

FAMILY MEDIATION SERVICES, INC.
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AGREEMENT FOR MEDIATION OF MARITAL SETTLEMENT

This is an agreement between the undersigned to enter into mediation with the goal of resolving issues relating to the dissolution of their marriage. The parties wish to reach an amicable settlement of disputes that might otherwise be the subject of expensive and time-consuming adversarial proceedings in court. The parties agree as follows:

1. Selection of Mediator: The parties employ David S. Goldberg as the Mediator of issues¹ relating to the dissolution of their marriage. The parties understand that the Mediator is not a judicial officer of the State and has no authority beyond the limited powers conferred by this Agreement.

2. Neutrality of Mediator: The Mediator will remain neutral in all contacts with the parties and will champion the interests of neither over the other. The Mediator will assist the parties in reaching agreements with respect to disputed issues, however, the Mediator will not act as a therapist or marriage counselor. The Mediator cannot act as an attorney representing either or both of the parties or their children. Although the Mediator may from time to time make suggestions and recommendations with respect to settlement, nevertheless the Mediator cannot and will not provide legal advice and the parties will not rely upon any suggestions or recommendations provided by the Mediator as legal opinions or legal advice in making their decisions, but will rely instead upon the advice and counsel of their own respective attorneys, accountants, and other advisors. The parties have retained or will retain their own individual attorneys to provide legal advice regarding their individual interests, rights, duties and obligations and to review the provisions of any memorandum of settlement or proposed form of settlement agreement prepared by the Mediator. The parties are also encouraged to retain accountants if they or their attorneys deem that to be advisable.

3. Mediation Procedure: Following the initial meeting with the Mediator, the parties will submit financial statements and other documents to each other and to the Mediator. The Mediator and the parties will meet together regularly. The number and length of the sessions may vary depending on the circumstances and the complexity of the issues to be mediated. Both parties will be present at all sessions unless it is mutually agreed that it would be appropriate on one or more

¹Any issues excluded from mediation shall be so noted in paragraph 13 of this Agreement.

occasions to meet separately with the Mediator. The Mediator may occasionally caucus or meet separately with each party. No other person will be present during mediation except by agreement of both parties and the Mediator, and such other person will sign and be bound by the confidentiality provisions of this Agreement. The Mediator may speak to attorneys or accountants representing the parties in order to further the mediation process, and the parties authorize their respective attorneys and accountants to discuss all relevant, non-privileged matters with the Mediator. The Mediator will, at the request of the parties, prepare a proposed settlement agreement and present such agreement to the parties for review and discussion. Before signing a final settlement agreement each party will have it reviewed by his or her individual attorney and accountant. The Mediator will participate as required to resolve any conflicts that arise following such attorney and accountant review and to assist the parties and their attorneys and accountants in fashioning language that accurately reflects the understandings of the parties.

4. Termination of Mediation: Even though both parties intend to complete the mediation process, it is understood that either party may, **at any time and for any reason** he or she deems to be appropriate, withdraw from the mediation process. The parties agree that a decision to terminate mediation will take place at a mediation session so that the parties and the Mediator can discuss the reasons for termination. It is further understood that the Mediator may terminate the mediation process at any time for any reason.

5. Admissibility in Court: The final settlement agreement will be admissible in a court proceeding only when and if it has been signed by both parties. In the normal course of events the final settlement agreement will be incorporated into the Judgment of Absolute Divorce.

6. Confidentiality: The mediation sessions will be treated as confidential settlement discussions. No offers of settlement made by either party or suggested by the Mediator during the course of mediation will be admissible in court for any purpose. Conversations between the Mediator and the attorneys and accountants employed by the parties will likewise be deemed to be confidential and not admissible. Neither oral statements made by the parties or by the Mediator at a mediation session, nor written proposals made by a party for the purposes of mediation, will be offered into evidence in any court proceeding for any purpose. Similarly, no documents except for the final signed settlement agreement will be offered into evidence in any court proceeding for any purpose. The Mediator will not be called to testify in court or in connection with any judicial proceeding nor be required to produce any records, notes or documents in the Mediator's possession. Confidential Mediation Memoranda prepared by the Mediator following each session will not be admissible in evidence in any court proceeding. Notwithstanding the foregoing, if the parties have signed a final settlement agreement and if thereafter a dispute arises with respect to the construction or interpretation thereof, or with respect to the intention of the parties, or with respect to mathematical

computations made by the parties, and if the court determines that parol evidence would be appropriate and helpful to the court in resolving these or related issues, then the Mediator may testify in a court proceeding and produce the contents of his file except for the Confidential Mediation Information Data Sheet prepared by each party during the course of Mediation.

7. Mediator Representation: The Mediator cannot act as an attorney representing either party in finalizing their divorce, nor can the Mediator act as an attorney representing either party in the future in connection with any legal matter whatsoever.

8. Full Disclosure: Each party will fully and honestly disclose all information and writings, including financial statements, budgets, tax returns, brokerage statements, pension and retirement information, financial records and other documents and information requested by the Mediator. Each party will also produce such other documents and provide such other disclosures as may be requested by the other party or by the other party's attorney or accountant. The parties pledge to make full and honest disclosure of the character, full extent, and value of all assets in which they have an interest, and of all liabilities, and of all other facts and circumstances which may influence the decision of each party to settle rather than to litigate their disputes.

9. Maintenance of Status Quo: During mediation, the parties agree to maintain their existing financial assets, real estate holdings and personal property. Neither will sell, transfer or encumber any substantial asset without the written concurrence of the other party, nor will either party conceal any assets. The provisions of this paragraph are not intended to alter the normal course of either party's business or professional conduct, provided such conduct does not negatively affect the net worth of either party. If there are children of the marriage, the parties agree not to unilaterally alter the pattern of care of the children and their residence during the mediation process.

10. Consultants: The parties may agree to jointly employ specialists such as accountants, actuaries, economists, appraisers, physicians, psychologists, social workers, rehabilitation specialists, financial planners, and others, to assist in them in making decisions that will be addressed in mediation.

11. Fees of Mediator: The fee of the Mediator will be \$375.00 per hour. Sessions lasting more or less than one (1) hour will be prorated for time actually expended. The parties will be billed for one (1) hour for a scheduled appointment that is cancelled less than 48 hours prior to an appointment. The hourly fee is applicable for time spent by the Mediator with the parties, time needed to study submitted documents, time spent to research issues presented, time necessary to prepare for mediation sessions, time spent in dictating and editing the Confidential Mediation Memoranda following each mediation session (typically 20 minutes), time spent in conversations with the attorneys and accountants representing the parties, and time spent in preparing and revising the proposed settlement agreement. When the parties have reached agreement on all issues, a minimum of

\$2,250.00 will be charged and paid for by the parties in advance for the Mediator's time in preparing the proposed settlement agreement. Additional charges will be made for time spent in helping the parties and their respective attorneys to negotiate any issue not fully resolved by the parties. The Mediator's fees will be paid _____% by the Husband and _____% by the Wife. Payment of all outstanding Mediator fees is required at the conclusion of each session. Personal checks as well as Visa, MasterCard and Discover are accepted.

12. Children: If the parties have children born of their marriage or adopted by them, the parties agree that the best interests of their children will be of paramount concern in negotiating a dissolution of the marital relationship and a settlement of all issues that bear upon the children's health, education and general welfare.

13. Miscellaneous: _____

Signed this _____ day of _____, 20_____.

Husband

Wife

(Address)

(Address)

Tel: Home

Tel: Home

Work

Work

Email

Email

Cell

Cell

David S. Goldberg, Mediator