

## **CLOSED MEDIATION RETAINER CONTRACT**

**BETWEEN:**

**-and-**

1. It is hereby agreed that Susan Cook, is retained to act as the Mediator with respect to the following issues :
  - (i) parenting arrangements for the children
  - (ii) child support and spousal support
  - (iii) possession of the matrimonial home
  - (iv) division of financial assets and
  - (v) other financial issues
2. It is acknowledged that the Mediator is an impartial third party whose role is to assist the parties to negotiate an agreement with respect to any outstanding issues.
3. In attempting to bring about an Agreement, the Mediator will meet with the parties for joint sessions and on occasion for individual sessions. The Mediator may include in the mediation process any other significant third party, such as the children, legal counsel or other significantly involved persons, following consultation with the parties.
4. Information shared with the Mediator during individual sessions may be shared with the other part, at the Mediator's discretion, unless the individual interviewed requests that the specific information be kept confidential. The Mediator may disclose any relevant information if there is a threat to anyone's safety.
5. With the exception of the Client Questionnaire (which is confidential), each party will make copies of all correspondence, legal documents, faxes, emails or tapes for the other party prior to presenting to Ms. Cook such correspondence. The purpose is to ensure that both parties have an opportunity to review any information given to Ms. Cook. It is also to maintain the Mediators impartiality, if, the correspondence raises concerns about a party's safety, the person providing the information should discuss this with the Mediator before submitting the information.

6. It is acknowledged that Susan Cook will be acting as a Mediator and will not be giving either party legal advice. The parties are strongly advised to obtain independent legal advice, preferably before mediation commences, but in any event, before a final agreement is reached, to ensure that they are fully informed of their legal rights and obligations and the legal implications of such an Agreement. In the event that the parties do not have independent legal advice prior to signing an Agreement, it is recognized that:
  - (i) the parties may not be making fully informed choices in light of their respective rights;
  - (ii) the Agreement they reach is less likely to be enforced by the court.
7. The Mediator may obtain information from relevant sources and may consult such persons and read such reports, records, or documents as she deems necessary for arriving at an Agreement following consultation with the parties. It is agreed that the parties will:
  - (i) make full disclosure of all relevant information reasonably required for the Mediator to understand the issues being mediated; and
  - (ii) to execute any Releases of Information necessary for the Mediator to obtain relevant information.
8. If issues related to property or support are discussed during the mediation process, then the parties will:
  - (i) make full financial disclosure to each other, the Mediator, and both counsel;
  - (ii) undertake not to hide or dispose of any assets; or
  - (iii) not cancel or change any beneficiaries of life insurance policies and health care policies while the mediation is in process.
9. The parties understand that interim agreements with respect to parenting arrangements, and child and/or spousal support will be factors to consider by the courts, in the event that an agreement is not reached in mediation.
10. In the event that information obtained during the mediation discloses an actual or potential threat to the safety of any of the participants or a breach of the Child and Family Services Act or Criminal Code, the Mediator is obligated to report such information.
11. Neither party nor anyone acting on their behalf will take any fresh steps in the legal proceedings between the parties with respect to those issues that are being mediated, without prior notice to the Mediator and the other party. If this occurs, the Mediation process will likely be at an end.

12. If the parties reach agreement on some or all of the issues, the Mediator will prepare a Memorandum of Understanding with respect to those issues which will be sent to both counsel to review with the parties.
13. If the parties fail to agree on one or more issues it is understood that:
  - (i) the Mediator will not prepare a report or make recommendations with respect to any issues not resolved in mediation;
  - (ii) in the case of financial issues, any documents prepared for the purpose of financial disclosure may be used by the parties in future proceedings, with their consent;
  - (iii) if the parties do not reach an agreement through mediation on any specified issue, that will be so reported by the Mediator;
  - (iv) anything said or any admission or communication in the course of the mediation is **not** admissible in any legal proceeding;
  - (v) anything said or any admission or communication made in the course of the mediation by the parties or the Mediator is confidential and may not be communicated to outside parties without the express permission of all parties and the Mediator. This does not apply to any circumstances or as outlined in Paragraph 10 above.
  - (vi) both parties agree **not** to subpoena the notes or records of Susan Cook; and
  - (vii) the Mediator will **not** be called as a witness by or on behalf of either party in any legal proceeding.
14. It is agreed that:
  - (i) The husband and the wife will pay a retainer of \$1,000.00 plus 13% for the MOU and disbursements, and share the cost of mediation equally at a total rate of \$175.00 plus 13% per session payable at each meeting; or on a percentage basis as decided by the parties with the assistance of the Mediator and as follows:\_\_\_\_\_;
  - (ii) interim accounts shall be sent out to the parties and payment shall be due when rendered;
  - (iii) the hourly rate will be \$175.00 plus 13% per hour payable at each session. The fees are subject to change upon notice by the Mediator; Sessions, telephone, email contact.
  - (iv) from time to time an additional retainer will be requested to cover anticipated future steps in the mediation. The mediation will not continue until the retainer is paid.
15. Any report or Memorandum of Understanding will not be released until all outstanding professional fees and disbursements related to the mediation have been paid in full.

16. Interest will be charged at the prime rate on all accounts outstanding after 30 days at the time the account is rendered.
17. The parties will be billed for an appointment in which there is less than 48 hours (2 full business days) notice prior to cancellation. In the event that the meeting is scheduled for more than 2 hours, or if additional participants are involved (eg. Counsel) then 4 full business days notice must be provided. The notice must be provided during regular business hours Monday through Fridays, between 9:00am and 4:30 pm. These charges are regardless of the reason for the cancellation, except at the Mediator's discretion. The parties will each be responsible for bills arising from his/her own cancellation. If the cancellation is due to the illness of a child, they will share the cancellation fee equally.
18. It is understood that either of the parties may terminate the mediation process at any time, if a party wishes to terminate, he or she will first discuss the concerns with Susan Cook to see if they can be addressed satisfactorily. The Mediator may suspend or terminate mediation whenever:
- (i) the process is likely to harm or prejudice one or more of the participants;
  - (ii) the usefulness of the mediation process is exhausted; or
  - (iii) the Agreement being reached is unreasonable.
- The Mediator will first advise the parties of the reason why she believes the mediation should be terminated.
19. The parties waive any claim or right of action against the Mediator for any matters arising out of the functions performed by her under this agreement.
20. Each of the undersigned acknowledges that he/she has read this Retainer and agrees to be bound by the terms herein.

DATE\_\_\_\_\_

\_\_\_\_\_  
PARTY( Mother )

\_\_\_\_\_  
SIGNATURE

DATE\_\_\_\_\_

\_\_\_\_\_  
PARTY( Father )

\_\_\_\_\_  
SIGNATURE