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CUSTODY EVALUATION INFORMED ASSENT & AGREEMENT
Policies and Procedures

You (the parent endorsing this document) agree that I will conduct a comprehensive child custody evaluation of your family according to the following conditions. The Court has appointed me (Kenneth B. Perlmutter who will serve as neutral evaluator) in a Court Order (i.e. FL-327, which was filed _____) to do this evaluation under the statutory authority of the State of California (i.e. Evidence and Family Codes and Rules of Court).

You understand that I am a neutral professional and that during the course of the evaluation I will form impressions and ultimately make conclusions about you and your family that will result in my issuing child custody recommendations with my final report. The focus of my task is to make recommendations pertaining to various custodial matters that will be stated in FL-327. The focus of my work and the recommendations will be stated as regards your child's best interests.

At the conclusion of the evaluation process I will write a final report with specific recommendations. Per Rule of Court 5.220 this report will only be released to your attorney unless there exists an order or stipulation that it be released to other parties. In the event a child has been appointed an attorney that attorney will receive a copy of the report. In some counties I may send a copy to the Court (I will consult with your attorneys in this regard). You will not receive a copy of the report from me unless you are self represented. I will conduct the evaluation under the following conditions.

1. INTERVIEWS. I will do a series of comprehensive interviews of your family and related persons. You will have input about who I interview. I will make the final determination as to what persons I interview. As appropriate I will explain to you who I interview.

2. PSYCHOLOGICAL TESTING. There are two ways the evaluation may include psychological testing of the parents. The first way is the attorneys may have agreed in advance the evaluation will include such testing or that I have the ability to refer you for such testing. In these circumstances the testing will be conducted by an independent psychologist I designate. In these cases you will pay that psychologist directly for the services. I will write a letter of referral to the psychologist and you and your attorney will receive a copy. I will explain this process to you. The second way such testing may occur is if I administer psychological testing to you. In that case I will explain the procedures to you and the costs for such testing are a part of the evaluation process. I do not include psychological testing in every custody evaluation.

Note that in the custody evaluation I may have you complete questionnaires or other written measures which pertain to various matters in the evaluation. These are not psychological tests. I will explain them to you.

3. HOME VISITS. The evaluation may include a visit to your home. I will explain the procedures for such a visit but you understand that when I conduct a visit I may not inform you when I will come to your home. In all cases I will meet your children prior to an unannounced home visit and explain to this possibility to them.

During the Pandemic I may only do announced home visits. In such a circumstance I will explain in writing, and we will likely discuss, all aspects of the visit. Further, there may be a separate Consent form that addresses pandemic-related items.

4. COLLATERAL CONTACTS. I will in our first interview fully explain the nature of collateral sources of information. I will explain there are two types of collaterals, professional and nonprofessional. I may ask you to bring a list of such persons to the first interview. You will inform me of any such persons you wish me to contact. In general these are professionals or other neutral persons who can provide relevant information about your child(ren) or you. I reserve the right to make a final decision about whom to contact. In general character references are not necessary. If I contact any professional I will have you sign an appropriate "Authorization for release and exchange of confidential information" form. I will, with a cover letter of explanation, send a copy to the professional and keep the original on file.

I will explain to any professional or nonprofessional contact that I interview the limits of confidentiality of the information they provide me. It is a good idea for you to explain the following paragraph on the lack of confidentiality to any nonprofessional person you choose to ask me to interview as part of the evaluation. The information all collaterals provide me becomes a part of my case file.

5. CONFIDENTIALITY. You understand that essentially there is no confidentiality in a child custody evaluation other than the inappropriate disclosure of information to other parties not involved in this matter. I am free to discuss what we discuss with any person involved in this matter. I will issue a final report which will only be released to your attorney. As noted above I do not routinely send a copy to the Court. I will not ever release a copy of the final report to you or any other person without a proper court order or unless it is subpoenaed as a part of my file.

My entire case file is confidential and can only be released with a proper subpoena or by agreement of your attorneys and my consent. In the second case I assume your attorney will tell you that they are doing so. In the former case I assume you will know if your attorney is doing so and if adverse counsel is doing so I will follow the procedures according to the "Notice to Consumer" which your attorney (or you if you are self represented) will receive to know that my file has been subpoenaed and gives you the opportunity to object to the subpoena.

Please note that California law requires reporting to appropriate agencies in cases where there is reasonable suspicion of child sexual or physical abuse, elder abuse, stated intention to harm another person and/or imminent danger of harming yourself or the inability to care for yourself.

6. PSYCHOTHERAPY/COUNSELING. You understand that this evaluation is not psychotherapy, counseling or any form of mental health treatment. I do not provide crisis intervention or any other therapeutic intervention.

7. CASE MANAGEMENT. You understand that I will not make decisions or "interim" recommendations about your custody matter during the ongoing evaluation.

8. PROVIDING DOCUMENTS/OTHER INFORMATION. All legal documents and related information will come directly from your attorneys. In some matters this process may be stated in the Order appointing me as evaluator. The attorneys will always copy each other on all documents/information they provide me and provide a clear indication that they have done so. They may also provided other materials on your behalf and they will provide each other copies of that.

I may ask you to provide me directly with other objective information (e.g. lists of professionals and other people to contact) and other information that we may not fully cover in our interviews (e.g. your family history, your concerns about the other parent, information about a home visit or interviews with the child). When you provide me written information (which may be included in e-mails you send me) you understand that I always reserve the right to provide copies of this information to the other parent/and or attorneys. It will be listed in my final report. You should always check with me for instructions prior to providing me any documents or written information (this includes substantive e-mails). At the start of the evaluation I will provide you with instructions about what type of information to provide me in an e-mail.

9. CONTACT WITH THE EVALUATOR. I will explain to you the use of the methods by which we will communicate. I almost exclusively use electronic mail to communicate with you and you with me. I may use telephone and U.S. mail. You are free to initiate telephone and e-mail contact with me. I will explain to you the limits (see Paragraph 8) on such contact. The best and quickest way to receive a reply from me is to send an e-mail. My goal is to reply to all e-mail within 24 hours. Typically you will know when I am sending you an e-mail or a summary of my work or other important e-mail update. Further I will inform you if my office will be closed for an extended period of time.

10. INTERVIEWS DURING THE COVID-19 PANDEMIC. My physical office is closed during the pandemic. I use a HIPAA compliant video conference platform “thera-LINK” for interviews. I will fully explain all aspects of this communication to you. I will explain what it requires of you. You will sign a separate Informed Consent for Telepsychology which explains those methods and related items. I will review those items and answer any questions. I will explain other aspects of assessment that I will use in the custody evaluation processes.

11. FEES for the custody evaluation process and report. My hourly fee is \$____. I charge for all the time I spend on your matter which includes but is not limited to: initial contacts with attorneys, corresponding with you before the actual start of the evaluation, all interviews, document review, substantive phone contacts, review and response to all correspondence with your counsel, writing you e-mails, review and response to e-mails with you, home visits (including travel time), regular case review and writing the final report (and matters related to the generation of the final report). I keep a record of all the time I spend on your matter and this account is reflected in the final evaluation report. I do not provide billing statements.

In the _____ matter, as stated in Paragraph 4 of FL-327, the parents will share all the fees for the evaluation procedures through the final report and any of my subsequent related involvement in your matter on a “_____” basis. It is also stated that we will start with a ____ hour retainer of \$____. All communications about fees will be to both parents at the same time. I will regularly update you on time spent on my work and will communicate with the parents jointly about additional retainers that I request. In advance of the end of the first ____ hours I will provide an update of time spent and request the next retainer. In most evaluations the first twenty hours is reached sooner than at other times later on. When reasonably possible I will give an estimate of how much time I think I will spend on the entire matter. If that is not possible I will explain when I will be able to do so. As we proceed through the evaluation I will ask for additional retainers, likely in _____ hour increments, to completion. I will update you on the time spent as we proceed. In the event that a parent does not pay a requested retainer in a timely basis and we are unable to resolve the matter I may pause the evaluation process. I will notify counsel to seek assistance to resolve the matter.

After all the interviews and data collection are completed I will write the final report. This typically takes approximately two to three weeks after the final interview/data collection. I will inform you at the time I start writing the final draft how much time I expect to spend on the final report. I will ask you to pay your share of the expected fees due for the completion of the final report at the time I commence writing the final report. After I complete the final draft of the report I will tell you if there are final fees due or if you have a credit. I will then edit the report. In some complex matters, based on the length of the report I may charge for some of the time spent editing and collating the report. You understand that I will not release the final report until all fees due from all parties are paid in full. This means that if all fees due from both parents for the entire evaluation processes and report have not been paid in full that I will not release the report. You understand that in agreeing to this clause you fully understand it.

You will be solely responsible for the full fees for any appointment that you cancel without proper notice or miss entirely. If you wish to change an appointment you must provide 48 hours notice (by the previous Thursday 5:00 p.m. for Monday appointments, by the previous Friday 5:00 p.m. for Tuesday appointments). My voicemail is on 24 hours.

You are responsible for your share (i.e. the percentage you are to pay stated in FL-327) of all fees due for my involvement subsequent to the completion of the evaluation. This may include but not be limited to “meeting after objections” (MAO) meetings with attorneys and “custody settlement conference”(CSC) (Santa Clara County), or attendance at any type of settlement conference (San Mateo County), court hearings or trial. Your attorney will explain the legal aspects pertaining to how your matter proceeds after the evaluation report is released. You understand that once the evaluation is completed we will have no substantive contact (i.e. interviews or exchange/receipt of information by e-mail or phone) about your matter. I may communicate with you about fees due per the following paragraphs.

12. Early Termination of the Custody Evaluation. There are several reasons that a custody evaluation may be terminated prior to completion. All involve stipulation by both parents’ attorneys or court order. Following proper verification in the event there is a positive balance you will receive your share of that balance. In the event there are fees owing for the time I have spent to the date of notice that the evaluation has officially ended you are responsible for your portion of those fees due.

13. Fees for Processes That Occur After Release of the Custody Evaluation Report. There are several different processes that may occur and some may, or may not be covered by the percentage you are to pay that was stated in FL-327. When we know they will occur I will explain these to you in writing as soon as possible before they occur and require your payment in advance of my involvement.

These latter involvements may be: i) a post-evaluation telephone or in person meeting with both attorneys to discuss questions your counsel may have about my work prior to the commencement of any further legal processes. In this case I will charge my regular hourly fee for the time I expect to spend. ii) in San Mateo County an appearance at a court Hearing or Mandatory Settlement Conference. I bill for that in half day increments (three hours for the morning, three and a half hours for the afternoon and one and a half hours for travel (during Covid-19 for Zoom Hearings I only bill for the morning or afternoon time). In the event more than three months have passed since the date of the report I will bill one hour for preparation time. iii) in Santa Clara County a Meeting After Objections (MAO) which occurs after the attorneys have filed objections to my report and I meet with counsel (telephonically or in my office) to discuss their objections and make an effort to resolve their disagreements). I bill for the time we have agreed to spend in the meeting (typically two hours), the time to read any new documents from your counsel, and the time I will spend to prepare for that meeting (one hour if the report is less than three months old, 1.5 hours if the report is three to six months old, two hours if it is more than six months old). iv) in Santa Clara County a Custody Settlement Conference (CSC) which occurs after an MAO in the San Jose courthouse (or by Zoom) and for this I charge in half day increments as stated earlier in this paragraph. In the event we had the MAO and I billed for preparation time as stated above I will not charge for preparation time. In the event we did not have the MAO I will bill for the time I will spend to prepare for that meeting (one hour if the report is less than three months old, 1.5 hours if the report is three to six months old, two hours if it is more than six months old).

Deposition. My deposition may be taken by one attorney and that attorney will provide proper notice in the form of a Deposition Subpoena. I will work out the logistics with that attorney who is required to pay my fees before or at the start of the Deposition (per California Code of Civil Procedure 2034.450). The attorney who notices my deposition is the person who pays for my fees. My fees for a Deposition are \$____ for a full day (9:00 a.m. to 5:00 p.m.) and \$_____ for a half day (morning or afternoon). Based on the location of the deposition I bill for my round trip travel at \$____/hour in .25 hour increments (this includes travel, parking and walking to the location).

Trial. In the event that the matter proceeds to Trial you are responsible to pay your share of my fees for my appearance as stated in FL-327. My fees for a Trial appearance are \$_____ for a full day (9:00 a.m. to 5:00 p.m.) and \$_____ for a half day (morning or afternoon). Based on the location of the deposition I bill for my round trip travel at \$____/hour in .25 hour increments (this includes travel, parking and walking to the location).

14. My Case File. My case file is confidential. It includes all documents and things I have received from your attorneys and you. Your attorneys have a record of what they each provided me as all documents are accompanied with a cover letter listing the documents included. The file includes other correspondence with counsel and you (e.g. all substantive e-mails (i.e. those with information they and you provided, not scheduling and the like)) and my notes from our interviews and all other evaluation processes (which are listed in the report).

Unless I approve another condition I will only release my file to be copied by a certified process server or copy service company. As noted briefly above in Paragraph 5 there are only two conditions that may lead to this event. One is if the attorneys agree to do so and notify me of such. In that instance I assume your attorney acting on your behalf will so notify you.

The second is if one attorney issues a subpoena to me to copy my file. What follows assumes your attorney is not the party issuing the subpoena for in that instance as your legal representative I assume they will inform you about the subpoena. In this case the attorney will issue a subpoena and serve your attorney notifying them that I have been served with a subpoena to copy my file. They will include a "Notice to Consumer." The "Notice to Consumer" allows your attorney (i.e. you) to object to the copying of my file. Note that any objection must come from your attorney. The subpoena states a number of days they have to object. I will perform due diligence to check with them to determine if they plan to object on your behalf. If they do not respond then legally I must release the file. Costs and fees for my time spent in locating and making the records available to the copy service are paid by the copy service (per EC 463).

The items stated above in this "Custody Evaluation Assent and Agreement" were discussed and elaborated by Dr. Perlmutter, I have been able to ask him questions about it, and I give my assent to proceed with the evaluation. I have read the above, understand it and agree to it. I have had the opportunity to discuss this Assent and Agreement with my attorney (who received a copy from Dr. Perlmutter) or present a copy to an attorney of my choosing. I have been able to make a copy of this document.*

Parent print name and sign:

Date:

*Note: During the pandemic (20__) in some instances you may sign this form prior to the first interview. At the start of the first interview I will review this form with you and answer all questions you may have about it. Thus there may be aspects of the final paragraph that will not be true until the first interview.