

AGREEMENT TO PARTICIPATE IN FAMILY LAW MEDIATION

BETWEEN:

SPOUSE

AND:

SPOUSE

AND:

DEBORAH LYNN ZUTTER

MEDIATOR

Purpose 1. This agreement governs the terms and conditions of this family law mediation and describes the process of mediation to be used by the spouses and the Mediator in attempting to resolve this family matter. By signing this agreement, the participants agree to conduct themselves in a bona fide and forthright manner and to make a serious attempt to resolve this family matter fairly and equitably. They agree to work together with the Mediator to develop options and negotiate alternatives.

The Mediator 2. The spouses appoint DEBORAH LYNN ZUTTER, a Barrister & Solicitor, who is qualified pursuant to the Rules of the Law Society of British Columbia, to act as a family law mediator and who is certified by Family Mediation Canada as a Comprehensive Family Mediator.

What the Mediator will do 3. The Mediator agrees to help the participants discuss the matters in dispute between them, to assist them to communicate and negotiate as effectively as possible, and to assist them to reach a settlement of their dispute.

The Mediator agrees to keep confidential the discussions in the mediation and all documents generated for the purpose of reaching a settlement of this family matter.

The Mediator's agreement to keep matters confidential does not apply if the Mediator is required by law to disclose the discussions or the documents. For example, if the Mediator has reasonable grounds to believe that a child is in need of protection, the Mediator must report this to a director under the *Child, Family and Community Services Act*.

The Mediator may disclose to either spouse, or that spouse's lawyer, any information provided by the other spouse or the other spouse's lawyer, which the Mediator believes to be relevant to the issues being mediated.

The Mediator will prepare a proposed written memorandum of the resolution of the issues between them and present the memorandum to the participants for discussion.

If the spouses agree to the terms of the proposed memorandum, or an amended proposed memorandum, the Mediator will, at their request, prepare a draft separation agreement for them to take to their respective lawyers for legal advice and signing.

What the Mediator will not do

4. Mediation is a process of facilitated negotiation and accordingly the Mediator will not make decisions for the spouses.

Although the Mediator is a lawyer, throughout the mediation process, the Mediator is not acting as a lawyer for either spouse and she will not provide legal advice.

The Mediator will remain neutral in all contacts with the spouses and will not advance the interests of one spouse over the other.

Fees and

5. The spouses agree to pay the Mediator at the rate of \$_____ for their separate preliminary conferences with the Mediator prior to the joint mediation meeting.

Costs of Mediation

6. The spouses agree:
- (a) to equally share the costs of mediation;
 - (b) if either spouse is unable to attend a mediation session, she or he will notify the Mediator and the other spouse at least 24 hours before the scheduled mediation session, otherwise the Mediator will be entitled to full payment for the missed mediation session from the spouse who failed to give proper notice of the cancellation.

- Process of Mediation** 7. It is anticipated that the Mediator and the spouses will meet together more than once although the number of mediation sessions and their length may vary depending on the number of issues, the nature of the issues, and the emotional state of the spouses. At all sessions:
- (a) both spouses will be present, unless it is mutually agreed that it would be more appropriate to meet separately with the Mediator; and
 - (b) other persons, including lawyers, may be present with the express consent of each spouse and the Mediator.
- Full Disclosure** 8. The spouses agree to fully disclose all material information. They understand that any agreement entered into as a consequence of mediation may be set aside if important information was withheld or if undue pressure or influence has been exerted on either spouse, whether directly or indirectly.
- Mediator Privilege** 9. The spouses each agree that:
- (a) they will not subpoena or otherwise request or require the Mediator to be a witness in any legal proceeding relating to the family matter, or dealt with under this agreement, nor will they subpoena any document or other information in the possession of the Mediator; and
 - (b) they each waive any right they may individually or jointly have to call the Mediator as a witness in any legal or other proceeding.
- Without Prejudice** 10. The spouses agree that the mediation will be conducted with a view to settling their family matter and, as such, everything said, prepared, generated or proposed is for that purpose and is privileged and will not be used for any other purpose.
- Confidential** 11. The spouses agree to keep their discussions, and the documents prepared or produced for mediation, confidential. This provision will not apply if:
- (a) both spouses consent to the disclosure;
 - (b) the disclosure is necessary to implement the settlement;
 - (c) the disclosure is made to the spouse's lawyer; or
 - (d) the document would ordinarily be prepared or produced in a legal proceeding addressing this family law matter.

Termination

12. Even though both spouses intend to complete the mediation and reach a consensual settlement, the process is voluntary, and thus either spouse may withdraw from the mediation at any time. The mediation may also be concluded when the Mediator or the spouses decide that the issues cannot or are not likely to be resolved by mediation, and when this decision is confirmed in writing.

**Independent
Legal
Advice**

13. (a) Each spouse confirms that the Mediator has given them no legal advice with respect to this agreement to participate in family law mediation and each is encouraged, if she or he has any questions or concerns, to review this agreement with his or her own lawyer.
- (b) Since the spouses may have adverse interests, they are encouraged to obtain Independent Legal Advice before signing any agreement that results from this mediation.
- (c) It is also understood that they will each likely incur further expenses with respect to Independent Legal Advice. Unless otherwise agreed, each spouse will be responsible for her or his own costs of obtaining Independent Legal Advice.

Signed by _____ on the ____ day
of _____ 2002, at Vancouver, B. C.

Signed by _____ on the ____ day
of _____ 2002, at Vancouver, B. C.

ADDRESS:

ADDRESS:

Mediator: DEBORAH LYNN ZUTTER