



Open Space Mediation Services Agreement - Divorce

This is an agreement between [Client] and [Client] (“the Participants”) and _____ (“Mediator”) to enter into mediation with the intent of creating a Therapeutic Separation Agreement. The Participants and the Mediator agree as follows:

- 1. Nature of Mediation.** The Participants hereby retain _____ as Mediator for their negotiations. The Participants understand that:
 - Mediation is a voluntary process for settlement negotiations in which the Mediator impartially assists and facilitates communication between the Participants to promote agreement in a collaborative, consensual, and informed way;
 - The Mediator has no power to and will not decide issues for the Participants; and
 - The goal of this mediation is to assist the Participants themselves to reach their own most constructive and fairest agreement;
 - The Mediator is not a therapist and mediation is not a replacement for couples therapy or individual counseling.
- 2. Independent Counsel and Other Advice Recommended.** The Participants understand that mediation is not a substitute for independent legal, accounting, appraisal, tax or other professional advice. The Mediator strongly encourages the Participants to obtain such advice throughout the mediation process and especially before signing papers submitted to the court.
- 3. Scope of Mediation.** The Participants themselves, with the Mediator's concurrence, will decide on the scope of this mediation process.
- 4. Mediator Impartiality.** The Participants understand that the Mediator must remain impartial throughout this process. The Mediator works on behalf of each Participant equally and cannot advocate for either Participant.
- 5. Mediation Is Voluntary.** The Participants intend in good faith to reach a mediated agreement. However, either Participant may suspend or withdraw from the mediation process at any time, for any reason. The Mediator may also suspend or terminate the mediation if he or she feels that the mediation will lead to an unjust or unreasonable result, if the Participants reach impasse or if the Mediator can no longer effectively perform a supportive, facilitative role.

6. **Confidentiality.** To encourage open and honest dialogue, the Participants agree that all communications made during the mediation process will be confidential, except as provided in par. 7 below. The Mediator will not testify as a witness on anything that occurred during this process. Participants will not seek production of any written documents prepared or produced during the course of mediation that are not otherwise discoverable through the legal process.
7. **Limitations to Confidentiality.** Notwithstanding paragraph 6 above,
 - a. The Mediator may discuss any information disclosed by the Participants in mediation on an "off the record" basis with the Participants' attorneys and any third-party advisers or experts engaged by either of the Participants for the purpose of resolving the matters in dispute. Information from private therapeutic providers shall require Confidentiality Releases.
 - b. The Mediator may disclose information to any third party if the Participants agree;
 - c. The Mediator will disclose otherwise confidential information when required by law (e.g., when the Mediator suspects child or elder abuse, or when the information suggests an actual or potential threat to life or safety), or when ordered to do so by judicial authority (e.g., on public policy grounds), or as may be necessary to defend against any claim against Mediator;
 - d. The Mediator may disclose non-identifying information for the purpose of mediation research or educational presentations; and
 - e. This agreement to mediate, and any written agreement made and executed by the Participants arising out of the mediation, may be used in any related legal proceeding, unless the Participants have agreed to the contrary in writing.
8. **Full Disclosure.** Each Participant agrees to fully and honestly disclose all relevant information if the Mediator determines that the disclosure is relevant to the negotiations.
9. **Prohibition Against Transfers of Property, Change or Cancellation of Insurance, or Any Other Action That Changes Property Held Jointly or Separately.** After signing this agreement, the Participants will not take part in any transactions that affect their joint or separate property (except to meet normal monthly obligations) unless they first obtain the other's permission. The Participants also agree not to change any existing health or life insurance coverage (or beneficiary designations) during the mediation process.
10. **Court Proceedings.** The Participants agree that while they are using the mediation process, neither will seek any court order against the other Participant without at least 10

days advance written notice to the other (except in the case of an emergency or abusive situation). Information disclosed during the mediation process may not be used for litigation without the consent of all parties involved. The mediator has immunity to testify on behalf of either party.

- 11.**Mediation Fees.** The Mediator's fee shall be \$100 per hour (billed in increments of 15 minutes) for all time spent on tasks reasonably related to their mediation. The Participants agree to pay for all in-person meetings at the time of receiving the service. The Mediator will provide the Participants with a statement of all fees and costs. A fee of \$50 is billed without 24-hour notification of an appointment. Absence to attend a mediation session is enforced if one or both parties are not present after 20 minutes of the scheduled appointment at a cost of one hour of billable time. New clients are subject to a one-time \$40 fee. The Mediator will not charge for short phone calls or emails under the time of 15 minutes. If the phone call or email requires more than 15 minutes, Participants shall be billed for 15 minutes of time.
- 12.**Preparing Mediation Paperwork.** The Participants understand the Mediator shall prepare a Therapeutic Separation Agreement.
- 13.**Acknowledgment.** The Participants acknowledge that each has had the opportunity to obtain legal advice from independent counsel as they deemed necessary before signing this agreement.
- 14.**File Retention.** The Participants agree that the Mediator and Open Space Mediation, at his or her discretion, may destroy their file and all information concerning them after 2 years have passed from the termination of the mediation process.
- 15.**Professional Communication.** The Mediator will respond to any form of communication, written or voice, within a 24 hour period during normal business days, M-F, from 8:30a to 5:00p.

SIGNATURES

[Name of Client]

Date _____

[Name of Client]

Date _____

Witnessed by:

Mediator

Date: _____