

## Douglas County Domestic Mediation Services

### AGREEMENT TO MEDIATE

THE PARTICIPANTS AGREE to work with the mediator to attempt to settle the issues surrounding their respective claims.

The commitments you make when you are in the mediation process are specific and defined by Rules 901, 902, and 903 that have been adopted by the Kansas Supreme Court. All parties are expected to come to mediation in good faith and to accept the confidentiality of mediation.

When conducting mediation, the mediator adheres to principal of neutrality. In other words, s/he does not have ties to any participant in a personal manner which should impact the outcome of an eventual settlement, and enters into the mediation with no preconceived ideas about what the outcome should be.

#### **Mediation is a process in which:**

1. The mediator is neutral and does not make a decision. S/he may provide input and evaluation as to different options and ways in which to consider the risk and value of the case. The mediator will use her/his experience and background to assist the parties in thoroughly evaluating their case and considering the options for settlement.
2. The mediator uses mediation techniques in order to encourage the parties to find as many agreements as they can concerning their current situation. The parties are assisted in brainstorming ideas for developing their own results for settlement of their issues, and given input, but not legal advice from the mediator.
3. **The mediator will not provide legal counsel of any kind, under any circumstances.** Parties are encouraged to consult an attorney at any time during the process and before signing any documents.
4. The mediator will give each participant equal opportunity to provide information.
5. If the parties are unable to come to agreement on an issue, all mediation communications are kept confidential as described in K.S.A. 60 452.
6. The mediator is a mandated reporter of child or elder abuse.

#### **PARTIES AGREE:**

1. To take part in the mediation and respect the rules set forth by the mediator.
2. To disclose all material information necessary for good faith bargaining and settlement effort.
3. That under no circumstances will either party call the mediator as a witness, or subpoena or demand the production of any records used during the mediation process. To the extent that you may have any such rights, you hereby agree to waive them.
4. To follow the terms of any agreement reached and signed. Any agreement **signed at the close of the mediation is intended to be binding on all participants**, and can be subpoenaed, called for, or produced in any court proceeding to have it legally enforced, unless the agreement specifically provides to the contrary.
5. No tape record will be made nor will any participant cause the electronic recording of any portion of the mediation session or sessions or telephone calls among the participants and/or mediator concerning the sessions.

#### **MEDIATOR AGREES:**

1. To act in an impartial manner.
2. To fully disclose to the participants the nature and extent of any relationships with the participants and any personal, financial, or other interests which could result in bias or a conflict of interest.
3. To encourage the participants to seek independent legal advice before signing any documents if not represented by counsel.
4. To protect the confidentiality of the mediation.
5. In some circumstances co mediation may be appropriate. Both mediators are bound by this agreement.

