

## **MEDIATION AGREEMENT**

**THIS AGREEMENT** (“Agreement”) is entered into pursuant to the Laws of the State of Ohio, between \_\_\_\_\_ (“Wife”) and \_\_\_\_\_ (“Husband”), hereinafter referred to as the “Participants,” and \_\_\_\_\_, hereinafter referred to as the “Mediator.”

### **PURPOSE OF THIS AGREEMENT**

Mediation is a voluntary and confidential way to resolve disputes without giving the decision-making power to a third party or court. It involves sitting down with the other side in the dispute (the Participants) and a third-party neutral (the Mediator) and discussing the areas of disagreement between the parties. Upon discussing the issues, the Participants then explore options for resolution, and ultimately arrive at a mutually satisfactory agreement. This process is conducted with the assistance of the Mediator who helps the Participants identify the important issues in the dispute and to decide how they can potentially resolve these issues themselves. The Mediator neither tells the Participants what to do, nor casts judgment upon either party. The Mediator’s authority and role is defined **by** the Participants and conferred exclusively by the terms of this Agreement.

## ARTICLE I

### THE PROCESS

#### **1.1 Four Stages or Steps of Mediation**

- A.** INTRODUCTION: In this stage, personal introductions are made, the Mediator explains what will happen during the mediation, and the basic rules herein are established and agreed upon.
- B.** STORYTELLING: This stage is where each party has the opportunity to tell his or her story. All Participants are given uninterrupted time to talk about what they see as the problems and issues in dispute, how they feel about what is going on, what their needs and concerns are, and what they would like to see happen. Following each Participants *uninterrupted* narrative, the Mediator will briefly summarize what has been said and check with the Participant as to the accuracy of their summary.
- C.** PROBLEM SOLVING: The Mediator will help the Participants focus on the issues in this stage. Summarizing, clarifying, and looking at common ground are tools used throughout this part of the process. The Mediator helps find areas that both Participants can agree to, and are willing to accept.
- D.** AGREEMENT: The forth and final step is reached when both Participants feel that they have found a solution that will solve their disputes. The Mediator point by

point repeats the agreement. It is then written down and signed by the Participants and Mediator.

## **1.2 Confidentiality and Inadmissibility**

The mediation process is confidential and based upon trust. Each Participant agrees that all statements made by either party and by the Mediator shall be, and hereby are, deemed to be “conduct or statements made in negotiation” in the attempt to compromise or settle disagreements and shall be inadmissible in any court proceeding pursuant to Rule 408 of the Ohio Rules of Evidence and this Agreement.

## **1.3 Mediator as Witness**

In the event that either Participant causes the Mediator to be called as a witness, or causes the Mediator’s records to be subpoenaed, the Participant so causing shall be responsible for paying all of the reasonable costs incurred in quashing any such subpoena.

## **1.4 Termination of Process**

Either Participant may withdraw from the mediation process at any time, or the Mediator may, for good cause, terminate the mediation process at any time. The mediation process *shall* terminate when:

- A. The Participants have reached agreement on the issues and their agreement, as presented in written form by the Mediator, has been signed by the Participants;

B. The Participants have considered the available options and information, agree that issues cannot be resolved by mediation, and choose alternative means to deal with their dispute;

C. The Mediator believes that one Participant is taking advantage of the other, or either Participant is incapable of negotiating on their own behalf;

## ARTICLE II

### THE RIGHTS & RESPONSIBILITIES OF THE PARTIES

#### 2.1 Communication with Mediator

The Participants expressly agree that each may communicate individually or meet individually with the mediator concerning matters in mediation.

#### 2.2 Disclosure

Each Participant agrees to fully disclose all income, property, and debts and to provide all documentation, such as financial statements, income tax returns, income statements, billing statements, expert reports or any other information relevant to the mediation. **Failure to fully disclose information or to obtain accurate valuations may jeopardize the parties' settlement.**

### **2.3 Stay of Proceedings**

The Participants agree that no legal action of any kind will be taken by either of them during the course of the mediation process except with the express agreement of the other Participant and the Mediator. Further, if either or both Participants have retained counsel prior to Mediation, they shall be obligated to direct their attorneys that **no** legal action is to be taken on their case while the matter is in mediation. The legal counsel of either party may, at any time, discuss his or her client's position and status of the mediation with the Mediator.

### **2.4 Nondisclosure**

To facilitate the mediation process, the Participants shall refrain from discussing the matters in mediation with friends, relatives or others. However, both Participants are encouraged to consult with legal counsel at any time and they may consult with mental health professionals or clergy, as they deem appropriate.

### **2.5 Mutual Restraints**

During the mediation process, neither of the Participants shall transfer, encumber, conceal, sell or in any other way dispose of any tangible or intangible property or asset except as done in the ordinary and usual course of business or for the necessities of life. In addition, expenditures by either Participant, or their agent, outside regular monthly expenses, shall be fully disclosed **prior** to the expenditure.

**ARTICLE III**

**THE ROLE OF THE MEDIATOR**

**3.1 Scope of Mediation**

The Mediator herein, is being engaged to mediate the following issues with the parties:

\_\_\_\_\_ Allocation of Parental Rights and Responsibilities  
initials    initials

\_\_\_\_\_ Property Division (assets and liabilities)  
initials    initials

\_\_\_\_\_ Spousal Support  
initials    initials

\_\_\_\_\_ Other issues, namely: \_\_\_\_\_  
initials    initials

**3.2 Limitations on Authority**

The Mediator’s job is to help the Participants identify issues; explore available options for resolving those issues, and reach mutually acceptable solutions. The Mediator has no authority beyond that conferred by agreement of the Participants. The Mediator will provide information to assist the participants in their decision-making, but will not act as a therapist, attorney, or financial evaluator for either participant. Both Participants are advised to consult their own attorneys, therapists, accountants, and other experts and professionals throughout the mediation process. **The Participants mutually understand that the Mediator will not, under any circumstances, provide legal representation to either Participant during the mediation process.**

### **3.3 Compensation of Mediator**

The Mediator shall be compensated at a rate of \$\_\_\_\_\_ per hour, due and payable upon demand, after the application of the initial retainer of \$\_\_\_\_\_. The mediator shall provide monthly-itemized statements as to the utilization of said retainer pursuant to the Code of Professional Responsibility.

### **3.4 Memorandum of Understanding**

At the end of the mediation process, the Mediator will prepare a proposed Memorandum of Understanding, recording all the decisions of the parties. The proposed Memorandum of Understanding, while not a legally enforceable agreement, shall be used as the basis for a Separation Agreement and Property Settlement Agreement to be utilized in the context of a Dissolution of Marriage proceeding to be filed with a Court of competent jurisdiction. **The Participants understand that while the mediation process can lead to the settlement of issues, it is not a substitute for the legal process and it will still be necessary for them to conclude the termination of their marriage with the Court.**

## **ARTICLE IV**

### **MODIFICATION/GOVERNMENT LAW**

This Agreement may be modified only by agreement of the parties in a written document executed with the same formality as this Agreement. The Agreement shall be subject to, construed by, and enforceable under the laws of the State of Ohio.

**ARTICLE V**

**ACKNOWLEDGEMENTS**

Both Participants hereby acknowledge that they have been provided a copy of this Mediation Agreement and understand all those rights and responsibilities incorporated herein. In addition, both Participants and the Mediator hereby agree to follow the terms and spirit of this Mediation Agreement as hereinabove discussed.

**APPROVED AND ACCEPTED BY:**

\_\_\_\_\_  
**PARTICIPANT-WIFE**

\_\_\_\_\_  
**PARTICIPANT-HUSBAND**

\_\_\_\_\_  
**MEDIATOR**