts of interest or potential conflicts of interest known prior to the session and any potential conflicts that arise during discussions.** Parties will be asked to sign a waiver before any further discussion may take place.
 - e. The mediator is subject to the jurisdiction of the ADR Ethics Board.
4. **INFORMATION AND FULL DISCLOSURE.** Parties are responsible for information brought to the session and agree to the exchange of all documents to verify information. Exchange of all relevant documents is required to reach agreements that reflect a fair and equitable distribution of all assets and liabilities.
5. **CONFIDENTIALITY AND ADMISSABILITY OF EVIDENCE.** Statements made and information gathered, including all notes and records, during mediation are confidential and may not be used in any subsequent legal proceeding relating to the issues discussed, unless that information is otherwise discoverable.

Any agreements reached in mediation are binding only if the agreement states in writing that it is binding and is signed by the parties (and their legal counsel, if they are represented) or recorded during a Zoom session and acknowledged under oath by the parties. Parties agree not to subpoena the mediator, or any notes or records of the mediator, in any subsequent legal proceedings.

6. **DISCLOSURE/CONFLICT OF INTEREST.** The mediator(s) will not disclose any communication made during mediation except as consented to by parties or as it relates to any suspicion of maltreatment to minors or vulnerable adults.

- a. Exceptions. There are exceptions to confidentiality which include alleged misconduct on the part of any attorney involved in mediation, alleged violations of Rule 114 by the mediator, and any information concerning future harm or intended crime to be committed by a party. These exclusions preclude any obligation on the part of the mediator to keep information confidential.
- b. The mediator disclosed a conflict of interest involving parties or counsel as follows: _____
- c. Your initials indicate your agreement to voluntarily continue the process. _____

7. **FEES FOR MEDIATION.** Fees for mediation will be invoiced via Paypal.com and are due prior to any Zoom/in-person mediation and split between parties as follows: One hour (\$300) **nonrefundable** administrative fee, 3-4 hours of session time @ \$300.00 per hour. Drafting fee will not be invoiced ahead if counsel attends the session. Thereafter, session fees and additional work on the file invoiced at \$300.00 per hour. Sessions will usually be scheduled for two to four hours in length, depending on complexity of issues and whether counsel plans to attend. Fees are due a minimum of 72 hours prior to the date of service.

- 8. **PAYMENT ACCEPTED.** Payment may be made on Paypal.com or by cash or cashier's check as invoiced. **[PayPal credit is available and allows 6 months interest free payments for qualifying parties]**. If payment is not made on or before the session date, no further services will be rendered until payment is made. If counsel has referred parties to mediation, parties may opt for counsel to pay fees from any retainer accounts maintained by the attorney and shall inform the mediator to invoice the attorney directly.
 - a. Any unused fees will be rounded to the nearest quarter hour and refunded. Additional fees are due before any memorandum is drafted. Hourly rate will also apply to any work performed by the mediator by email or phone which substitutes for scheduling a session. Fees are split evenly between parties unless parties agree to other arrangements.
 - b. Cancellation of less than 72 hours prior to any scheduled session will result forfeiture of all fees paid for the session. If more than 72 hours and mediator has spent time and effort in reviewing materials, logistics, etc., each party is responsible for one hour (\$280) of time. Your signature below is your agreement to pay all fees promptly as invoiced by the mediator.
 - c. **If the mediator is retained by counsel, rather than directly by parties, and fees are not paid by parties, then fees will be invoiced to respective counsel for any unpaid amounts. The mediator may seek remedies from the Court for any unpaid amounts.**
 - d. Your initials indicate your consent to contact counsel or other professionals as the mediator determines is necessary to facilitate a final agreement between parties. Each party will be notified and provide consent before contacting other professionals as part of the mediation process. _____

- 9. **NEUTRAL/MEDIATOR DUTIES.** Whether the mediation process is facilitative or evaluative, parties are advised:
 - a. the neutral has no duty to protect the interests of the parties or provide them with information about their legal rights.

- b. signing a settlement agreement may adversely affect the parties' legal rights.
- c. parties should consult an attorney before signing a settlement agreement if they are uncertain of their rights; and
- d. in family court matters, any agreements reached are subject to approval of the Court.

10. This **AGREEMENT TO MEDIATE** is acknowledged and signed by parties and mediator(s):

_____ Petitioner	Date
_____ Counsel for Petitioner	Date
_____ Respondent	Date
_____ Counsel for Respondent	Date
_____ Mediator	Date
_____ Mediator	Date