

## AGREEMENT FOR APPOINTMENT OF CHILD INCLUSION SPECIALIST IN FDR MEDIATION

### THE PARTIES:

\_\_\_\_\_ First Party

### AND

\_\_\_\_\_ Second Party

Together, the **Parties**

### 1.0 Introduction

- 1.1 Child focused and child inclusive practice is a feature of the FDR Centre's FDR Mediation process. Joint parental consent is essential.
- 1.2 The process involves a professional specifically trained and experienced in child inclusive practice (**Child Inclusion Specialist**) working with the children on their own enabling the children to tell their story in their own way during FDR Mediation.
- 1.3 The purpose of this intervention is to provide parents with feedback as to how their children are coping with their separation to help the parents make better decisions that are in their children's best interests. The focus is on hearing the child's voice as an accepted part of the FDR Mediation process, if the child wishes to be included.

### 2.0 Appointment

- 2.1 As parties to FDR Mediation, we authorise the FDR Centre to appoint a Child Inclusion Specialist and for that person to contact and discuss matters relating to the FDR Mediation with the FDR mediator and the following child/children:  
  
\_\_\_\_\_  
  
\_\_\_\_\_

- 2.2 We understand that in making the appointment, the FDR Centre will have regard to, but will not be bound by, any preferences indicated by us, and that once the Child Inclusion Specialist is appointed by the FDR Centre we must accept the appointment unless we can demonstrate on reasonable grounds that circumstances exist that give rise to justifiable doubts as to the Child Inclusion Specialist's impartiality or independence.

### 3.0 Confidentiality

- 3.1 We agree that the Child Inclusion Specialist's role is to meet with the children for the purpose of enabling the children to have a voice in the FDR Mediation process. We understand and acknowledge that the Child Inclusion Specialist's primary duty is to the child – this includes maintaining confidentiality and disclosing only those things that the child has agreed to unless there is evidence that it would not be in the child's best interests to do so.
- 3.2 The Child Inclusion Specialist, the FDR Centre, and any other person involved in the FDR Mediation process must keep confidential and not disclose Confidential Information to any non-party. Confidential Information includes:
- (a) the existence of the FDR Mediation;
  - (b) any statement, admission, or document created or made for the purpose of the FDR Mediation and all matters disclosed orally in the course of the FDR Mediation;
  - (c) all non-public materials and information provided for the FDR Mediation by a party, including documents used or generated for the purpose by a representative or adviser to a party in the FDR Mediation; and
  - (d) agreements or referrals made in the FDR Mediation.
- 3.3 Notwithstanding the confidentiality obligations set out above, we acknowledge and understand that the FDR Centre, the Child Inclusion Specialist, the mediator, any party or a non-party involved in the FDR Mediation may disclose Confidential Information to the extent necessary to:
- (a) protect the safety of any person from being endangered;
  - (b) to record participation in FDR Mediation and generate outcome forms for the purpose of the Family Dispute Resolution Act 2013;
  - (c) enforce any settlement agreement reached in the FDR Mediation;
  - (d) pursue a legal right;
  - (e) protect a party's legal rights in relation to a non-party;
  - (f) respond to a professional or other adviser of any of the parties after that person has signed the confidentiality agreement;
  - (g) respond to legitimate subpoena, governmental request for information, or other compulsory process; or
  - (h) comply with the order of a court of competent jurisdiction, or any legal requirement which is binding on the party making the disclosure.

provided always that such publication, disclosure, or communication is no more than what is reasonably required for the purpose.

- 3.4 Any person intending to make such disclosure must, within a reasonable period of time prior to the intended disclosure, notify the Child Inclusion Specialist, the FDR mediator, every other party, and the FDR Centre. This notification must include details of the disclosure and an explanation of the reason for it.

## 4.0 Exclusion of Liability

- 4.1 We, together and separately, release and discharge the Child Inclusion Specialist and the FDR Centre, its agents and employees, from all liability of any kind (whether involving negligence, misrepresentation, breach of contract, or breach of any equitable, fiduciary, statutory or other duty, or otherwise) which may be alleged to arise in connection with, or to result from, or to in any way relate to the exercise of any of their functions, duties, or powers, whether under New Zealand law, or this Agreement, or otherwise, unless the act or omission is the fraudulent act of the Child Inclusion Specialist, the FDR Centre, its agents or its employees. The Child Inclusion Specialist, the FDR Centre, or any agent or employee of the FDR Centre, who has not acted fraudulently and is shown to be unaware of the fraud of any other person, will continue to be released and discharged from liability as provided herein.
- 4.2 We, together and separately, undertake to indemnify and keep indemnified the Child Inclusion Specialist, the FDR Centre, its agents and employees, against all claims, costs, expenses, liabilities, awards, damages and proceedings of any kind (properly sustained or incurred by them directly, or indirectly made by any third party) in relation to, or in connection with, the exercise of their functions, duties, or powers, whether under New Zealand law, or this Agreement, or otherwise, unless the act or omission is the fraudulent act of the Child Inclusion Specialist, or the FDR Centre, its agents or its employees. If the Child Inclusion Specialist, the FDR Centre, or any agent or employee of the FDR Centre has not acted fraudulently and is shown to be unaware of the fraud of any other person, he or she will continue to be indemnified as provided herein.
- 4.3 No statements or comments, whether written or oral, made or used by the Child Inclusion Specialist, the FDR Centre, its agents or employees in connection with, or to result from, or to in any way relate to the FDR process, may be relied upon to found or maintain any action for defamation, libel, slander or any related complaint.
- 4.4 We acknowledge and understand the purpose of these indemnity provisions is to provide the Child Inclusion Specialist and the FDR Centre, its agents and employees with the widest immunity from liability that the law will allow.

**Dated this**                      day of    (month)    (year)

Signature:

Signature:

Name:

Name:

Occupation:

Occupation: