

FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.985(b)(2)
COLLABORATIVE LAW PARTICIPATION AGREEMENT (10/20)

The undersigned Clients, _____, and _____, hereby agree that they intend to resolve through the Collaborative Law Process, under Florida's Collaborative Law Process Act, without the intervention of a court or other tribunal, the following collaborative matter(s):

I. BEGINNING AND ENDING THE PROCESS

The Collaborative Law Process governed by this Agreement begins when they both sign this Agreement. It concludes upon:

- (A) the resolution of the collaborative matter(s) listed above, as evidenced by a signed record;
- (B) the resolution of a part of the collaborative matter(s) listed above, evidenced by a signed record, in which we, the Clients, agree that the remaining parts of the matter will not be resolved in the process; or
- (C) the unilateral termination of the Collaborative Law Process, with or without cause, by one of the Clients, as described below in Section VI of this Agreement.

II. ATTORNEYS

A. EACH CLIENT HAS A SEPARATE ATTORNEY. No legal duty, by contract or otherwise, is owed to either Client by the other's Collaborative attorney.

B. ATTORNEYS ARE ENGAGED FOR THIS PROCESS ONLY. The Clients understand that each Collaborative attorney, and any member of their firm, is disqualified from representing either Client in any adversarial proceeding related to the collaborative matter(s) listed above, except to protect their Client in an emergency until successor counsel is available. The Clients' Collaborative attorneys may also file required status reports, appear at required collaborative case management conferences and assist the Client in obtaining entry of court orders ratifying temporary or permanent agreements or finalizing a divorce, as these are not adversarial proceedings but part of the Collaborative Law Process.

C. WITHDRAWAL OR DISCHARGE. Either Collaborative attorney may withdraw by giving prompt written notice to their Client and to any other participants. Either Client may discharge the Collaborative attorney at any time and the Collaborative attorney will give prompt written notice of such discharge to all participants. Upon either the withdrawal or discharge of a Collaborative attorney, the Collaborative Law Process will terminate, except as described in Section VI below.

III. OTHER PROFESSIONALS

A. IDENTIFICATION OF NONPARTY PARTICIPANTS. The Clients acknowledge that participation of others in the Collaborative Law Process, persons other than the Clients and the Collaborative attorneys, will benefit the Clients (“nonparty participants”). They understand that such nonparty participants may include:

- A NEUTRAL FACILITATOR to help us identify and express the Clients’ interests and concerns, manage meetings, help the Clients and the Collaborative attorneys and any other nonparty participants communicate effectively with one another, help the Clients work together to enhance our effectiveness, help the Clients be more effective parents and to develop a parenting plan for any minor children.
- A NEUTRAL FINANCIAL PROFESSIONAL to help identify and articulate the Clients’ financial interests and concerns, assist in identifying, cataloging and organizing the information necessary to reach a resolution of financial issues, prepare schedules to assist the Team in better understanding financial circumstances, and help develop options for resolution of the Clients’ financial issues.
- OTHERS. The Clients understand that there may be a role for less frequently utilized nonparty participants, such as a child specialist, mediator, or separate coach for each Client.

B. CHANGE OF NONPARTY PARTICIPANTS. Once a nonparty participant is engaged by written agreement, neither Client may unilaterally discharge that nonparty participant, but removal or replacement of the nonparty participant is available if both agree. A nonparty participant may also withdraw by giving written notice to the Clients and the attorneys.

C. NEUTRAL AND INDIVIDUAL CONSULTANTS: The Clients also agree that there may be a role for one or more professionals who will not be full participants in the process, an individual consultant, such as an appraiser, business valuation specialist or other expert who may be neutral or may be engaged to assist only one of the Clients. Either Client may meet during the process with an individual consultant, but only if the Clients: (a) each advise the other, and both attorneys and any nonparty participants, in advance of each meeting with any individual consultant, (b) disclose the identity of and purpose for the individual consultant, and (c) instruct the individual consultant to follow the spirit and direction of the Collaborative Law Process. The Collaborative Team may share information and schedules that are subject to the privilege and confidentiality protections of this Agreement with an individual consultant only upon the individual consultant’s written agreement to be bound by the confidentiality provisions of this Agreement. An individual consultant may be an attorney. An attorney individual consultant with whom a Client consults during the Collaborative Law Process is considered to be an adjunct Collaborative attorney subject to the disqualification provisions of this Agreement. Either Client may consult with mental health or health care professionals for his or her own therapy, diagnosis, or treatment without disclosure to the other Client and without any limitation.

D. EFFECT OF CONCLUSION OF THE PROCESS: Maximizing free communication among Clients, Collaborative attorneys and nonparty participants is fundamental to the Collaborative Law Process. Also fundamental is a limitation on the roles of the professionals such that all their efforts are focused solely on assisting the Clients in crafting an out-of-court resolution. Therefore, upon the conclusion of the

Collaborative Law Process, their nonparty participants, and employees or members of their firms, are disqualified from assisting either Client in any manner except as specified in this Agreement. A neutral nonparty participant may assist the Clients in a neutral or joint capacity after successful resolution of their collaborative matter if: (a) both of the Clients agree in writing, (b) the neutral nonparty participant agrees in writing, and (c) the written agreement specifies the nature of the neutral assistance to be provided.

IV. CONFIDENTIALITY AND PRIVILEGE

A. CONFIDENTIALITY. Because maximizing free communication among Clients, Collaborative attorneys, and nonparty participants is fundamental to the Collaborative Law Process, all collaborative law communications, written, oral, nonverbal or otherwise, are agreed to be confidential.

B. PRIVILEGE. Although evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in the Collaborative Law Process, the Clients understand that all communications during this process, whether written, oral, nonverbal or otherwise, are privileged except as specified by the Florida Family Law Rules of Procedure and Florida law. They acknowledge that this means that such communications are not subject to discovery, and are not admissible into evidence. Further, in an adversarial proceeding, the following privileges apply:

1. Either Client may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication.
2. A nonparty participant may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication of a nonparty participant.

V. CLIENTS' ACKNOWLEDGMENTS AND RESPONSIBILITIES

A. They acknowledge that the respective Collaborative attorneys have each separately spent time with the Clients providing sufficient and detailed information about the Collaborative Law Process, including, but not limited to, the following:

- the benefits and risks of the Collaborative Law Process to resolve a family law matter;
- the nature and scope of the matter to be resolved through the Collaborative Law Process;
- the material benefits and risks of participating in the Collaborative Law Process;
- alternatives to the Collaborative Law Process;
- that participation in the Collaborative Law Process is voluntary and that either Client may unilaterally terminate the process at any time for any reason;
- that the Collaborative Law Process will terminate if either Client initiates a proceeding, or seeks tribunal intervention in a pending proceeding, related to their collaborative matter after this Agreement;
- the limitations on respective attorneys' participation in subsequent proceedings imposed by the Florida Family Law Rules of Procedure; and

- the fees and costs each Client can reasonably expect to incur in the Collaborative Law Process, including the fees of their Collaborative attorney and any participating mental health professionals and financial professionals.

B. The Clients acknowledge that if a resolution is reached using the Collaborative Law Process, the Clients will be giving up rights available in a litigated divorce, including the right to conduct formal discovery, participate in adversarial court hearings, and have a judge decide the outcome of the divorce.

C. Further, the Clients understand that the Collaborative Law Process:

- does not guarantee successful resolution;
- cannot eliminate concerns about disharmony, distrust, and irreconcilable differences that have led to their conflict or dispute;
- is not designed to address therapeutic or mental health issues;
- is voluntary and, despite their best efforts, the Clients may not reach a mutually acceptable settlement; and
- may be terminated by either of the Clients at any time for any or no cause or reason.

D. Further, the Clients understand that if resolution in the Collaborative Law Process is not successfully reached, the Clients will incur additional time and expense to obtain different professionals and commencing litigation, since the Collaborative attorneys, nonparty participants, and their respective firms will be discharged and disqualified. The Clients understand that they might feel pressure to settle to avoid this result and the additional costs.

E. The Clients acknowledge that they are expected to assert their own interests. Although each attorney represents the Client's interests, each Client is responsible for making sure their respective interests are expressed and considered.

F. The Clients acknowledge that they are responsible for deciding the scope and degree of any work performed by any nonparty participant or consultant, including if the Clients decide that it is not necessary or appropriate to have a professional perform work with the same level of detail as would be required or expected in a litigated proceeding.

G. The Clients agree that they will not seek in-court remedies or court intervention during the Collaborative Law Process and shall suspend any existing action that may have been filed. This will not prevent the Clients from filing signed temporary agreements or agreeing to other actions consistent with the Collaborative Law Process and this Agreement.

H. The Clients acknowledge that for the Collaborative Law Process to be successful, the Clients must each participate and negotiate in good faith. At a minimum, the Client will:

- provide timely, candid, full, and transparent financial disclosures, even if specific documents are not requested;
- continuously update financial disclosures, whether asked to do so or not;

- sign any releases necessary to obtain relevant information;
- not threaten litigation to obtain an advantage or achieve a desired result;
- maintain the financial and parenting status quo unless a written agreement varies the status quo;
- isolate their children from any conflict between them;
- refrain from unproductive repetitive discussions;
- use respectful language when speaking with each other during team meetings; and
- consult with the respective Collaborative attorney before taking any action even potentially inconsistent with any part of this Agreement.

I. The Clients acknowledge that meetings with multiple professionals can be costly. Each Client has a responsibility to provide requested documents in a timely manner and otherwise fully prepare for the meetings to keep the process efficient.

J. The Clients acknowledge that fees differ among various attorneys and law firms, as do the Client's individual needs. As a result, the Clients should expect their individual fees to differ, perhaps substantially.

K. The Clients understand that any agreements reached in the process are not legally binding unless in writing and signed by both Clients. Meeting notes are confidential, privileged, and not binding, but simply memorialize the discussions during their meetings.

VI. TERMINATION

A. Participation in the Collaborative Law Process is voluntary. Thus, either Client can terminate the process at any time, with or without cause.

B. Termination occurs if either Client:

- (i) gives notice to the other in a record that the process is ended;
- (ii) begins a contested proceeding related to the Collaborative matter without the agreement of the other Client; or
- (iii) in a pending proceeding related to the matter: (a) initiates a pleading, motion, order to show cause, or request for a conference with the court; (b) requests that the proceeding be put on the court's active calendar; or (c) takes similar action requiring notice to be sent; or
- (iv) discharges a Collaborative attorney from further representation of one Client, unless he or she retains a successor Collaborative attorney within 30 days of the written notice of discharge or; in a signed record both Clients consent to continue the process by reaffirming this Agreement; and this Agreement is amended to identify the successor Collaborative attorney and the successor Collaborative attorney signs the amended Agreement.

Agreed on _____ by _____ and _____,
and respective Collaborative Attorneys acknowledged as follows:

{Client 1's Name}

{Client 2's Name}

I, _____, confirm that I am representing {Client 1's Name}
_____ in the Collaborative Law Process:

{Attorney}

I, _____, confirm that I am representing {Client 2's Name}
_____ in the Collaborative Law Process:

{Attorney}

