PROPOSED MINNESOTA GENERAL RULES OF PRACTICE,
RULE 114A. COLLABORATIVE PRACTICE
FORM 114A.01 PARTICIPATION AGREEMENT
FORM 114A.09 REQUEST FOR SCHEDULING DEFERRAL

(**Introductory note:** This proposal has been submitted by a self-appointed task force. Neither the Minnesota Supreme Court nor its Advisory Committee on the General Rules of Practice has taken action on the proposal.)

PREAMBLE: It is the policy of the State of Minnesota to encourage the peaceable resolution of disputes and the early settlement of pending litigation through voluntary settlement procedures. The Minnesota Supreme Court specifically recognizes the unique nature of family law disputes and the fact that family law issues are best resolved by the parties reaching agreement over such critical matters as child custody and parenting time, support, and property without engaging in the traditional adversarial litigation process. The Minnesota Supreme Court strongly supports the use of the Collaborative Process as well as other alternative dispute resolution tools for the purpose of developing both short-term and long-term workable agreements in civil matters, particularly in those matters involving families and children.

The Task Force to the Supreme Court Advisory Committee on the adoption of Rules of Collaborative Practice wishes to acknowledge the contributions of the following attorneys and mediators:

Linda Wray (President, Collaborative Law Institute, 2006); Tonda Mattie (CLI President, 2005); Judith H. Johnson (Current CLI Co-Vice-President and Co-President Elect, 2007); Stu Webb (Founder of the Collaborative Practice model)

Audra Holbeck; Michael Landrum (by consultation); Thomas Lovette; Melvin Ogurak; Leslie Sinner McEvoy; Anne C. Towey; Gary Voegle; Gary Weissman (by consultation)

RULE 114A. COLLABORATIVE PRACTICE

114A.01 **Definitions.** Collaborative Practice, as defined below, is an approved form of Alternative Dispute Resolution for all civil cases subject to ADR processes under Rule 114.01:

(a) **Collaborative Practice**. Collaborative Practice is a voluntary Alternative Dispute Resolution process in which parties, each of their attorneys, and other Core Collaborative Professionals retained by the parties, sign a Participation Agreement as defined below. If the Collaborative Process

ends without a stipulated agreement both Collaborative attorneys must withdraw from further representation or participation in the case, and the parties' attorneys may not serve as litigation counsel on any post-decree or post-judgment matters related to the dispute.

Task Force Advisory Committee Comment

This definition of Collaborative Practice has become well recognized throughout the United States, Canada, Great Britain and Australia. *See e.g.*, Tex. Fam. Code Sec. 135.0072 (2005); L.A. County Super. Ct. R. 14.26 (a); Cal. Sonoma Cty. Super. Ct. R. 9.25 A.1 ; Utah Code Jud. Admin. R. 4-510(d); North Carolina Statutes Sec. 50-71 ; and La. Jud. Dist. Ct. Civ. R. 39.0 (2005).

The Collaborative Process generally involves a series of four-way meetings (or five or six-way meetings, if other professionals are involved) in which the parties and their attorneys gather information; identify goals, interests, needs and concerns of the parties; generate options for resolving disputed issues; and problem solve to arrive at value and interest-based settlement agreements tailored to the parties' goals, interests, needs and concerns.

Note to SCAC:
This Rule sets forth a model that may but does not require the use of neutrals. In this regard, Rule 114A is a departure from the premise of Rule 114 that Alternative Dispute Resolution is a process involving neutrals.

Rule 114.02 (a)(10) specifically recognizes however, that "[p]arties may by agreement create an ADR process." It has become increasingly common across the United States and Canada to view Collaborative Practice as a form of Alternative Dispute Resolution. The following states and counties are among those that have included Collaborative Practice under the umbrella of Alternative Dispute Resolution: San Diego, California; San Mateo, California; Santa Clara, California; Kansas; North Carolina; Texas; Utah; Colorado; and Manitoba. Collaborative Law is defined as a "distinct alternative dispute resolution process" in Collaborative Law, A New Model of Dispute Resolution, p.16, authored by Sheila M. Gutterman, J.D., M.A., and a panel of Collaborative Law experts, published in 2004 by Bradford Publishing Company. This book is highly regarded in the Collaborative Practice community. Finally, the ADR Review Board in their Memo dated September 9, 2004 to the General Rules of Practice Committee, stated that "[t]hroughout the country, collaborative law is an effective alternative dispute resolution method, resulting in fewer cases that have to go through the traditional court process. … Overall, the ADR Review Board feels it is the appropriate time to recognize and regulate collaborative law in Minnesota…" (Emphasis added).

Recognition of Collaborative Practice as a form of Alternative Dispute Resolution and Enactment of the Rule below will facilitate the policy of the State of Minnesota to encourage the peaceable resolution of disputes, particularly in the field of family law. The time has indeed come to recognize and regulate Collaborative Practice.

(b) **Core Collaborative Professionals**. Core Collaborative Professionals involved in a Collaborative Case include the following professionals who have received Collaborative Practice training:

1. Attorneys representing each party;

2. Minnesota licensed mental health professionals, including social workers, psychologists, marriage and family counselors and psychiatrists who serve as either Coaches or Child Specialists:

   i. **Coach.** A coach is a Minnesota licensed mental health professional with a breadth of knowledge in psychological matters pertaining to families and individuals and clinical skills in dealing with psychological issues affecting individuals. Each coach's role should be tailored to the needs of the party(ies) retaining the coach. Common roles for coaches in family law matters include the following: (a) providing systemically sensitive advocacy for one party with respect to emotional and psychological problems related to divorce, separation or other family matters. Systemically sensitive advocacy is advocacy or support that keeps the entire family system in view, especially the other party and the children; and (b) assisting the parties with developing effective co-parenting skills and a parenting plan. A common role for coaches in any civil matter is to assist parties to communicate effectively within the framework of the Collaborative Process.

   ii. **Child Specialist**. A child specialist is a Minnesota licensed mental health professional who has training in child development and knowledge of the particular factors involved in resolving child-related matters in the divorce, and whose role is to serve as a voice for the children.

3. Minnesota licensed financial professionals, including certified public accountants, certified financial planners, and chartered financial analysts; and

4. Mediators who have received the training required by Rule 114.13 (c) of the Minnesota Rules of General Practice.

Task Force Advisory Committee Comment

Collaborative Participation Agreements as set forth below provide for use of neutral experts as resources for the participants. In addition, Collaborative Practice has developed into a generally accepted interdisciplinary model of dispute resolution with established roles for mental health and financial professionals and mediators, as well as attorneys. These professionals are referred to as Core Collaborative Professionals. Collaborative training is required of all Core Collaborative Professionals as set forth in these rules. *See e.g.*, La. 15th Jud. Dist. Ct. Civ. R. 39.0 (2005).

Training in Collaborative Practice is fundamental to the designation of Core Collaborative Professional. See, *e.g.,* Rule 1620 of the Law Society of Saskatchewan which provides that "[a] lawyer may not, in any marketing activity, describe him or herself as being qualified to practice collaborative law unless he or she has successfully completed a course approved by the Admission & Education Committee."

(c) **Participation Agreement.** A Collaborative Participation Agreement, substantially similar to Form 114A.01(c), contains provisions pertaining to the fundamental principles of the Collaborative Process and is signed by the parties, their attorneys, and Core Collaborative Professionals retained by the parties. Participation Agreements shall contain at a minimum provisions regarding the following:

1. That all participants in the Collaborative Case are committed to using their best efforts to resolve issues relevant to the dispute without judicial intervention, except to have the court approve the settlement agreement and sign orders required by law to effectuate the agreement of the parties;

2. That neutral experts will be hired jointly, unless otherwise agreed in writing;

3. That requests for information may be made informally and all relevant information shall be fully, completely and promptly disclosed whether requested or not;

4. That neither the parties nor any Core Collaborative Professionals on the case shall take advantage of any miscalculations or mistakes of others but shall immediately identify and correct them;

5. That neither the parties nor any Core Collaborative Professionals on the case shall threaten litigation at any time during the Collaborative Process;

6. That Collaborative attorneys representing both parties shall automatically withdraw if the Collaborative Process terminates prior to settlement;

7. That the parties are free to end the Collaborative Process at any time provided that the Participation Agreement sets forth terms for reasonable notice to all participants in the process of termination; and

8. That the Collaborative Process is subject to the confidentiality requirements set forth in Rule 114A.03 below.

Task Force Advisory Committee Comment

A Collaborative Participation Agreement provides the process for issue resolution which makes Collaborative Practice a unique form of Alternate Dispute Resolution. Similar process requirements are set forth in other jurisdictions' court rules and statutes. *See e.g.*, *Cal. Sonoma Cty. Super. Ct. R.* 9.25 A, 1; *L.A. County Super. Ct. R* 14.26; La. 15th Jud. Dist. Ct. Civ. R. 39.0; Tex. Fam. Code Sec. 6.603 (2005); N.C.

Stat. 50-76. See also Tex. Form E 3.210. (Texas' approved form for this purpose which is set out in court rules).

Rule 114 has historically governed ADR processes involving third-party neutrals. While the Collaborative Process may involve neutrals, it does not require involving third party neutrals or Core Collaborative Professionals other than attorneys. The nucleus of the Collaborative Process is the Participation Agreement which is signed in writing by the parties, the Collaborative attorneys, and any Core Collaborative Professionals retained by the parties, and indicates that neither the parties nor the attorneys will litigate or even threaten litigation during the Collaborative Process. The premise behind this fundamental principle is that without the threat of litigation during the Collaborative Process, and with the advice and skills of legal counsel and other Core Professionals trained in the Collaborative Process, the parties will have the freedom, tools and specialized information needed to explore value-driven settlement agreements tailored to their individual circumstances.

Rules regarding withdrawal of professionals and confidentiality are addressed more specifically below.

Note to SCAC. Form 114A.01(c) is drafted for family law cases. This Form can be readily revised for other civil areas.

114A.02 Notice of Collaborative Practice

(a) **Notice.** The Court Administrator shall provide, on request information about Collaborative Practice as an ADR process and information regarding the availability of a list of Collaborative Professionals who provide services in that County. *See also*, Rule 114.03.

(b) **Duty to Advise Clients of Collaborative Practice as an ADR Process.** Attorneys shall provide their clients with information about Collaborative Practice as an ADR process. *See also*, Rule 114.03.

Advisory Committee Comment

A provision similar to Rule 114A.02 was passed by the province of Alberta, Canada in Section 5 of the Family Law Act which took effect on October 1, 2005. Pursuant to that law, each lawyer has "a duty (a) to discuss with the party alternative methods of resolving matters that are the subject of the application, and (b) to inform the party of collaborative processes, mediation facilities, and family justice services known to the lawyer that might assist the parties in resolving those matters."

114A.03 Confidentiality.

(a) **Evidence.** Subject to Rules 114A.04 and 114A.05(d) below, without the consent of all parties and an order of the court, no fact concerning the Collaborative Process may be admitted in a trial de novo or in any subsequent proceeding involving any of the issues or parties to the proceeding.

(b) **Inadmissibility.** Subject to Minn. Stat. Section 595.02 and except as provided in paragraph (a) above and paragraph (f) below, no statements made nor documents produced in the Collaborative Process, which are not otherwise discoverable, shall be subject to discovery or other disclosure. Such evidence is inadmissible for any purpose at any subsequent trial including for purposes of impeachment.

(c) **Records of Collaborative Attorneys.** Notes, records and recollections of Collaborative attorneys are confidential. They shall not be disclosed to parties not represented by the Collaborative attorney, the public or anyone other than the Collaborative attorney unless required by law or other applicable professional codes.

(d) **Records of Other Core Collaborative Professionals.** Except as provided in (f) below, notes, records, and recollections of other Core Collaborative Professionals are confidential. They shall not be disclosed to the parties, the public, or anyone other than the Core Collaborative Professional except as to any statement or conduct that could constitute a crime.

(e) **Testimony.** Except as provided in (f) below, no attorney or other Core Collaborative Professional in a Collaborative Proceeding shall be competent to testify in any subsequent civil proceeding or administrative hearing as to any statement, conduct, or decision occurring at or in conjunction with the prior Collaborative Proceeding, except as to any statement or conduct that could:

i. constitute a crime;
ii. give rise to disqualification proceedings under the rules of professional conduct for attorneys; or
iii. constitute professional misconduct.

(f) **Financial Professionals.** If a financial professional is retained as a neutral expert in the Collaborative Case for the purpose of providing pension valuation(s), business valuation(s), nonmarital tracing, cash flow projection(s), or some other agreed upon service that may be of benefit if a Collaborative agreement is not reached and the case proceeds to litigation, the parties may agree in a Participation Agreement signed by the financial professional and the parties that the financial professional can be called as a witness and his/her final report can be introduced into evidence if litigation ensues.

Task force Advisory Committee Comment

The purpose of protecting confidentiality in all forms of Alternate Dispute Resolution processes is well settled in Minnesota rules and statutes as well as those of other states . *See e.g.,* Implementation Committee Comments 1993 and Advisory Committee Comment– 2004 , Amendment to Minn. Rule

114.08; Minn. R. Evid. 408; Texas Family Code Sec. 6.603 (h); Cal. Sonoma Cty. Super. Ct. R. 9.25. As in other ADR processes, maintaining confidentiality during the Collaborative Process is critical. When confidentiality is maintained the participants' fear is diminished permitting them to engage in open and honest communication.

Confidentiality of written records produced in a Collaborative Process is recognized in other jurisdictions. *See e.g.,* Cal. Sonoma Cty. Super. Ct. R. 9.25B. 2, 3 ("Other than as may be agreed in the collaborative law stipulation and order, no writing, as defined in *Evidence Code Section 250* that is prepared for the purpose of, in the course of, or pursuant to a collaborative law case is admissible or subject to discovery, and disclosure of the writing must not be compelled in any non-criminal proceeding."); and N.C. Stat. 50-77 (b) ("All communications and work product of any attorney or third party expert hired for purposes of participating in a collaborative law procedure shall be privileged and inadmissible in any court proceeding, except by agreement of the parties.") This confidentiality is extended to the work of all Core Collaborative Professionals retained in a given case unless the parties' Participation Agreement states, in accordance with 114A.02(f) above, that the parties intend otherwise in relation to the financial professionals.

Note to SCAC: ***In Minnesota, the Alternative Dispute Resolution Section of the State Bar Association has urged the state legislature to adopt a "competency" standard for confidentiality in approved mediation processes. This is in place of the "privilege" standard as set forth in the proposed Uniform Mediation Act of the Uniform Commissioners on State Laws. Under the "competency" model, a practitioner of Alternate Dispute Resolution, even if subpoenaed by both parties to the dispute, may not testify in subsequent litigation proceedings. This is a higher standard of confidentiality in which practitioners are deemed not "competent" to testify to the subject matter of a dispute in which they were previously retained. Thus even when the litigants themselves waive any rights they would have to keep such testimony confidential and stipulate to permitting the practitioner's testimony, such testimony is barred. This is the model of confidentiality which is hereby adopted.***

114A.04 Enforceability of Written Agreements.

(a) **Temporary Agreements During Collaborative Case.** Following commencement of an action, the parties and attorneys may enter into written temporary agreement(s) which may be submitted to the Court as a basis for an Order and enforced.

(b) **Enforcement of Agreements Following Conclusion of Collaborative Case.** If a Collaborative Law proceeding concludes without settlement, any written temporary agreement reached between the parties and their attorneys 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, any final written agreement may be presented to the Court as a basis for entry of a Judgment and Decree.

114A.05 Termination of Process Prior to Complete Settlement

(a) **Withdrawal from Collaborative Law process.** If a party or an

attorney withdraws from the process prior to complete settlement, the withdrawing attorney or attorney for the withdrawing party shall provide prompt written notice to the other attorney(s) of said withdrawal.

(b) **Waiting period.** If the Collaborative process terminates without settlement the parties are prohibited from scheduling a court hearing on a date within 30 days of the termination of the Collaborative process, unless for good cause shown said time period should be shortened. This provision shall not prevent the Court from scheduling an Initial Case Management Conference. This provision shall not apply in family law matters where one of the parties claims to be a victim of domestic abuse or claims that a child of the parties has been physically abused or threatened with physical abuse by the other party.

Task force Advisory Committee Comment

The purpose of the 30 day waiting period is to permit all parties to retain new counsel and make an orderly transition, and to avoid surprise and prejudice to the rights of the nonwithdrawing party.

114A.06 Roster of Qualified Collaborative Professionals.

(a) Roster. The State Court Administrator shall establish a roster of Core Collaborative Professionals in addition to the rosters specified in Rule 114.12. The roster for Core Collaborative Professionals shall be updated and published on a regular basis. The State Court Administrator shall not place on, and shall delete from, the roster the name of any applicant or professional whose professional license has been revoked. A Core Collaborative Professional may not provide services as a qualified Collaborative Professional during a period of suspension of a professional license. The State Court Administrator shall review applications from those who wish to be listed on the roster of qualified Core Collaborative Professionals and shall include those who meet the training requirements established in Rule 114A.07 or who have received a waiver under Rule 114A.06(b). Qualified Core Collaborative Professionals have an affirmative duty to disclose a revocation of professional license to the State Court Administrator.

(b) Waiver of Training Requirements. Anyone seeking to be included on the roster of Core Collaborative Practice Professionals without having to complete training requirements under Rule 114A.07 shall apply for a waiver to the Minnesota Supreme Court ADR Review Board. Waivers may be granted when an individual's training and experience clearly demonstrate exceptional competence to serve as a Core Collaborative Professional.

(c) Fees. The State Court Administrator shall establish reasonable fees for qualified Core Collaborative Professionals to be placed on the roster.

Task Force Advisory Committee Comment

The enforcement procedure to be followed upon the filing of an ethical complaint and sanctions available to the ADR Review Board upon finding a violation, are set forth in Rule 114 Appendix – Code of Ethics Enforcement Procedure.

Note to SCAC:
Ethical complaints regarding Collaborative Practice have to this point been heard by the Collaborative Law Institute of Minnesota which forms ad hoc committees to investigate such complaints on a case by case basis. Since its inception in 1990, the Institute reports that less than five such complaints have been submitted.

As of the date of submission of these Comments, a revision of the enforcement procedures, including incorporation of appropriate due process protections, is under consideration. Such changes should be incorporated in this Rule 114A as well.

114A.07 Training and Qualifications for Core Collaborative Professionals

(a) All qualified Collaborative attorneys and other Core Collaborative Professionals must have completed or taught the following:

1. With respect to family law, a minimum of 40 hours of family mediation training as set forth under Rule 114.13 (c);

2. With respect to civil law other than family law, a minimum of 30 hours of training as set forth under Rule 114.13 (a);

3. At least twelve hours of basic Collaborative or Interdisciplinary Collaborative training. Such training shall include at least:

   (i) Interest-based negotiation training;
   (ii) Communication skills training;
   (iii) Training in the Collaborative model, both as a dispute resolution mechanism and as a process for modeling the skills and tools necessary for the positive reconstruction of interpersonal relationships;
   (iv) Collaborative protocols and dynamics;
   (v) Techniques for maximizing settlement possibilities; and
   (vi) The interdisciplinary team approach and the contribution and roles of each profession.

   A basic training should include multiple learning modalities such as interactive, experiential, and lecture elements. All trainings offered by the Collaborative Law Institute of Minnesota and the

International Academy of Collaborative Professionals are approved for purposes of meeting this requirement;

4. In addition to the above, an accumulation or aggregate of fifteen further hours of training or teaching in other Collaborative or related facilitative areas, such as:

   (i) Advanced mediation training;
   (ii) Team building skills, whether lawyer-centric or broader team, with respect to the clients and Core Collaborative Professionals;
   (iii) Negotiation theory, including the characteristics of competitive and interest-based negotiation;
   (iv) Dynamics of interpersonal conflict;
   (v) The legal, financial, psychological, and emotional elements of the clients' circumstances;

(b) Core Collaborative Professionals who received or taught the required Collaborative training before the effective date of this rule may be placed on the roster referenced in 114A.04 if they can demonstrate they have completed or taught the training required by this rule.

(c) All qualified Core Collaborative Professionals must attend eighteen (18) hours of continuing education about Collaborative or related facilitative alternative dispute resolution subjects every 3 years. Attorneys' three year continuing education period herein shall coincide with the attorney's continuing legal education reporting period. The three year reporting period for other core professionals shall coincide with a three year attorney reporting period.

Task Force Advisory Committee Comment

Collaborative Practice presents a unique need for training in that attorneys must develop skills in settling cases that do not presume litigation will be used or threatened. The development of effective skills in this regard requires that the attorney make a profound paradigm shift in his or her approach to all aspects of the case, including how the attorney views his/her role and responsibilities, how the attorney works with his or her client, how the attorney works with the other attorney on the case, and how the attorney conducts negotiations. Pauline H. Tesler in her groundbreaking book, *Collaborative Law, Achieving Effective Resolution in Divorce without Litigation*, published by the Family Law Section of the American Bar Association, describes this paradigm shift in great detail.

Further, in cases that involve or may be appropriate for involvement of Core Collaborative Professionals in addition to attorneys, the Professionals must be aware of the skill set available within each discipline and must be skilled to work together as a team. *See e.g.,* La. 15th Jud. Dist. Ct. Civ. R. 39.0. (2005) ("Any attorney that enters into a collaborative law agreement in the Fifteenth Judicial District shall be in good standing with the Louisiana State Bar Association, and they shall have the basic introductory two day training regarding the team approach to collaborative cases involving mental health professionals, certified public accountants, certified valuation analyst and other professionals that may be necessary to find a solution to the parties' legal problems.")

Note to SCAC re Rule 114A.07(a)(3): The Collaborative Law Institute in Minnesota has been in existence since 1990 and was the first such Institute of its kind in the United States. It has been a leader in the growth of Collaborative Practice around the United States and Canada. The Institute has Training and Protocols of Practice Committees and has conducted numerous trainings and developed extensive protocols of practice for Core Collaborative Professionals. As such the Collaborative Law Institute is uniquely qualified to provide training for professionals seeking inclusion on a roster of Core Collaborative Professionals. The International Academy of Collaborative Professionals is the only international Collaborative organization and is recognized by the Collaborative Law Institute of Minnesota and most other Collaborative groups as a leader in setting standards of Collaborative Practice.

114A.08. Exception to Training/Roster Requirement.

The court may accept as meeting ADR requirements a Collaborative Case where the attorneys, parties, and other Core Collaborative Professionals retained by the parties sign a Collaborative Participation Agreement as defined in Rule 114A.01(c) and make a good faith effort to resolve their dispute(s) without judicial intervention although one or both attorneys, or any Core Collaborative Professional on the case, does not meet the training requirements for inclusion on the Collaborative Practice roster or is not otherwise included on the roster. A professional serving on such a Collaborative Case consents to the jurisdiction of the ADR Review Board and compliance with the Code of Ethics set forth in the Appendix to this Rule 114A.

114A.09 Deferral.

Cases which have been filed with the Court Administrator but in which the participants have chosen Collaborative Practice as an Alternative Dispute Resolution process shall be deferred pursuant to a request for deferral in a form substantially similar to Form 114A.09 filed by the parties. The court shall defer setting any deadlines for the period specified in the order approving deferral.

Task Force Advisory Committee Comment

The process for deferral of Collaborative Cases within the court system varies by state and is determined in part in family law cases by how a family law proceeding is commenced in each state, i.e., by court filing (as in California) or by service of process (as in Minnesota). See, Rule 302.1(a) of the Minnesota Rules of Practice, Family Court Procedure. The purpose of a court rule concerning deferral is to permit parties in civil litigation who choose Collaborative Practice as a form of Alternative Dispute Resolution after the case is filed to avoid scheduling deadlines. Some states exempt Collaborative Cases from specific deadlines. *See e.g.,* La. 15th Jud. Dist. Ct. Civ. R. 39.0 (2005). Texas courts may not set hearings or trials, impose discovery deadlines, impose scheduling orders, or dismiss cases which are active in the Collaborative Process. *See* Tex. Fam. Code Sec. 6.601(2005).

APPENDIX - CODE OF ETHICS

Introduction

It is the policy of the State of Minnesota to encourage the peaceable resolution of disputes and the early settlement of pending litigation through voluntary settlement procedures. Rule 114A of the Minnesota Rules of General Practice provides a voluntary form of Alternative Dispute Resolution called Collaborative Practice. The Alternative Dispute Resolution Review Board (ADR Review Board) appointed by the Supreme Court approves individuals who are qualified under Rule 114A to act as Core Collaborative Professionals in cases which would otherwise be subject to the requirements of Rule 114.

As with court-ordered ADR processes, in order for Collaborative Practice to be an effective ADR process, there must be broad public confidence in the integrity and fairness of the process. Core Collaborative Professionals have a responsibility not only to the parties and to the court but also to the continuing improvement of this ADR process. Core Collaborative Professionals, like neutrals, must observe high standards of ethical conduct.

Collaborative Practice attorneys continue to be held to standards set forth in the Minnesota Rules of Professional Conduct, and those rules shall continue to govern the fundamental ethical obligations of attorneys. However, Collaborative Practice attorneys approved by the ADR Review Board or subject to Rule 114A.08 consent to the jurisdiction of the ADR Review Board and to compliance with this Code of Ethics which is intended to deal solely with Collaborative Practice. To the extent that any complaint filed against an attorney falls within the jurisdiction of the Minnesota Lawyers Professional Responsibility Board, that Board shall have exclusive jurisdiction to determine whether a violation of the Rules of Professional Conduct has occurred. The ADR Review Board shall have jurisdiction to take notice of any ruling of the Lawyers Professional Responsibility Board, as well as jurisdiction to investigate complaints falling under this Code of Ethics and not under the Rules of Professional Conduct.

Other Core Collaborative Professionals retained in Collaborative Cases shall continue to be subject to State administrative or licensing rules which govern the professional in his or her jurisdiction and practice area. Core Collaborative Professionals other than attorneys approved by the ADR Review Board also consent to the jurisdiction of the ADR Board and to compliance with this Code of Ethics. To the extent that a complaint filed against a Core Collaborative Professional other than an attorney falls within the jurisdiction of that professional's licensing board or other regulatory agency, said board or agency shall have the exclusive jurisdiction to determine whether a violation has occurred. The ADR Review Board shall have jurisdiction to take notice of any ruling of the licensing boards or regulatory agencies for other professions as well as jurisdiction to investigate complaints falling under this Code of Ethics and not under the jurisdiction of a professional's licensing board or other regulatory agency.

The purpose of this Code of Ethics is to provide standards of ethical conduct to

guide Core Collaborative Professionals specifically in the provision of Collaborative Practice services, to inform and protect consumers of Collaborative Practice services, and to ensure the integrity of this process.

A violation of a provision of this Code may be a basis for removal from the roster of Core Collaborative Professionals or such lesser sanction as may be recommended by the ADR Board. A violation of a provision of this Code shall not create a cause of action nor shall it create any presumption that a legal duty or an ethical obligation under other rules of professional conduct have been breached. Nothing in this Code should be deemed to establish or augment any substantive legal duty on the part of Core Collaborative Professionals.

I. **Adherence to Collaborative Practice Principles.** Core Collaborative Professionals shall adhere to and model Collaborative Practice principles as provided in Rule 114A.01 above..

II. **Self-Determination.** Collaborative Practice is based on the principle of self-determination by the parties. The Collaborative Process relies upon the ability of the parties to reach a voluntary, uncoerced agreement. The primary responsibility for the resolution of a dispute and the shaping of a settlement agreement rests with the parties. Collaborative Practice attorneys shall not require parties to stay in the Collaborative Process against their will or better judgment.

Note to SCAC: ***Because the Collaborative Process is truly team oriented with the parties taking ultimate responsibility for their decisions, local Collaborative attorneys Stu Webb (commonly referred to as the creator of Collaborative Practice) and Ron Ousky have written a book , The Collaborative Way to Divorce published by Penguin Books, for the benefit of individuals and couples contemplating or going through divorce . The book educates readers in determining whether their matter is suitable for the Collaborative Process and guides them through the process.***

III. **Impartiality.** Core Collaborative Professionals retained by both parties shall function in the Collaborative process in an impartial manner and shall serve only in those matters in which she or he can remain impartial and evenhanded. If at any time, the jointly retained Collaborative Professional is unable to conduct the process in an impartial manner, the Collaborative Professional shall withdraw.

IV. **Conflicts of Interest.**

(a) Attorneys. Attorneys are subject to the Minnesota Rules of Professional Conduct. Any complaints under this rule regarding attorneys shall fall within the exclusive jurisdiction of the Lawyers Professional Responsibility Board.

(b) Financial Professionals. Financial professionals shall disclose to the party(ies) retaining the professional and attorney(s) representing said party(ies) the nature and extent of any past or present business relationship with either party or either attorney. The financial professional shall also disclose any business relationship the financial professional and either party or either attorney has discussed prior to the engagement. The purpose of such disclosure is to provide an opportunity for the party(ies) retaining the financial professional to evaluate the impact of said relationship(s) on the financial professional's impartiality and determine whether or not to engage the financial professional. Where both parties are considering engagement of the financial professional, the financial professional must decline engagement if either party objects after said disclosure. Otherwise, the potential conflict shall not prevent the financial professional from being employed, or continuing employment, if both parties agree to employ the financial professional.

(c) Mental Health Professionals. Mental health professionals shall disclose any past or present business, personal, or professional relationships with the other participants in the Collaborative Process to the party(ies) seeking to retain said professional and the attorneys representing said party(ies). Disclosure is intended to provide an opportunity for the participants to evaluate the impact of these relationships on the perceived neutrality of the mental health professional and whether to engage the mental health professional. Where both parties are considering engagement of the mental health professional, the mental health professional must decline engagement if either party objects after said disclosure. Otherwise, the potential conflict shall not prevent the mental health professional from being employed, or continuing employment, if both parties agree to employ the mental health professional.

(d) Mediators and other Facilitative Professionals. Rule II of the Code of Ethics for Rule 114 applies to mediators providing services in Collaborative Cases.

IV. **Services outside of the Collaborative Engagement.**

(a) **Attorneys.** Collaborative Practice attorneys may not serve as litigation counsel if the Collaborative Process terminates prior to settlement, or in any post-decree or post-judgment matters related to the dispute.

(b) **Financial Professionals.**

1. A financial professional's solicitation of services to any party during a Collaborative case is strictly prohibited in any manner at any time.

2. During the Collaborative Process, the financial professional may not provide to either Client financial services that are outside the scope of the financial professionals Participation Agreement.

3. During the Collaborative Process, the financial professional shall not discuss providing financial services to any party at the conclusion of the case.

4. Nothing in this rule prohibits a financial professional retained by only one party from providing unsolicited services to that party following the conclusion of the Collaborative Process.

5. In cases where a financial professional has been retained by both parties and the Collaborative Process was successfully completed and one party approaches the financial professional for financial services within one year of the conclusion of a Collaborative Case, it is recommended that the financial professional obtain the other party's consent to provide financial services before accepting engagement for this purpose. Otherwise, the financial professional is free to provide unsolicited services to a party at the conclusion of a Collaborative Case.

6. If a financial professional was retained by both parties in the Collaborative Process and the Collaborative Process terminated prior to successful completion, the financial professional shall not work with only one party following termination as to do so would compromise the role of the Professional during the Collaborative Process.

(c) Mental Health Professionals. Generally, the role of mental health professionals ends when the Collaborative Process is successfully completed or terminates. However, one or both parties may wish to continue a relationship with a coach or child specialist if the Process ends. If so, the following shall apply:

1. Following the conclusion of the Collaborative Process, coaches and child specialists shall not serve in any role with one or both parties other than the role they had during the Collaborative Process.

2. Where a coach or child specialist was retained by both parties, both parties may continue to work with the professional following the conclusion of the Collaborative Process.

3. If a coach or child specialist was retained by both parties in the Collaborative Process and only one party wishes to work with the coach or child specialist once the Collaborative Process ends, the

coach or child specialist may work with that party provided that the Collaborative Process was successfully completed and the coach or child specialist obtains the consent of the other party.

4. If a coach or child specialist was retained by both parties in the Collaborative Process and the Collaborative Process terminates prior to successful completion, the coach or child specialist shall not work with only one party following termination, as to do so would compromise the role of the professional in the Collaborative Process.

5. If a coach or child specialist worked with only one party during the Collaborative Process, the coach or child specialist may continue working with that party following the conclusion of the Collaborative Process.

(d) Mediators. Without the consent of all parties, and for a reasonable time under the particular circumstances, a neutral who also practices in another profession shall not establish a professional relationship in that other profession with one of the parties, or any person or entity, in a substantially factually related matter.

Task Force Advisory Committee Comment

The requirement that Collaborative Practice attorneys refrain from serving as litigation counsel if a Collaborative Case terminates prior to settlement or in related post-decree or post-judgment matters is well established within Collaborative Practice. The purpose of such a requirement is protection of the atmosphere necessary for a “full and fair exchange of information” between participants. See, e.g., Cal. Sonoma Cty. Super. Ct. R. 9.25 A, 1. This requirement is a critical element in what makes Collaborative Practice a unique and highly integrated form of Alternate Dispute Resolution. Clients are more likely to openly express needs in a structured discussion of issues if they do not fear that the attorney representing the other party will go to court against them.

Some jurisdictions require withdrawal of all Core Collaborative Professionals at the conclusion of proceedings. *See e.g*., Cal. Sonoma Cty. Super. Ct. R. 9.25 A, 1. Other jurisdictions provide only for mandatory attorney withdrawal. *See e.g.*, La. 15th Jud. Dist. Ct. Civ. R. 39.0; Tex. Fam. Code Sec. 6.603 (2005).

***Note to SCAC**: In the State of Texas, continued service by financial and mental health professionals on a case is specifically permitted following the conclusion of a case whether by termination prior to agreement or by settlement. The Collaborative Law Institute of Minnesota has adopted Protocols of Practice for continued service by financial and mental health professionals following the termination of a case whether by agreement or otherwise. The guidelines for this continued service are reflected in this rule.*

V. **Competence.** Attorneys are subject to the Minnesota Rules of Professional Conduct. Any complaints under this rule regarding attorneys shall fall within the exclusive jurisdiction of the Board of Professional Responsibility. Financial and mental health professionals and mediators

shall serve parties in the Collaborative Process only when they have the necessary qualifications to satisfy the reasonable expectations of the parties.

VI. **Confidentiality.** Core Collaborative Professionals shall maintain confidentiality to the extent provided by Rule 114A.03 and the Participation Agreement.

VII. **Quality of Process.**

(a) Core Collaborative Professionals shall use their best efforts to assure that their clients are making a full disclosure of all material information. In the event a client refuses to make a disclosure of material information a Core Collaborative Professional shall withdraw from representation.

(b) Collaborative Practice attorneys shall not deceive or intentionally mislead the other counsel or parties.

(c) Collaborative Practice attorneys shall never threaten to withdraw from the Collaborative Process for tactical reasons. Collaborative Practice attorneys shall not threaten litigation during the Collaborative Process.

(d) Core Collaborative Professionals shall meet standards of professional ethics for their respective professions.

(e) Collaborative Practice attorneys shall not induce or rely on mistakes by other parties or other counsel to obtain a significant, substantial, unfair benefit.

VIII. **Fees.** All fee agreements shall be in writing.

Task Force Advisory Committee Comment

With respect Rule VII(d), the ADR Review Board's jurisdiction does not include determining de novo whether a Collaborative Practice Professional has violated any ethical standards in his or her profession. Rather, the ADR Board's jurisdiction shall only include the authority to recognize determinations of violations made by the Minnesota Board of Professional Conduct or other bodies regulating standards for mental health and financial professionals.

RULE 114A
<u>CODE OF ETHICS ENFORCEMENT PROCDURE</u>

Inclusion on the roster of Core Collaborative Professionals pursuant to Minnesota General Rules of Practice 114A.06 is a conditional privilege revocable for cause. The procedure applicable to complaints against neutrals set forth in the Code of Ethics Enforcement Procedure Appendix to Rule 114 is applicable to Core Collaborative Professionals as well as though fully set forth herein.

FORM 114A.01 COLLABORATIVE PRACTICE PARTICIPATION AGREEMENT

AMONG:	______________________	Participant - Husband/Father
	-and-	
	______________________	Attorney for Husband/Father
	-and-	
	______________________	Participant - Wife/Mother
	-and-	
	______________________	Attorney for Wife/Mother

1.0 GOALS

1.1. We, the Participants, believe that it is in our best interests and the best interests of our minor child(ren) to reach an agreement through the Collaborative Process rather than by going to Court.

1.2. We agree to use the Collaborative Practice Process to resolve differences. Collaborative Practice is based on:

- honesty (full and complete disclosure of all assets, debts and income);
- satisfying the interests of both parties;
- cooperation;
- integrity;
- professionalism;
- dignity;
- respect; and
- candor.

1.3. Collaborative Practice focuses on our **future** well being and the future well being of our child(ren).

1.4. Collaborative Practice does **not** rely on Court-imposed solutions.

1.5. Our goals are:

- to resolve our differences in the best interests of our child(ren);
- to eliminate the negative economic, social and emotional consequences of litigation; and
- to find solutions that are acceptable to both of us.

2.0 WE WILL NOT GO TO COURT

2.1. **Out-of-Court.** We commit ourselves to settling this case without going to Court.

2.2. **Disclosure.** We agree to give full and complete disclosure of all information whether requested or not. Any request for disclosure of information will be made informally. We will provide this information promptly.

We acknowledge that by using informal discovery we are giving up certain investigative procedures and methods that would be available to us in the litigation process. We give up these measures with the specific understanding that we make full and fair disclosure of all assets, income, debts and other information necessary for a fair settlement. Participation in the Collaborative Practice Process, and the settlement reached, is based upon the assumption that we have acted in good faith and have provided complete and accurate information to the best of our ability. We may be required to sign a sworn statement making full and fair disclosure of our incomes, assets and debts.

2.3. **Settlement conferences.** We agree to engage in informal discussions and conferences to settle all issues. All communication during settlement meetings will focus on the property, financial and parenting issues in the dissolution and the constructive resolution of those issues. We are free to discuss issues in the dissolution with each other outside of the settlement

meetings if we both agree and are comfortable doing so. We are also free to insist that these discussions be reserved for the settlement meetings where both attorneys are present.

We understand and acknowledge that the costs for settlement meetings are substantial and require everyone's cooperation to make the best possible use of available resources. To achieve this goal, we agree not to engage in unnecessary discussions of past events.

2.4. **Communication.** We acknowledge that inappropriate communications regarding our dissolution can be harmful to our child(ren). Communication with our child(ren) regarding the dissolution will occur only if it is appropriate and done by mutual agreement or with the advice of a child specialist. We specifically agree that our child(ren) will not be included in any discussion regarding the dissolution except as described in this Agreement.

Each of us promises not to "spring" discussions on the other in unannounced telephone calls or in surprise visits to the other's residence.

3.0. CAUTIONS

We understand and acknowledge the following:

3.1. **Commitment.** There is no guarantee we will successfully resolve our differences with the Collaborative Practice Process. Success is primarily dependent upon our commitment to the process. We also understand that this process cannot eliminate concerns about any disharmony, distrust, or irreconcilable differences that have lead to our marriage dissolution.

3.2. **Legal issues.** The Collaborative Practice Process is designed to resolve the following legal issues:

- Parenting time;
- Financial support of our child(ren), including unreimbursed medical and dental expenses of our minor child(ren), and child care costs, if any;
- Insurance (medical, dental, life);
- Spousal maintenance;

- ➢ Division of property and debts;
- ➢ Nonmarital property;
- ➢ Attorney's fees and costs;

and other issues we may agree to address. This process is not designed to address therapeutic or psychological issues. When these or other non-legal issues arise, our attorneys may refer us to appropriate experts or consultants.

3.3. **Attorney role.** Although we pledge to be respectful and to negotiate in an interest-based manner, we are each entitled to assert our respective interests, and our attorneys will help us do this in a productive manner. We understand that our attorneys have a professional duty to represent his or her own client diligently and is not the attorney for the other, even though our attorneys share a commitment to the Collaborative Practice Process.

4.0. ATTORNEYS FEES AND COSTS

We agree that our attorneys are entitled to be paid for their services. We also agree that each of us will pay our own attorney unless otherwise agreed during the Collaborative Practice Process that one of us will contribute to the other's attorney fees or that marital assets will be used to pay both attorneys' fees.

5.0. PARTICIPATION WITH INTEGRITY

5.1. We will respect each other.

5.2. We will work to protect the privacy and dignity of everyone involved in the Collaborative Practice Process.

5.3. We will maintain a high standard of integrity and specifically shall not take advantage of any miscalculations or mistakes of others, but shall immediately identify and correct them.

6.0. EXPERTS

6.1. We agree to use neutral experts for any issue that requires expert advice and/or recommendation.

6.2. We will retain any expert jointly unless we agree otherwise in writing.

6.3. We will agree in advance as to the source of payment for the expert's retainer or other fees.

6.4. We agree to direct all experts to assist us in resolving our differences without litigation.

6.5. Unless otherwise agreed in writing, the neutral expert and any report, recommendation, or documents generated by, or any oral communication from, the neutral expert shall be shared with each of us and our respective attorneys and covered by the confidentiality clause of this Agreement.

7.0. CHILD(REN)'S ISSUES (IF APPLICABLE)

7.1. We agree to act quickly to resolve differences related to our child(ren);

7.2. We agree to promote a caring, loving and involved relationship between our child(ren) and each parent;

7.3. We agree to work for the best interests of the family as a whole;

7.4. We agree not to involve our child(ren) in our differences; and

7.5. We agree not to remove our minor child(ren) from the State of Minnesota without the prior written consent of the other while the Collaborative Practice Process is pending.

8.0. WE WILL NEGOTIATE IN GOOD FAITH

8.1. We acknowledge that each attorney represents only one client in the Collaborative Practice Process.

8.2. We understand that this process will involve good faith negotiation, with complete and honest disclosure.

8.3. We will be expected to take a balanced approach to resolving all differences. Where our interests differ, we will each use our best efforts to create proposals that are acceptable to both of us.

8.4. None of us will use threats of litigation as a way of forcing settlement although each of us may discuss the likely outcome of going to Court.

9.0. RIGHTS AND OBLIGATIONS PENDING SETTLEMENT

We acknowledge the signing of a Joint Petition for the purpose of commencing a dissolution of marriage proceeding. Although we have agreed to work outside the judicial system, we agree to be bound by the following notices as if a Summons had been served on each of us:

NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

UNDER MINNESOTA LAW, SERVICE OF THIS SUMMONS MAKES THE FOLLOWING REQUIREMENTS APPLY TO BOTH PARTIES TO THIS ACTION, UNLESS THEY ARE MODIFIED BY THE COURT OR THE PROCEEDING IS DISMISSED:

(1) NEITHER PARTY WILL DISPOSE OF ANY ASSETS EXCEPT (i) FOR THE NECESSITIES OF LIFE OR FOR THE NECESSARY GENERATION OF INCOME OR PRESERVATION OF ASSETS, (ii) BY AN AGREEMENT IN WRITING, OR (iii) TO RETAIN COUNSEL TO CARRY ON OR TO CONTEST THIS PROCEEDING;

(2) NEITHER PARTY MAY HARASS THE OTHER PARTY;

(3) ALL CURRENTLY AVAILABLE INSURANCE COVERAGE MUST BE MAINTAINED WITHOUT CHANGE IN COVERAGE OR BENEFICIARY DESIGNATION.

IF YOU VIOLATE OF ANY OF THESE PROVISIONS, YOU WILL BE SUBJECT TO SANCTIONS BY THE COURT.

(4) PARTIES TO A MARRIAGE DISSOLUTION PROCEEDING ARE ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR ABOUT RESOURCES IN YOUR AREA. IF YOU CANNOT PAY FOR MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION, IN SOME COUNTIES ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR THREATS OF ABUSE AS DEFINED IN MINESOTA STATUTES, CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

10.0. ABUSE OF THE COLLABORATIVE PRACTICE PROCESS

We understand that both attorneys must withdraw from this case if either attorney learns that either of us has taken unfair advantage of this process. Some examples are:

- abusing our child(ren);
- planning or threatening to flee the jurisdiction of the Court with our child(ren);
- disposing of property without the consent of the other;
- withholding or misrepresenting relevant information;
- failing to disclose the existence or true nature of assets, income or debts;
- failing to participate collaboratively in this process; or
- any action to undermine or take unfair advantage of the Collaborative Practice Process.

11.0. ENFORCEABILITY OF AGREEMENTS

11.1. **Temporary agreements.** In the event either of us requires a temporary agreement for any purpose, the agreement will be put in writing and signed by us and our attorneys. Any written temporary agreement is considered to be made pursuant to a commenced dissolution proceeding and therefore, can be submitted to the Court as a basis for an Order and enforced, if necessary.

11.2. **Permanent Agreement.** Any final, permanent agreement (sometimes called a Joint Petition and Stipulation or Marital Termination Agreement) we sign shall be submitted to the Court as the basis for entry of a Judgment and Decree of Dissolution.

11.3. **In case of withdrawal.** If either of us or either attorney withdraws from the Collaborative Practice Process, any written temporary agreement may be presented to the Court as a basis for an Order pursuant to a dissolution proceeding, which the Court may make retroactive to the date of the written agreement. Similarly, in the event of a withdrawal from the Collaborative Practice Process, any final agreement may be presented to the Court as a basis for entry of a Judgment and Decree of Dissolution.

12.0 LEGAL PROCESS

12.1. **Pleadings.** Other than the signing of a Joint Petition to commence a dissolution of marriage proceeding, neither of us or our attorneys will file the Joint Petition with the Court, nor will we permit any motion or document to be served or filed which would initiate court intervention during the Collaborative Practice Process pending final agreement.

12.2. **Stipulation.** After we reach a final agreement, one of the attorneys will prepare a Stipulation (sometimes called a Marital Termination Agreement) for review and signature by our attorneys and us.

12.3. **No court.** None of us will use the court during the Collaborative Practice Process.

12.4. **Participant Withdrawal from Collaborative Practice Process.** If one of us decides to withdraw from the Process, s/he shall provide prompt written notice to his or her attorney, who in turn will notify the other attorney in writing.

12.5. **Attorney withdrawal.** If one of our attorneys decides to withdraw from the process, s/he will promptly notify their client and the other attorney in writing.

12.6. **Waiting period.** Upon withdrawal from the process, there will be a 30-day waiting period, absent an emergency, before the scheduling of any court hearing, to permit us to retain new counsel and to make an orderly transition.

12.7. **Previous agreements.** All temporary agreements will remain in full force and effect during the 30-day period.

12.8. **No surprise.** The intent of this section is to avoid surprise and prejudice to the rights of the nonwithdrawing participant.

12.9. **Presentation to Court.** Accordingly, we agree that either of us may bring this provision to the attention of the Court in requesting the continuance of a hearing scheduled by the other or his/her attorney during the 30-day waiting period.

13.0. DISQUALIFICATION

13.1 Withdrawal of Attorney. If either Collaborative Practice attorney withdraws from the case, the other attorney must also withdraw unless a withdrawing attorney is replaced by another Collaborative Practice attorney who agrees in writing to comply with this Participation Agreement.

13.2 Disqualification in Subsequent Matters. After termination of the Collaborative Practice Process, whether by settlement or termination before settlement, neither attorney shall represent his or her client in a subsequent Non-Collaborative matter against the other party.

14.0. CONFIDENTIALITY

14.1. **Confidentiality**. All settlement proposals exchanged within the Collaborative Practice Process will be confidential and without prejudice. If subsequent litigation occurs, we agree:

a. That we will not introduce, as evidence in Court, information disclosed during the Collaborative Practice Process for the purpose of reaching a settlement, except documents otherwise compellable by law, including any sworn statements as to financial status made by us;

b. That we will not introduce, as evidence in Court, information disclosed during the Collaborative Practice Process with respect to the other's behavior or legal position during the process;

c. That we will not attempt to depose either attorney or neutral expert, or ask or subpoena either attorney or any neutral expert to testify in any court proceeding with regard to matters disclosed during the Collaborative Practice Process; and

d. That we will not require the production at any court proceeding of any notes, records, or documents in the attorney's possession or in the possession of any neutral expert. However, once discharged, the attorneys shall return the file to their respective clients, excluding attorney work product.

14.2. **Applicability.** We agree this Confidentiality provision applies to any subsequent litigation, arbitration, or any other method of alternative dispute resolution.

15.0. ACKNOWLEDGMENT

15.1. We and our attorneys acknowledge that we have read this Agreement, understand its terms and conditions, and agree to abide by them.

15.2. We understand that by agreeing to this alternative method of resolving our dissolution issues, we are giving up certain rights, including the right to formal discovery, formal court hearings, and other procedures provided by the adversarial legal system.

15.3. We have chosen the Collaborative Practice Process to reduce emotional and financial costs, and to generate a final agreement that addresses our concerns. We agree to work in good faith to achieve these goals.

16.0. PLEDGE

WE HEREBY PLEDGE TO COMPLY WITH AND TO PROMOTE THE SPIRIT AND WRITTEN WORD OF THIS PARTICIPATION AGREEMENT.

Dated: Dated:

______________________________ ______________________________

______________________________ ______________________________

FORM 114A.09 REQUEST FOR DEFERRAL OF SCHEDULING DEADLINES

STATE OF MINNESOTA **DISTRICT COURT**
___________________COUNTY **_____________JUDICIAL DISTRICT**

CASE NO.
Case Type:________________

____
Plaintiff

and

REQUEST FOR DEFERRAL

____
Defendant

The undersigned parties request, pursuant to Minn. Gen. R. Prac. 114A.09, that this action be deferred and excused from normal scheduling deadlines until _______________ _____, _____, to permit the parties to engage in a formal Collaborative Practice Process. In support of this request, the parties represent to the Court as true:

1. All parties have contractually agreed to enter into a Collaborative Practice Process in an attempt to resolve their differences.

2. The undersigned parties and attorneys have entered into a signed Participation Agreement.

3. The undersigned attorneys each agree that if the Collaborative Process is not concluded by the complete settlement of all issues between the parties, each attorney and his or her law firm will withdraw from further representation and will consent to substitute of new counsel for the party.

4. The undersigned attorneys will diligently and in good faith pursue resolution of this action through the Collaborative Practice Process, and will promptly report to the Court when a settlement is reached or as soon as they determine that further Collaborative efforts will not be fruitful.

Collaborative Attorney For Plaintiff	Collaborative Attorney For Defendant (If not known, name party and address)
Attorney Reg.#________________	Attorney Reg.#________________
Firm:_________________________	Firm:_________________________
Address: ______________________	Address: ______________________
Telephone: _____________________	Telephone: _____________________
Date: __________________________	Date: __________________________

ORDER FOR DEFERRAL

The foregoing request is granted, and this action is deferred and placed on the inactive calendar until ____________________, _____, ______, or until further order of this Court.

Dated: ____________________ ______________________________________
Judge of District Court