**Sample Trust and Estate Facilitative Team Mediation Participation Agreement for Use in the Planning Stage**

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**Purpose of this process:**

1. To provide an opportunity for the Trust-makers(s) to share with family members or other designated beneficiaries their thoughts and intentions in passing along their financial and emotional legacy.
2. To provide family members or other designated beneficiaries an opportunity to engage in an open facilitated discussion to understand the Trust-makers intentions and provide any thoughts or feedback that might be helpful to the Trust-makers.
3. Through open and honest discussion, further assist the Trust-makers in their decision-making.
4. For family members or other participants to have the opportunity to openly express their own thoughts and feelings thereby providing the Trust-makers with important information for their trust or will considerations.
5. To enable family members or other participants to have difficult conversations that lead to a deeper understanding of each participant’s viewpoint.
6. To help avoid any future family conflicts or costly court action regarding the estate.

**Team Members: Roles and Responsibilities**

*An interdisciplinary team is composed of the following:*

1. The Trust and Estates lawyer representing the Trust-makers(s).
2. A neutral Licensed Mental Health professional and / or a Neutral Certified Financial Planner (Both trained in Collaborative Practice and Mediation).

**The Trust and Estates lawyer for the Trust-makers** is present to educate, interpret and explain the legal aspects of a trust / will to aid in the participants’ understanding. He or she maintains consistency in his or her role as the Trust-makers’ lawyer and is not present to facilitate the process but to represent his or her client(s) and make sure their views are understood.

By participating in this process, the lawyer also gains a more extensive view of the family system and its dynamics so as to be helpful to his or her client(s) in understanding family issues.

The lawyer in this role gives legal advice only to his or her client(s) but may offer explanations that help in understanding the Trust maker’s intentions or thinking.

**The neutral professional facilitates discussions** utilizing his or her mediation skills in order for the participants to have open, productive conversations. The neutral does not represent any individual but sees the family and or other participants as “the client”.

The neutral professional remains impartial. The goal of the neutral is to assist all participants as opposed to any one individual.

The neutral has an obligation to disclose any conflicts of interests that would impact on that professional’s neutrality.

Regardless of the neutral’s specialized training in mental health, communications or finances, that professional is precluded from giving any advice regarding his or her expertise.

A neutral cannot knowingly or intentionally misrepresent facts that are material to the discussions.

**Separate Sessions:**

Before beginning any conjoint family sessions, the neutral will meet separately with each person to determine his or her goals and concerns regarding the process. This information forms the basis of common goals that are presented at the first joint meeting.

Information shared with the neutral may be shared with the other participants to ensure open and transparent communications essential for this process to succeed.

During the discussions that follow, the neutral will facilitate full and accurate disclosure so that the participants can make informed decisions.

**Sharing information between family members and professionals as well as between team members.**

At times, when appropriate, communications may be electronically shared. This information shall be protected by encryption or other effective methods to preserve the confidentiality of the information.

**Fees:**

Professionals on the team practice separate and independent from each other, therefore each participant needs to sign a separate retainer agreement with each involved professional.

These retainer agreements should include all services that the professional

will be charging for as well as the hourly fees for the services.

***Team members have an obligation to ensure that any communications that take place within this process are confidential with the exceptions noted below.***

* All participants agree to waive confidentiality only for the professional team members by signing consent forms so that team members can freely discuss information provided by the participants among themselves. This information assists team members in their understanding of the issues and their ability to help the family resolve their differences.
* Mental Health mediators are mandated reporters. Should any member pose a danger to self or other, that professional, by law, is required to report the situation to the proper authorities.
* Financial Specialists have an obligation to follow-up on any possible fraud or exploitation of an elder.
* The neutral has the option of suspending or terminating the mediation process if such issues occur.

**Our Commitment as Participants in this Process:**

We understand that this is our process and agree to be full and active participants.

We also commit to engaging in respectful communications and being open to understanding differing ideas.

We are also willing to engage in resolving issues that create barriers between each other in order to experience a productive problem-solving process.

We give our lawyer permission to share all material information with other team members that will aid in the process.

We understand that none of the professionals involved in this process may participate in any future adversarial or court disputes regarding the estate or any communications that arose out of this process.