

Mediation Agreement

We, the undersigned parties, are presently involved in a dispute with one another, which we hereby submit for mediation before Conflict to Peace.

We have been informed that Title 8.01 Chapter 21.2. Code of Virginia governs mediation and sets out: definitions; standards, duties, and civil immunity of mediators; confidentiality of the mediation process and exceptions; effect of written agreements and grounds for vacating such agreements. We acknowledge being informed of and receiving a copy of these statutory provisions and agree that these provisions apply to this mediation.

We acknowledge and agree that:

1. One or more mediators will be nominated by Conflict to Peace.
2. The mediators will endeavor to assist us in reaching a voluntary resolution of this dispute through mediation. Their mediation style will be to facilitate effective communication between us, engender understanding between us, draw out the underlying reasons for the dispute, and guide and encourage us towards resolution. Foundational to this approach are principles concerning individual responsibility for one's role in a dispute, consideration of the interests of all who are impacted by the dispute, and the impact of relationship issues in the existence and resolution of the dispute. If we are unable to agree on a resolution, the mediators may, at their discretion, issue an advisory opinion, which shall not be legally binding. While we commit ourselves to negotiate fairly, honestly and equitably throughout the process, we understand that we may choose to withdraw from the mediation process at any time. The mediators may withdraw from the mediation if it becomes inappropriate or ineffective and will terminate the mediation if it becomes evident that there is a failure to participate in good faith on the part of either party. In domestic relations cases involving divorce, property, support or the welfare of a child, good faith includes each party providing substantial full disclosure of all relevant property and financial information.
3. We understand that neither Conflict to Peace nor any mediators, including those who happen to be attorneys, will provide us with legal advice or representation, which we could receive from a privately retained attorney. Furthermore, no mediator, regardless of training or expertise, will be expected to provide any of us with professional or technical advice, which we could receive from an independent professional or technical specialist. Since an agreement signed by us as a result of this mediation process will affect our legal rights, each of us may choose to consult independent legal counsel or seek other professional or technical advice at any time during the mediation process and is encouraged to do so. Each party to the mediation should have any draft agreement reviewed by independent counsel prior to signing the agreement
4. We agree to protect the confidentiality of this process. We reiterate that we have been specifically informed of the confidentiality provisions of Title 8.01 Chapter 21.2. Code of Virginia and their applicability to this mediation. Furthermore, we agree to treat all dealings with each other, Conflict to Peace, or the mediators in regard to this dispute as settlement negotiations, and we agree that all communications which relate to the controversy being mediated, made at a mediation session, or in connection with the mediation with each other, Conflict to Peace, the mediators, or any other person, shall be confidential, inadmissible in a judicial or administrative proceeding, and not discoverable, except as provided in the applicable statutory provisions noted above or otherwise excepted in this agreement. We understand that under Virginia Code Section 63.2-1509 mediators are mandatory reporters of child abuse, which means that information pertaining to suspected child abuse or neglect will not remain confidential. We agree that the confidentiality provisions shall not preclude us from discussing what happens in

mediation with our spouses, spiritual advisors, or attorneys, and shall not preclude the mediators from consulting with Conflict to Peace staff members or outside experts regarding particular issues or problems related to a case.

5. We agree to instruct any attorney representing us that s/he shall not, at any time (before, during, or after mediation of this dispute), call a representative of Conflict to Peace or an appointed mediator as a witness in any legal or administrative proceeding concerning this dispute or the agreement which is produced as a result of this mediation. In the event Conflict to Peace or an appointed mediator is involved in court proceedings related in any manner to this mediation, the parties seeking their involvement shall pay all expenses of Conflict to Peace and the mediator associated with that involvement including the undiscounted hourly session fees and expenses set out in the fee agreement and the cost of legal representation.

6. We have each signed a fee agreement. Each party agrees to pay their share of all fees and costs of the conciliation process in accordance with that fee agreement.

7. This agreement may be executed in counterparts (identical copies bearing one or more signatures), each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

We further agree that any dispute with Conflict to Peace or a mediator arising out of or related to this agreement shall be settled by mediation and, if necessary, legally binding arbitration in accordance with the Institute for Christian Conciliation’s Rules of Procedure (complete text available at www.Peacemaker.net). Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. We understand that these methods shall be the sole remedy for any controversy or claim arising out of or related to this agreement and expressly waive our right to file a lawsuit in any civil court against one another for such disputes, except to enforce an arbitration decision.

Signed _____ Date _____

Signed _____ Date _____

Accepted by _____ Date _____
(Conflict to Peace Representative)

Code of VA Title 8.01 - CIVIL REMEDIES AND PROCEDURE. Chapter 21.2 – Mediation

§ 8.01-581.21. Definitions. As used in this chapter:

"Mediation" means a process in which a mediator facilitates communication between the parties and, without deciding the issues or imposing a solution on the parties, enables them to understand and to reach a mutually agreeable resolution to their dispute.

"Mediation program" means a program through which mediators or mediation is made available and includes the director, agents and employees of the program.

"Mediator" means an impartial third party selected by agreement of the parties to a controversy to assist them in mediation. (1988, cc. 623, 857; 2002, c. 718.)

§ 8.01-581.22. Confidentiality; exceptions.

All memoranda, work products and other materials contained in the case files of a mediator or mediation program are confidential. Any communication made in or in connection with the mediation, which relates to the controversy being mediated, including screening, intake, and scheduling a mediation, whether made to the mediator, mediation program staff, to a party, or to any other person, is confidential. However, a written mediated agreement signed by the parties shall not be confidential, unless the parties otherwise agree in writing.

Confidential materials and communications are not subject to disclosure in discovery or in any judicial or administrative proceeding except (i) where all parties to the mediation agree, in writing, to waive the confidentiality, (ii) in a subsequent action between the mediator or mediation program and a party to the mediation for damages arising out of the mediation, (iii) statements, memoranda, materials and other tangible evidence, otherwise subject to discovery, which were not prepared specifically for use in and actually used in the mediation, (iv) where a threat to inflict bodily injury is made, (v) where communications are intentionally used to plan, attempt to commit, or commit a crime or conceal an ongoing crime, (vi) where an ethics complaint is made against the mediator by a party to the mediation to the extent necessary for the complainant to prove misconduct and the mediator to defend against such complaint, (vii) where communications are sought or offered to prove or disprove a claim or complaint of misconduct or malpractice filed against a party's legal representative based on conduct occurring during a mediation, (viii) where communications are sought or offered to prove or disprove any of the grounds listed in § 8.01-581.26 in a proceeding to vacate a mediated agreement, or (ix) as provided by law or rule. The use of attorney work product in a mediation shall not result in a waiver of the attorney work product privilege.

Notwithstanding the provisions of this section, in any case where the dispute involves support of the minor children of the parties, financial information, including information contained in the child support guidelines worksheet, and written reasons for any deviation from the guidelines shall be disclosed to each party and the court for the purpose of computing a basic child support amount pursuant to § 20-108.2. (1988, cc. 623, 857; 2002, c. 718.)

§ 8.01-581.23. Civil immunity.

When a mediation is provided by a mediator who is certified pursuant to guidelines promulgated by the Judicial Council of Virginia, or who is trained and serves as a mediator through the statewide mediation program established pursuant to § 2.2-1202.1, then that mediator, mediation programs for which that mediator is providing services, and a mediator co-mediating with that mediator shall be immune from civil liability for, or resulting from, any act or omission done or made while engaged in efforts to assist or conduct a mediation, unless the act or omission was made or done in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another. This language is not intended to abrogate any other immunity that may be applicable to a mediator. (1988, cc. 623, 857; 2002, c. 718; 2012, cc. 803, 835.)

§ 8.01-581.24. Standards and duties of mediators; confidentiality; liability.

A mediator selected to conduct a mediation under this chapter may encourage and assist the parties in reaching a resolution of their dispute, but may not compel or coerce the parties into entering into a settlement agreement. A mediator has an obligation to remain impartial and free from conflicts of interest in each case, and to decline to participate further in a case should such partiality or conflict arise. Unless expressly authorized by the disclosing party, the mediator may not disclose to either party information relating to the subject matter of the mediation provided to him in confidence by the other. A mediator shall not disclose information exchanged or observations regarding the conduct and demeanor of the parties and their counsel during the mediation, unless the parties otherwise agree.

However, where the dispute involves the support of minor children of the parties, the parties shall disclose to each other and to the mediator the information to be used in completing the child support guidelines worksheet required by § 20-108.2. The guidelines computations and any reasons for deviation shall be incorporated in any written agreement by the parties. (2002, c. 718.)

§ 8.01-581.25. Effect of written settlement agreement.

If the parties reach a settlement and execute a written agreement disposing of the dispute, the agreement is enforceable in the same manner as any other written contract. If the mediation involves a case that is filed in court, upon request of all parties and consistent with law and public policy, the court shall incorporate the written agreement into the terms of its final decree disposing of a case. In cases in which the dispute involves support for the minor children of the parties, an order incorporating a written agreement shall also include the child support guidelines worksheet and, if applicable, the written reasons for any deviation from the guidelines. The child support guidelines worksheet shall be attached to the order. (2002, c. 718.)

§ 8.01-581.26. Vacating orders and agreements.

Upon the filing of an independent action by a party, the court shall vacate a mediated agreement reached in a mediation pursuant to this chapter, or vacate an order incorporating or resulting from such agreement, where:

1. The agreement was procured by fraud or duress, or is unconscionable;
2. If property or financial matters in domestic relations cases involving divorce, property, support or the welfare of a child are in dispute, the parties failed to provide substantial full disclosure of all relevant property and financial information; or
3. There was evident partiality or misconduct by the mediator, prejudicing the rights of any party.

For purposes of this section, "misconduct" includes failure of the mediator to inform the parties at the commencement of the mediation process that: (i) the mediator does not provide legal advice, (ii) any mediated agreement may affect the legal rights of the parties, (iii) each party to the mediation has the opportunity to consult with independent legal counsel at any time and is encouraged to do so, and (iv) each party to the mediation should have any draft agreement reviewed by independent counsel prior to signing the agreement. (2002, c. 718.)