

COLLABORATIVE PRACTICE PARTICIPATION AGREEMENT

1. Choosing Collaborative Process.

We choose Collaborative Practice to resolve our family law issue. In doing so, we agree to be respectful in our negotiations and to work together to privately achieve a mutually beneficial resolution. We realize that we are responsible for the decisions we make. We understand that ending our marriage takes place on legal, financial and emotional levels. We recognize that achieving our goals may require the assistance of professionals other than our attorneys.

By choosing the Collaborative Process, we commit ourselves to resolving this matter without adversarial court involvement. We do not waive the right to seek the assistance of the court, but for so long as this Agreement is in effect, we agree to devote all of our efforts to reach a negotiated settlement in an efficient, cooperative manner according to the terms of this Agreement.

2. Guidelines for Participation.

- a. We will work with each other in good faith and with a sincere intention to be fair, open, and honest, regardless of the outcome of an interaction.
- b. Written and verbal communication will be respectful and constructive.
- c. We will express what is important to us and why, and seek to understand what's important to the other.
- d. We will acknowledge and attempt to understand the other's point of view, even if we do not agree with it.
- e. We will develop an array of options for settlement and use our best efforts to negotiate a mutually beneficial agreement.
- f. We will not use the threat to withdraw from the Collaborative Process or to go to court as a means of achieving a desired outcome or forcing a settlement.
- g. We will not take advantage of any mistakes, misunderstandings, inconsistencies, or miscalculations of each other or any other participant, and shall disclose them and seek to have them corrected.
- h. We will agree in advance as to how the cost of this process will be paid, including attorney fees and the fees of any professionals engaged as part of this Collaborative Process, and make funds available for this purpose.
- i. We will express our interests, needs, goals and options, and seek to understand those of the other.

3. Collaborative Attorneys.

- a. We have each chosen an attorney to represent us in the Collaborative Process. We understand that we are hiring our Collaborative Attorneys to assist us in settlement negotiations, and that our Collaborative Attorney's representation is limited to the Collaborative Process.
- b. I have signed a retainer agreement with my Collaborative Attorney limiting my attorney's representation and that of his/her firm to non-litigation matters, except to file the final court documents that reflect our collaborative settlement agreement.
- c. We understand that while the attorneys share a commitment to the Collaborative Process and the well-being of our family, each attorney has a professional duty to represent their own client diligently and is not the attorney for the other.

4. Exchange of Information/Communication.

- a. We agree to exchange and provide to the attorneys, on an ongoing basis, all information which may affect any choices or decisions either of them may make in this process.
- b. We will decide together how to collect and exchange all information and documentation regarding our family, including our respective incomes, assets, and debts.
- c. We acknowledge that each of us has the right to request any additional information that we feel like we need at any time in order to be fully informed.
- d. When other professionals are engaged, we consent to the exchange of information between our Collaborative Attorneys and other professionals. We understand that it will be necessary for our Collaborative Attorneys and the other professionals to communicate in order to coordinate efforts on our behalf and we consent to that communication.

5. Withdrawal of a Party or Attorney from the Collaborative Process.

- a. We may decide to engage in a different process together or separately. If either of us at any time decides to engage in a different process without the agreement of the other, we will provide timely notice of the other and to our own attorney. Our Collaborative Attorneys may help us transition to another process.
- b. If either of us ends our professional relationship with our Collaborative Attorney, but wishes to continue the Collaborative Process, we will provide written notice of this intention. A new Participation Agreement will be signed within thirty (30) days of the date of the notice. If a new agreement is not signed within thirty (30) days, the other person will be entitled to proceed as if the Collaborative Process was terminated as of the date notice was given. This serves as an automatic termination of the collaborative process on the 31st day unless a new Participation Agreement is signed or the we mutually agree otherwise.

6. Termination of the Collaborative Process – Abuse of the Process.

- a. We agree that our Collaborative Attorney(s) must terminate the Collaborative Process if his/her client has withheld or misrepresented important information and continues to do so.
- b. We agree that our Collaborative Attorney(s) may withdraw from the Collaborative Process and may recommend termination of the process if either of us persistently refuses to honor agreements, delays without reason, or otherwise acts contrary to the principles of the Collaborative Process.

7. Admissibility. All communication and information exchanged within the Collaborative Process is confidential. If subsequent litigation occurs, we agree that:

- a. We will not introduce as evidence in court any written or oral information or documents prepared during the Collaborative Process, including e-mails, voice mails, letters, progress notes, session notes, meeting minutes, budgets and projections, and proposals for settlement, unless we both consent in writing or the documents are otherwise discoverable. (Under legal rules, discoverable material is considered to be reasonably calculated to lead to admissible evidence in court.)
- b. We will not introduce as evidence in court, nor require the production of any reports, opinions, or notes of any professional prepared in the Collaborative Process, unless we both consent in writing.
- c. We will not compel either attorney or any other professional retained in the Collaborative Process to attend court to testify or attend for examination under oath in connection with this matter, nor will we subpoena the production of any court proceedings of any notes, record, or documents in the

attorney's possession or in the possession of any other professional retained in the Collaborative Process.

- d. We agree that any temporary or partial agreement may be introduced into evidence in court as a basis for a temporary order only if we agree in writing.

8. Responsibilities pending Settlement. During the Collaborative Process, unless otherwise agreed in writing, we will:

- a. Maintain assets and property, except for those transactions necessary in the normal course of business (i.e., paying bills and living expenses);
- b. Maintain all existing insurance policies without change in coverage or beneficiary designations;
- c. Maintain all existing health and dental insurance coverage;
- d. Refrain from incurring any debts for which the other may be held responsible;
- e. Honor the other's privacy, including belongings and living space;
- f. Maintain the ordinary schedule and routine of the children, including where the children reside and where they attend school or childcare. Any changes to the schedule or routine will only be made with joint agreement.

9. Cautions about the Process. I understand that there are advantages and disadvantages to the Collaborative Process. I have taken into account the following cautions before agreeing to participate in the process:

- a. Collaborative negotiation and the ability to reach agreement depends on our good faith participation and the skill of our team.
- b. We must be able to participate in face-to-face meetings, communicate our needs and concerns honestly and openly, listen to the advice of our counsel, and consider the needs of our partner or spouse.
- c. By agreeing not to go to court, we cannot use formal discovery procedures and therefore must trust in each other's good faith about exchanging relevant documents and information.
- d. Without the ability to use the authority of the court to prevent the transfer or dissipation of marital assets, we must trust in each other's honesty and provided documents with regard to those assets.
- e. By agreeing not to go to court, there are no temporary court orders. Temporary arrangements are made by agreement, including agreements about parenting and making funds available to pay bills and living expenses.
- f. I may reach a point where I feel that there is no choice but to settle because of the investment we have made in the process.
- g. Each of us has the unilateral right to terminate the process at any time and force the other to litigation.
- h. There will be some costs if the process breaks down and we are referred to new attorneys to complete the negotiations or to litigate the matter. We may be required to reproduce documentation or provide additional documentation. Since experts are disqualified and their work product is disqualified, unless we mutually agree otherwise, there may be the cost of duplicating expert services.
- i. It does not feel good to fail at something where one has invested time, energy, hope of resolution, and resources. If one of us blames the other for the failure to reach resolution, that anger can carry over into the next process.

10. Instructions to Attorneys. By signing this Agreement, we instruct our attorney to:

- a. Help us honor the promise made in this Agreement;

- b. Refrain from acting in a manner inconsistent with the promises made in this Agreement; and,
- c. Promote both the spirit and written word of this Agreement.

11. Acknowledgment of Commitment to Collaborative Process. We have read the Agreement in its entirety, understand its contents and agree to its terms.

Dated: _____

Dated: _____

Schedule A
Collaborative Practice
Steps for Effective Problem-Solving

Step 1: BUILD THE FOUNDATION

- Introduction and overview of the Collaborative Process
- Decide the general problems to be solved

Step 2: GATHER AND EXCHANGE INFORMATION

- Identify what financial (or other) information is needed
- Create a plan for gathering information (budgets & notebooks)
- Consider the need for other professionals
- Agree upon and initiate any joint valuations

Step 3: INTERESTS

- Identify goals, needs and concerns, which are client interests
- Prioritize interests B immediate and long-term
- Establish interests (assumptions) for work with other professionals (financial/child specialist)

Step 4: IDENTIFY CHOICES

- Explore the widest range of possible solutions
- Consider everything, rule out nothing

Step 5: EVALUATE CONSEQUENCES OF EACH CHOICE

- How would each option affect each client and the children?
- Consider immediate, intermediate, and long-term impacts

Step 6: COME TO A DECISION AND IMPLEMENT THE DECISION

- Agree upon settlement options that satisfy the interests of both clients/family
- Prepare stipulated judgment (settlement agreement) incorporating joint decisions

SCHEDULE B: FINANCIAL PROFESSIONAL

Purpose: The Financial Professional will assist clients and their attorneys in reaching a financial settlement that reflects the needs of the clients and their family. In this role the Financial Professional has no authority or decision-making power, but can help to ensure that financial outcomes meet client expectations by providing critical financial information. The Financial Professional can help the clients gather and understand financial information and examine options developed during the Collaborative Process. More specifically, the Financial Professional can:

- Help clients gather relevant financial information
- Help the clients identify needs
- Help clients understand the financial information and various options developed
- Develop realistic budgets that reflect accurate future needs
- Provide long-term cash flow analysis
- Illustrate potential long-term consequences of various settlement options

Obligation to Provide Relevant Information: The clients agree to provide the Financial Professional with relevant financial information. The clients understand that the Financial Professional will rely on this information, along with agreed upon assumptions, to develop his/her analysis. The clients agree that the Financial Professional will not be accountable for any errors or omissions in his/her work product resulting from the client's failure to provide accurate, reliable and complete financial information.

Scope of Service: The Financial Professional provides supporting financial information and evaluations to be utilized by both the clients and their respective attorneys. The Financial Professional does not provide legal advice.

Exchange of Information: When other collaborative team professionals are engaged, both clients consent to the exchange of information between the Financial Professional and other collaborative team professionals. The Financial Professional has an obligation to notify the attorneys if either client is not acting in good faith.

No Court Appearance: Should either client decide to move from the Collaborative Process into a court process, all opinions and work product of the Financial Professional will remain confidential and may not be used in any court proceedings, unless otherwise agreed in writing by both parties *and* by the Financial Professional. We further agree that we will not require the Financial Professional to attend court to testify or attend for examination under oath with regard to matters discussed in the Collaborative Process unless both parties and the Financial Professional agree otherwise in writing.

Withdrawal from the Collaborative Process: If either client decides that the Collaborative Process is no longer viable, he or she agrees to immediately inform the other client, the Financial Professional and all collaborative team members in writing, about the decision to end the Collaborative Process.

If either client wishes to end the engagement with the Financial Professional, in order to retain the services of a new Financial Professional or to proceed without the services of a Financial Professional, the client agrees to immediately inform the other client and all collaborative team members in writing.

The Financial Professional reserves the right to withdraw from the case for any reason. Should the Financial Professional decide to withdraw, he/she agrees to inform the clients and all collaborative team members in writing. If the Collaborative Process has not terminated, the withdrawing Financial Professional will make every effort to provide suitable referrals to other Financial Professionals to facilitate the engagement of a new Financial Professional.

No Product Sales and Future Dealings: The Financial Professional's responsibility in this role terminates once the settlement has been reached or the Collaborative Process has been terminated. The Financial Professional may not work with either client post-settlement excepting as noted in this paragraph. The Financial Professional shall not take any assets under administration or sell any financial products. The Financial Professional may assist either or both clients in the implementation of their settlement agreement and in a post-settlement evaluation of financial options if agreed as part of the collaborative proceedings. It is critical that the Financial Professional maintain his/her neutrality even after negotiations have been concluded.

WE HAVE READ THE ABOVE AGREEMENT IN ITS ENTIRETY, UNDERSTAND THE CONTENT AND AGREE TO THE TERMS.

Client

Date

Client

Date

Financial Professional

Date

SCHEDULE C: FAMILY PROFESSIONAL AGREEMENT

Purpose: A Family Professional may function as a Coach, Facilitator, or a Child Specialist. The Family Professional can be helpful in assisting family members to move through the Collaborative Process in a positive manner. While the Collaborative Process is not a guarantee of success and cannot eliminate past disharmony and irreconcilable differences, it does offer a positive method of developing a workable solution and move toward a positive co-parenting relationship.

The Coach or Facilitator:

- helps the clients clarify their concerns
- helps the clients manage their emotions
- helps clients develop effective communication skills and reinforce those skills

The Child Specialist:

- helps clients develop effective co-parenting skills
- listens to each child
- sensitizes parents to the needs of each child in the context of the divorce
- provides information to parents to help them in the development of their parenting plan.

Although the work may continue when the legal intervention is completed, Coaches, Facilitators and Child Specialists remain focused on assisting family members with the divorce-related issues.

Confidentiality: When other collaborative team professionals are engaged, both clients consent to the exchange of information between the Family Professional and other collaborative team professionals. Clients must provide written consent for the release of any information to anyone who is not a collaborative team professional.

Should either client elect to move from the Collaborative Process into a court process, all materials, including all content (both written and oral) of sessions with the Family Professional will remain confidential and may not be used in any court proceedings.

The clients agree that they will not require the Family Professional, by subpoena or otherwise, to attend court to testify or attend for examination under oath with regard to matters discussed in the Collaborative Process.

Confidentiality of Work with Children: Should parents request that a Child Specialist meet with the children, they agree that the Child Specialist will only provide them with verbal feedback about the children's concerns or thoughts. The parents further agree that the Child Specialist will not provide verbatim comments from the children, nor will he/she provide a written report.

Although the Child Specialist will encourage open communication between the children and their parents, the parents agree that the Child Specialist will not release information to them or to anyone that the

children have asked the Child Specialist to keep confidential unless the Child Specialist has reason to believe that the children’s safety, or any other person’s safety, is in danger.

Limitations on Confidentiality: The clients have been made aware that there are certain times when the Family Professional may disclose or are required to disclose information. These include reporting suspicions of child abuse to child protective agencies; reporting information that suggests an actual or potential danger to human life or safety to the appropriate authorities; providing information to the courts as directed through subpoena, search warrants, or other legal order; and for research or educational purposes on an anonymous basis.

Withdrawal from the Collaborative Process: If either client decides that the Collaborative Process is no longer viable and decides to end the Collaborative Process, he or she agrees to immediately inform the other client, Family Professional, and all collaborative team members in writing, about the decision to end the Collaborative Process.

The Family Professional reserves the right to withdraw from the case for any reason. Should the Family Professional decide to withdraw, he/she agrees to provide written notice of withdrawal to the clients and their lawyers.

If the Collaborative Process has not been terminated, the withdrawing Family Professional will make every effort to provide suitable referrals to other Family Professionals to facilitate the engagement of a new Coach, Facilitator, and/or Child Specialist.

WE HAVE READ THE ABOVE AGREEMENT IN ITS ENTIRETY, UNDERSTAND THE CONTENT AND AGREE TO THE TERMS.

Client

Date

Client

Date

Coach

Date

Facilitator

Date

Child Specialist

Date

Authorization and Informed Consent Form

Professional Team Communications Authorized.

The Parties understand that communication and cooperation among professional team members is an integral part of the Collaborative Law Process, and that the express goal of such communication is to assist us in managing the process so the Parties can resolve all issues. The Parties hereby authorize each member of the Collaborative Professional Team (Professionals and Experts, including but not limited to attorneys, coaches, financial specialist, etc.) to communicate by any means, including e-mail, with all other members of the team, including potential future members of the team, relating to the Collaborative Law Process. These communications are essential to the process and are confidential and will not be disclosed to anyone, including the clients. The Parties further agree that the team may confidentially discuss your case following termination for quality control and peer review purposes.

No Confidentiality Between Professional Team Members.

The Parties understand that there is no confidentiality or privilege as to communications made to any neutral team members (financial specialist, neutral facilitator, or child specialist) as to other team members. Additionally, non-neutral team members (attorneys and coaches in a two-coach model) are authorized to provide information to other team members that they deem beneficial to the process unless specifically instructed not to provide information.

Confidentiality as to Others.

This part of the authorization and consent does not allow any team member to communicate about your case with anyone outside the Collaborative Law Process.

Electronic Communications.

The professional team is authorized to use electronic means, including email, to communicate about your case, including the transmission of digitized documents. The Parties recognize that due to the nature of the Internet and computers, there is a risk that emails and other electronic communications may be intercepted, accidentally misdirected, and/or read by third parties. Absent an express request, the professional team is authorized to use such means for communications, including confidential communications.
