

Party: _____

Orientation Date _____

Party: _____

MEDIATION ORIENTATION CONSENT FORM

We, the undersigned, understand and consent to the following:

1. Confidentiality: All memoranda, work product and other materials contained in the case files of a neutral or dispute resolution program are confidential. Any communication made in or in connection with the dispute resolution proceeding which relates to the controversy, including screening, intake, and scheduling a dispute resolution proceeding, is confidential. A mediated agreement signed by the parties is not confidential unless the parties otherwise agree in writing. Allegations of child abuse are not confidential. Mediators are mandatory reporters of child abuse. In reporting the outcome of the mediation to the referring court, the neutral indicates (i) whether or not an agreement was reached, (ii) the terms of the agreement if authorized by the parties, or (iii) the fact that the orientation session or mediation did not occur. The neutral will not disclose information exchanged or observations regarding the conduct and demeanor of the parties during the mediation unless the parties otherwise agree.

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.

2. Complaints Against Mediators: If someone who is not a party to the mediation files an ethics complaint against the mediator, confidentiality will be waived to the extent necessary for the complainant to prove misconduct and the mediator to defend against the complaint.

3. Mediators do not give legal advice. Parties are encouraged to seek the advice of independent legal counsel. Each party has the opportunity to have legal counsel present during mediation or to consult with independent legal counsel at any time during the mediation.

Plaintiff/Petitioner

Date

Plaintiff/Petitioner Attorney

Date

Respondent

Date

Respondent Attorney

Date

Mediator

Mediator