

FACILITATED NEGOTIATION AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into pursuant to Ohio Revised Code Sections 3103.05 and 3103.06, between _____ (“Husband”) and _____ (“Wife”).

PURPOSE OF THIS AGREEMENT

WHEREAS, Husband and Wife were married at _____ (place) on _____ (date);

WHEREAS, _____ (___) child(ren) were born as issue of their marriage, to wit: _____ (names and ages);

WHEREAS, serious difficulties have arisen between Husband and Wife, making it impossible for them to live together as Husband and Wife;

WHEREAS, Husband and Wife desire and intend to resolve the issues of the termination of their marriage through a discreet, facilitated negotiation without litigation or, alternatively, through the appointment of a Facilitator to act as Special Master in pending litigation (the “Process”).

WHEREAS, Husband and Wife are committed to the Process and desire to memorialize their understanding in writing;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and undertakings set forth in this Agreement, Husband and Wife agree as follows:

ARTICLE I

SEPARATION

Husband and Wife shall live separate and apart from the other as of _____, and as of that date each shall go his or her own way without direction, control or molestation from the other, the same as though each were unmarried. Neither Husband nor Wife shall annoy or interfere with the other in any manner.

ARTICLE II

THE FACILITATOR

2.1 The Role of the Facilitator

The parties appoint _____ (name and address) to be the Facilitator of the Process. The Facilitator shall be responsible for managing the parties' identification of assets and liabilities, and obtaining values thereon, to the extent that the parties do not stipulate to the value of the assets and liabilities. The parties acknowledge that certain assets, whether characterized as "marital," "separate," or both, may require valuation by an expert. The Facilitator shall identify and propose the expert(s) to the parties, and shall ensure that the documents required to perform the valuation are produced in timely fashion. The Facilitator shall make recommendations with respect to the amount and duration of spousal support and, where applicable, child support, to be exchanged between the parties. Where applicable, the Facilitator shall make recommendations with respect to the allocation of parental rights and responsibilities. The Facilitator will formulate options with respect to alternative settlement structures and may further engage such consultants as are

reasonably appropriate and necessary to assist in this phase of the Process. Having identified settlement options, the Facilitator shall assist the attorneys for the parties in reaching a global settlement of this matter.

2.2 Appointment of Facilitator as Special Master

Where litigation already is pending, the parties agree, and do hereby authorize the court in which the litigation is pending to appoint the Facilitator as a Special Master pursuant to the laws of the State of Ohio, local rules, and/or other rules of court. The Special Master shall do all things for which a Facilitator is authorized pursuant to this Agreement. The Special Master shall do all things necessary to complete the valuation of assets and liabilities and to issue a report to the court; which report will include the Special Master's analysis and recommendations for division and distribution of marital and separate assets and liabilities, spousal support and, where applicable, the allocation of parental rights and responsibilities and child support. The report of the Special Master, including values for all assets and obligations, any valuations prepared independently by or for either of the parties, and findings as to income(s) and expenses, is hereby stipulated by the parties and their respective attorneys as being admissible as evidence in any court proceedings between the parties, subject to the Ohio Rules of Evidence, except Rule 408. The court shall have total discretion as to whether to accept or reject the report of the Special Master in whole or in part. Neither party shall cause an independent valuation to be performed until the Process is concluded or terminated.

2.3 Meetings with Clients

The parties recognize that the success of the Process is dependent upon their cooperation with each other, their respective attorneys, and the Facilitator.

The Facilitator shall meet with the parties and their respective attorneys at least once each month while the Process is ongoing. The monthly meeting shall be at the office of the Facilitator and shall provide the Facilitator with the opportunity to report on the status of the Process directly to the parties. The monthly meeting also shall provide the parties, or their attorneys, with a forum to raise concerns or issues. The monthly meeting shall take place during the first week of each month on a day and at a time as agreed upon between the Facilitator and the attorneys for the parties. The first meeting shall take place during the first week of the first month following the signing of this Agreement.

ARTICLE III

THE PROCESS

3.1 Assets Not Requiring Expert Valuation

- A. Each party agrees to immediately provide to the Facilitator, through their respective attorneys, releases and authorizations enabling the Facilitator to obtain whatever financial information as may be appropriate and necessary from any and all third parties possessing information or documentation relevant to the Process; including, but not limited to, all financial institutions, employers, health insurance providers, healthcare providers, educators, creditors, retailers, clubs, travel agents, etc. However, nothing herein shall be construed as a waiver of the attorney-client

privilege with respect to communications between each party and his/her attorney.

- B.** Within thirty (30) days after execution of this Agreement, each party, unless otherwise agreed, shall submit to the Facilitator a financial “bible” (as that term is used in accounting practice) of all assets titled, registered, in the possession of Husband or Wife respectively, or held in the name of or by a third party for the benefit of either Husband or Wife. The “bible” shall also provide a summary of all liabilities of each of the parties. The “bible” shall include documents in support of each item listed. The financial “bible” shall be accompanied by an affidavit of the party as to the completeness and accuracy of the disclosure. The Facilitator will exchange financial “bibles” with counsel for the parties. Seven (7) days after the exchange of the financial “bibles,” each party shall submit to the Facilitator any concerns which each party may have with respect to undisclosed assets of the other, and such supplemental request(s) for further disclosure as may be warranted.
- C.** If additional requests for disclosure are made pursuant to Section 3.1(B) of the Agreement, the party to whom the request(s) is/are directed will have an additional fourteen (14) days in which to produce the requested information/documentation to the Facilitator and the other party.

- D. The Facilitator shall meet with counsel as necessary to arrive at stipulated values for assets and liabilities. Such meetings shall be concluded within thirty (30) days after the initial exchange of the financial “bibles.”

- E. To the extent that the parties are unable to stipulate to the value of certain assets and liabilities, the Facilitator shall obtain values as to the disputed assets within sixty (60) days.

3.2 Assets Requiring Expert Valuation

- A. The parties agree that certain assets, whether characterized as “separate,” “marital” or both, may require expert valuation. The Facilitator and attorneys for the parties shall identify and agree upon a professional organization and an individual within that organization to be the expert for valuing each asset governed by this Section within fifteen (15) days after the signing of this Agreement. The expert(s) selected should have qualifications as an appraiser; industry knowledge with respect to any business being valued; and transaction of the type of asset laws valued; experience within that industry. Different experts may be identified for each asset identified in the Section. If the Facilitator and attorneys for the parties are unable to agree upon an expert for any or all of the assets, then the Facilitator shall select an expert consistent with the criteria set forth herein.

B. The expert(s) selected shall meet with the Facilitator and identify an initial document request within fifteen (15) days after being informed in writing of being selected. Each party, through his/her respective attorney, shall respond completely to the initial document request within thirty (30) days after receipt of the request from the Facilitator. Any additional documents requested by the expert(s) shall be provided to the expert(s) within fifteen (15) days of receipt of such supplemental request. All documents provided shall be Bates stamped and housed at the office of the Facilitator. The times set forth herein may be reasonably extended with the approval of the Facilitator. If the Facilitator is acting as a Special Master, failure by either party to strictly comply with the response times set forth herein will empower the Special Master to obtain ex parte orders from the court as required to achieve compliance. It is the intent of the parties to have discovery concluded within sixty (60) days after the first request for documents by the expert(s) is received by the attorneys for the parties. The party controlling the asset shall cooperate with the expert(s) and may be required to submit to interviews with the expert(s) as deemed necessary by the expert(s) with the approval of the Facilitator. At the request of either party or the discretion of the Facilitator, such interview(s) may be transcribed by a court reporter.

C. The expert(s) shall analyze the information provided in the discovery process and submit a report to the Facilitator and the attorneys for the parties within thirty (30) days following the conclusion of the discovery process, not to exceed one hundred twenty (120) days. The report of the expert(s) shall include a tax

analysis determining the net proceeds to be derived from the hypothetical sale of the asset being valued.

3.3 Determination of Support

- A.** Where applicable, the final settlement shall include a worksheet calculation of the child support obligations of either/both parties, calculated pursuant to the Guidelines of the State of Ohio.

- B.** The final settlement shall include consideration as to the amount and duration of spousal support, if any, exchanged or to be exchanged between Husband and Wife. In this regard, each party shall include in his/her financial “bible” set forth in Section 3.1 an income and expense statement supported by appropriate documentation in the form of bank statements, check registers, canceled checks and such other documentation as may be relevant to the issue of support.

- C.** The parties shall have seven (7) days to submit to the other any concerns which each party may have with respect to the income and expense statements, along with such request(s) for further disclosure as may be warranted.

- D.** If additional request(s) for disclosure are made pursuant to Section 3.1, the party to whom the request(s) is/are directed will have an additional fourteen (14) days in which to comply with the request(s).

- E.** The parties, through their attorneys, will meet as necessary to arrive at stipulations as to the parties' relative income and expenses, and the exchange of support, if any, during the Process and thereafter. Such meetings shall be concluded within thirty (30) days after the exchange of financial "bibles".
- F.** To the extent that the parties are unable to stipulate to their relative incomes, expenses, and the exchange of support during the Process and thereafter, the parties will itemize with documentary support the disputed values of items relevant to income and expense, and exchange same within sixty (60) days of their initial exchange of financial "bibles."
- G.** The Facilitator shall include recommendations with respect to spousal support in the settlement options to be utilized in the negotiation process as set forth herein.

3.4 Negotiation and Resolution

- A.** The Facilitator shall prepare a summary of the marital estate listing all non-business and business assets as well as liabilities. The summary shall be the basis for stipulations to be signed by the parties. The summary and stipulations shall be prepared by the Facilitator within seven (7) days after the receipt of all expert reports or, where no expert reports are required, within seven (7) days after the termination of discovery.

B. The negotiation of the final settlement shall take place within seven (7) days after the publication of the summary and stipulations. During this time, the Facilitator may engage consultant(s) to assist in identifying options and structures for settlement. The Facilitator shall present various settlement options to counsel for the parties. The attorneys for the parties shall meet as often as required, with or without the Facilitator, to achieve a resolution of this matter within a fourteen (14) day negotiating period. If settlement is not reached within the negotiating period, as herein set forth, or as reasonably extended by the Facilitator, the Facilitator, if acting as a Special Master, shall file his report with the court, which report shall include the settlement options presented to the attorneys. The final settlement of the parties shall be embodied in a Separation and Property Settlement Agreement to be drafted by the Facilitator and sent to the attorneys for commentary. The attorneys shall work in good faith with the Facilitator to agree upon the language of the Separation and Property Settlement Agreement. Upon completion, the Agreement shall be signed by the parties and promptly presented to court to be journalized in the context of an uncontested divorce.

ARTICLE IV

MAINTAINING THE STATUS QUO DURING THE PROCESS

4.1 Temporary Support

The issue of spousal support and/or child support to be exchanged, if at all, during the Process, shall be addressed, negotiated in good faith and resolved within seven (7) days of

execution of this Agreement, with the negotiated resolution being reduced to writing, signed by the parties and their attorneys, and incorporated into this Agreement as a term hereunder. Upon a properly notified default that is not cured pursuant to Article V of the Agreement, or otherwise upon termination of this Agreement, the parties' agreement as to temporary support, if any, shall be terminated.

4.2 Allocation of Parental Rights and Responsibilities

Where applicable, the issue of allocation of parental rights and responsibilities will be addressed, negotiated in good faith, and resolved through the execution of a shared parenting plan within thirty (30) days of the execution of this Agreement. The shared parenting plan shall be incorporated into this Agreement as a term hereunder, and shall be filed in court pursuant to the final settlement. Upon a properly notified default that is not cured pursuant to Article V of the Agreement, or otherwise upon termination of this Agreement, the parties' agreement as to allocation of temporary rights and responsibilities, if any, shall be terminated.

4.3 Mutual Restraints

The parties agree that neither of them, nor anyone else acting on their behalf, will do any of the following during the Process, unless specifically agreed by the parties in writing:

- A.** Abuse, harass, molest, annoy, embarrass, threaten or physically injure each other.

- B.** Remove the minor children from the State of Ohio and county of their residence, for any single period of time in excess of fourteen (14) consecutive days.

- C. Transfer, encumbering, alienate, sell, trade, assign, damage or otherwise dispose of either party's interest in any and all real property in which the parties, or either of them, maintain an interest; including, but not limited to, the marital residence.

- D. Sell, assign, trade, transfer, pledge, alienate or otherwise dispose of either party's interest in any and all tangible and intangible assets in which the parties, or either of them, maintain an interest; including, but not limited to, various investment vehicles, securities accounts, bank accounts, stocks, bonds, cash, IRA's, CMA's, partnerships, limited partnerships and corporations with any person or entity whatsoever, excepting the parties' regular operating checking account(s).

- E. Incur debt in the name of the other.

4.4 Stay of Proceedings

Where the parties engage a Facilitator in lieu of litigation, the parties agree to withhold commencing divorce or legal separation litigation while the Process is in progress, or to execute all documents necessary to stay any divorce or legal separation litigation proceedings already in progress, until such time as there is a properly notified default of the Agreement which is not cured under Article V of the Agreement, or termination of this Agreement by agreement of the parties.

4.5 Attorney Fees

While the Process is pending and, unless otherwise agreed, each party will be responsible for his or her attorney fees in connection with the Process. Allocation of ultimate responsibility for attorney fees as provided herein will be an issue to be addressed and resolved in the final negotiation and settlement of this matter.

ARTICLE V

EXTENSIONS AND DEFAULT

The times set forth in the Agreement may be reasonably extended by agreement of the parties. Failure by either party to strictly comply with the times set forth in the Agreement, or by subsequent agreement of the parties, may be deemed by the party who is not non-compliant to be a default of this Agreement, terminating same at the option of the party who is not non-compliant. In this regard, a party terminating this Agreement based upon the other party's default must notify the other party's attorney, in writing, of the default, and allow no less than seven (7) days for the party so notified to cure the default.

ARTICLE VI

WRITTEN NOTICES

Any written notice to a party under this Agreement must be faxed and mailed to each party through counsel, at the address listed below.

ARTICLE VII

MODIFICATION/GOVERNMENT LAW

This Agreement may be modified only by agreement of the parties in a written document executed with the same formality as this Agreement. The Agreement shall be subject to, construed by, and enforceable under the laws of the State of Ohio.

Attorney for Husband

Husband

(Firm)

(Street)

Date

(City/State/Zip Code)

(Phone/Fax)

Wife

(Firm)

(Street)

Date

(City/State/Zip Code)

(Phone/Fax)