

Child-Centered Mediation Agreement

DATED THIS ____ DAY OF _____ IN THE CITY OF CALGARY
PROVINCE OF ALBERTA

BETWEEN:

LORRI A. YASENIK COUNSELLING AND CONSULTING LTD.

-And-

hereafter referred to as the party or the parent

-And-

hereafter referred to as the party of the parent

INTRODUCTION

Both parties agree that the following items in this document constitute the details of the agreement and describe how the mediator and the parents will work together. The items below are meant to assist parents in understanding the mediation process and the role of the mediator and role of the parties involved. By signing this document the parties are providing their **informed consent** to proceed with Child-Centered Mediation.

1) ROLE OF MEDIATOR

Dr. Lorri Yasenik follows the empirically based dispute resolution practice model which actively seeks to facilitate hearing children during some part of the mediation process and or actively creates an environment that supports parents in considering their children's thoughts and needs. Dr. Yasenik views each family as unique and therefore child involvement will be viewed on a continuum from child-focused (where the child is not directly involved) to child participation (child is involved at different stages in the process). In addition to being child-centered, Dr. Yasenik agrees to:

- Assist parents to develop a full parenting plan (schedules, custody, day-to-day parenting, child development, extracurricular activities and payment planning, child

- care, religion, new partners, pets, communication plans etc.)
- Work with parents to create developmentally sensitive and evolving schedules for young children
- Assist parents to create plans for specific issues such as extracurricular activity planning or school planning
- Assist parents to create plans that support psychological and emotional adjustment to the separation
- Minimize conflict and focus on non- adversarial problem-solving
- Increase positive communication and manage parent upset and anger and divisiveness
- Work with parents to disengage from being partners and re-engage as parents
- Meet with children to gain their ideas and input
- Write a final Parenting Plan for the parents
- Identify if and when the process is not appropriate for the parents and terminate

2) ROLE OF PARENTS

2.1 The parents agree they will each attend a one-hour confidential pre-mediation session.

2.2 The parents agree after the initial meeting they will then meet with the mediator together (usually 2-hour sessions thereafter so that there is time to enter into dialogue).

2.3 The parents agree they will bring an agenda to each meeting.

2.4 The parents agree they will share their thoughts regarding the unique needs of each of their children that may be important to consider in developing the parenting plan.

2.5 The parents agree to provide full disclosure during the process including any court orders, or other legal issues, charges, previous agreements etc.

2.6 The parents agree that the *mediator* will decide when to invite any potential child input.

2.7 The parents consent to their child(ren) meeting with the mediator and consent to following the mediator's guidance related to how and when their children's input may be included (directly or indirectly) throughout the mediation process.

2.8 If children meet with the mediator, each parent will be asked to bring the child(ren) to at least one meeting. This demonstrates the parents' support to the children re: attending a meeting.

2.9 Parents will be provided an information sheet so that they can properly prepare their children for involvement.

2.10 The parents agree that they are involved in a "without prejudice" intervention meaning that the process is confidential to the parties until they finalize their parenting plan through their respective legal counsel. At that time they may attach their plan to their final Separation Agreement as an addendum through consultation with their lawyers.

3) Children's Involvement

3.1 Children may be invited to attend a meeting with the mediator. The timing of this meeting is to be decided by the mediator (but typically sooner into the process than later).

3.2 Children only attend if they are in agreement to do so. No child will be expected to talk to the mediator if she/he does not wish to be involved.

3.3 Children must be 5 years and older to attend (unless otherwise discussed and agreed to).

3.4 Children's emotional safety and stability will not be compromised in this process and the child's wishes and wisdom will be adhered to regarding what they agree to share and what they do not agree to share. The only exception to this is if the child makes a disclosure that he/she is at-risk or he/she is aware of another person being at-risk.

3.5 Children's meetings are confidential with the exception of what the child would like the mediator to share with his/her parents or if he/she would like to attend a meeting with his/her parents to directly share with parents.

3.6 Confidentiality is explained to each child. Their time is "private" but not secret. The child can say anything about his/her time with the mediator to anyone he/she would like. The child can also remain private and does not have to share anything at all or he/she can choose what to share and the mediator will ensure that she confirms the approved issues to share prior to discussing with the child's parents.

3.7 Children are generally seen near the beginning of the mediation process, potentially near the midpoint and at the end once their parents have established a parenting plan that they can share with their children during a mediation session with the mediator. Children may request to meet with the mediator.

3.8 The mediator will interview and or use age appropriate communication using play- based materials such as drawings, art making, doll-house, puppets and sandtray. Children will have opportunities to use a variety of expressive and projective materials.

4) PROFESSIONAL BACKGROUND

Dr. Yasenik has the following professional affiliations:

- Registered Clinical Social Worker, College of Alberta Social Workers (CASW)
- Registered Family Mediator (Alberta Family Mediation Society (AFMS)
- Registered Parenting Coordinator- Arbitrator (AFMS)
- Certified Child Psychotherapist and Play Therapist - Supervisor (CACPT-S)
- Registered Play Therapist Association of Play Therapy – Supervisor (APT-S)
- Approved Trainer for CACPT and APT (Internationally)

Dr. Yasenik is an international trainer in the area of child psychotherapy and play therapy for qualified mental health workers in 7 different countries. She has experience as an expert witness in Family Court and Court of Queen's Bench. She has worked extensively with Child and Family Services with children "at risk" and is currently involved with the Law Reform group in Alberta. Dr. Yasenik completed research in the area of "*Including the Voices of Children in the Legal System*" (2013).

5) CONFIDENTIALITY

Dr. Yasenik shall not voluntarily disclose to anyone who is not a party to the mediation any information obtained through the mediation except:

5.1 when ordered to do so by a Judge/Justice

5.2 when required by law (Family Law Act or otherwise). It is understood that the proper disclosures, as noted under any child protection provisions to report child protection concerns, as noted under the Act, will be complied with, and that there may be a reporting and disclosure of said concerns

5.3 when information discloses an actual or potential threat to human life or safety

5.4 when the parties in dispute provide consent (legal counsel may wish to attend and assist)

The parties shall not attempt to prove [in court] a verbal agreement made during mediation. There will only be an "agreement" once both parties agree in writing through respective legal counsel that there is an agreement or if the parents take a written report authored by the mediator and register it at the Provincial Court Building.

6) CHILD-CENTERED MEDIATION DEFINED

6.1 Child-centered mediation is fundamentally different from traditional negotiation mediation models that are founded in neutrality and empowerment. The child-centred model seeks to find ways to include the voices of children as parties to the process. Child-centered mediation is supported by the UN Convention on the Rights of the Child Article 12. Article 12 provides the directive to include children in legal matters that affect them. Article 12 states:

State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law.

6.2 Child-Centered mediation is a without prejudice process that focuses on assisting parents to create a fair, reasonable and child focused parenting plan where children are part of the process rather than objects of the process. The mediator is not in the role of ongoing counsellor/therapist for the parents or the children. The mediator is however, specialized in child development, working with children, family and couple dynamics, and has substantive knowledge related to separation and divorce. The mediator uses facilitation, coordination and communication skills, and her expertise in working with children and families to assist families to re-organize post separation.

6.3 In Mediation, parents create their own plans versus having a plan imposed on them by the court. There may be times during the process that consultants are necessary to make the best decisions for the children (lawyers, teachers, counsellors, medical professionals etc.) and these professionals can be consulted by way of mutual consent.

6.4 Parents agree that they are attending on their own free will and either party may withdraw from the process at anytime. If an agreement is reached the mediator will write the final Parenting Plan Report and provide the Report to the parties or to their respective legal counsel.

6.5 The parents acknowledge that they are duly informed of the following:

- The implications of this procedure and limitations regarding confidentiality
- Understand that this procedure is without prejudice and that none of the conversations or documents may be used in legal proceedings due to the without prejudice nature of the procedure
- Understand the fees and commitments to payment
- Understand the risks and rewards of the mediation process

7) LEGAL ADVICE

7.1 The mediator does not provide legal advice. While general legal information may be given from time to time, it is in the best interests of each party to the mediation to be fully apprised of their legal rights through their respective lawyer so that they negotiate from a fully informed position.

8) TERMINATION

8.1 The mediator shall suspend or terminate the mediation when:

- i) the process is likely to harm or prejudice
- ii) its usefulness is exhausted
- iii) an agreement being reached is palpably unfair
- iv) the parties fail to pay the mediator's proper fees and charges
- v.) the parties in dispute, or one of them no longer wishes to proceed

9) FEES AND CHARGES

- a. The mediator shall charge for services at the rate of \$300.00 per hour (or portion thereof) and shall be cost shared as agreed upon by the parents.
- b. This fee is due and payable on completion of each and every session, unless previously agreed upon by the parties, or legal counsel. Any additional fees will be billed as they occur and placed on each party's visa account.
- c. If a retainer fee is required, this amount shall be \$500.00 each.
- d. Any out of pocket expenses (disbursements) are due when billed.
- e. Visa, Master card and cheques are accepted.
- g. For fees to be billed to a lawyer's trust account there must be a letter on file consenting to this previous to attendance at this office.
- h. Outstanding accounts of more than 60 days may be referred to a collection agency, names and demographic information shall be given; or directed to legal counsel for small claims action.
- i. Clients understand that GST is not charged for the services and is exempt for regulated mental health professionals who are licensed under the Health Professions Act. Thus,

many insurance companies may reimburse for services, and as well, the services may be a medical expense under Revenue Canada rules.

10) OTHER CLAUSES TO BE INCLUDED PERTAINING TO THIS AGREEMENT:

10.1 It is understood that all matters spoken of in mediation, or those agreed upon in mediation are on a without prejudice basis. As such you are not able to use these directly or whole or part as an adjunct to the discovery or legal process. The mediator shall not be called upon to give evidence or be compelled as a witness in Court.

10.2 Mediation fees are to be shared as per payment plan agreement below.

11) INFORMED CONSENT

I understand:

- That the conversations, documents, and discussions are without prejudice and cannot be used in Court, and that the mediator will not be a part of any legal proceedings regarding what was shared in the mediation
- That I understand the risks/benefits of this procedure
- That the fees are paid as per our agreement and receipts can be provided
- That the fees in addition are for disbursements (phone calls, emails, consultations, reading emails – billed at .1 of the hour to begin plus time taken for the action)
- That the role of the clinical social worker is a mediator
- That all legal reasons to inform others regarding harm to self, or children will be in compliance as per any Act or authority
- That missed appointments without 48 hour notice may be billed
- That I have the opportunity at any time to seek legal counsel, and am encouraged to do so
- That I am here voluntarily and may withdraw, with notice to the other or the Court, at any time
- That my files are kept for 10 years, that after each session I am able to receive a copy of the mediation notes
- That retrieval of documentation may encumber fees

No document or information shall leave this office without full payment of said account. In the event preparation of documents need to be directed to legal counsel, that payment must be paid in full before its transmission, which can occur by way of cash, cheque or Master Card/Visa. The particulars of the credit card are as follows:

By way of signature I/WE provide consent to use the credit card as listed below.

Credit Card Information

Name: _____

Number: _____

Expiry date: _____

Signature: _____

Credit Card Information

Name: _____

Number: _____

Expiry date: _____

Signature: _____

PAYMENT PLAN:

50/50 Sharing plan

One party pays for the Service

Proportionate to Income

Other

DATE OF CONTRACT

This contract shall become effective on _____

Name (Parent) print and sign

Name (Parent) print and sign

Dr. Lorri Yasenik (Mediator)