

## COLLABORATIVE PARTICIPATION AGREEMENT

We, \_\_\_\_\_ and \_\_\_\_\_, have chosen to resolve all of the issues arising from the dissolution of our marriage through a collaborative process under Michigan's Uniform Collaborative Law Act.

*This document describes the goals and principles of Collaborative Practice and sets forth our commitment to the process. It will be signed by all members of our Collaborative Team, which initially includes each of us and our attorneys. To better serve and identify our needs, we will work with a divorce coach and a financial professional.*

*Thereafter, we understand that we may agree to expand our Collaborative Team to include a mediator, a child specialist, and other professionals.*

### **GOALS**

As a divorcing couple, we recognize and acknowledge that how we resolve our divorce will impact the quality of our agreement. Therefore, our goal is to resolve our issues without litigation and in an atmosphere of honesty, cooperation, integrity, and professionalism. We desire to achieve a resolution that best suits us in our present circumstances while understanding how our agreement can affect our future circumstances.

***As parents, our goal is to promote a healthy future for our children and a caring, loving, and involved relationship between our children and each of us.***

For these reasons, we agree to use the Collaborative Process.

### **NO COURT INTERVENTION**

All of our Collaborative Team Members commit to working cooperatively to settle our case without court intervention. We understand that we are foregoing the use of formal court procedures available under the adversarial system.

\_\_\_ *(If a case has been filed)* A court action has been filed. We acknowledge that a notice must be filed with the court, requesting a temporary stay of the pending divorce proceedings in order to permit us to resolve this matter in a collaborative fashion, and we understand that the court may or may not grant the requested stay. If a stay is not granted, we agree to dismiss the case in order to give us time to complete this dispute resolution process.

\_\_\_ (If a case has not been filed) No court action between us has been filed. Until we reach and sign a final agreement on all issues, neither of us will file any court action.

### **PARTICIPATION WITH INTEGRITY**

We agree that we will use our best efforts, in good faith, as we move forward to create an atmosphere of harmony, trust, and cooperation in order to successfully complete the Collaborative Process.

Therefore, we agree to:

- Provide complete and accurate information to the best of our ability.
- Never take advantage of or mislead one another.
- Promptly identify and correct any errors, misinformation, or omissions we discover in the collaborative process.
- Treat all participants with respect and dignity.
- Try to be understanding of each other's perspectives - even when we disagree.

***We acknowledge that the predictability and quality of our behavior toward each other will affect our children's immediate and long term health.***

***Therefore, we also agree to:***

- ***Act cooperatively and with courtesy toward each other on a consistent basis.***
- ***Insulate our children from our disputes.***
- ***Refrain from discussing the details of our divorce with our children.***

### **STATUS QUO**

***No changes will be made to the family living arrangement without an agreement.***

We agree that we will maintain and preserve the financial status quo as it has existed during the past six months.

Therefore, we agree to:

- Preserve and maintain our financial information, including information that is in electronic form (including information stored on computers or other devices), in its original form, and that we will maintain and handle our finances in the same manner as we have been doing during the past six months.

- Preserve and maintain any existing insurance coverage, including life, health, automobile, homeowners, renters or disability insurance; and not make any changes to beneficiaries of any pension, retirement plan, or insurance policy, nor change our estate plan.
- Preserve and maintain our marital assets, and not make any changes to title or dissipate any assets (including our cash accounts), except in the usual course of business or as needed to provide for the reasonable necessities of life and to continue the Collaborative Process, unless there is a prior written agreement of the parties.
- Not incur any further debt, other than in the usual course of business or as needed to provide for the necessities of life or the continuation of the Collaborative Process, unless there is a prior written agreement of the parties.

We agree that if either of us has taken any of the above actions within the past six months, we will immediately disclose that fact to our spouse and the team.

We acknowledge and agree that a violation of any of these provisions may undermine the Collaborative Process and lead to termination of the process.

#### **DISCLOSURE OF INFORMATION**

We agree that we will fully and completely disclose all necessary and pertinent personal and financial information requested, including that related to assets, debt, income and other relevant information. We agree to waive the use of formal discovery procedures (depositions, written questions answered under oath, subpoenas), unless we specifically agree to them in advance. We further agree that we will verify by sworn statements, that we have made a full and accurate disclosure of all assets, debts, income and other relevant financial information. We understand that failure to make these disclosures may result in voiding some or all of the financial aspects of our settlement agreement.

We understand that if we instruct any Collaborative Team member to withhold from the Collaborative Team information that he or she believes is required to be disclosed, that Collaborative Team member may be required to withdraw from the process.

#### **NEGOTIATION**

We understand that the Collaborative Process, even with full and honest disclosure, will involve vigorous good faith negotiation. We agree to focus on the issue or issues at hand, to not disparage or belittle, and to keep an open mind to new ideas. We recognize that listening is an important part of negotiation.

Because we have different needs, we may have disagreements. We understand that our attorneys will encourage us to use our best efforts to create options that meet our fundamental needs. We understand that reaching a settlement will require compromises from each of us and that proposing compromise is not a sign of weakness.

In our meetings, we might discuss the parameters of Michigan domestic relations law. We understand that, as to certain issues, we may elect not to follow these parameters. We agree to strive to reach creative settlements that meet the unique needs of our family.

We understand that we will assert our respective interests and that our respective team professionals will help each of us to do so. We agree to assert our respective interests in the spirit of collaboration.

We agree that neither we nor our attorneys will threaten litigation as a way of forcing settlement.

### **CHILDREN**

*As part of the Collaborative Process, we will create a parenting plan that will address the following issues:*

- *Parenting responsibilities*
- *Parenting time*
- *Decision making procedures*
- *Communication practices*
- *Problem solving roadmaps*
- *Financial support for the children's needs*

### **ATTORNEY-CLIENT RELATIONSHIP**

We understand that each of us has an attorney who has a professional duty to diligently represent only his or her client. No attorney-client relationship is created between one spouse's Collaborative Attorney and the other spouse by entering into this Agreement or by the Collaborative Attorneys' signatures below. At the same time, the attorneys we have chosen share a commitment to the collaborative process described in this document.

We understand that upon our entry into this Agreement, both attorneys, including their respective firms, will be disqualified from ever representing either of us against the other in any adversarial or contested court proceeding.

## **PROFESSIONAL FEES AND COSTS**

We agree that our attorneys and other Collaborative Team Members are entitled to be paid for their services according to the terms set out in separate fee agreements signed with each Collaborative Team Member. We understand that failing to pay any Collaborative Team Member can restrict access to advice and counsel. Therefore, we agree to pay all Collaborative Team Members' fees in a timely manner. We will decide from which accounts the Collaborative Team Members will be paid. We also understand that:

- Collaborative Team Members are independent of one another and have no financial connections, fee-sharing or referral fee arrangements with one another; and,
- No Collaborative Team Member can continue to provide services without payment.

## **CONFIDENTIALITY**

All information provided during the Collaborative Process is confidential and will not be disclosed to anyone outside the team, unless professional ethical obligations require otherwise (such as reporting suspected child abuse). We authorize our Collaborative Team Members to communicate freely with each other during and after this Collaborative Process, including the use of unencrypted email, facsimile, and other electronic methods of communication as necessary.

If the Collaborative Process is terminated and we begin litigation or another process for dispute resolution, we specifically agree that neither of us will call as a witness either attorney, coach or any other Collaborative Team Member, including the mentee/trainee. We also agree that the work product of any Collaborative Team Member will be inadmissible as evidence in any court proceeding unless we agree otherwise in writing.

We agree that all Collaborative Team Member communications are part of an ongoing compromise and settlement negotiation and are therefore privileged, confidential and inadmissible in court. This agreement applies to the observation by the mentee/trainee, but does not apply to any written sworn statements as to financial status or this Collaborative Participation Agreement.

## **FINAL SETTLEMENT**

When we reach and sign a final agreement on all issues, we will then submit to the jurisdiction of the family division of the circuit court of the county in which we principally reside. If we reside in different counties, we will jointly select the court in which to file our divorce action, based upon input and guidance provided to us by our attorneys. We will ask the court for

dissolution of our marriage. We will jointly file our divorce complaint, if the court rules permit; otherwise, we will agree upon which of us will file.

Our final agreement will be incorporated into our Judgment of Divorce. The attorneys who have been a part of the Collaborative Process will prepare the documents necessary to give effect to our agreements. Outside professionals may be used to draft Domestic Relations Orders as needed to divide retirement plan interests and accounts.

Entry of the Judgment of Divorce concludes the Collaborative Process, but the commitments contained herein remain in effect. Neither party may re-engage the services of a Collaborative Team Member, except with notice to and the written consent of the other party.

### **TERMINATION WITHOUT SETTLEMENT**

Subject to our agreement to use our best effort in the Collaborative Process, we agree that either of us may terminate the Collaborative Process for any reason with notice to his or her attorney and to the other party. We both commit not to do so lightly.

Our attorneys and all other Collaborative Team Members have an affirmative duty to recommend termination of the Collaborative Process if, after reasonable investigation and/or discussion, they believe that either of us has acted in violation of this agreement by:

- Withholding or misrepresenting financial information
- Withholding information that is relevant to the Collaborative Process
- Secretly disposing of property
- Unreasonably or unnecessarily increasing debt
- Acting in a manner that undermines the Collaborative Process or takes unfair advantage of the Collaborative Process
- Filing a court action prior to the completion of the collaboration, unless we otherwise agree

### **NOTICE OF TERMINATION**

If a spouse or a Collaborative Team Member withdraws from the Collaborative Process, the person withdrawing will immediately give written notice to all other Collaborative Team Members. A spouse whose Collaborative Team Member withdraws from his or her representation or involvement in this matter may continue in the Collaborative Process, provided he or she retains a new Collaborative Team Member who agrees to the terms of the Collaborative Process and signs the Collaborative Participation Agreement.

Unless circumstances require emergency court relief, both of us agree not to file a court action or take any court action in a pending case until at least 30 days after notice of a termination of the Collaborative Process is provided, in order to allow the other spouse a reasonable opportunity to retain new counsel. We agree that this 30-day notice provision may be brought to the attention of a court in order to request a postponement of a hearing. All temporary agreements, including status quo provisions, will remain in effect for 60 days from the termination of our Collaborative Process, or as otherwise agreed by us in writing or ordered by the court.

### **DISQUALIFICATION OF COLLABORATIVE TEAM PROFESSIONALS**

We understand that upon our entry into this Agreement, both attorneys, including their respective firms, will be disqualified from ever representing either of us against the other in any adversarial or contested court proceeding. We also understand that the disqualification agreement survives this agreement and remains in effect into the future both by this contract and Michigan's Uniform Collaborative Law Act (MCL 691.133 et seq.).

We also understand that upon our entry into this Agreement, all Collaborative Team members (including, but not limited to: divorce coaches, child specialist, financial specialists) will be disqualified from ever representing either of us against the other in any adversarial or contested court proceeding.

### **POST JUDGMENT**

Should post-judgment disputes arise or should a claim be made that either of us has refused to honor our final agreement, we agree to resolve the issues between us by returning to the Collaborative Process. If that is not successful, or if either of us is unwilling to participate in the Collaborative Process at the time of the post-judgment dispute, only our final agreement, as well as our Judgment, may be presented to a court for enforcement.

Members of the Collaborative Team cannot participate in post-judgment litigation, as counsel, as witnesses, or in any other capacity.

