

# **COLLABORATIVE DIVORCE**

## **PARTICIPATION AGREEMENT**

### **COLLABORATIVE COUPLE NAME:**

#### **I. PLEDGE:**

We pledge to participate in good faith in this process for divorce with no court, minimal conflict and no coercion, but rather respectful, honest collaboration, striving to seek a resolution of our family matters directly. We seek a resolution that balances the best interests of ourselves and our children while utilizing a Collaborative team that includes lawyers, and may include divorce coaches, a child specialist and financial professional, as appropriate.

#### **II. PROCESS:**

Collaborative Divorce is chosen as the settlement process to resolve our divorce issues. This process functions on the belief that civilized, respectful, low-conflict participation in out-of-court mutual negotiations best meets the needs of all members of our family. The process relies on an atmosphere of honesty, cooperation, integrity and professionalism. We, our attorneys, coaches, financial consultants and other related professionals all subscribe to this process and to the Code of Conduct attached to this Participation Agreement.

#### **III. INTERDISCIPLINARY PROFESSIONALS AND EXPERTS**

The interdisciplinary model of Collaborative Divorce anticipates the interactive role and participation of the parties with their Collaborative lawyers, as well as Collaborative coaches, a neutral financial professional, and such other professionals as may be recommended to assist the process, such as a neutral child specialist. If we choose to work within the interdisciplinary team approach, we will independently and individually engage and retain professionals, other than joint neutral experts, which we shall engage and retain by mutual agreement. Each professional has his or her own retainer and fee agreement with us. There is no business, financial or legal relationship among the participating professionals in the interdisciplinary Collaborative Divorce model. However, as Collaborative professionals we all subscribe to the principles and process of Collaborative Divorce and have satisfied the membership requirements and standards of the New York Association of Collaborative Professionals.

The roles of each member of the Collaborative team may include the following:

### **Collaborative Divorce Attorneys**

- assist clients in gathering and analyzing information;
- help clients examine needs and interests to develop settlement options and packages;
- help clients evaluate consequences and limitations of possible solutions;
- help clients evaluate settlement options in the context of established legal precedents;
- help clients weigh settlement options in relation to their values and interests;
- set the framework for negotiation;
- prepare the required legal documentation of the agreement and obtain a Judgment;
- help clients develop post-divorce agreements as needed; and
- coordinate with other team members

### **Collaborative Coaches**

- help clients clarify their concerns;
- help clients manage their emotions;
- help clients develop and reinforce effective communication skills;
- help clients develop effective co-parenting skills;
- help clients develop a workable co-parenting plan that addresses the needs and interests of parents and children;
- help clients in their after-divorce adjustment with one year follow ups; and
- coordinate with other team members.

### **Collaborative Child Specialist**

- listens to each child and brings the voice of each child to the Collaborative Process;
- sensitizes the parents to the needs of each child in the context of the divorce;
- provides guidance to the parents about talking to the children about divorce and the Collaborative Process;
- provides recommendations to the team and to the parents to assist in developing an effective co-parenting plan, with 6 and 12 month follow ups; and
- coordinates with other team members.

### **Collaborative Financial Consultant**

- gathers financial data;
- prepares clients' statements of net worth;
- develops different financial scenarios for clients to evaluate;
- provides financial guidance, planning, support and budgeting throughout the divorce process, with follow up as needed;
- explains the tax consequences of alternate solutions;
- assists in evaluating assets that are part of the marital estate; and
- coordinates with other team members.

IV. **COMMUNICATION:**

Constructive, respectful, appropriate and honest discussions with lawyers, coaches, financial consultants and child specialists is required of us. We will do our utmost, in and out of meetings, to focus on needs and interests rather than hostile positions. We agree to focus our discussions in settlement meetings on the economic and parenting issues of our divorce and the constructive resolution of those issues. We understand that the costs for settlement meetings are substantial and require our cooperation to make the best possible use of available resources.

V. **INFORMATION:**

We and our Collaborative professionals agree to deal with each other in good faith. We understand that this process relies upon a complete, accurate, voluntary and willing production or disclosure of all necessary and reasonable information about our finances and our family, whether requested or not. Our failure to provide information requested or the giving of false or misleading information will end the Collaborative Process. We understand that we will be required to sign sworn statements of net worth making full and fair disclosure of our income, assets and debts.

VI. **PARTICIPATION WITH INTEGRITY:**

We are concerned about protecting the privacy, respect and dignity of all participants in the Collaborative Process. Both of us, and all Collaborative professionals, shall uphold a high standard of integrity and, specifically, no one shall take advantage of inabilities, deficiencies, inconsistencies, misinformation, miscalculations or oversights of another, but rather shall openly acknowledge them and seek to correct or abate any consequences of these matters.

VII. **PROTECTING CHILDREN:**

In the Collaborative Process, we are working toward a loving and involved relationship with both parents. Therefore, we shall make every reasonable effort to reach amicable solutions that promote the best interests of our children and consider the rights and responsibilities of both of us. We agree to avoid making economic threats or taking positions regarding parenting as strategies in negotiation.

VIII. **CONFIDENTIALITY:**

We understand that communications and information produced or discussed by us in this case shall be confidential. Neither of us will introduce as evidence in court any information disclosed during the Collaborative Divorce process for the purpose of reaching a settlement, including our behavior or legal positions, except documents otherwise compellable by law including our sworn statements of net worth.

If we elect to work with an interdisciplinary team, we agree that our information may be discussed or shared among the members of the Collaborative Divorce team where such information is considered relevant to the Collaborative Process. We will sign a written authorization form which we will use for sharing of information among the team members. If subsequent litigation occurs, no member of the Collaborative Divorce team shall be required to testify about any aspect of this case. If our case leaves the Collaborative Process, then the team will provide us with all financial documents, our

meeting minutes and any temporary agreements kept in our file. However, our intra-team communications (by writing, email or notated verbal communication) will not be considered part of the file and will not be released to us.

**IX. TERMINATION OF THE COLLABORATIVE CASE:**

This Collaborative case, once begun, shall be terminated in these instances:

- A. Upon the successful resolution of the case with a written settlement agreement;
- B. By decision of either party to withdraw from the process;
- C. By the initiation of any litigation or court proceeding;
- D. By withdrawal or discharge of an attorney on the team who is not replaced within a reasonable time by another Collaborative attorney;
- E. By the discovery of an act of any participant that violates the terms or spirit of this Participation Agreement (unless excused by agreement of all parties).

Termination of the Collaborative case by any of these itemized events shall be completed by prompt written notice to all participants and Collaborative professionals by the lawyers. Any interim agreements reached during the Collaborative Process shall remain effective for this period so as to avoid surprise or prejudice to the rights of either party. Upon termination of a Collaborative case, the Collaborative team, including the attorneys, coaches, financial professional and child specialist, are discharged. We understand that it will be necessary to select new attorneys and additional fees will likely be required in retaining counsel.

**X. COLLABORATIVE AGREEMENTS:**

Interim or Temporary Agreements are often reached during a Collaborative case and then written and signed to memorialize the terms. We agree to honor these interim or temporary agreements during the Collaborative case and, if the Collaborative case terminates, these agreements can be presented to court by either of us seeking to have the terms of the interim or temporary agreements incorporated into future court action with retroactive effect. A final agreement reached in the Collaborative Process shall be executed and acknowledged in a form which entitles a deed to be recorded, so it will constitute a valid Separation Agreement under the matrimonial laws.

**XI. PROFESSIONAL FEES:**

We agree that our Collaborative professionals are entitled to be paid reasonable fees for their services. We agree to make funds available from our marital or separate property, as needed, to pay these fees. We understand that, if necessary, one of us may be asked to pay for all or some of the professionals' fees, from marital or separate property or funds. We agree that, to the extent possible, all professional fees and costs incurred by us shall be paid in full prior to the entry of an agreed final decree of divorce.

