MEDIATOR'S OPENING STATEMENT & CHECKLIST

11-21-02 Version by Kim Howell/Maria Iwasyk
Updated/re-formatted by Karin Waller 3/10/2003

INTRODUCTION/WELCOME:

- Inquire of parties how they wish to be addressed – affirm their willingness to discuss the issues
- Introduce mediators and some background – we mediate according to OMA standards

LOGISTICS:

- Location of bathrooms/break area
- Paper/pen provided for note taking
- Negotiate mediation timeframes:
  - Ending time taking into consideration time constraints of all participants
  - Negotiate lunch timing
  - Invite anyone to call a break at any time

MEDIATION 101:

Ask if any of the parties have been in mediation before – what we're doing today may be different – brief explanation of what mediation is:

- Builds stronger and more respectful relationships by creating, common interests with mutual and respectful solutions
- Allows different perspectives to be heard and understood
- Empowers parties to make their own decisions
- It is **Voluntary**: reaffirm each party is participating voluntarily without coercion
- It is **Confidential**: anything said in the mediation will not be disclosed outside it, except by mutual agreement (will talk more about this when we go over the agreement to mediate)
- Any notes taken will be destroyed on completion of mediation

Explain mediator role:

- Impartial, neutral (doesn't take sides) – if at any time they feel we are not being neutral, please bring it to our attention
- Facilitate the process and create an environment where all parties feel they can share openly and honestly
- We are here to listen and understand issues, and facilitate a process to assist the parties in reaching THEIR own solutions or agreements
- We can't provide legal or subject specific advice

Explain party's role:

- They are here in good faith to work together with aid of mediators to make full disclosure of all relevant information and discuss possible solutions
- Keep an open mind and listen for understanding without judgment – openness enhances honesty and creativity in working through the problem

CONSENT TO MEDIATE AGREEMENT

Ask the parties if they have had an opportunity to review the agreement ahead of time. Review the agreement – highlighting paragraphs:

- Reiterate good faith
- Mediators are neutrals and can't offer legal advice nor act as attorneys – parties should obtain legal advice outside the mediation as needed
- Confidentiality – this is an opportunity for parties to negotiate any exceptions – this subject may need to be addressed at the end of the session to reinforce confidentiality agreements
- Information originating in the session will be used only for the purposes of the mediation
- Mediators will not be witnesses; documents can't be subpoenaed; and mediators must report abuse or criminal information
- They may withdraw from the process at any time or the mediators may stop it if we feel an impasse has been reached
- The parties can't bring any action against the mediators for wrongful conduct during the mediation

  All parties sign and date the agreement:

  - The agreement is the only record of the mediation kept by SN
  - The parties are entitled to have a copy if they wish

GROUND RULES

- Be respectful – allow the parties to define "respectful"
- No ultimatums, blaming or name calling
- No interruptions (paper for taking notes if needed)
- Speak from your own perspective
- Ask if there are any other ground rules they'd like to add to these? Negotiate if necessary

PROCESS:

- Each party will give a brief synopsis of the situation/issues including what is the one thing they hope to take with them to make this a successful mediation
- Mediators may ask clarifying questions
- Agenda building - identification of issues and common ground
- Open discussion of issues
- Further discussion and exploring solutions
- Agreements/Understandings
- Closure

- **Explain possibility of individual meetings:**
  (At any time in the process, the mediators may feel a need to speak individually with the parties, or the parties may ask for an individual meeting. Unless permission given, information discussed in individual meetings will not be shared)

Discussion begins:
- Parties decide who goes first
- Remind no interruptions
- Second party should be encouraged to tell their perspective of the situation as opposed to rebutting the other party's perspective

CLOSURE
As negotiated ending time approaches, have the parties assess their progress.
- If parties reach agreement, they should determine the format:
  - Verbal
  - Written: Option to use SN form - They keep copies. We do not.
- It can be helpful to explore with the parties what they will do if "it doesn't work?"
- If parties don't reach agreement - express an option of scheduling another session

Thank the parties

Ask them to complete and return their evaluations

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