

## **Collaborative Law Participation Agreement**

\_\_\_\_\_ and \_\_\_\_\_, "the Parties", and their lawyers, \_\_\_\_\_ and \_\_\_\_\_, "the Lawyers" have chosen to enter into this Agreement to use the principles of the Collaborative Law Process to settle the issues arising from the dissolution of their relationship.

### I. Purpose

The primary goal of the Collaborative Law Process is to settle the outstanding issues in a non-adversarial manner. The Parties aim to minimize, if not eliminate, the negative economic, social and emotional consequences of protracted litigation to themselves and their family. The Parties have retained Collaborative lawyers to assist them in reaching this goal.

### II. Communication

The Parties intend to effectively communicate with each other to efficiently and economically settle the dissolution of their relationship. Written and verbal communications will be respectful and constructive and will not make accusations or claims not based in fact.

It is agreed that communication during settlement meetings will be focused on the economic and parenting issues in the dissolution and the constructive resolution of those issues. It is understood that the lawyers and experts will communicate with each other at times outside of the settlement meetings.

The Parties are encouraged to discuss and explore the interests they have in achieving a mutually agreeable settlement, and each is encouraged to speak freely and express his or her needs, desires, and options without criticism or judgment by the other. Although the Parties should be informed by their lawyers about, and may discuss with each other, the litigation alternatives and the outcomes they might attain, neither Party nor their lawyers will use the threat to withdraw from the process or to go to court as a means of achieving a desired outcome or forcing a settlement.

The Parties consent to open communication between the attorneys, and any other professionals retained in the case. The parties understand that they will be charged for time spent by the professionals in discussing their case.

### III. Children's Issues

In resolving issues about sharing the enjoyment of and responsibility for any children, the Parties agree to make every effort to reach amicable solutions that promote the children's best interests.

The Parties agree to act quickly to mediate and resolve differences related to the children to promote a caring, loving and involved relationship between the children and both parents.

The Parties acknowledge that inappropriate communications regarding their dissolution can be harmful to their children. They agree that settlement issues will not be discussed in the presence of their children, or that communication with the children regarding these issues will occur only if it is appropriate and done by mutual agreement, or with the advice of a child specialist.

The Parties agree not to make any changes to the residence of the children without first obtaining the written agreement of the other Party.

#### IV. Participation with Integrity

Each participant shall uphold a high standard of integrity, and shall not take advantage of inconsistencies, mistakes or miscalculations of the other, but shall disclose them and seek to have them corrected.

#### V. Negotiation in Good Faith

The Parties and their lawyers agree to deal with each other in good faith and to promptly provide all necessary and reasonable information requested. No formal discovery procedures will be used unless specifically agreed to in advance by the parties.

The Parties acknowledge that by using informal discovery, they are giving up certain rights, for the duration of the Collaborative Law Process, including the right to formal discovery, formal court hearings, restraining orders and other procedures provided by the adversarial legal system. They give up these measures with the specific understanding that both Parties make full and fair disclosure of all assets, income, debts and other information. The Parties acknowledge that participation in the Collaborative Law Process, and the settlement reached, is based upon the assumption that both Parties have acted in good faith and have provided complete and accurate information to the best of their ability. The Parties agree to provide sworn statements making full and fair disclosure of their income, assets and debts, if requested.

#### VI. Cautions and Limitations

In electing the Collaborative Law Process, the Parties understand that there is no guarantee that the process will be successful in resolving their case. They understand that the process cannot eliminate concerns about any disharmony, distrust or irreconcilable differences which have led to the current conflict. While intent on striving to reach a cooperative solution,

success will ultimately depend on our commitment to making the process work. The Parties understand that they are still expected to assert their respective interests and their respective lawyers will help each of them do so.

The Parties further understand that while the Collaborative lawyers share a commitment to the process described in this document, each of them has a professional duty to represent his or her own client diligently, and is not the lawyer for the other party.

#### VII. Experts and Consultants

When appropriate and needed, the Parties will use neutral experts. The Parties will agree in advance of retaining the Expert as to how the costs of the third party expert will be paid, and as to whether or not the expert report shall be covered by the confidentiality clause.

#### VIII. No Court Intervention

Unless otherwise agreed, prior to reaching final agreement on all issues, no writ and statement of claim will be filed or served, nor will any other motion or document be prepared or filed which would initiate court intervention.

#### IX. Disqualification by Court Intervention

The Parties understand that their Collaborative Lawyers' representation is limited to providing services within the Collaborative Law Process. Thus, while each lawyer is the advisor of his or her client and serves as the client's representative and negotiator, the Parties mutually acknowledge that both lawyers will be disqualified from representing them in a contested court proceeding against the other spouse.

#### X. Withdrawal of Lawyer

If either lawyer withdraws from the case for any reason, they agree to do so promptly by a written notice to the other party through his or her lawyer. This may be done without terminating the status of the case as a Collaborative Law case. The party may continue in the Collaborative Law Process by retaining a new lawyer who will agree in writing to be bound by these guidelines and principles.

However, a Collaborative Lawyer must withdraw from the Collaborative Law Process in the event they learn that their client has withheld or misrepresented information or otherwise acted so as to undermine or take unfair advantage of the Collaborative Law Process. A lawyer is to withdraw if the lawyer feels the client is not acting in good faith. The lawyer withdrawing will advise the other lawyer that he is withdrawing, and that the Collaborative Law Process must end.

## XI. Election to Terminate Collaborative Process

If a Party decides to terminate the Collaborative Law Process, prompt written notice will be given to the other Party through his or her lawyer. The parties agree to attend one final four-way meeting. Upon termination of the Collaborative Law Process by a Party or a lawyer, there will be a thirty (30) day waiting period (unless there is an emergency) before any court hearing, to permit the Parties to retain new lawyers and 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.

## XII. Confidentiality

All communication exchanged within the Collaborative Law Process will be confidential and without prejudice. If subsequent litigation occurs, the Parties mutually agree that neither Party will:

- A. introduce as evidence in Court information disclosed during the Collaborative Law Process for the purpose of reaching a settlement, except financial information otherwise compellable by law including any sworn statements as to financial status made by the parties;
- B. introduce as evidence in Court information disclosed during the Collaborative Law Process with respect to either Parties' behavior or legal position with respect to settlement;
- C. ask or subpoena either lawyer to Court to testify in any court proceedings, nor bring on an application to discover either lawyer, with regard to matters disclosed during the Collaborative Law Process;
- D. require the production at any Court proceedings of any notes, records, or documents in the lawyer's possession; and the Parties agree that these Guidelines with respect to confidentiality apply to any subsequent litigation, arbitration, or other process for dispute resolution.

## XIII. Rights and Obligations Pending Settlement

Although the parties have agreed to work outside the court system, the parties agree that:

- A. neither Party will dispose of any assets except by an agreement in writing.
- B. neither Party may harass the other Party; and

C. all available insurance coverage must be maintained and continued without change in coverage or beneficiary designation.

XIV. Enforceability of Agreements

In the event that the Parties require a temporary agreement during the Collaborative Law Process, the agreement will be put in writing and signed by the Parties and their lawyers. If either Party withdraws from the Collaborative Law Process, the written agreement is enforceable and may be presented to the court as a basis for an Order, which the Court may make retroactive to the date of the written agreement. Similarly, once a final agreement is signed, if a Party should refuse to honor it, the final agreement may be presented to the Court in any subsequent action.

XIII. Acknowledgment

Both Parties and their lawyers acknowledge that they have read this Agreement, understand its terms and conditions, and agree to abide by them. The parties have chosen the Collaborative Law Process to reduce emotional and financial costs, and to generate a final agreement that addresses their concerns. They agree to work in good faith to achieve these goals.

Dated: \_\_\_\_\_

Party \_\_\_\_\_

Attorney \_\_\_\_\_

Dated: \_\_\_\_\_

Party \_\_\_\_\_

Attorney \_\_\_\_\_

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In Re:	)	
	)	
	)	
	)	NO.
Petitioner,	)	
	)	STIPULATION AND AGREED ORDER
and	)	RE: COLLABORATIVE LAW
	)	
	)	
Respondent.	)	
	)	

Petitioner, \_\_\_\_\_, and Respondent, \_\_\_\_\_, each stipulate as set forth below, and further stipulate that orders shall be entered as follows which shall remain in effect until and unless modified by written agreement signed by both parties or further court order, whichever first occurs. This stipulation is intended to be a binding court order upon being signed by the parties; it shall thereafter be filed with the court in the parties' action for marital dissolution.

Lawyer Representation

1. \_\_\_\_\_ has been retained by Petitioner to advise Petitioner during the course of this proceeding and \_\_\_\_\_ has been retained by Respondent to advise Respondent during the course of this proceeding. Each attorney named above agrees to be bound by the terms and provisions of this Stipulation and Order. Each lawyer named above, and any lawyer in association with such attorney, is forever disqualified from appearing in Court as litigation counsel for either party named above in this proceeding or in any other family law matter involving both parties, including but not limited to proceedings or actions for dissolution, parentage, modification, enforcement, writs and/or appeals. This disqualification shall survive the term of this Stipulation and Order. A lawyer shall be deemed "in association" if, at any time during the pendency of these proceedings or future family law proceedings between these parties, such lawyer is the employer or employee of, or co-employee with, or shares a relationship of independent contractor status with any lawyer named above.

Notwithstanding the above, the attorneys named above may appear as counsel of record for purposes of filing the final judgment and/or other final documents reflecting the agreement of the parties, upon the entry of which they are immediately authorized to withdraw.

Collaborative Law Matter

2. Both parties and attorneys agree to treat this matter as a collaborative law case. Each party and each lawyer acknowledges that he or she has read and understands the document entitled Participation Agreement, and agrees to act in good faith to comply with the recommendations set forth in that document.

3. For so long as this Stipulation and Order is in effect, the parties and lawyers agree to devote all of their efforts to a negotiated settlement in an efficient, cooperative manner pursuant to the terms of this Stipulation, and agree that neither party nor attorney named in this Stipulation will file any document requesting intervention by the court, including, but not limited to, a Request to Enter Default, Notice of Motion, Order to Show Cause or At-Issue Memorandum, except as otherwise specifically permitted below.

4. Both parties agree that commencing immediately:

- Each is restrained from borrowing against, canceling transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and/or disability held for the benefit of the parties or their minor child or children;
- Each is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party, or an order of court, except in the usual course of business or for the necessities of life.
- Each party will notify the other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, nothing in this Stipulation and Order precludes either party from using community property to pay reasonable attorney's fees in order to retain and maintain legal counsel in the action.

5. Neither party will incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.

#### Expert Witnesses

6. Except upon the mutual written agreement of the parties to the contrary, any person or firm retained by either party or attorney, or whose work product is used by either party or lawyer, during the term of this Stipulation and Order, is forever disqualified from appearing as an expert witness for either party to testify as to any matter related to such person's or

firm's work product in the collaborative law process. All notes, work papers, summaries and reports shall be inadmissible as evidence in any proceeding involving these parties unless the parties agree otherwise, but shall be furnished to successor counsel and shall be available for non-evidentiary use in litigated proceedings. Such persons or firms include, but are not limited to, accountants, lawyers, therapists, personal or real property valuation experts, vocational consultants, private investigators, doctors or any other persons retained or employed in the Collaborative Law process.

Notwithstanding the above, any such persons or firms may appear to give testimony solely as a percipient witness in a capacity which existed prior to the filing of the petition in this matter.

#### Disclosure and Discovery

7. Both parties shall timely provide their respective Financial Information and shall provide each other with any written authorizations requested which may be required in order to obtain information or documentation, or to prepare Qualified Domestic Relations Orders or other orders facilitating agreements reached. The parties and attorneys acknowledge and understand that honesty and the full disclosure of all relevant information is an integral factor in the success of a Collaborative Law case.

8. All discovery requests shall be made informally. No motion to compel or for sanctions is available for any discovery requests made during the term of this Stipulation and Order. Responses to any discovery requests should be made within the time limits prescribed by applicable statute or Local Rule. All responses to discovery requests shall be under penalty of perjury or verified by the party responding.

#### Attorneys' Fees

9. The Court may award lawyers' fees and impose sanctions under any applicable statute in the event any party or any attorney has (i) used the Collaborative Law process in bad faith for the purpose of unilateral delay, or (ii) engaged in any concealment, misrepresentation, or perpetuation of the same in any way that materially and adversely affects the rights of the other party.

#### Statements of Parties and Attorneys

10. All documents expressly identified and entitled "For Settlement Purposes Only in the Collaborative Law Process" shall be inadmissible for any purpose in any subsequent proceeding except as otherwise agreed between the parties, and no such communications shall be deemed a waiver of any privilege of any party. Nonetheless, statements by any party which indicate an intent or disposition to endanger the health or safety of the other party,

or of the children of either party, or to conceal or change the residence of the child, or to commit irreparable economic damage to the property of either party, are not privileged.

#### Termination of Collaborative Status

11. Either party may unilaterally and without cause terminate this Stipulation and Order by giving written notice of such election to all other parties and by filing a Notice of Termination with a proof of service of a copy of such Notice of Termination to all other parties in the proceeding.

12. Either lawyer may withdraw from this matter unilaterally by giving ten (10) days' written notice of such election to other parties and attorneys. Notice of Withdrawal does not terminate the collaborate law process; the party losing his or her lawyer may continue without an attorney, or may retain a new lawyer who will agree in writing to be bound by this Stipulation and Order and the above-referenced Guidelines and Principles.

12a. In the event either lawyer believes his or her client is acting in bad faith, or otherwise misusing the Collaborative Law process, the lawyer may elect whether to withdraw or to terminate the Collaborative Law process, but in no case shall the attorney continue to represent the party under such circumstances.

13. Upon termination of the process or withdrawal of any counsel, such affected lawyer will promptly cooperate to facilitate the transfer of the client's matter to successor counsel.

14. The parties do not waive their right to seek the assistance of the Superior Court named above; however, any resort to litigation, results in the automatic termination of the Collaborative Law process, on the date any application to the Superior Court for its orders or notice of intent to appeal is signed or otherwise made.

#### Notice

15. The parties authorize any Notice or document required to be served hereunder to be served as follows: (a) by personal delivery; (b) by facsimile to the below numbers; or (c) said notice or document shall be deemed served five (5) days after deposit in the United States mail, first class, postage prepaid, addressed to the parties (with courtesy copies to the lawyers) at the addresses listed for each below.

16. Either party or attorney may change his or her address by giving written notice of such change to all other parties named above.

Dated: \_\_\_\_\_, 2004

Dated: \_\_\_\_\_, 2004

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Respondent,

\_\_\_\_\_  
Collaborative Attorney for  
Petitioner

\_\_\_\_\_  
Collaborative Attorney for  
Respondent

Order

Good cause appearing therefore, and the parties having stipulated thereto, the foregoing IS SO ORDERED. Each party is ordered to comply with all of the foregoing terms and provisions.

Dated: \_\_\_\_\_

Judge/Court Commissioner: \_\_\_\_\_