

INTERDISCIPLINARY MODEL OF COLLABORATIVE DIVORCE

PARTICIPATION AGREEMENT CASE NAME:

I PLEDGE:

It is pledged to participate in good faith in a process for divorce with no Court, no combat and no coercion, but rather respectful, honest collaboration striving for a resolution that balances the best interests of parties and their children while utilizing a collaborative team that includes lawyers, mental health coaches and financial professionals as appropriate.

II PROCESS:

Collaborative Divorce is chosen as the settlement process to resolve divorce issues. This process functions on the belief that civilized, respectful, low-conflict participation in out-of-court mutual negotiations best serves the interests of parties and their children. Full voluntary disclosure and a non-threatening climate are expected. The parties, their 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 independent lawyers, as well as independent mental health coaches, a financial neutral consultant, and such other professionals as may be recommended to assist the process (such as child specialists and other specific person or property experts). Professionals are individually and independently engaged or retained by each party and each professional has their own retainer and the fee agreement with a party. 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 promote collaborative practice through a local interdisciplinary trade association called the Hudson Valley Collaborative Divorce and Dispute Resolution Association, Ltd. Each professional has varying levels of experience, training, skills professional affiliations and billing rates.

IV COMMUNICATION:

Constructive, respectful, appropriate and honest discussions with lawyers, coaches or financial consultants and other involved professionals is required of both parties. Accusatory, vengeful, hostile or coercive positions shall not be asserted by either party. These rules apply in or out of the scheduled meetings. Particular care shall be taken not to expose children to inappropriate communications regarding marriage issues, and children shall not be included in discussions regarding the divorce, except as

recommended by involved professionals.

V INFORMATION:

The parties and all collaborative professionals agree to deal with each other in good faith. This process relies upon a complete, voluntary and willing production or disclosure of all necessary and reasonable information about your finances and your family. Your failure to provide information requested or the giving of false or misleading information will end the collaborative process.

VI PARTICIPATION WITH INTEGRITY:

We are always concerned about protecting the privacy, respect and dignity of all participants in the collaborative process. Both parties and all 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:

The Collaborative process assumes that all parties desire that their children have a loving and involved relationship with both parents. Therefore, all participants shall make every reasonable effort to reach amicable solutions that promote the best interests of the children and considers the rights and responsibilities of both parents. Moreover, the parties are reminded not to involve their children in their communications regarding the marital dissolution, except as may be recommended by the collaborative team.

VIII CONFIDENTIALITY:

You can expect that communications and information produced or discussed by you in this case shall be confidential. However, in this process you agree that your information may be discussed or shared among the members of the Collaborative Divorce team where such information is considered relevant to the Collaborative process. You will sign a written authorization form which you will use for sharing of information among the team members. Be aware that if this case reverts to litigation or court, no member of the Collaborative Divorce Team shall be required to testify about any aspect of this case. If your case leaves the collaborative process, then we will provide you 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 you.***

We/I understand and agree that if a Collaborative meeting is conducted by videoconference, telephone call, or other like method where the parties and Collaborative Professionals are not all physically present in the same location during the Collaborative

meeting, I/we shall not permit a non-party to record, view or listen to any part of the Collaborative meeting without (i) the knowledge and consent of all parties and all Collaborative Professionals at the meeting, and (ii) the non-party's written agreement to abide by all of the confidentiality provisions that parties have agreed to follow.

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 (unless upon agreement of all parties);
- 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 by any of these itemized events shall be completed by prompt written Notice to all participants by the lawyers. Unless an emergency exists, there shall be a 30-day stay of all further proceedings in the case to allow the parties to regroup and retain new lawyers. Also, any interim agreements reached during the collaborative shall remain effective for 30 days so as to avoid surprise or prejudice to the parties. Upon termination of a collaborative case, the collaborative team, including the attorneys, coaches and other professionals, are discharged and the parties must retain new counsel.

X COLLABORATIVE AGREEMENTS:

Interim or Temporary Agreements are often reached during a collaborative case and then written and signed to memorialize the terms. These interim or temporary agreements shall be honored by all parties during the Collaborative case and, if the Collaborative case terminates, these agreements can be presented to Court by a party 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 entitle a deed to be recorded, so it will constitute a valid Separation and Opting Out Agreement under the matrimonial laws.

The parties acknowledge that they have been informed that §236(B)(1)(c) of the Domestic Relations Law defines “marital property” as all property acquired by either or

both spouses during the marriage and before the execution of a separation agreement or the commencement of a matrimonial action, regardless of the form in which title is held, except as otherwise provided in §236(B). They also understand that marital property shall not include separate property as defined in Section 236(B) of the Domestic Relations Law.

By entering into the Collaborative Process instead of commencing a matrimonial action, the parties understand the need to designate a date that will cut off the accumulation of our marital property. They, therefore, affirmatively state that the date that this Participation Agreement is signed shall be the cut off date for the accumulation of marital property unless the parties otherwise agree in a future written document executed with the same formalities as this Participation Agreement.

XI ACKNOWLEDGMENT:

Both parties and their lawyers 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 dissolution 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 Divorce process and agree to work in good faith to achieve the goals stated herein.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. This Agreement may be executed by an original, copy or digital signature, and returned by original or physical copy, facsimile and/or e-mail transmittal, all of which will have equal binding effect.

In this matter, the Husband will be represented by _____ and the Wife will be represented by _____. The Neutral Coach will be _____.

Wife, _____

Date _____

Husband, _____

Date _____

