

## **SAMPLE COLLABORATIVE LAW PARTICIPATION AGREEMENT**

### **I. Purpose**

\_\_\_\_\_ and his/her attorney, \_\_\_\_\_ and \_\_\_\_\_ and his/her attorney, \_\_\_\_\_, have chosen to use the principles of Collaborative Law to resolve family law matters. The essence of Collaborative Law is the shared belief that it is in the best interests of the parties and their family to resolve their differences with minimal conflict. We agree to seek a resolution of the family law matters directly, without the threat of litigation or intervention by the Courts. The process relies on honesty, cooperation, integrity and professionalism.

### **II. Communication During the Process**

A. The parties shall communicate with each other to efficiently and economically settle their issues. Written and verbal communications by the parties and their attorneys will be respectful and constructive. It is agreed that communication during settlement meetings will be focused on the economic and parenting issues and the constructive resolution of those issues.

B. To maintain an objective and constructive settlement process, the parties agree to discuss settlement of their issues only in the settlement conference setting. Discussions outside of the conference setting must be agreed to in advance by the parties and their attorneys.

C. The parties authorize their attorneys and any allied professional expert retained in the collaborative process to share information, opinions or communications regarding this matter with each other. However, professional privileged communication that a party specifically instructs his or her collaborative professional not to reveal will be kept confidential.

### **III. Children's Issues**

The parties shall make every effort to reach amicable solutions that promote the children's best interests. Inappropriate communications regarding issues can be harmful to the children. Settlement issues will not be discussed in the presence or hearing of the children and communication with the children regarding these issues will occur only if it is appropriate and done by mutual agreement or with the advice of a child specialist.

### **IV. Participation With Integrity**

Each participant shall uphold a high standard of integrity, and specifically shall not take advantage of mistakes, errors of fact or law, miscalculations or inconsistencies, but shall disclose them and have them corrected. Integrity includes keeping commitments and agreements made during the collaborative process.

## **V. Negotiation in Good Faith**

A. The parties and their attorneys shall deal with each other in good faith and shall promptly provide all relevant and reasonable information. The parties shall provide sworn statements of net worth and supporting documentation making full and fair disclosure of their income, assets and debts.

B. By using an informal exchange of information and signed authorization forms, the parties are setting aside certain procedures for the duration of the collaborative process including, but not limited to formal discovery proceedings, restraining orders, and formal court hearings.

C. The parties may seek an opinion from an attorney outside this process; however, the party doing so shall disclose to the participants only that an outside opinion has been sought.

## **VI. Allied Professional Experts**

When appropriate, the parties shall employ a valuation expert, a mediation-facilitator, child specialist, mental health professional and/or financial specialist for purposes of improving communication, evaluation, cash flow analysis, parenting issues and any other issue for which expert assistance may be helpful. The parties will agree in advance as to how the allied professional will be paid. Further, the parties shall enlist the aid of an allied professional on the recommendation of the collaborative attorneys.

## **VII. Attorneys in the Collaborative Process**

While the collaborative attorneys share a commitment to the process as described in this agreement, each has a professional duty to represent his or her own client diligently, and is not the attorney for the other party.

A. Disqualification by Court Intervention: The attorneys are prohibited from representing either party against the other, now or in the future. The attorneys may submit documents comprising a final judgment for divorce and qualified domestic relations order to a court upon agreement.

B. Withdrawal of an Attorney from the Collaborative Process: If either attorney withdraws from the collaborative case for any reason except those set out in paragraph VIII herein, the attorney shall do so promptly by a written notice to all. This may be done without terminating the status of the case as a collaborative case. The party whose attorney has withdrawn may elect to continue in the collaborative process with a new collaborative attorney and shall give prompt written notice of this intention as well to all.

C. Attorneys Fees and Costs: The parties understand that their attorneys are entitled to be paid for their services, and that one of the tasks in a collaborative law matter is to ensure timely payment to each of them. The parties agree to make funds available for this purpose.

### **VIII. Termination of the Collaborative Process**

A. Party's Termination: If a party decides to terminate the collaborative process, prompt written notice will be given to the other party through his or her attorney. There will be a 30-day period before any court hearing unless there is an emergency. All temporary written agreements will remain in full force and effect during this period. The intent of this provision is to permit the other party to retain another lawyer, make an orderly transition and to avoid surprise and prejudice to the rights of the other party. Either party may bring this provision to the attention of the court in requesting a postponement of a hearing.

B. Attorney's Termination: A collaborative attorney must terminate the collaborative process in the event the attorney learns that his or her client has withheld or misrepresented relevant information and continues to do so, or otherwise has acted so as to undermine or take unfair advantage of the collaborative process. The attorney terminating the case shall advise the other participants that the collaborative process is terminated.

### **IX. Confidentiality**

Except as set forth below, all communication exchanged within the collaborative process shall be confidential and without prejudice. If subsequent litigation occurs between the parties:

A. Neither party shall be permitted to introduce as evidence in court information disclosed or documents prepared (including notes, minutes, records, etc.) during the collaborative process, except any sworn statements of net worth and supporting financial documentation;

B. Neither party shall be permitted to introduce as evidence in court information with respect to either party's behavior or legal position; and

C. Neither party shall be permitted to request, subpoena or bring an application for discovery of any document or request testimony in any court proceeding from an attorney or allied professional with regard to disclosure made during the collaborative process.

### **X. Rights and Obligations Pending Settlement**

During the collaborative process, except in the usual course of business consistent with their past practice or for payment of usual and customary household expenses, or upon mutual agreement:

A. Neither party shall sell, transfer, or in any way dispose of any property, individually or jointly held by them;

B. Neither party shall incur debts after the signing of this agreement, including but not limited to: further borrowing against any credit lines, using credit cards or cash advances against credit cards; and

C. The health, automobile, life, property and other insurance shall be maintained in its present form and there shall be no changes to beneficiaries of insurance policies or pensions.

This agreement shall remain in full force and effect during these negotiations, unless terminated, modified or amended by written agreement of the parties or upon order of a court.

**XI. Enforceability of Agreements**

A temporary agreement signed by the parties during the collaborative process survives the termination of the process and may be presented to the court as a basis for an order. Once a final agreement is signed, it is legally enforceable.

**XII. Pledge**

**WE HEREBY PLEDGE TO COMPLY WITH AND PROMOTE  
THE SPIRIT AND WRITTEN WORD OF THIS  
PARTICIPATION AGREEMENT**

\_\_\_\_\_, Husband

\_\_\_\_\_, Wife

\_\_\_\_\_  
Attorney for Husband

\_\_\_\_\_  
Attorney for Wife

Allied Professional: \_\_\_\_\_

Dated: \_\_\_\_\_