

## **Mediation Agreement**

Prepared For: Legal Education Society of Alberta

*Family Law Boot Camp*

Presented By:

**Sherry L. Kachur**

For Presentation In:

Edmonton - November 24, 2009

Calgary – December 9, 2009

BETWEEN:

x

- and -

x

- and -

**SHERRY L. KACHUR**

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**AGREEMENT TO MEDIATE**

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**PREAMBLE**

1. We retain Sherry L. Kachur as our mediator to help us settle outstanding issues arising as a result of the breakdown of our marriage. We understand that Ms. Kachur is an impartial third party whose role it is to assist us to negotiate a voluntary settlement of the issues arising out of our relationship breakdown.

**ROLE OF THE MEDIATOR**

2. We understand that Ms. Kachur, while trained as a lawyer, will not be giving either of us legal advice, although she may give us both information about current family law as it affects us. We acknowledge having been advised to seek independent legal advice if we have already done so. We understand it is the role of our respective lawyers to advise us of our rights and obligations; to advise us whether the agreement we are making is reasonable and fair; and, to ensure that when any agreement to be signed is taken to own lawyers, they will be able to give us legal advice based on full knowledge of our case, as opposed to only being able to explain what the agreement means. We also understand that no solicitor-client privilege exists between Ms. Kachur and ourselves.

**MEDIATION SESSIONS**

3. We feel we can negotiate with each other in an atmosphere in which we can discuss freely the relevant issues, without fear of any financial or other repercussions from speaking openly about the relevant issues. If either of us feels at any time intimidated in any fashion about speaking honestly and freely about relevant matters, he or she will immediately advise Ms. Kachur but can do so privately.

#### FINANCIAL DISCLOSURE

4. We agree that we will each make disclosure of our financial circumstances both to each other and to the mediators and to our respective solicitors. We will make such disclosure at the outset with a view to settlement. We understand that our own lawyers will be responsible for ensuring that the level of financial disclosure is sufficient for his or her client's purposes and as is applicable to dealing with the issues at hand.
5. We agree that all documents **other** than those about parenting or property matters, and all discussions, are confidential. We agree that the mediator will be free to disclose to one party all information and documentation provided by the other party. We shall not ask nor require the mediator to withhold information from the other party.

#### PERMISSION TO SPEAK WITH OTHER INVOLVED PROFESSIONALS

6. We acknowledge that it may be necessary for Ms. Kachur to speak about various issues with our respective lawyers, counsellors, accountants or other professionals. We hereby grant Ms. Kachur permission to speak to our respective counsel about any matter she deems necessary. We understand and agree that Ms. Kachur may speak with professional colleagues on a confidential basis to discuss various aspects of our case in order to better serve us.

#### CLOSED MEDIATION

7. Neither of us will require Ms. Kachur to attend to give evidence at a Court proceeding or disclose what was said to any person other than us. Subject to paragraph #6 above, Ms. Kachur agrees that such communication shall be strictly confidential, except that she may discuss the mediation and any information disclosed in the mediation with the lawyer for either spouse. Any letters or reports written by Ms. Kachur in the course of, or after, the mediation shall not be disclosed by any party to this agreement, to any third party, or, to the court. ***We understand that, by law, Ms. Kachur is required to report to the appropriate persons any evidence of child abuse or neglect, or the intention to commit a criminal act or disobey a Court order.***

#### WRITTEN AGREEMENT

8. We agree that, insofar as we are able to reach agreement on some or all of the issues outstanding between us, Ms. Kachur will put the agreement into writing, but she will not be witnessing its signature by us.
9. We understand that Ms. Kachur will stop assisting us if, in her considered opinion, she believes that the agreement we are reaching would be found at law to be unconscionable, or be found invalid because of misrepresentation, fraud, lack of disclosure, unfair