BETWEEN:

 **PARTY 1**

- and -

**PARTY 2**

**AGREEMENT TO MEDIATE**

**PREAMBLE**

1. We retain **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (“the Mediator”) as our mediator to help us settle outstanding issues arising from the breakdown of our marriage. We understand that the Mediator 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. All communications between the parties during Mediation is on a strictly without prejudice basis.

**ROLE OF THE MEDIATOR**

2. We understand that **the Mediator, while trained as a lawyer, will not be giving either of us legal advice, although she may give us both information about current family and other laws as they may affects us.** We acknowledge having been advised to seek independent legal advice if we have not already done so. We understand it is the role of our respective lawyers to advise us of our rights and ensure that when any agreement to be signed it is taken to our own lawyers, as 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. If we choose not to obtain legal advice, we understand that we may be required to sign a Waiver of Legal Advice by the mediator. We also understand that no solicitor-client privilege exists between the Mediator and ourselves.

**PRE-MEDIATION**

3. We understand that the mediator will meet with each of us separately in a pre-mediation session to:

a. gather background information and a brief description of the issue[s].

b. provide information on the process and prepare the parties for the mediation.

c. discuss logistics and any accommodations required.

d. discuss any trauma issues and resulting triggers

e. discuss communication during the mediation.

f. assess any safety issues.

g. assess capacity/competence.

**MEDIATION SESSIONS**

4. 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 the Mediator, but can do so privately.

5. The mediator may choose, where she deems it appropriate, to use caucusing or “shuttle mediation”, which is meeting with the parties separately and alternating between them to share the views and positions of each party with the other.

**ACCOMMODATIONS**

6. We both understand that the Mediator may propose certain accommodations for either or both parties to better facilitate each party’s effective participation in the mediation and their ability to make an informed decision. The mediator will discuss the proposed accommodations with both parties to obtain their consent, which will not be unreasonably withheld.

**FINANCIAL DISCLOSURE**

7. We agree that we will each make disclosure of our financial circumstances both to each other and to the Mediator and to our respective lawyers if we have them. We will make such disclosure at the outset with a view to settlement. We understand that each party or our own lawyers, if we have them, will be responsible for ensuring that the level of financial disclosure is sufficient each party’s purposes and as is applicable to dealing with the issues at hand. A list of recommended disclosure will be provided.

**CONFIDENTIALITY**

8. We agree that all documents and all discussions, are confidential and may not be recorded, shared, nor published outside the mediation process, including on social media. 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 INVOLVE OTHER PROFESSIONALS**

9. We acknowledge that it may be necessary for the Mediator to speak about various *issues with our respective lawyers, counsellors, accountants, or other professionals. We* hereby grant the Mediator permission to speak to our respective counsel about any matter she deems necessary. We understand and agree that the Mediator may speak with professional colleagues on a confidential basis to discuss various aspects of our case to better serve us. We acknowledge that the Mediator may find it necessary to invite other professionals into the process to assist in the mediation with your permission. We acknowledge that the Mediator may deem it necessary to include another lawyer or professional to act as a co-Mediator.

**CLOSED MEDIATION**

10. Neither of us will require the Mediator to attend or give evidence at a Court proceeding or disclose what was said to any person other than us. Subject to paragraph 8 above, the Mediator agrees that such communication shall be strictly confidential, except that they may discuss the letters or reports written by the Mediator in the course of, or after the mediation, and shall not be disclosed by any party to this agreement, to any third party, or, to the court. **We understand that, by law, the Mediator 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**

11. We agree that, insofar as we are able to reach an agreement on some or all of the issues outstanding between us, the Mediator will put the agreement into writing, and that the Mediated Agreement will not be signed by us, only the Mediator.

12. We understand that the form of the written agreement shall be in the format that is mutually agreed by all parties. The Agreement will range from a simple written report of the issues discussed and the agreements reached or the preparation of a formal Settlement Agreement to be taken to each party’s respective Lawyer for Independent Legal Advice.

13. We understand that the Mediator will stop assisting us if, in their considered opinion, they believe 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 pressure, or being obviously contrary to the best interest of our children, if any. Finally, we understand that, until there is an agreement in writing, signed by both of us and witnessed, any agreements made during mediation are tentative only.

**FEES AND DISBURSEMENTS**

14. We acknowledge that the Mediator’s regular fee is **\_\_\_\_\_\_\_\_\_\_\_\_\_ ($000.00)** per hour plus GST and an initial retainer of $\_\_\_\_\_\_\_\_ is to be paid to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This fee applies to all time spent by the Mediator in preparation, meetings, telephone calls, review of documents, and preparation of the Mediator’s report.

**Party 1** and **Party 2** shall each be responsible for mediator’s costs with GST and disbursements as follows:

 **Party 1**  - \_\_\_%

 **Party 2** - \_\_\_%

In addition, we agree to pay all disbursements and related expenses, such as long-distance charges, delivery costs, photocopying, faxes, and the like. The payment for all mediator’s costs with GST and disbursements are to be paid at the end of each mediation session unless otherwise agreed upon between the parties and the Mediator. The parties further acknowledge and agree that these costs shall come from their Retainer, which will be paid upon submission by the Mediator of her bill. We understand that before the Mediator drafts any agreement, we will be paying an amount representing the estimated time to draft the agreement.

15. We acknowledge that if we need to change a scheduled appointment time, we agree to give the Mediator at least 24 hours’ notice. If we fail to do so, we agree to pay for the scheduled time, not to exceed two hours.

**TERMINATION**

15. We acknowledge that either one of us of the Mediator can terminate the mediation by notifying the other parties. We acknowledge the possibility that one or more of the parties to the mediation may terminate it prior to the conclusion of a written agreement. Before we finally terminate the mediation sessions, we agree to attend at least one more session to see whether we can get the mediation back on track. We agree that any unilateral termination of the mediation by either of us cannot be mentioned in the arbitration, court, or in any other formal adjudicated process.

**AGREEMENT**

16. Each party has read this agreement and agrees to proceed with mediation on the terms set out above.

**DATED** at Sylvan Lake, Alberta this \_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022

**Party 1 Witness**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Party 2 Witness**

AFFIDAVIT OF EXECUTION FOR WITNESS

CANADA

PROVINCE OF ALBERTA

TO WIT:

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I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

of the \_\_\_\_ of \_\_\_\_\_\_\_\_\_\_

in the Province of Alberta,

MAKE OATH AND SAY:

1. I was personally present and did see **Party 1** named in the within instrument who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.

2. That the same was executed at the \_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_, in the Province of Alberta, and that I am the subscribing witness thereto.

3. That I know the said person and he/she is in my belief of the full age of eighteen years.

SWORN before me at the }

\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_ }

in the Province of Alberta }

this ­\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 2022 }

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A Commissioner for Oaths in and }

for the Province of Alberta }

AFFIDAVIT OF EXECUTION FOR WITNESS

CANADA

PROVINCE OF ALBERTA

TO WIT:

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I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

of the \_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_

in the Province of Alberta,

MAKE OATH AND SAY:

1. I was personally present and did see **Party 2** named in the within instrument who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein.

2. That the same was executed at the \_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the Province of Alberta, and that I am the subscribing witness thereto.

3. That I know the said person and he/she is in my belief of the full age of eighteen years.

SWORN before me at the }

\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ }

in the Province of Alberta }

this \_\_ day of \_\_\_\_\_\_\_\_\_\_, 2022 }

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A Commissioner for Oaths in and }

for the Province of Alberta