

PRINCIPLES AND GUIDELINES FOR COLLABORATIVE PRACTICE

Note: These Principles and Guidelines were given to us at the start of our case and we had to sign them in agreement. There are a number of difference versions of these used in practice. For one online current version, please see www.Nocourt.org. Others abound and may be found using search engines.

I. INTRODUCTION

1.01. The essence of "Collaborative Divorce" is the shared belief of the participants that it is in the best interests of parties and their families to commit themselves to avoiding adversarial legal proceedings and to adopt a conflict resolution process that does not rely on a court-imposed resolution. Collaborative Divorce relies on an atmosphere of honesty, cooperation, integrity and professionalism geared toward the future well being of the parties and their children.

1.02. One of our major goals in adopting Collaborative Divorce is to minimize, if not eliminate, the negative economic, social, and emotional consequences of the traditional adversarial legal process to the parties and their family. The divorcing parties in signing this document commit themselves to the Collaborative Divorce process and agree to seek a better way to resolve their differences justly and equitably.

II. NO COURT OR OTHER INTERVENTION

2.01. By electing to treat this matter as a Collaborative Divorce Case, the parties and their Collaborative Divorce professionals are committing ourselves to settling all divorce-related issues without court intervention. The parties agree to give complete, full, honest and open disclosure of all information having a material bearing on the case, whether requested or not, and to engage in informal discussions and conferences for the purpose of reaching a resolution of all issues. All legal, financial, and mental health professionals working as a team in this matter pursuant to this document, as well as any appraisers, evaluators and other consultants retained by the parties to assist in this Collaborative Divorce, will likewise be directed to work in a cooperative effort to resolve issues without resort to litigation or any other third-party decision making process.

III. LIMITATIONS OF COLLABORATIVE LAW PROCESS

3.01. In electing the Collaborative Divorce, we – the divorcing couple – each understand that there is no guarantee of success. We also understand that we cannot eliminate concerns about the disharmony, distrust and irreconcilable differences that have led to the current circumstances. While we are intent on striving to reach a cooperative and complete resolution of all issues, we understand that our actual experience in our Collaborative Divorce may fall short of that goal.

3.02. Even though we have chosen Collaborative Divorce, we – the divorcing couple – understand that each of us is still expected to protect his or her respective interests and not to lapse into a false sense of security in the assumptions and expectations each holds about the other, the collaborative lawyers, or the Collaborative Divorce process. Subject to

the requirements of applicable law and good faith commitments of these Principles and Guidelines, each of us may continue to act in our own respective best interests, even where those interests diverge from the other party's interests.

IV. PARTICIPATION WITH INTEGRITY

4.01. As participants in the Collaborative Divorce process, all signatories to these Principles and Guidelines agree to respect the privacy and dignity of all involved, including parties, lawyers, and if applicable, collaborative coaches, financial specialists, child specialists and any consulting professionals. Further each of us agrees to uphold a high standard of integrity. The parties and all Collaborative Divorce professionals specifically agree that they shall not take advantage of inconsistencies, misstatements of fact or law, or others' miscalculation, but shall disclose them and seek to have them corrected at the earliest opportunity. In the event a Collaborative Divorce professional discovers inconsistencies, misstatements of fact or law, withheld information, or miscalculations by a party or by any other professional, the Collaborative Divorce professional shall inform that person of the discovery and remind him or her of the obligations under these Principles and Guidelines to make the required disclosure. In the event a Collaborative Divorce professional discovers that another Collaborative Divorce professional has made a misstatement of law or a miscalculation, she or he shall inform the other Collaborative Divorce professional of the discovery and request disclosure and correction.

V. COLLABORATIVE DIVORCE TEAM AND OTHER PROFESSIONALS

5.01. Each divorcing party shall retain a Collaborative Lawyer and is urged either to retain or at minimum to have a preliminary consultation with a Collaborative Divorce coach. Where appropriate, the divorcing couple (with the advice of the Collaborative Lawyers) will retain a Collaborative Financial Consultant to assist in their evaluation of financial considerations and, if they are parents, will retain a Child Specialist (with the advice of their Collaborative Divorce Coaches) to give support and a voice to their children during the divorce process. These professional helpers are referred to collectively as the Collaborative Divorce professionals.

5.02. In addressing questions about sharing the enjoyment of and responsibility for their children, the parents and the Collaborative Divorce professionals shall make every reasonable effort to reach amicable and well-informed solutions that promote the children's best interests. The parents agree to act quickly to resolve all differences related to their children in a manner that will promote a caring, loving, and involved relationship between the children and each parent.

5.03. Other Professionals. In securing additional professional assistance, the parties shall ordinarily retain joint neutral experts and specialist consultants as recommended by the Collaborative Lawyers and/or Collaborative Divorce Coaches. While neither party and neither Collaborative Lawyer is precluded by these Principles and Guidelines from consulting privately with separate experts or consultants, each such expert or consultant shall be directed to follow the spirit and direction of these Principles and Guidelines, and when appropriate to collaborate with each other, meet and confer, and, if possible, render joint statements on the matters in question. Each party agrees not to retain separate experts or specialist consultants without advising their respective Collaborative Lawyers of their intent to do so, during this Collaborative Divorce process.

VI. NEGOTIATION IN GOOD FAITH

6.01. The parties understand that even with full and honest disclosure, the Collaborative Divorce process will involve vigorous good faith negotiation. Each party will be expected to take a reasoned and constructive approach on all disagreements and disputed matters in the interests of reaching consensus, and, where such approaches differ, each party will be encouraged to consider modifying his or her approach in order to reach a resolution of all disputed matters. While the parties shall be informed by their Collaborative Lawyers about applicable law and about the litigation process, neither party nor any Collaborative Divorce professional will use threats of going to court as a way of forcing settlement.

VII. ABUSE OF THE COLLABORATIVE PROCESS

7.01. A Collaborative Lawyer shall immediately either withdraw from or terminate a Collaborative Divorce case upon learning that her or his client is knowingly withholding or misrepresenting information having a material bearing on the case or otherwise acting so as to undermine or take advantage of the Collaborative Divorce process. Examples of such behavior include: the secret disposition of marital, quasi-marital, or non-marital property, failure to disclose the existence or the true nature of assets and/or obligations, ongoing emotional or physical abuse by either party, secret preparation to engage in litigation while appearing to participate in a Collaborative Divorce process, or withholding a secret plan or intention to leave the jurisdiction of the court with their children. Each divorcing party shall clarify separately, in writing, with his or her respective Collaborative Lawyers whether the lawyer will withdraw from or terminate the Collaborative Divorce process in the event his or her client abuses the process.

7.02. Both divorcing parties understand that the Collaborative Lawyers each represent only one party and not both parties. Both parties understand and acknowledge that neither Collaborative Lawyer owes a legal duty to a party he or she does not represent. Nothing in these Principles and Guidelines shall be interpreted to mean that either party could ever have a claim against the other party's lawyer with respect to any aspect of Collaborative Divorce, including, without limitation: disclosures, negotiations, and/or terms of settlement.

7.03. All understand that the ultimate sanction against professionals who abuse the Collaborative Divorce process, or condone and/or encourage such abuse by clients, is the diminution of that professional's reputation in the legal community, including the judiciary.

VIII. DISQUALIFICATION BY COURT INTERVENTION

8.01. The parties and their Collaborative Divorce professionals shall sign these Principles and Guidelines, and such other documents as the Collaborative Divorce professionals request, including but not necessarily limited to fee agreements, a Coaching Agreement, and a Stipulation and Order Re: Collaborative Divorce, and agree to be bound by their terms and provisions.

8.02. The parties understand that their lawyers' representation is limited to the Collaborative Divorce process. Thus, while your Collaborative Lawyer is your counselor and advocate, he or she cannot ever represent you in court in proceedings against your divorcing spouse, nor be named or remain as your lawyer of record on any document filed with the court.

8.03. None of your Collaborative Divorce professionals, including the Collaborative Lawyers, Collaborative Divorce Coaches, Collaborative Financial Consultant, and Child Specialist, and none of the other jointly retained experts and specialist consultants participating in your Collaborative Divorce, may ever assist you in court proceedings against your divorcing spouse, nor give evidence in such a matter.

8.04. In the event a party files adversary documents with the court, all Collaborative Divorce professionals will be disqualified from further representing or assisting their respective clients, and the Collaborative Divorce process will automatically terminate. Upon termination of the Collaborative Divorce process, all Collaborative Professionals will be disqualified as witnesses and their work product and the work of all other jointly retained experts and consultants will be inadmissible as evidence in any adversarial court proceeding.

IX. WITHDRAWAL OF LAWYER

9.01 If a Collaborative Lawyer deems it appropriate to withdraw from the case for any reason, he or she agrees to do so immediately by a written Notice of Withdrawal to the parties, their respective coaches and lawyers, and the financial and child specialists, as well as any other participants and, if a Stipulation and Order has been filed, to the court. This may be done without terminating the status of the case as a Collaborative Divorce case.

9.02 The party losing her or his collaborative lawyer by virtue of withdrawal may continue in the Collaborative Divorce process by retaining a new collaborative lawyer who will agree in writing to be bound by these Principles and Guidelines.

X. ELECTION TO TERMINATE COLLABORATIVE PROCESS

10.01. If a party decides that the Collaborative Divorce process is no longer appropriate and elects to terminate the status of the matter as a Collaborative Divorce case, she or he agrees to do so by sending a written Termination Notice to all other parties, Collaborative Professionals, and other participants and, if a Stipulation and order has been filed, to the court. Similarly, if a Collaborative Lawyer deems it necessary to terminate the Collaborative Divorce process, a written Termination Notice shall be sent to the recipients noted in the preceding sentence.

10.02. The termination of the Collaborative Divorce proceeding shall occur automatically in the event a party deems it necessary to initiate an adversarial court proceeding to protect his or her property, self, or children.

XI. PROFESSIONAL FEES AND COSTS IN COLLABORATIVE DIVORCE

11.01. Both divorcing parties understand that all Collaborative Divorce professionals are independent of one another and have no financial connections or fee-sharing or referral fee arrangements with one another. They also understand and agree that each Collaborative Divorce professional must be paid separately for his and her services in this

Collaborative Divorce, pursuant to terms set out specifically in separate fee agreements with each professional.

11.02. Because an imbalance in payments to the parties' respective coaches or lawyers can adversely affect one party's access to advice and counsel as compared to the other party, both parties may agree that all coaches' and lawyers' fees will be kept current. The Child Specialist and Collaborative Financial Consultant and other jointly retained neutral expert consultants will also be paid in a timely manner. Any disagreements about the ultimate responsibility for payment of such fees will be resolved as and when other financial issues are resolved. Each divorcing party understands that no Collaborative Divorce professional can continue to provide services without being paid.

11.03. The Collaborative Divorce professionals will confer with one another from time to time by telephone, in person, and via email, in service of ensuring full and complete disclosure of material information and in service of ensuring an effective Collaborative Divorce process. Each professional will bill for time spent in such communications as set out in his or her separate fee agreement.

11.04. Each party should ensure that he or she clarifies with their respective Collaborative Divorce coaches and lawyers how private confidential communications will be handled by that professional.

XII. SELECTION OF NEW LAWYER, ADDITIONAL FEES

12.01. Once the status of the case as a Collaborative Divorce matter is terminated, the Collaborative Lawyers agree to assist their respective clients in the selection of new lawyers.

12.02. The parties understand that in retaining new lawyers in the event of the termination of the case's status as a Collaborative Divorce matter, each of them will incur further professionals' fees – including by not necessarily limited to lawyers' fees – that may be equal or exceed those paid during the Collaborative Divorce process.

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XIII. PLEDGE

13.01. All parties, lawyers, coaches, financial consultants, child specialists, and other expert professional consultants who have signed below hereby pledge to comply with and to promote the spirit and written word of this document.

Parties:

Dated: _____
Xxxxxxxxxx, Wife

Dated: _____
XXXXXXXXXX, Husband

Collaborative Divorce Professionals:

Pauline Tesler, Collaborative Lawyer for Wife Eugene Seltzer, Collaborative Lawyer for Husband

Collaborative Divorce Coach for Wife Collaborative Divorce Coach for Husband

Collaborative Financial Consultant Child Specialist

Other Expert Professional Consultants:

Real Estate or Other Appraiser Actuary

Vocational Consultant Certified Public Accountant

Other Other