

ALISON VAWTER, ATTORNEY AT LAW
Mediator

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MEDIATION SERVICES AGREEMENT

The purpose of this mediation is to attempt to resolve the issues that have arisen between the parties by allowing the parties an opportunity to express their concerns constructively and better understand one another's views on the issues. The mediator's role is to be an impartial facilitator in assisting the parties with settling their dispute. The parties intend to use mediation, in good faith, and to the greatest extent possible, to resolve the issues relating to the future care of their child(ren). The parties acknowledge that the mediator is not acting as an attorney, judge, advocate or therapist for any party, and that mediation is not the practice of law. The mediator will use both facilitative and evaluative techniques in the mediation session. Though the mediator may at times offer recommendations and suggest options to the parties, she has no authority to make, or compel the parties to make, any binding decisions or enter into any binding settlement agreement. The parties acknowledge that they will each seek and rely on the legal advice of their attorneys with regard to any settlement agreement. The parties therefore agree:

1. **Cost of mediation:** The mediator shall be compensated at the rate of \$175.00 per hour for all time spent preparing for and in the mediation sessions, or in working on behalf of the parties to achieve the goals of mediation. This includes travel, time spent on the telephone and all time spent in drafting and reviewing documents. All of the mediation fees shall be paid in advance, and the mediator will not provide additional mediation services until all fees and balances are paid in full. Any fees due to the mediator must be paid in full before any agreement resulting from the mediation is released. Unless the Court orders otherwise, as between the parties, all of the mediation expenses shall be divided equally. Counsel for the parties guarantee payment of the mediation fees and expenses.
2. **Retainer:** A retainer fee equal to approximately four (4) hours of mediation services (\$700.00) shall be paid prior to mediation commencing. The mediator accepts cash or checks. If this retainer is earned in its entirety, an additional retainer will be required in order to continue with mediation. Any unearned portion of the retainer will be refunded.

3. Privacy of mediation: The parties are barred from calling as a witness Alison Vawter, and will be barred from requesting the production of any records or documents prepared as a result of the mediation process. If either party seeks the testimony of the mediator or disclosure of any mediation records, that party shall indemnify the mediator as to all costs in connection therewith, including attorney's fees, and will compensate the mediator for time spent at the mediator's then current hourly rate. However, nothing contained in this provision shall prohibit the mediator from providing any required information to the court upon request, including whether or not the parties reached a settlement during the course of the mediation. Evidence that the parties have entered into a settlement agreement during the course of mediation may be disclosed and may be admissible to the extent necessary to enforce the settlement.

4. Confidentiality: The mediator and the parties agree to treat all oral and written communications provided during a mediation session as confidential, and not to disclose these communications except as allowed by this agreement. However, each party may report and discuss these communications with attorneys and therapists, and the mediator may provide information to the court upon request. In addition, the mediator may disclose: (a) allegations involving abuse of a family member; (b) planned future criminal activity; (c) information believed by the mediator necessary to prevent an individual from committing an act that is likely to result in bodily harm to one of the parties or another person; (d) to the court, the suspension or termination of mediation, or a failure by either or both parties to comply with the terms of the Local Court Rules regarding mediation; and (e) non-identifying information for research or evaluation purposes. The mediator may disclose agreements and partial agreements reached by the parties to the parties' attorneys (if any), and may file with the court a report stating the status of mediation. If no complete agreement is reached, and if the mediator has concerns for the welfare or safety of a minor child(ren), or if the mediator believes that it is in the best interest of a child(ren), the mediator may recommend to the court that a child(ren) representative or guardian ad litem be appointed for the child(ren). Except for issues related to the scheduling of the mediation sessions, the mediator will not contact either of the parties, unless otherwise agreed by the parties. The mediator will not discuss with either of the attorneys in person or by phone any substantive issues arising during the mediation session, unless otherwise agreed by the parties. Any written contact with any attorney by the mediator will be made by sending a copy of the same writing to both attorneys. If a party is not represented by an attorney, the party will receive the same communication as would otherwise be sent to the party's attorney.

5. Consultants: Experts in other fields (e.g. child psychology and education) may be called for consultation, when the parties agree to their being called and agree to their rate of compensation.

6. Attendance at mediation sessions: The parties are expected to arrange their business and personal affairs so as to enable them to attend mediation sessions as scheduled. Because only the two parties will be involved in the mediation sessions, unless other arrangements are made prior to the date of the sessions, no other person(s) are to accompany either party to the mediator's office for any of the mediation sessions. Any person accompanying a mediating party will be asked to leave the mediator's building prior to mediation and return when mediation is scheduled to be completed.
7. Caucuses: The mediator may request separate meetings, or caucuses, between the mediator and one party at a time when the mediator feels this may be helpful to the mediation process.
8. Notice of cancellation: Notice of cancellation of mediation sessions must be given by the parties not less than two (2) full business days in advance of the session. If less notice is given, a charge of \$175.00 will be billed to the cancelling party, unless otherwise agreed.
9. Participation by others: Where appropriate, and depending on a child's age and other circumstances, the parties' child/children whose custody is at issue may be asked to participate, if the mediator believes that such participation may facilitate agreement, and the parties and mediator agree to such participation. Each parent (and the child's attorney, representative, or guardian ad litem, if applicable) has the right to refuse to have a child or children participate in the mediation process. Legal counsel, advocates, relatives or other persons may be present for a mediation session **only** if both parties and the mediator agree, **in advance**, to such participation. Legal counsel, advocates, and others may be consulted by phone by a party while mediation is in progress.
10. Full disclosure of information: Each party will be expected to fully and honestly disclose all relevant information and documents to one another and to the mediator.
11. Representation by attorneys: Each party has a right to obtain independent legal counsel, and the parties are encouraged to discuss any questions regarding their legal rights, or the consequences of various agreements reached in mediation, with independent counsel. Each party should obtain legal assistance in drafting and reviewing any final agreement prior to signing. Agreements reached during mediation that are to be a part of the court proceedings will not be legally binding until reviewed by the court and signed by a judge. Legal counsel for the parties shall be responsible for drafting any court orders necessary to effectuate the agreements reached during mediation.
12. Termination of mediation: According to the Local Court Rules of the Ninth Judicial Circuit, mediation can be suspended or terminated at the request of either party after three (3) hours of mediation. The parties agree that any party

wishing to terminate mediation will do so during a mediation session. Mediation can also be terminated at the discretion of the mediator. A mediator might terminate mediation, if, in the mediator's judgment: (a) an impediment to mediation exists; (b) one or both parties is acting in bad faith; (c) one or both parties appears not to understand the process; or (d) the needs and interests of the minor child or children are not being considered.

13. Impasse: If the parties are unable to reach an agreement about any or all issues, the parties and mediator will discuss options for resolution of the issues. These options may include separate sessions with the mediator, referral of particular issues to other professionals, or suspension or termination of mediation.

14. Full understanding: Each party has read this agreement, fully understands its provisions and agrees to abide by all terms contained herein.

Signature of Father Date

Signature of Mother Date

Signature of Mediator

Date