

## MEDIATION AGREEMENT

This agreement is made by \_\_\_\_\_ and \_\_\_\_\_, herein referred to as clients, and HELEN PETERS, hereinafter referred to as the mediator.

This agreement is made between client and mediator arising out of their desire to reach a settlement of an existing controversy between them which they are unable to resolve amongst themselves. The parties agree to abide by such mediation rules and guidelines as may be established by the mediator. The signing of this agreement by the clients is their representation that each of them has been informed of the purposes and objectives of mediation, the principles upon which mediation operates, and is an expression of their intention to act in good faith throughout the mediation process. In consideration of the terms of this agreement the parties agree as follows:

1. Mediation shall be conducted by HELEN PETERS.

The parties consent to submitting all issues surrounding their controversy to the mediator for resolution throughout the mediation process. It is further understood that the mediator is not a judicial officer of the State and is not acting as a representative for either of the parties involved in the mediation process and therefore is not providing any protection for one side or the other. The mediator will not represent either of the clients as a counselor or advocate or in any other manner undertake to represent either of the parties in any legal proceeding.

2. The fee of the mediator shall be \$450.00 per hour.

The hourly fee is applicable equally for time spent with the parties in mediation, time with your reviewing attorneys or experts, time drafting and reviewing correspondence (including e-mails), time spent on the telephone, and for time required to study submitted documents, research any matters for which research is appropriate, and to prepare the proposed mediation agreement. Legal Assistant work shall be billed at the hourly rate of \$100. The fees shall be shared equally by the clients unless otherwise negotiated. Payment shall be made in advance of each meeting. Clients will be charged for cancelled or missed sessions unless notice of cancellation is received 48 hours prior to the scheduled meeting. Charge will be made to the nearest 1/10th per hour. Past due balances of thirty days or more shall be charged daily interest at the legal rate of 10% per annum.

3. The mediation process is based upon good faith negotiations between the clients and therefore it is agreed that there will be full and complete disclosure of all information and documents necessary to reach an informed decision regarding all aspects of the negotiation including, but not limited to, financial statements, budgets, income tax returns, appraisals, etc. As and when requested by the mediator, all such information shall be disclosed and made available to each of the clients.

4. Because you are making a full disclosure with regard to many matters which may be of a confidential nature, you agree that the mediator will not be called by either of you as a witness to testify in court or any other proceeding should the mediation prove

unsuccessful or should subsequent events cause the mediated agreement to require modification through court intervention. As a part of our agreement to mediate, we agree to be bound by the California Evidence Code Section 1119, which is attached to this agreement and made a part of it.

5. It may become necessary during the mediation to engage the services of an expert with respect to either tax matters or valuations of properties, or other matters that may seem appropriate, and clients and mediator will discuss the services to be performed by that person and the cost of those services which will be paid for in advance by clients.

6. At the commencement of the mediation, a Petition may need to be prepared for the parties to be signed by one of the parties pursuant to agreement, in pro per, if filing has not yet occurred, in order to open a court case to approve agreements. At the conclusion of the mediation, and subject to approval by consulting attorneys, where applicable, a Mediated Settlement Agreement or stipulation describing the agreements made will be prepared by the mediator. A drafting deposit of \$1,500.00 will be requested at that time. The clients will review that agreement with counsel of their choice to ensure that its terms accurately reflect their agreement, and sign it indicating their understanding that it covers all aspects of the mediation. In the event the parties request that the Mediator prepare and submit a Judgment to the Court based upon their mediated agreement, the parties have each been advised that there is a potential conflict of interest inherent in any "dual representation" (i.e. one attorney representing two parties), particularly in a divorce action. To the extent a conflict of interest does or may exist in the preparation of the Judgment and other documents prepared by Ms. Peters, the parties waive any objection thereto, and have expressly consented to have Helen Peters represent them in their divorce with regard to their agreement.

7. We understand that California law provides that the statements, admission and writings made during mediation are confidential. We further understand that California law provides certain conditions under which mediation is considered terminated. We agree that the Evidence Code Section providing that a mediation terminates when there is no communication between the mediator and the participants for ten (10) days will not end our mediation. We are modifying Evidence Code §1125 so that our mediation will end when we have either reached an agreement as defined by the statute or either one of you or the mediator sends a letter stating that the mediation is over. We consent to email as an acceptable means for contact.

Dated: \_\_\_\_\_

\_\_\_\_\_  
BY: HELEN PETERS, ATTORNEY-MEDIATOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
CLIENT

Dated: \_\_\_\_\_

\_\_\_\_\_  
CLIENT

## EXHIBIT A

California Evidence Code Section 1119.

Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential.