

**PARTICIPATION AGREEMENT  
COLLABORATIVE PROCESS SEPARATION/DIVORCE COACHES**

**I. GOAL OF COLLABORATIVE PROCESS:**

The goal of the Collaborative Process is to help the separating/divorcing couple to work successfully to achieve a positive resolution that minimizes the negative economic, social, and emotional consequences the family often experiences in the traditional adversarial separation and divorce process.

In order to accomplish this goal, three independent disciplines work together as a team to integrate the legal, emotional and financial aspects of separation/divorce.

**II. THE ROLE OF THE COLLABORATIVE SEPARATION/DIVORCE COACHES:**

Collaborative Separation/Divorce Coaches will work with the couple to:

1. Identify and prioritize the concerns of each person.
2. Make effective use of conflict resolution skills
3. Develop effective co-parenting skills.
4. Work collaboratively with the couple and their lawyers and other involved professionals to enhance communication and reduce misunderstandings.
5. Direct their best efforts towards keeping the collaborative process moving towards resolution.

**III. ROLE OF THE CHILD SPECIALIST:**

The Collaborative Child Specialist will work with the child to:

1. Provide the child with an opportunity to voice his/her concerns regarding the separation/divorce.
2. Provide parents with information and guidance to help their children through this process.
3. Give information to the Coaching team that will help in developing an effective co-parenting plan.

**IV. THE ROLE OF THE FINANCIAL SPECIALIST:**

The Collaborative Financial Specialist will work with the couple to:

1. Provide the couple on-going practical financial guidance; compilation of spread sheets and schedules of assets and liabilities, planning, support, budgeting and projections, as needed.

2. Assist with the gathering of documents as they relate to income and expenses, assets and liabilities.

## **V. THE ROLE OF THE COLLABORATIVE LAWYER:**

1. Represents the interests of his/her respective client while maintaining the overall goals of the collaborative process.
2. Provides legal advice, negotiation support, and drafts and revises agreements and the divorce documents.
3. Works collectively with the other Collaborative lawyer and the Collaborative team.

## **VI. THE RESPONSIBILITIES OF THE CLIENT:**

Each party involved in the separation/divorce agrees:

1. In the case of the Parties who have children: to make every effort to reach amicable solutions that promote the child/ren's best interests. The Parties agree to act quickly to mediate and resolve differences related to the child/ren to promote a caring, loving and involved relationship between the child/ren and both parents. The Parties acknowledge that inappropriate communications regarding their dissolution can be harmful to their child/ren. They agree that settlement issues will not be discussed in the presence of their child/ren, or that communication regarding these issues will occur only if it is appropriate and done by mutual agreement, or with the advice of the Child Specialist or Coaches. The Parties agree not to make any changes to the residence of the child/ren without first obtaining the written agreement of the other Party.
2. To maintain the confidentiality of all content (written or oral) of the sessions and agrees that under no circumstances will any of this content be used in any future adversarial process.
3. To work for the best interests of the Children and of the family as a whole.
4. Although the Parties have agreed to work outside the court system, the Parties also agree that, pending settlement:
  - a. Neither Party will dispose of any assets except by an agreement in writing.
  - b. Neither Party may harass the other Party.
  - c. All available insurance coverage will be maintained and continued without change in coverage or beneficiary designation.

## **VII. COMMENCEMENT OF COLLABORATIVE PROCESS**

The Collaborative Process begins with the first of the following:

1. Signing of the Coach's Participation Agreement, or

2. Signing of the Lawyer's Participation Agreement.

## **VIII. END OF THE COLLABORATIVE PROCESS**

The Collaborative Process ends when the first of the following events occurs:

- a. **In the event that parties have not yet retained lawyers**, if a coach or party gives notice of withdrawal from the Collaborative Process, unless the party gives notice of intention to proceed as a Collaborative Practice matter and retains a new Collaborative Practice coach within 30 days, and the new Collaborative Practice coach executes the Participation Agreement;
- b. **If parties have retained lawyers**, if a party or a lawyer gives notice of withdrawal from the Collaborative Process, unless:
  - a. the party gives notice of intention to proceed as a Collaborative Practice matter; and
  - b. retains a new Collaborative Practice lawyer within 30 days; and
  - c. the new Collaborative Practice lawyer executes the Participation Agreement;
- c. A coach or lawyer **terminates** the Collaborative Process under the terms of the Participation Agreement (XV of this Participation Agreement);
- d. A party commences a contested court proceeding (not including filing a notice of family claim by agreement under the lawyer's participation agreement); or
- e. The parties sign (before witnesses) a final separation agreement.

## **IX. WITHDRAWAL OF COACH WHEN PARTIES HAVE COLLABORATIVE LAWYERS**

In the event that a Collaborative Coach withdraws or a party discontinues the use of their Coach AND both parties have Collaborative Lawyers, the Collaborative Process continues until the first of VIII (b)(c)(d) or (e) above.

## **X. CONFIDENTIALITY**

1. Both Parties agree to sign confidentiality waivers with the Collaborative Separation/Divorce Coaches to waive privilege with each Collaborative professional involved in the process. The specifics of this will be discussed

before the confidentiality waivers are signed. The purpose of having signed waivers is to be able to speak freely with the different professionals involved to facilitate a team approach.

2. All materials without these specific waivers remain closed and confidential in accordance with Provincial laws. Confidentiality may be waived in the following situations:
  - a. If there is a reason to believe that you are in danger of hurting yourself;
  - b. If you express an intention to hurt someone else; and
  - c. If there is reasonable suspicion a child, under the age of 19, is being abused.
3. All communication exchanged during the Collaborative Process will be confidential and without prejudice, subject to sharing within the collaborative process as set out in **1** above. For the purposes of this paragraph, the confidentiality provisions apply to the communication involving the lawyers commencing with the signing of the lawyer Participation Agreement. For the purposes of this paragraph, the confidentiality provisions apply to the communication involving the divorce coaches with the signing of the coaching participation agreement or the lawyer's participation agreement, whichever Participation Agreement is signed first. If subsequent litigation occurs, the Parties mutually agree:
  - a. That neither Party will introduce as evidence in court information disclosed during the Collaborative Process for the purpose of reaching a settlement, except documents otherwise compellable by law including any sworn statements as to financial status made by the parties;
  - b. that neither Party will introduce as evidence in court information disclosed with respect to either Party's behavior or legal position with regard to settlement;
  - c. that neither Party will ask or subpoena the Financial Specialist to testify in any court proceedings, nor bring on an application to discover the financial specialist with regard to matters disclosed during the Collaborative Process;
  - d. that neither Party will require the production at any court proceedings of the notes, records, or documents in the financial Specialist's possession;
  - e. the verbal agreement, concessions, or statements of any kind whatsoever which may be made during the Collaborative Process are confidential and without prejudice; and
  - f. the Parties agree that these guidelines with respect to confidentiality apply to any subsequent litigation, arbitration, or other process for dispute resolution.

## **XI. SUSPENSION OF LIMITATION PERIOD**

The parties acknowledge that:

1. The *Family Law Act* requires that a party must start a proceeding for an order to divide family property, debt or a pension, or for an order for spousal support, no later than 2 years after a divorce order (or an order declaring the marriage to be a nullity) is granted or 2 years after the date of separation (for parties living in a marriage-like relationship).
2. Under s. 198(5) of the *Family Law Act*, the limitation period set out in paragraph A is suspended from the beginning of the Collaborative Process through to the end of the Collaborative Process. When the Collaborative Process ends, the running of the limitation period recommences.

In the event that the parties have not yet retained collaborative lawyers, it is recommended that they receive independent legal advice as to how this clause affects their rights and obligations.

## **XII. FEES:**

Include basic fees for hourly coaching rate, late payment charge, phone consultations, and drafting documents. Incidental fees may include photocopying, faxing, postage and parking.

## **XIII. CANCELLATIONS:**

A 24 hour advance notice of cancellation is required. Because **appointment times are reserved exclusively for you**, you will be charged **full fee** for a late cancellation or missed appointment.

## **XIV. PARTY WITHDRAWAL FROM THE COLLABORATIVE PROCESS:**

1. If a Party decides to withdraw from the Collaborative Process, prompt written notice shall be given to his or her coach, his or her lawyer (if already retained), and the other party.
2. If a Party wishes to withdraw from the Collaborative Process with their current coach, but retain a new coach to continue with the Collaborative Process, the Party shall give prompt written notice to the other party through his or her coach, of the intention to withdraw and obtain a new coach. The new coach shall execute a new Collaborative Participation Agreement within 30 days of the Party giving notice. If a new agreement is not executed within 30 days,

then the other party shall be entitled to proceed as if the Collaborative Process were ended as of the date written notice was given.

3. The Collaborative Separation/Divorce Coach reserves the right to withdraw from the case for any reason (except those set out in XIV below, in which termination is mandatory). They agree to provide written notice of withdrawal to the other Party through his/her lawyer and his/her Collaborative Separation/Divorce Coach. The Party whose Coach has withdrawn may elect to continue with the process and shall give prompt written notice of this intention as well to the other Party through his/her lawyer.
4. The withdrawing Coach will make every effort to provide suitable referrals to other Collaborative Separation/Divorce Coaches to facilitate the engagement of a new Coach. The new Coach shall execute a new Collaborative Separation/Divorce Participation Agreement within 30 days of the Coach first giving notice.
5. If a new Participation Agreement is not executed within 30 days, then the other Party shall be entitled to proceed as if the Collaborative Separation/Divorce Process ended as of the date the first written notice was given.
6. Upon ending of the Collaborative Process, there will be a thirty (30) day waiting period (unless there is an emergency) before any court hearing, to permit the parties to make an orderly transition. All temporary agreements will remain in full force and effect during this period. The intent of this provision is to avoid surprise and prejudice to the rights of the other Party. It is therefore mutually agreed that either Party may bring this provision to the attention of the Court to request a postponement of a hearing.

## **XV. TERMINATION**

1. A Collaborative Separation/Divorce Coach must terminate the Collaborative Process in the event that they learn that their client has withheld or misrepresented information and continues to withhold and misrepresent such information, or otherwise acted so as to undermine or take unfair advantage of the Collaborative Separation/Divorce Process. The Coach terminating the Process will advise the other Team members in writing that s/he is terminating the Collaborative Process and that the Collaborative Process must end.

**In the event of a termination or withdrawal, all incurred fees are due and payable.**

While the Collaborative Separation/Divorce Process is not a guarantee of success and cannot eliminate past disharmony and irreconcilable differences, we believe it offers a positive method towards a cooperative solution. For couples with children, it assists them towards a positive co-parenting relationship.

I HAVE READ THE ABOVE AGREEMENT IN ITS ENTIRETY, UNDERSTAND THE CONTENT AND AGREE TO ITS TERMS:

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