



### Family Conflict Resolution

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## **FRAMEWORK AGREEMENT GOVERNING ANY CONCILIATION PROCESS CONDUCTED IN ACCORDANCE WITH THE ICHOBA CHARTER**

### **Subject**

The purpose of this Framework Agreement is to define the conditions that govern a process for resolving family situations or conflicts in accordance with the Ichoba Charter.

### **Framework**

The professionals who act in accordance with this Charter, undertake to work towards resolving situations of transition, divergence or family conflict. Available to anyone seeking balanced and consistent solutions, the Ichoba Association provides the parties concerned with details of specialised stakeholders, mediators, notaries, lawyers, tax, insurance and estate planning experts, psychiatrists, family therapists or social workers, as required, both in Switzerland and abroad.

Those specialised professionals involved in the process are also tasked with identifying the necessary steps and the institutions where such steps must be taken and to best ensure a consistent approach. Appointed by the parties, the specialised professionals act under their own responsibility. The Ichoba Association does not take part in the process but stays in contact with the specialized professionals in order to assist them in any interdisciplinary cooperation that may be required. The process itself is supervised and coordinated by one of the professionals chosen by the parties, who needs not necessarily be a member of the association.

The process coordinator is responsible for the framework that has been established. He must remind the parties and the specialised professionals of their duties, ensure that these duties are performed on time, report any failure to comply with the framework and suggest possible corrective solutions. Neither he nor the Ichoba Association will guarantee that the parties or the specialised professionals will fulfil these duties.

## **Undertaking of Conciliation and Confidentiality**

Of their own free will, the parties shall initiate and follow a resolution process, coordinated by a specialized professional, usually the conciliator.

The parties undertake to collaborate in good faith, with mutual respect, transparency and cooperation. They also undertake to provide any document required by the specialised professionals, upon first demand. The documents provided by the parties shall be returned to them on completion of the process.

Moreover, the parties undertake to take the necessary steps and do all in their power to shape agreements that serve their interests and those of their family.

In addition, the parties undertake to report, at all times and immediately, any event that is likely to help or hinder the resolution procedure, no matter its cause, and to cooperate in order to identify and deal with the foreseeable consequences.

Lastly, upon first demand, the parties undertake to provide any documents that the specialised professionals may require. Each party will enter into a separate agreement with the conciliator regarding the confidentiality of the documents and information that he may or may not share with the specialised professionals and with the other party or parties. Unless otherwise agreed, the disclosure of information and documents to the parties and specialised professionals involved in the procedure shall extend the confidentiality surrounding the procedure to said documents and information. All of the original documents provided by the parties to the conciliator will be returned to them at the end of the procedure. The specialized stakeholders will keep copies only of those documents that are strictly necessary for them to perform their work.

The specialised professionals and the parties will remain bound by their duty of confidentiality even after the process has ended and cannot, in any case, refer to it or be called as a witness in Court in connection therewith.

## **The parties involved**

On the day the present agreement is signed, the parties undertake to provide the coordinator with a list of all the persons or entities that, from their point of view:

- have an impact on the situation to be resolved or on the conflict and its resolution; or
- are a help or a hindrance to the recognition, execution or effectiveness of a solution governed by the process, by a judgment or by an arbitration award; or
- have an existing or future legal interest in settling the situation or resolving the conflict and in the enforceability of the resolved solution, in a judgment or in an arbitration award to be pronounced.

The parties undertake to do their utmost to involve, to the extent necessary, those parties involved in the conciliation process, and have them adhere to the present framework agreement as parties thereto.

## **Duration**

At the outset, the participants in the conciliation process determine its maximum duration, at the end of which the process will be deemed concluded. The parties can then review the maximum duration of the process, particularly at the recommendation of the specialised professionals. Any extension of the duration must be agreed between the parties in writing.

Furthermore, it is understood that the specialised professionals appointed jointly by the parties can also put an end to the process if they see that the framework established by the present agreement is not being observed. The process coordinator and the conciliator are also empowered to do this. Incidentally, each specialised professional is free to put an end to the individual mandate assigned to him in compliance with Swiss law.

## **Options of the parties**

The parties are free to be assisted by a representative or relative during the resolution process. In this case, they undertake to inform the professional overseeing the process and the specialised professionals without delay.

Unless otherwise agreed, the parties are free to initiate or pursue a legal procedure during the resolution process. Also, unless otherwise agreed, the proposals exchanged and the documents submitted in the context of the process shall be kept strictly confidential.

The parties consent to their agreements, whatever their contents, being subject to written conventions subject to the scrutiny of the professionals whom they have appointed. Conventions that must be approved by the court shall be accompanied by the request for this purpose, also subject to the scrutiny of the specialised professionals. Parties represented by a lawyer can instruct him to draft such conventions under the same conditions.

Lastly, before the agreed deadline and concluding the envisaged agreements, the parties may bring an end to the resolution process. They undertake to inform the coordinator overseeing the process and the specialized professionals thereof immediately.

## **Costs**

In view of the charitable status granted to the Ichoba Association, the professionals involved in such processes undertake to charge 50% of their usual hourly rate.

The cost of a resolution process depends on the objectives pursued, the number of specialized professionals required, the complexity of the situation, the number of conciliation sessions needed and the time spent by the professionals in bringing the process to a successful conclusion.

On completing the assessment of the resources needed, this cost will be itemised in an estimate communicated to the parties. The estimated cost must be settled before the process begins.

The professional overseeing the process undertakes to communicate any event likely to cause the estimated amount to be exceeded. The decision regarding this matter lies with the parties. On completion of the process, the parties will receive an invoice from each of the specialised professionals and a confirmation that they have been settled by means of the advance payments already made.

If one or other or both of the parties withdraws during the resolution process, the estimated paid cost shall be retained by the professionals in receipt of it, for the share corresponding to the services they have already provided and the expenses incurred.

### **Applicable law and dispute resolution**

Any dispute arising between the parties, the Ichoba Association and/or the professionals appointed by the parties and/or the parties is subject to Swiss law.

Any disputes, disagreements or claims arising from an agreement drawn up between or on behalf of the parties or from any intervention by the parties or third parties in a procedure for the resolution of family conflicts or relating thereto (including the validity, nullity or any breaches or termination of the agreement), are subject to mediation in respect of the Swiss Rules of Commercial Arbitration, published by the Swiss Chambers of Commerce, applicable on the date on which the mediation request is filed in accordance with said Rules. In view of the charitable status conferred upon the Ichoba Association, the mediator will charge 50% of his usual hourly rate.

The seat of mediation will be in Geneva. Unless otherwise agreed, mediation will take place in French.

If the disputes, disagreements or claims cannot be completely resolved by mediation within sixty days from the date of confirmation or appointment of the mediator, they shall be resolved by arbitration in accordance with Articles 176 et seq. of the Federal Law on Private International Law. There will be only one arbitrator. The seat of the arbitration will be in Geneva. Unless otherwise agreed, arbitration will take place in French.

The constitution of the arbitral tribunal will follow the Swiss International Arbitration Rules applicable on the date that the request for arbitration is filed in accordance with these Rules. In view of the charitable status of the Ichoba Association, the arbitrator will charge 50% of his usual hourly rate. The deadline set for the appointment of the arbitrator is fifteen days.

Notwithstanding the first paragraph, the arbitrator will rule on an equitable basis using the most appropriate rules of law and having regard to the legal principles already applied in the context of the process.

Within 15 days of receiving the arbitration request, any party cited shall submit all of the documents needed to resolve the conflict to the secretariat, accompanied by a list of persons or entities who, from its point of view, have an impact on the conflict and its resolution or are a help or a hindrance to the recognition, execution or effectiveness of the arbitration award to be granted. Within this same deadline, the party shall submit its response to the arbitration request as well as any counterclaim or declaration of set-off.

The arbitral tribunal shall provide the parties with the documents submitted, together with the lists of those persons or entities who, from the parties' point of view, must participate in the arbitration proceedings, and prior agreement must be reached with respect to their content. Said entities or physical persons will then receive an invitation to agree to initiate arbitration proceedings and submit all the documents necessary to resolve the conflict.

If circumstances warrant, the arbitral tribunal can extend or shorten the abovementioned deadlines.

Arbitration will be conducted under fast-track arbitration rules.

Drawn up at \_\_\_\_\_ , on \_\_\_\_\_

Signatures and contact details of the parties, for approval:

\_\_\_\_\_  
\_\_\_\_\_

Signatures and contact details of the specialised professionals, for approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature and contact details of the coordinator:

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Signature and contact details of the conciliator:

\_\_\_\_\_

List and contact details of the parties involved (stakeholders) to be contacted by the parties:

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\_\_\_\_\_  
\_\_\_\_\_

