



RIVERDALE MEDIATION

PARENTING COORDINATION AGREEMENT

This is an agreement for parenting coordination (“PC”) services under the *Arbitration Act* S. O. 1991 c. 17, and the *Family Law Act* R.S.O. 1990 c. F.3.

Between:

_____ and _____ (“the parents”)

_____ (the “PC”)

1. PRINCIPLES

- 1.1 Children benefit from a meaningful relationship with both parents.
- 1.2 Parental conflict harms children’s adjustment to their parents’ separation.
- 1.3 Children should remain uninvolved in parental disputes.
- 1.4 Parenting coordination is a child-focused dispute resolution process designed to:
 - (a) help parents settle parenting disputes in a timely manner, and
 - (b) facilitate the management and implementation of their separation agreement, minutes of settlement, court order or arbitration award (the “parenting plan”).

2. APPOINTMENT OF PARENTING COORDINATOR

- 2.1 _____ is appointed as PC in accordance with the attached parenting plan. It takes effect when it has been signed by both parents and witnessed, and each parent’s certificate of independent legal advice and the PC’s certificate are signed.
- 2.2 The PC is a mental health professional and mediator. Her CV is attached. The parents have made inquiries and satisfied themselves that she has the qualifications and experience to perform the PC role.
- 2.3 The PC is not a therapist or counselor and will not provide counseling or therapy services. The PC is not a lawyer and will not provide legal services or legal advice. Any comments or suggestions made by the PC while fulfilling her responsibilities under this contract shall not be construed as counseling, therapeutic or legal advice.
- 2.4 The PC is appointed for a term of _____ months, expiring _____ (“the expiry date”). The parents and the PC shall provide written notice to one another at least 30 days before the expiry date whether they intend to renew the Agreement.
- 2.5 Neither parent may unilaterally revoke the PC appointment. The parents may jointly revoke the PC appointment in writing.



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- 2.6 The PC may resign if she determines, in her discretion, that doing so is in the best interests of the children, or if she is unable to serve out her term. She need not provide notice of or reasons for her resignation, which shall be made in writing.

3 WAIVER OF RIGHTS IN COURT

- 3.1 The parents waive their rights to further litigate the issues that are within the jurisdiction of the PC, as more fully detailed in this agreement.

4 DEFINITIONS

- 4.1 “*Arbitration Act*” means the *Arbitration Act, 1991*, S.O., 1991, c.17, as am. S.O. 2006, c. 1, s.1; 2006, c. 19, Sched. C, s. 1(1);
- 4.2 “*Child and Family Services Act*” means *Child and Family Services Act* R.S.O. 1990, c. C.11
- 4.3 “*Children’s Law Reform Act*” means the *Children’s Law Reform Act*, R.S.O. 1990, c. C.12;
- 4.4 “*Divorce Act*” means the *Divorce Act*, R.S.C. 1985 (2nd Supp.), c. 3, as amended;
- 4.5 “*Family Law Act*” means the *Family Law Act*, R.S.O. 1990, c. F.3, as am. S.O. 2006, c. 1, s.5; 2006, c. 19, Sched. B, s. 9, Sched. C, s. 1(1), (2), (4);

5 JURISDICTION AND COMMUNICATIONS

- 5.1 The PC has jurisdiction to:
- (a) manage and implement paragraphs _____ of the parents’ parenting plan, (attached) as more particularly set out in paragraph **7.1** and **7.2** herein, and
 - (b) award costs, as set out in paragraph **15** herein.
- 5.2 Any written communications made between the PC and the parents under this agreement may be made by e-mail.

6 OVERVIEW: ROLE OF THE PARENTING COORDINATOR

- 6.1 The PC provides a combined consensus-building (mediation) and decision-making (arbitration) dispute resolution service. The PC is not disqualified from adjudicating any issues because she has acted as a Mediator. The parents specifically waive section 35 of the *Arbitration Act*.
- 6.2 Upon the request of either parent, the PC will attempt to help the parents reach agreement on the issue in dispute in accordance with paragraph 10. If the parents are unable to agree, the PC is authorized to make a binding decision on the matter in



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accordance with the procedure set out in paragraph 11.

- 6.3 In fulfilling her role, both as mediator and arbitrator, the PC may, in her discretion:
- (a) meet with the parents jointly or individually, and/or with their children, with the timing, frequency and duration of meetings determined by the PC;
 - (b) coach parents about communication with one another and with their children to facilitate settlement of the issues, with the goal of helping parents acquire the skills and experience to resolve future issues on their own;
 - (c) recommend appropriate resources for the parents and the children;
 - (d) consult with third parties who may have information that is relevant to her role, and
 - (e) seek legal and other advice as needed.

7 JURISDICTION OF THE PARENTING COORDINATOR

- 7.1 Subject to the terms of the parenting plan, either parent may request the PC's assistance with:
- (a) conflicts in the children's scheduling
 - (b) difficulties related to the children's transitions between the parents, including codes of conduct and transportation;
 - (c) developing any necessary clarifying provisions that were not anticipated when the parenting plan was developed;
 - (d) assisting the parents to communicate more effectively where appropriate;
 - (e) assisting the parents to develop effective means of disengagement in their parenting and communication where appropriate;
 - (f) assisting the parents with the exchange of information about the children (i.e., health, welfare, education, religion, routines, day-to-day matters, etc.)
 - (g) addressing temporary changes to the usual holiday parenting time schedule, to accommodate special events and circumstances for the children and/or the parents;
 - (h) resolving conflicts concerning the children's participation in recreational, enrichment or extra-curricular activities, lessons, and programs;
 - (i) addressing movement of the children's clothing, equipment, toys and personal possessions between households;
 - (j) addressing matters relating to the children's travel with one party
 - (k) resolving conflicts concerning day to day health care, education, and activities; and
 - (l) resolving conflicts about any other parenting function, issue or decision.
- 7.2 Subject to specific written agreement by the parents, the PC does **not** have jurisdiction over:
- (a) requests for a permanent change in the residential schedule that would substantially change the children's time with one parent, or impact the quantum of child support
 - (b) a request by one parent to move the children's residence;



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- (c) a change in custody, or
- (d) other: _____

8 PARENTS TO SIGN AUTHORIZATIONS, PROVIDE INFORMATION AND DOCUMENTS

- 8.1 The parents shall sign any authorization requested by the PC to gather information to fulfill her role. The parents shall provide all documents and information requested by the PC. Each party shall provide to the other copies of all documents provided to the PC, unless otherwise directed.

9 CONFIDENTIALITY

- 9.1 All proceedings under this Agreement, including the intake/screening process that occurred before it was signed, and the record thereof shall be private and confidential, unless provided otherwise in this agreement, and subject to their being produced in proceedings for judicial review, appeal, or as otherwise required by law. However, in no circumstances may either party produce the intake forms or other documents prepared for the purpose of the intake/screening process in any proceedings for judicial review, appeal or otherwise.
- 9.2 The parents, their counsel and PC and any third party participants, interns or observers, shall not disclose any information about the mediation, arbitration or the screening for power imbalances and domestic violence to anyone, except as required by law. The parents shall not in these or any other future proceedings subpoena or otherwise require the PC, an intern or a third-party screener to testify regarding any aspect of any mediation or arbitration under this Agreement, or to produce any records or notes prepared by anyone in connection with any part of the PC process.
- 9.3 The PC may, in her discretion, meet privately and confidentially with each parent prior to and during mediation, notwithstanding that she may act as their arbitrator. The parents waive any claim that such meetings violate their rights of fairness, equal treatment, or due process under the Arbitration Act.
- 9.4 The PC may, in her discretion, meet or consult with the children, with or without a parent. The PC may disclose information obtained from the children with the children's consent or otherwise in her discretion. Any information obtained from any counsellor, therapist or confidant of the children may be disclosed in the discretion of the PC.
- 9.5 The PC's notes and file, including her notes from the intake/screening process and the intake forms completed by the parents, and file prepared before, during and after the PC process, remain the personal property of the PC, whether or not they may be considered to be part of the "record" of the arbitration.
- 9.6 The PC's legal obligations to disclose otherwise confidential information may include:
 - (a) filing a report about the award with the Attorney General in accordance with the Regulation under the *Arbitration Act*, 1991;



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- (b) reporting a child in need of protection in accordance with section 72 of the *Child and Family Services Act*;
- (c) where she believes upon reasonable grounds that there is an imminent risk to an identifiable person or group of death or serious bodily or psychological harm, disclosing such confidential information that is required in the circumstances to prevent such death or harm.

PARENTING COORDINATION STAGES

10 MEDIATION (CONCENSUS-BUILDING) PHASE

10.1 The Process

- 10.1.1 Either party may request the assistance of the PC to resolve an issue. The timing, frequency, location and format of meetings shall be determined by the PC. Meetings may be conducted by telephone, skype, e-mail, in writing or in person.
- 10.1.2 The PC may consult, meet with, and/or obtain information from third parties, including the parents' lawyers (together or separately), family members, third party caregivers, school personnel, therapists and health care professionals.
- 10.1.3 All mediation meetings are settlement negotiations. Subject to **11.4** herein, (evidence from or about the children) disclosures made during mediation are inadmissible in the arbitration and in any future litigation or arbitration unless both parents agree otherwise in writing. No recordings shall be made of the mediation discussions.

10.2 Documenting agreements reached

- 10.2.1 If an agreement is reached, the PC shall confirm the terms of the agreement in a non-binding Memorandum of Understanding. If a formal or amending agreement is required, it shall be prepared by the parents' lawyers. The parents shall not sign a binding agreement with the PC.

11. ARBITRATION (DECISION-MAKING) PHASE

11.1 The Process

- 11.1.1 The PC may make decisions to resolve an issue if:
 - (a) the parents cannot agree on the matter,
 - (b) one party chooses not to participate in mediation; or
 - (c) time constraints make it impossible to reach an agreement.
- 11.1.2 The PC shall advise the parents in writing that they are now engaged in Arbitration. The format of the "hearing" will be determined by the PC after hearing the parents' submissions and considering all the circumstances. The hearing may be conducted in person, by telephone, e-mail, skype, or other means.



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- 11.1.3 Any challenge to the PC's jurisdiction shall be determined by the PC after considering the submissions of each parent.
 - 11.1.4 The PC shall provide both parents with notice of the time, place and procedure for the hearing. All procedures will be determined by the PC depending on the circumstances. If a parent fails to participate, comply with timelines, provide evidence or submissions, or respond to the other's evidence or submissions, the PC may proceed accordingly.
 - 11.1.5 All oral and written communication during the arbitration shall occur in the presence of or with notice to both parents.
 - 11.1.6 The parents are advised to seek legal advice before and involve a lawyer throughout the arbitration.
- 11.2 Reporter
- 11.2.1 If a parent wishes to have a reporter for the hearing, he or she shall retain and pay the reporter. The parents may jointly retain a reporter. Otherwise, the parents do not wish to have a reporter and they waive their right to have a transcript of the proceedings. If the PC in her discretion wishes to have a reporter she may direct the parents to pay such costs as the PC deems appropriate.
- 11.3 Evidence and Argument
- 11.3.1 Each parent will have reasonable opportunity, as circumstances permit, to provide evidence of the facts supporting his or her case, and to make submissions (argument) to the PC. Each parent will have reasonable opportunity, as circumstances permit, to hear the other's evidence and submissions and respond to them.
 - 11.3.2 The PC may, with the consent of both parents, rely as evidence on information or documents obtained during the mediation phase. In such circumstance, the parents shall provide a jointly written statement of facts for this purpose, or shall consent to such statement prepared by the PC.
- 11.4 Evidence of the views and preferences of the children
- 11.4.1 The PC shall ensure that the views and preferences of the children are heard in an age and circumstance-appropriate way. The PC may rely on information obtained from or about the children during the mediation phase. In such circumstance the PC will summarize, in her discretion and respecting the confidentiality of any child-confidant relationship, the views and preferences of the children as they were conveyed to her during the mediation, and provide each parent with a copy prior to the hearing.

12. APPLICABLE LAW



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12.1 The arbitration shall be conducted in accordance with: (*choose either (i) or (ii)*)

- (i) the law of Ontario, and the law of Canada as it applies in Ontario, or
- (ii) the law of _____ (name other Canadian jurisdiction) and the law of Canada as it applies in that jurisdiction

12.2 Issues related to the children shall be determined in accordance with the provisions of the *Children's Law Reform Act*, the *Family Law Act*, the *Child and Family Services Act* and the *Divorce Act*, as may be applicable.

13. EXPERT EVIDENCE

13.1 The PC may determine the necessity of retaining professionals to provide expert opinions on any issue and shall direct the parents accordingly.

13.2 The PC may obtain independent legal advice to assist in the determination of legal issues. The parents shall be provided with copies any such legal opinions provided.

13.3 The cost of all such experts counsel shall be paid equally by the parents, subject to reapportionment by the PC.

14. PC'S AWARD (DECISION)

14.1 The PC will make the award after hearing the evidence of each parent and any other witnesses, including any evidence that she has considered about the views and preferences of the children, and submissions of each parent.

14.2 The PC will provide the award in writing. She may in her discretion first inform the parents of the award orally. The PC need not, in her discretion, provide written reasons for awards and the parents specifically waive s. 38 of the Arbitration Act.

15. COSTS

15.1 The PC may make a costs award after requesting submissions from each parent. Costs awards may include a re-allocation of PC or expert fees, and reimbursement for costs incurred in relation to a breach of the parenting plan or failure to comply with a PC decision.

16. TERMINATION OF THE PC PROCESS

16.1 The PC process terminates on the earliest of (a) its expiry date, or (b) the date that the PC resigns, dies or is removed by the court.

16.2 In the case of (b), if the parents are unable to agree on a replacement, a court of competent jurisdiction shall appoint a replacement PC on either party's application

17. APPEAL RIGHTS



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- 17.1 Any award may be appealed as follows: *(choose either (i) or (ii))*
- (i) A party may appeal the Award in accordance with subsection 45(1) of the *Arbitration Act, 1991*; or
 - (ii) A party may appeal the Award on: *(choose one or more of the following)*
 - A question of law,
 - A question of fact,
 - A question of mixed fact and law.

18. AWARDS ARE BINDING ON PARENTS

- 18.1 Subject to rights to appeal or apply to set aside an award under sections 45 and 46 (respectively) of the *Arbitration Act*, and subject to any other applicable provisions of the *Arbitration Act* and the *Family Law Act*, all awards of the PC shall be binding upon the parents. Any temporary, interim or final award may be incorporated into a consent order of the Ontario Superior Court of Justice. Either party may apply for the enforcement of any award under section 59.8(5) (a) of the *Family Law Act*.
- 18.2 Upon the request of either party, the PC shall issue an award incorporating the terms of any agreement reached by the parents.

19. FEES

- 19.1 The PC's current hourly rate is set out in the attached Fee Schedule. This rate will change from time to time. The parents agree to pay any such annual increase in hourly rates whether or not they receive specific notice of the increase.
- 19.2 The fees shall be shared by the parents equally, unless otherwise agreed or ordered.
- 19.3 Each parent shall provide an initial retainer of _____. Parents shall be advised in advance when further retainer is required. A minimum retainer of \$_____ shall be kept on account from each party at all times.
- 19.4 Fees shall be charged for all work performed pursuant to this agreement, including telephone calls, emails, correspondence, meetings with parents, the children and third parties, travel time, document review, and drafting and review of memoranda or arbitrated decisions. All disbursements shall be charged including long-distance telephone charges, parking, other travel expenses, photocopying, courier charges, postage, and taxes. A minimum fee (0.1 hour or 6 minutes) may be charged for each telephone and e-mail contact.
- 19.5 A non-refundable administrative fee of \$_____ shall be paid by each parent for administrative costs including file opening and scheduling appointments,



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- 19.6 Cancellation fees are payable in accordance with the Fee Schedule attached.
- 19.7 If a parent fails to pay to the PC his or her share of the fees, disbursements or retainer, the PC may accept payment of the defaulting party's share from the other parent and exercise her discretion regarding costs to require the defaulting parent to reimburse the paying parent.
- 19.8 The PC may postpone the service for non-payment of fees. The PC may, at her option, extend the term of this contract set out in paragraph 2.4 by an equivalent amount of time as the period of default.
- 19.9 The PC is empowered to order interim fees and disbursements of the arbitration, including her retainer, fees and/or disbursements, following a request for submissions from both parents.
- 19.10 The PC may withhold her award until all outstanding fees, disbursements, or retainers have been paid.

20. WAIVER OF LIABILITY

- 20.1 The parents waive any claim or right of action against the PC arising out of this contract.

21. SEVERABILITY OF TERMS

- 21.1 Each of the terms of this agreement are severable from the others and will survive the invalidity or unenforceability of any other term of this agreement.

22. DISPUTE RESOLUTION PROCEDURE

- 22.1 If a parent has concerns about any aspect of the PC's function, or loses confidence in the neutrality of the PC, he or she shall request a meeting before taking steps to challenge the appointment or initiate any other form of complaint.
- 22.2 If the meeting does not satisfy the parent's concerns, s. 13 of the Arbitration Act applies. The PC shall continue to act as PC until she resigns or is removed by court order.
- 22.3 Should the PC participate in a motion seeking her removal, she may seek reimbursement for her time and expenses in so doing, including legal costs.

23. INDEPENDENT LEGAL ADVICE AND PARENTS' CERTIFICATE

- 23.1 Each of the parents confirms that he/she has received independent advice and has signed the attached certificate of independent legal advice.
- 23.2 Each parent certifies that he or she:



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- (a) understands his or her rights and obligations under this agreement and the nature and consequences of this agreement;
- (b) represents that he or she is not under any undue influence or duress; and
- (c) acknowledges that he or she is signing this agreement voluntarily.

Date

Parent

Date

Solicitor

Date

Parent

Date

Solicitor

Date

Parenting Coordinator



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LAWYER’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, _____, have explained to my client _____ the meaning of the attached Parenting Coordination Agreement (the “Agreement”) and have given him or her independent legal advice prior to the signing of the Agreement.

I have explained to my client that the Agreement is a domestic contract within the meaning of the Family Law Act, and the various circumstances under which the Agreement may be set aside. In my opinion, my client understands the nature and consequences of this Agreement. I am satisfied that my client is not signing this Agreement as a result of any duress or undue influence. I am satisfied that my client is fully able to participate in the Parenting Coordination Process and is doing so voluntarily.

Date

Lawyer’s signature

I,....., confirm that I have received independent legal advice and have attached to this agreement a copy of the certificate of independent legal advice that was provided to me under subsection 59.6(2) of the Family Law Act.

Date

Parent’s signature



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LAWYER’S CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, _____, have explained to my client _____ the meaning of the attached Parenting Coordination Agreement (the “Agreement”) and have given him or her independent legal advice prior to the signing of the Agreement.

I have explained to my client that the Agreement is a domestic contract within the meaning of the Family Law Act, and the various circumstances under which the Agreement may be set aside. In my opinion, my client understands the nature and consequences of this Agreement. I am satisfied that my client is not signing this Agreement as a result of any duress or undue influence. I am satisfied that my client is fully able to participate in the Parenting Coordination Process and is doing so voluntarily.

Date

Lawyer’s signature

I,....., confirm that I have received independent legal advice and have attached to this agreement a copy of the certificate of independent legal advice that was provided to me under subsection 59.6(2) of the Family Law Act.

Date

Parent’s signature



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PARENTING COORDINATOR'S CERTIFICATE

I, _____ confirm the following matters:

- (a) I shall treat the parents equally and fairly in the Arbitration, as subsection 19(1) of the Act requires.
- (b) I have received the appropriate training approved by the Attorney General.

Circle either (c) or (d):

- (c) The parents were separately screened by me for power imbalances and domestic violence and I have considered the results of the screening and shall do so throughout the Arbitration, if I conduct one.
- (d) The parents were separately screened for power imbalances and domestic violence by someone other than me and I have considered his or her report on the results of the screening and shall do so throughout the Arbitration.

Date

Witness

Parenting Coordinator