

# **COLLABORATIVE LAW PARTICIPATION AGREEMENT**

## **1. INTRODUCTION**

We acknowledge that the basis of collaborative family law is the shared belief of the participants that it is in the best interest of parties and their families to commit themselves to avoiding litigation and resolving their differences with minimal conflict.

We therefore adopt this conflict resolution process which does not rely on a court-imposed resolution, but relies instead on an atmosphere of honesty, cooperation, integrity and professionalism geared toward the future well-being of the family.

Our goal is to maximize settlement options for the benefit of all parties and minimize, if not eliminate, the negative economic, social and emotional consequences of protracted litigation for the participants and their families. The parties have each individually retained an attorney who has been trained in collaborative law to assist the parties in reaching this goal.

## **2. NO COURT INTERVENTION**

We commit ourselves to settling our case without court intervention and agree to cooperate in resolving our differences justly and equitably.

We agree to give full, honest and open disclosure of all relevant information, whether requested or not, and to engage in informal discussions and conferences to settle all issues.

We agree to direct our collaborative family law attorneys and any other consultants retained by us to work in a cooperative effort to resolve issues without resort to any external decision making process except as mutually agreed upon by us.

## **3. CAUTIONS**

We understand that there is no guarantee that the collaborative family law process will be successful in resolving our case and that the success of the collaborative process depends on the commitment of the participants to the process and on their good faith efforts to satisfy the needs and interests of both parties.

We understand that the collaborative process cannot guarantee the elimination of disharmony, distrust, and irreconcilable differences which have led to the current conflict, but we agree to work with our respective collaborative attorneys and any

consultants we select in an effort to resolve or minimize the negative emotional and behavioral dynamics that contribute to conflict.

We understand that we are still expected to assert our respective interests and that our own attorney will help us to do so. Cooperation does not mean that a party must put the interests of the other ahead of her/his own interests, except when it is advantageous to do so.

We agree that neither party will use the Court, including the Domestic Relations Office, to resolve issues. The parties may consent to have their agreements entered as a Court Order.

We understand that if the collaborative process is terminated in our case, the parties must select new attorneys because the collaborative attorneys may not continue to represent either party. We understand that we will likely incur additional fees in retaining new counsel in that event.

#### **4. INDEPENDENT REPRESENTATION**

We understand that the collaborative law attorneys do not represent both parties. While both attorneys are committed to negotiating in an atmosphere of honesty and integrity, neither party can look to the attorney representing her/his spouse to provide legal advice or information. Husband and Wife understand that each attorney is an advocate for her or his client only. No legal duty is owed to either spouse by the other spouse's attorney, and no attorney-client relationship exists between one spouse's attorney and the other spouse.

Husband and Wife understand that they must continue to rely solely on the advice of their own attorney. Each attorney continues to have an obligation to represent his/her client diligently and cannot represent the legal interests of the other party.

#### **5. PARTICIPATION WITH INTEGRITY**

We agree to protect the privacy and respect the dignity of all participants in the collaborative family law process, including the parties, attorneys and consultants.

We agree to maintain a high standard of integrity and will not take advantage of each other or of the miscalculations or inadvertent mistakes of others. But instead will identify and correct them.

#### **6. EXPERTS AND CONSULTANTS**

If outside help is desirable, the parties are encouraged to retain joint experts or consultants for the express purpose of minimizing expenses. We agree that selection of a joint expert or consultant will not obligate the parties to accept the

report or opinion of that expert. Each party may retain separate or additional experts desired in developing information relevant to reaching an agreement. We agree to direct any retained experts or consultants to follow the spirit and direction of the principles in this Agreement. If desirable, the parties may request that the experts and consultants collaborate with one another, meet and confer, and where appropriate, render joint statements or opinions on the issues in dispute.

We agree that any expert or consultant retained separately or jointly by us in the collaborative process may not be later retained separately by either party and may not participate in any subsequent litigation between the parties, unless we agree otherwise.

## **7. CHILDREN'S ISSUES**

In resolving issues about sharing the enjoyment of and the responsibility for our children, we agree to make every effort to reach amicable solutions that promote the children's best interests.

We agree to act quickly to mediate and resolve differences related to the children to promote a caring, loving and involved relationship between the children and both parents.

We agree not to seek a custody evaluation while the matter is a collaborative family law case.

We agree to insulate our children from involvement in our disputes by not discussing the economic or parenting issues in our children's presence or hearing unless we mutually agree to do so.

We agree to consider attending an educational program for separating parents.

## **8. NEGOTIATION IN GOOD FAITH**

We agree to make every effort to communicate respectfully and constructively, trying at all times to focus on the parenting and economic issues and the constructive resolution of those issues.

We agree to protect each party's ability to speak freely and express her or his needs, desires and opinions without criticism or judgment.

We agree that no formal discovery procedure will be used unless specifically agreed to by the parties. We agree to make full and fair disclosure of all assets, income, debts and any additional information necessary for a principled and complete settlement and acknowledge that participation in the collaborative law process is based upon the assumption that both parties have acted in good faith

and have provided complete and accurate information to the best of their ability. The parties agree to sign a sworn statement making a full and fair disclosure of their income, assets and debts upon request.

We understand that the collaborative process, even with full and honest disclosure, will involve vigorous good faith negotiation and that each of us will be expected to take a reasoned approach to all disputes. When we disagree, each of us will be encouraged to use our best efforts to create proposals that meet the fundamental needs of both parties and, if necessary, to compromise to reach settlement of all issues.

We agree that although each of us may discuss the likely outcome of a litigated result, none of us will use threats of withdrawal from the collaborative process or litigation as a way of forcing settlement.

## **9. ENFORCEABILITY OF AGREEMENTS**

We agree that in the event that either party requires a temporary agreement for any purpose, the agreement will be put in writing and signed by the parties. We understand that if the collaborative process is terminated, the written agreement may be presented to the Court as a basis for an Order, which the Court may make retroactive to the date of the written agreement. We understand that either party may have the final agreement incorporated into any subsequently entered divorce decree and that the final agreement may be presented to the Court in any subsequent action for enforcement.

## **10. WITHDRAWAL OF ATTORNEY**

If either attorney deems it appropriate to withdraw from the case for any reason, that attorney agrees to do so immediately by written notice to the other party and her or his attorney. This may be done without terminating the status of the case as a collaborative law case. The party losing her or his attorney may continue in the collaborative process by retaining a new collaborative law attorney.

We understand that the collaborative family law attorneys will withdraw from a case as soon as possible upon learning that either of their clients has withheld or misrepresented information or otherwise acted so as to undermine or take unfair advantage of the collaborative process. In that event, the collaborative process will terminate.

## **11. WITHDRAWAL OF PARTY**

We agree that if a party decides to withdraw from the collaborative process: prompt written notice will be given to the other party and her or his attorney; there will be a thirty-day waiting period before initiating court proceedings; and all temporary agreements will remain in effect during this period. However, if

either party satisfies a Court that there is an emergency requiring immediate action which must be dealt with before the thirty-day period expires, then that Court action will not be a breach of this contract. We intend by this provision to prevent surprise and prejudice to the rights of any party. We agree that either party may bring this provision to the attention of the Court in requesting postponement of a hearing.

## **12. DISQUALIFICATION BY COURT INTERVENTION**

We understand that the attorneys' representation is limited to the collaborative family law process and that neither attorney can ever represent a party in Court in a proceeding against the other party. In the event a Court filing is unavoidable (other than the filing of a joint Divorce Complaint and other documents which the parties agree are necessary to effectuate their resolution), we understand the attorneys will be disqualified from representing either client.

We acknowledge that each of us has signed a separate retainer letter or contract for legal services with our respective attorneys specifically limiting their representation to the collaborative family law process. By signing their separate retainer letters or contracts for legal services, Husband agrees that his attorney shall withdraw representation if the collaborative law process is terminated, and Wife agrees that her attorney shall withdraw representation if the collaborative law process is terminated.

In the event that the collaborative family law process terminates, all attorneys and consultants will be disqualified as witnesses and their work product will be inadmissible as evidence unless the parties agree otherwise in writing.

## **13. ACKNOWLEDGMENT AND PLEDGE**

The parties acknowledge that they have had an opportunity, prior to the execution of this Agreement, to meet privately with counsel of their choosing to discuss the advantages and limitations of the various processes available to them in resolving their issues. Each party has received a copy of the ABA Handbook for Clients which describes the dispute resolution options available to clients. Having carefully weighed the benefits and detriments associated with their options, each has elected to limit the scope of their respective attorney's representation, and each waives the use of the procedures and protections of the litigation method and mediation method in favor of the protections and procedures of the Collaborative Family Law method.

Both parties acknowledge that they have read this agreement, understand all the terms and conditions and agree to abide by them. The parties understand that by agreeing to this alternative method of resolving their domestic issues, they are giving up certain rights, including the right to formal discovery, formal Court hearings, and other procedures provided by the adversarial legal system. The

parties have chosen the collaborative law process and agree to work in good faith to achieve the goals stated herein.

Under the collaborative law approach the parties make the following agreements: that every effort will be made to settle the case; that if settlement is impossible the attorneys for both parties will withdraw and will not represent the parties if the collaborative law process is terminated; and that no one in the attorneys' firms will represent either party if the collaborative law process is terminated. Under the "Collaborative Law Participation Agreement", the parties acknowledge that they are waiving the following rights that would otherwise be available to them through the litigation process: (1) The right to formal discovery, including but not limited to discovery of assets and liabilities; (2) The right to have each and every item of marital property valued and to have the Court resolve any disputes between them with respect to valuation; (3) The right to have a Court divide the marital property in a manner that the Court determines to be equitable under Pennsylvania Law; (4) The right to have a Court order child and/or spousal support, alimony pendente lite and alimony; (5) The right to have a Court establish custody arrangements for minor children. We acknowledge that these rights are still available to the parties in the event the collaborative process terminates for any reason.

Both parties acknowledge that they have read this agreement, understand all the terms and conditions and pledge to comply with and promote the spirit and written word of this document.

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Dated:

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Dated:

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Witness  
, Esquire , Esquire  
Counsel for Wife  
Dated:

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Witness  
  
Counsel for Husband  
Dated:

