

**COLLABORATIVE  
PARTICIPATION AGREEMENT  
("Agreement")**

**BETWEEN:**

**and**

**("Participant(s)")**

**1 COLLABORATIVE PROCESS**

- 1.1 We believe that in family law matters it is in our best interests and in our family's best interests to resolve issues through negotiation.
- 1.2 We commit to the Collaborative Process ("Process"), a conflict resolution process which relies on honesty, cooperation, integrity and respect and is geared toward the future well-being of the family.
- 1.3 We will use our best efforts to negotiate a mutually acceptable settlement and we will protect the privacy and dignity of everyone involved in the Process.
- 1.4 We will openly and honestly disclose all relevant information whether requested or not. If requested, a sworn statement confirming the information disclosed will be provided.

**2 NO COURT OR OTHER INTERVENTION**

- 2.1 Our goal is to minimize, if not eliminate, any negative economic, social and emotional consequences of an adversarial process.
- 2.2 We commit ourselves to settlement and will engage in informal discussions and conferences to resolve all issues.
- 2.3 We understand that through this Process, we are the architects of our own settlement and that there can be no guarantee that we will resolve all issues. We will be discussing rights and obligations prescribed by law along with other considerations. The Process empowers us to make our own agreement, which may differ a little, a lot, or not at all, from what a court might order.

- 2.4 When a settlement is reached, the terms of the settlement shall be set out in a formal written agreement and signed by us with our Registered Collaborative Family Lawyers (“Lawyers”), \_\_\_\_\_ and \_\_\_\_\_.
- 2.5 The Lawyers may file any court documents required to give effect to the terms of the settlement. Any documents filed must reflect the terms of the written agreement and be filed with the consent of both Lawyers.
- 2.6 The Lawyers may also file a consent order that sets out the terms of an agreement reached during this Process which the Participants agree shall be binding.

### **3 APPROACH**

- 3.1 We understand that the intention of this Process is to address our legal issues. We also understand that personal and relationship issues may exist and may be better addressed through other means and professionals.
- 3.2 Each of us will assert our respective interests and actively participate in the negotiations with the help of our Lawyers.
- 3.3 When a final, comprehensive agreement has been reached, we will be given a reasonable amount of time to consider that agreement before it is signed.

### **4 ROLE OF LAWYERS**

- 4.1 Our Lawyers will advise each of us on the relevant law and the information available.
- 4.2 Our Lawyers will jointly manage the Process.
- 4.3 Each Lawyer will advocate for his or her client based on the interests identified by his or her own client and in keeping with the terms and spirit of this Agreement.
- 4.4 We understand that while the Lawyers share our commitment to the Process, each of us is represented by our own Lawyer.
- 4.5 We also understand that both Lawyers’ representation is limited to this Process. Neither Lawyer, nor his or her firm, can ever represent either of us in Court in any adversarial process against the other.
- 4.6 When needed, each Participant and his or her Lawyer may have discussions outside of the meetings to address Process needs and concerns.

- 4.7 Our Lawyers may provide information to each other or to the professionals we retain jointly. We understand that we may be allowing our Lawyers to share some information which would not need to be disclosed in a court based process.
- 4.8 The Lawyers may have meetings independently of the clients to ensure that the collaborative meetings are as productive as possible.

## **5 COSTS OF THE PROCESS**

- 5.1 We jointly agree to make funds available for the purpose of paying our Lawyers and the professionals retained by us.

## **6 ENFORCEABILITY OF AGREEMENTS**

- 6.1 The agreements reached within the Process are reviewable until a formal written agreement has been signed by us with our Lawyers.
- 6.2 If we want an agreement reached during the Process to be binding we will:
  - 6.2.1 set the agreement out in a stand-alone written agreement drafted by the Lawyers and signed by us; or
  - 6.2.2 set the agreement out in a consent order, to be filed with the Court.
- 6.3 We acknowledge that some agreements may be reached and acted on by us during the Process, such as the sale of a house, which cannot be undone.
- 6.4 It is intended that all agreements reached during the Process are to be honoured. If we wish to withdraw from or change an agreement, we will continue to honour the agreement until the next following meeting, at which time the withdrawal or change will be discussed.

## **7 PARTICIPATION AND NEGOTIATION WITH INTEGRITY AND GOOD FAITH**

- 7.1 We will work to protect the privacy, respect and dignity of all involved, including the Participants, their Lawyers, and any other professionals who may be involved in this Process.
- 7.2 We will maintain a high standard of integrity. We will not take advantage of each other and we will identify and correct any miscalculations or mistakes.
- 7.3 We will express our own interests, needs, and objectives.

- 7.4 We will take a reasoned approach in all matters. Where our interests differ, we will use our best efforts to create options which meet our interests. We recognize that flexibility will be necessary to reach a settlement of all issues.
- 7.5 We will review all of the options presented, even those which we may not like.
- 7.6 Although each of us may discuss the likely outcome of a litigated process or a court decision, we will not threaten to abandon this Process or go to court.

**8 CHILDREN'S ISSUES** *[delete if no children involved; delete 8.3 and 8.4 if not applicable]*

- 8.1 As parents, we share the enjoyment of and responsibility for our children. We will make every effort to reach solutions which promote our children's best interests.
- 8.2 We will insulate our children from involvement in our disputes, and promote a caring, loving and involved relationship between our children and each parent.
- 8.3 We will attend the Parenting After Separation Seminar. We understand that attendance at the Focus on Communication in Separation Course ("FOCIS") is also recommended.
- 8.4 We understand that it is important to develop an appropriate parenting plan. It may take some time and we may need to try out different arrangements to help us identify the best parenting plan.

**9 ACCESSING OTHER PROFESSIONALS**

- 9.1 If assistance or information is required in this Process from other professionals, we will retain them jointly, unless we agree otherwise in writing. Examples of professionals we may involve include:
  - 9.1.1 parenting specialists;
  - 9.1.2 business valuers;
  - 9.1.3 appraisers;
  - 9.1.4 pension valuers;
  - 9.1.5 accountants;
  - 9.1.6 financial advisors; and
  - 9.1.7 financial neutrals.
- 9.2 We will direct these professionals to work in a neutral and cooperative effort to assist us. The information provided by the professionals will be the information of both Participants for use only within the Process.

- 9.3 After an opinion or report provided by a professional is reviewed by us, we will decide how to use the information.
- 9.4 We recognize that each of us may also choose to individually access professionals, such as financial advisors, divorce coaches or counsellors. If working with one of us outside of the Process, these professionals will be provided with this Agreement and asked to coordinate their work to enhance this Process.
- 9.5 This Agreement may be provided to any professional retained by us jointly or by one of us individually to provide assistance either within or outside of this Process.

## **10 NON-COMPLIANCE WITH COLLABORATIVE PROCESS**

- 10.1 We understand that if either of us fails to comply with this Contract or to participate in the spirit of the Collaborative Family Law Process, either or both of our Lawyers (which also means the Lawyers' firms), or other professionals we have hired in this Process, may have an obligation to withdraw. Examples of such failure include:
- 10.1.1 withholding or misrepresenting financial information;
  - 10.1.2 withholding or misrepresenting relevant non-financial information (eg. a planned move or health status or employment prospects);
  - 10.1.3 making unilateral decisions regarding property, finances, or parenting;
  - 10.1.4 conduct toward our Children which must be reported;
  - 10.1.5 not honouring interim commitments or agreements; or
  - 10.1.6 repeated failure to act respectfully toward the other Participant, the Lawyers or professionals involved in the Process.

## **11 BEGINNING AND ENDING THE COLLABORATIVE PROCESS**

- 11.1 The Process begins when we sign this Agreement.
- 11.2 The Process ends when we sign a formal written agreement with our lawyers. If we agree to apply for court orders to confirm or give effect to our agreement, then the Process ends upon the granting of the court orders.
- 11.3 The Process is voluntary. Either of us may unilaterally end the Process by giving written notice to the other Participant or his or her Lawyer that the Process is ended. Neither Participant may bring a court application within 30 days of such notice, unless that Participant satisfies a court that there is an emergency which must be dealt with before the 30 day period expires.

- 11.4 The Process ends if a Participant commences an adversarial process dealing with a matter which is the subject of this Process without the agreement of the other Participant and both Lawyers.
- 11.5 The Process ends if a Participant discharges his or her Lawyer and in so doing, the Participant also discharges the Lawyer's firm. The Process also ends if a Lawyer withdraws from further representation of a Participant. However, if the unrepresented Participant retains another Registered Collaborative Family Lawyer ("RCFL") within 30 days, the Process may continue. The Participants may return to the Process at any time, provided that both Participants agree and each has retained a RCFL to represent him or her.

## **12 CONFIDENTIALITY**

- 12.1 All written and verbal communications and information exchanged within this Process are confidential and without prejudice.
- 12.2 If either of us brings a court application or action against the other after the Process is concluded by a written agreement or has ended, only the documents that were created outside of the Process for some other purpose may be used without the consent of the other Participant.
- 12.3 No information regarding a Participant's behaviour or proposals for settlement, nor any notes, minutes, or documents created during the Process can be used in a court proceeding after the Process has ended unless the Participants and the author of the document agree in writing that it may be used.
- 12.4 If this Process ends and the Participants enter the court process, all Lawyers and professionals are disqualified as witnesses.
- 12.5 If, however, one Participant brings a court action to set aside a spousal support waiver or non-variation agreement or a matrimonial property settlement in the written Agreement reached through the Process, the minutes of the meetings and the professionals' work product may be used solely by the other Participant for the purpose of defending that action.

## **13 GUIDELINES AND EXPECTATIONS**

- 13.1 We will:
- ▶ commit the time required to meet regularly and be prepared for each meeting;
  - ▶ take the time to gather the facts, explore each other's interests, and generate options to achieve a settlement tailored to meet the needs and interests of both Participants and their family;

- ▶ recognize and respect the Process and personal needs of each other;
- ▶ focus on the problems and concerns at hand and not attack each other;
- ▶ take responsibility for our own feelings, interests and choices;
- ▶ commit to the fullest development of options;
- ▶ be patient and recognize that delays in the Process can happen, even when everyone is acting in good faith; and
- ▶ be willing to attend a final meeting to review the written agreement and to ensure it reflects the Participants' understanding of the settlement reached.

13.2 We will:

- ▶ allow someone else to finish speaking before we interrupt so that each Participant and each Lawyer will have a full and equal opportunity to speak on every issue presented for discussion;
- ▶ just say "No" if something is unacceptable;
- ▶ be respectful;
- ▶ recognize the futility of arguing;
- ▶ speak for ourselves, making "I" statements and use each other's first names to avoid using "he" or "she";
- ▶ listen carefully and try to understand what each person is saying without judging the person or the message; and
- ▶ think before speaking.

**14 COMMITMENT**

14.1 We agree to these terms and commit to honouring both the written word and the spirit of the Agreement and the Process.

DATED: \_\_\_\_\_, 2014 at \_\_\_\_\_, Alberta.

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**ACKNOWLEDGED BY THE COLLABORATIVE PROFESSIONAL TEAM:**

**COMMITMENT BY REGISTERED COLLABORATIVE FAMILY LAWYERS**

We acknowledge the terms of the Collaborative Participation Agreement which has been entered into by WIFE and HUSBAND and commit to providing legal representation which honours both the written word and the spirit of the Agreement. We confirm we will never represent our client in a contested proceeding against the other Participant.

LAWYER FOR WIFE/HUSBAND

LAWYER FOR WIFE/HUSBAND

\_\_\_\_\_

\_\_\_\_\_

**COMMITMENT BY [OTHER PROFESSIONALS]**

I/We acknowledge the terms of the Collaborative Participation Agreement which has been entered into by [WIFE] and [HUSBAND]. I/We commit to providing assistance in our area of practice which honours both the written word and the spirit of the Agreement.

MHP/COACH/P.SPEC./FP FOR W\*

MHP/COACH/P/SPEC./FP FOR H\*

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*\*select appropriate designation when preparing draft*