

**ADDENDUM TO COLLABORATIVE LAW AGREEMENT:**  
**ACKNOWLEDGMENT OF INFORMED CONSENT**

The persons designated as Wife and Husband below have individually and collectively decided to enter into a collaborative law agreement. In doing so, Wife and Husband have individually and collectively determined that it is in their best interest to avoid litigation and to utilize a collaborative process as their alternative dispute resolution process of choice.

Both Wife and Husband acknowledge that, prior to entering into a collaborative law agreement, she/he has individually received, from her or his own counsel of choice, information concerning the possible risks and possible benefits of litigation and each alternative dispute resolution process available. Each party hereby acknowledges the following *summary* to be consistent with her or his understanding of the options available and some of the possible risks and benefits associated with each option:

\_\_\_\_ H I LITIGATION  
\_\_\_\_ W

A. Possible benefits may include:

1. The court can issue temporary orders restraining, among other things, the wrongful dissipation of assets, generally on an immediate basis.
2. The court can issue other temporary orders, regarding matters such as parenting rights and support obligations, although such orders may take weeks or months.
3. The court can enforce the discovery of necessary information and may impose sanctions for failure to comply with the discovery process.
4. If any issues are not ultimately settled, the court will hear evidence at a trial, apply whatever mandates are prescribed by the law, and then make a decision disposing of all remaining disputes.

B. Possible risks may include:

1. Adversarial process, in a non-private forum, and position-based bargaining increase relational costs (i.e., increase likelihood of long-term impairment of the parties' ability to directly communicate and interact with each other in a dignified, effective manner).
2. Increased conflict between the parties increases the negative impact upon their children.
3. The parties cede control in favor of the court making decisions for them, which decisions are necessarily made from a more limited, non-customized set of options, after consideration of only the information that is admissible under technical rules of evidence, and often neither party emerges as a clear winner.
4. The time consumed by, and resulting legal fees involved in, pursuing formal discovery proceedings, temporary order contests, trial and possible appellate court proceedings can take a substantial toll, emotionally and financially, upon both parties.

\_\_\_\_ H II ARBITRATION  
\_\_\_\_ W

A. Possible benefits may include:

1. Unlike litigation, a third party lawyer is selected and hired to act as a private judge, so that the case can be heard in a private forum and on a time schedule determined by the parties.
2. The scope of an arbitrator's powers and role is determined by the parties' agreement to utilize arbitration.

B. Possible risks may include:

1. Parenting disputes and child support amounts cannot be absolutely determined by an arbitrator, meaning that court intervention will still be required on these issues if they are not settled by agreement.
2. Arbitration utilizes the adversarial process, like litigation, and therefore many of the same risks of litigation (increased relational costs, ceding control over decision-making, etc.) still apply.

\_\_\_\_ H III PRINCIPLED NEGOTIATION  
\_\_\_\_ W

A. Possible benefits may include:

1. Parties may choose to use interest-based or position-based bargaining, and negotiations can take place either in four-way meetings or between the lawyers.
2. Unlike a collaborative process, the lawyers are not retained for a limited purpose and each party can keep her or his same counsel to litigate unresolved issues.

B. Possible risks may include:

1. Unlike mediation or a collaborative process, protocols and processes are not as clearly defined, decreasing the likelihood of resolution and increasing the likelihood that a party will resort to litigation.
2. The possibility that the lawyers may at some point be adversaries in litigation can negatively impact the level of trust that may be necessary to resolve issues (especially in an interest-based negotiation) because, like in litigation, the attorneys are still simultaneously pursuing settlement and preparing for trial.

\_\_\_\_ H IV MEDIATION

\_\_\_\_ W

A. Possible benefits may include:

1. A third party neutral facilitates resolution by direct, face-to-face negotiations between the parties.
2. Parties retain control over decision making so that each party's needs and interests, along with a wider variety of options, are generally given consideration, not just the evidence and the law as in adversarial processes such as litigation or arbitration.
3. As opposed to litigation or arbitration, it is a process that can more effectively address the interpersonal issues that can obstruct resolution.

B. Possible risks may include:

1. The neutral mediator cannot individually counsel either party or do much to level unequal bargaining positions between parties.
2. The neutral mediator is limited in his/her ability to facilitate the discovery of necessary information in the face of one party's obstructive behavior.
3. Since the parties' lawyers generally do not participate directly in the negotiations, the lawyers remain unaligned with the process, resulting in a greater risk that the mediated agreement may be scuttled when each party receives her or his lawyer's critique.

\_\_\_\_ H V COLLABORATIVE PROCESS

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A. Possible benefits may include:

1. Interest-based negotiations are utilized, similar to mediation, promoting the parties' long-term ability to effectively communicate and minimizing the negative impact upon children from the conflict.
2. All information is shared fully in a private forum, on request of either party, and all negotiations take place directly, face-to-face, in "four-way" meetings in which an environment of trust is promoted by the knowledge that the other spouse's attorney will not some day be an adversary.
3. Each of the lawyers is retained for only the limited purpose of helping her or his client reach a reasonable, acceptable settlement on all issues, without litigation or threatening to litigate.

B. Possible risks may include:

1. Like mediation and principled negotiation, each side has the unilateral right to terminate the process at any time and force the other party into litigation.
2. Unlike mediation or principled negotiation, if the collaborative process fails, neither lawyer can continue to represent her or his client and each client must retain new counsel for litigation, with the likely effect that some or perhaps all the legal fees expended upon the collaborative process were for naught.
3. Each party may reach a point where she or he feels that there is no choice but to settle because of the investment she or he has already made in the process.

Wife and Husband have each placed her or his initials on the spaces above and have signed her or his name below to affirmatively indicate that she or he has carefully read this Acknowledgment of Informed Consent, that she or he has previously discussed the benefits and risks of each of the above options with her or his individual counsel before today, that the benefits and risks of each option listed above are consistent with her or his understanding, and that she or he has freely and voluntarily decided to enter into a collaborative process.

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**WIFE**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**HUSBAND**

\_\_\_\_\_  
**Date**