

# Sample Marital Settlement Agreement

*Note: Divorce, family law and related matters can differ substantially from state to state. Be certain to consult an experienced family law practitioner in your state. This sample agreement presents several options, and thus a number of the provisions are contradictory. This has been done to provide an illustration of several different types of arrangements. Remember, every family situation is unique. The assets, goals, people, needs, etc. all differ. Be very careful relying on any type of "boiler-plate" form or documents unless you have personally and with your lawyer and other experts reviewed each provision to make sure it works for you. Remember ANYTHING which you can do to minimize the conflict will benefit everyone involved, especially the children. Anything you can resolve reasonably and amicably and quickly will save significant professional fees.*

This Agreement is made as of \*MONTH \*DAY, \*YEAR by and between \*HUSBANDNAME who resides at \*HUSBANDADDRESS ("Husband"), and \*WIFENAME who resides at \*WIFEADDRESS ("Wife"). (Sometimes Husband and Wife are referred to as "Party" or "Parent").

The parties married on \*MARRIAGE-DATE, at \*MARRIAGE-LOCATION.

Note: If children are involved, consider the benefits of consulting with a family therapist. Be certain to address child support and the different tax consequences of child support versus alimony.

The parties have one minor child issue of the marriage, to wit: \*CHILDNAME, born \*BIRTHDATE.

As a result of the breakdown of the marriage relationship, the parties have concluded that their differences are irreconcilable and that the marriage has broken down irretrievably, and a decree of dissolution of marriage should be entered.

Note: The following paragraph (as this entire sample agreement) obviously has to be modified to fit the facts in your case. Don't be penny wise and pound foolish, if you are get a lawyer who can provide expert professional guidance, especially if you will end up in court. Similarly, stay actively involved in your case, don't delegate to your lawyer or other professionals vital personal decisions you need to be involved with.

Husband has instituted a legal action, claiming a decree of dissolution of marriage and other relief, which action is pending in the \*COURTNAME (hereinafter the "court") bearing Docket Number \*DOCKETNUMBER.

The Parties desire to settle all their rights and obligations arising from their marital relationship including, but not limited to, all financial and personal matters. The parties therefore have agreed as follows:

## **1. Separation.**

Note: Rules differ by state and case to case. Your lawyer may advise you to separate for a specified period of time to meet state law divorce requirements. In other circumstances this may not be advisable.

The parties shall at all times live separate and apart from each other. Each shall be free from interference and authority and control, directly or indirectly, by the other as fully as if he or she were single and unmarried. The parties shall not molest each other or compel or endeavor to compel the other to cohabit with him or her.

## **2. Effective Date and Relationship to Court Action.**

This Agreement shall become effective and binding upon the Husband and Wife and their respective legal representatives, heirs, successors and assigns, immediately upon the execution of it by the last of the Husband and the Wife. At the time that either the Husband or Wife proceeds to final judgment in an action for a dissolution of their marriage, this Agreement shall be fully disclosed to the Court. At the time of any hearing in the dissolution action, the parties shall recommend to the Court that this Agreement become part of the court file. Neither party shall request that the Court interpret or apply any provision contrary to this agreement so long as all obligations between the parties as set forth in this Agreement have been met to their reasonable satisfaction. This Agreement shall not merge with any court Order or Judgment of Dissolution of marriage, but all of the agreements contained herein shall be enforceable as between the parties.

Note: In many Agreements, the parties may share joint legal custody, but one spouse may serve as the primary custodial parent. The following is a relatively simplistic custody provision used where the spouses relationship is amicable. If not, a far more detailed specification of visitation rights, etc. might be preferred. Consider working out the custody issues with a mediator and child therapist. Try to avoid legal battles over the custody issues since the children will suffer. Be sure that a weekly rotation indicated below is really appropriate for the children. For young children, it may not be. Remember, the children are the most important goal, money is only money and can be earned again. Children can be irreparably harmed. NEVER use them as pawns for other objectives.

## **3. Family Relationships.**

The parties shall make every reasonable effort to maintain free access and unhampered contact between the children and each of the parties and to foster their feeling of affection between the children and the other parent. Neither party shall do anything that would estrange the children from the other party or injure the opinion of the children as to either their mother or father, or act in such a way as to hinder the free and natural development of the children's love and respect for the other parent.

Note: The ideal arrangement for the children in many cases is joint custody. If each parent has equal time with the children than an equal sharing of expenses is appropriate. Even so, the general provision below may be inadequate for all but the most amicable divorces. Thus, it might be advisable to list how certain costs will be approved by both spouses or paid. It might, for example, be appropriate to have a procedure for both parents to account for the expenditures made, say every six months, and adjust for any inequities of payment.

## **4. Custody.**

The parties shall share the joint legal and physical custody of the one minor child. It is intended that the parties will alternate the child's residence between them on a weekly

basis. Neither party shall be obligated to take the child during the other party's normally scheduled parenting time. The parties agree to be flexible with regards to visitation.

### **5. Religious Issues.**

Note: If religious issues are important to either of you and your spouse, address them in the agreement -- even if you think you both agree. It's better to set forth some general principals than to ignore what can sometimes become a very important issue at a later date. The trauma of the divorce might make you or your spouse reconsider religious views. You don't want the children caught in between conflicting lifestyles. A respectful accommodation of some middle ground will be far preferable for the children than parents trying to convince children of different religious views being correct.

The parties will alternate or share the school vacation, \*RELIGIONNAME holidays, and summer vacations.

### **6. Child Support.**

In consideration of the fact that the parties are sharing the physical custody of the child on an approximately equal basis, the child support guidelines are inappropriate. However, the parties shall equally share for the child's joint expenses including but not limited to: medical care, appropriate household items, education in private school, extracurricular activities (i.e. lessons and group sports activities), summer camp, clothes, etc. The parties agree that certain expenses of the minor child shall not be shared which include but shall not be limited to any vacations each party separately takes with the minor child, food while in each other's residence, separate toys, etc.

### **7. Alimony**

Each party acknowledges that each has reviewed and considered the following guidelines when determining the appropriate amount of alimony/maintenance to be paid by the Husband to the Wife:

- a. The present and future capacity of the person having need to be self-supporting.
- b. The period of time and training necessary to enable the person having need to become self-supporting.
- c. The standard of living established during the marriage.
- d. The tax consequences of any amount of maintenance to be paid and the tax consequences of any amount of money or property exchanged, given or received.

Note: Some arrangements trade-off alimony for property settlements. For example, the husband might be willing to provide the wife with more assets in exchange for lower monthly payments. If this is done, discuss with your attorney whether this should be expressly described in the agreement to minimize problems later if the wife, for example, wishes to re-petition for an increase in alimony.

- e. The income and property of the parties including marital property distributed pursuant to the terms and provisions of this agreement.
- f. The duration of the marriage.
- g. The age and health of both parties.
- h. The contribution and services of the party receiving maintenance as a spouse, parent, wage earner and homemaker, and to the career, career potential, earnings potential

and other likely income generation of the other party.

i. The destruction and or dissipation of family assets by either spouse.

Note: The final point is the catchall. Discuss with your attorney whether your circumstances warrant adding specific detail instead of merely a generic provision.

j. Any and all other factors appropriate to considered.

(1) the sum of \*ANNUAL-MAINTENANCE annually, in fifty-two (52) equal payments of \*MAINTENANCE-WEEKLY each to be paid weekly commencing on the first Friday following the execution of this Agreement. Payments shall be made by first class mail to the Wife's present residence address, to such other address as she shall from time to time in writing designate, or as the parties shall otherwise mutually agree.

(2) In addition to and subsequent to the maintenance obligations set forth above, commencing \*YEARS PAID years after the making of this Agreement, the Husband agrees to continue to pay maintenance to the Wife at the rate of \*LATER-MAINTENANCE per year for the remainder of the Wife's life.

(3) The Husband agrees to secure the obligations set forth herein and above, by the purchase for the Wife of an insurance. Any failure to comply with the terms and provisions of this obligation shall be the basis for a claim against the Husband's estate.

(4) The parties acknowledge that the support and maintenance which the Husband is required to pay hereunder is a fair, suitable and proper sum to be paid to the Wife for her support and maintenance, that it is reasonable with consideration to the financial means, standard of living and social position of the parties, that it is sufficient to enable the Wife to maintain herself on a scale to which she has been accustomed, and that it is within the Husband's ability to pay.

## **8. Employment**

Note: What are the realistic earning possibilities of a non-working spouse? How much burden can be placed on the working spouse to continue to support a non-working spouse? This is often a difficult issue. Consider consulting with a career counselor or similar professionals to obtain more objective input. Discuss with your attorney whether "safety-valves" can be built into the provision to address changes. What if the spouse cannot find gainful employment? What if the spouse can but is too lazy to bother? The possibilities are endless, the economic consequences potentially dramatic, but a bottom line decision has to be reached that is workable enough to complete the divorce agreement.

a. The parties further acknowledge that the Wife is presently employed, and may in the future become employed on a full-time basis, and anticipates earning such income in the future as her health abilities, skills, and the employment opportunities available to her shall allow.

b. The parties hereby acknowledge that Wife is currently employed by \*COMPANYNAME, a company solely owned by Husband. Husband agrees that Wife shall continue to be an employee of \*COMPANYNAME at the same terms and upon the same conditions as currently govern Wife's employment, for a period of not less than \*EMPLOYMENT-TIME, years from the date of this Agreement. Wife shall continue to receive all benefits derived as a result of her employment, including but not limited to the following:

(1) The parties recognize that the Husband is providing, in part, for the support of Wife, by way of Wife's continued employment with \*COMPANYNAME. The parties further recognize and agree that in the event Wife is terminated from employment with \*COMPANYNAME at any time, and for any reason, then and in that event, Husband shall be required to pay to Wife an additional sum of \*SEVERANCEPAY per months for the balance of the NUMBER-YEARS year period.

(2) Wife shall continue to receive her current salary.

(3) Wife shall continue to receive medical and health insurance coverage, either identical to that currently provided or equivalent thereto in the event of a change in providers.

(4) Wife shall continue to receive the use of a company vehicle equivalent to that currently provided. The company shall also continue to pay insurance, gasoline, repair and maintenance expenses, registration and inspection fees, and other costs and fees currently paid.

(5) Wife shall not be required to work more than Four (4) days per week, Six (6) hours per day. Wife shall also continue to receive Five (5) weeks vacation and holidays in a manner similar to that currently received and in a manner which coincides with benefits provided to other employees.

(6) Maintenance shall cease upon the death of Wife prior to the death of husband. It is expressly agreed that in the event the Wife remarries, the maintenance payments set forth shall continue as if the Wife had not remarried.

#### **9. All General Factors Concerning Property Distribution.**

Note: Carefully evaluate all marital assets. Be certain that you have not missed anything. On the same hand, don't run up an investigative accountant and legal bill worth more than the property your looking for in question. Consider whether penalty clauses can be inserted in the agreement if it is later found that either party lied about assets. A good starting point is to have a forensic accountant analyze the tax return and check registers for clues to assets. If you cannot afford this level of expertise, or don't believe its necessary, scan recent years of bank records, check book registers, etc. for unusual items. The parties acknowledge to each other that all property designed separate property of a spouse by the terms of this agreement shall be deemed conclusively hereafter to be the separate property of the designated spouse. Each of the parties acknowledges that he or she has agreed to distribute the marital property as set forth herein, and that such distribution has been made as equitably as possible, giving full consideration to all of the following factors:

Note: Be certain to have an accountant evaluate the tax consequences of any proposed settlement, explain to you the impact of tax basis and built in gains, and identify the corroboration to prove this that you will need later. Get any data and documents you need as part of the settlement.

- a. The income and property of each party at the time of the marriage, and at the time of the commencement of the action.
- b. The duration of the marriage and the age and health of both parties.
- c. The loss of inheritance and pension rights upon dissolution of the marriage as of the date of dissolution.

- d. The agreement of the parties with respect to maintenance to be paid to the Wife.
- e. Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of marital property by the party not having title, including joint efforts or expenditures and contribution and services as a spouse, parent, wage earner, and homemaker, and to the career or career potential of the other party.
- f. The liquid or non-liquid character of all marital property.
- g. The probable future financial circumstances of each party.
- h. The impossibility or difficulty of evaluating any component assets or any interest in a business, corporation or profession, and the economic desirability of
- i. All other factors justly and properly to be considered.

### **10. Real Property.**

Note: In simpler agreements a single provision may address property distribution. As the assets become more complex it is more likely to have a separate provision addressing each asset individually and exhibits and schedules attached with details. The following are simple and general provisions. Your agreement will have to be tailored to your unique situation.

- a. The Wife shall Quit-Claim all of her right, interest and title in and to the family home located at \*HOMEADDRESS to the Husband. The Wife shall vacate the family home on or before VACATEDATE. The Wife shall not allow any person in the home without the Husband being present. Husband shall make himself available at all reasonable times, upon reasonable advance request by Wife. The Wife shall be responsible to pay for any damage done to the home or its content by virtue of her moving out.
- b. The Husband shall Quit-Claim all of his right, interest and title in and to the vacation home property \*VACATIONADDRESS to the Wife.
- c. The parties own additional real estate which shall be sold. This additional real estate includes \*INVESTMENT-ADDRESS. Said property shall stay on the market for sale until such time as a bona fide offer is received that approximates its fair market value. Any net proceeds derived from the sale of either property shall be split equally between the parties. The parties shall, until the property is sold, share in all income, expenses, and tax benefits derived from the ownership of those two properties. At the time of their sale, the parties shall equally share in any capital gains or losses.

### **11. Other Property Division.**

- a. The Husband shall keep as his separate assets, free from any claim from the Wife, the following accounts: \*HUSBANDASSETS.
- b. The Wife shall keep as her separate assets, free from any claim from the Husband, the following accounts: \*WIFEASSETS.
- c. The Husband shall pay to the Wife as part of the property settlement the sum of \*SETTLEMENT Thousand Dollars (\$\* 000.00) in a check on the date of dissolution, plus transfer \*IRA-AMOUNT Thousand Dollars (\$\* 000.00) from his IRA'S to the Wife's IRA's in a manner that is both nontaxable to the Husband and nontaxable to the Wife.

**12. Life Insurance.**

Husband agrees to secure and maintain a term life insurance policy in the face amount of \$1,000,000.00, naming Wife as a beneficiary for at least one-third of the face value of the policy. Husband shall continue to maintain such policy for so long as Husband has any support or alimony obligation to Wife hereunder. Husband agrees to furnish proof of the existence of said insurance coverage and proof of payment of all premiums thereon to Wife on an annual basis. Husband further agrees to advise the insurer furnishing the above described life insurance to notify Wife in the event of the non-payment of any premium.

**13. Medical Insurance.**

Each party shall be responsible to maintain their own medical insurance. The parties shall equally share the cost of the minor child's medical insurance plus all un-reimbursed medical, dental, orthodontic, prescriptive, optical and mental health expenses of the minor child. This shall specifically include six (6) months of counseling for the child, on a weekly basis.

**14. Exemptions.**

As the parties shall alternate the exemption for the minor child on their respective Federal and State Income tax Returns, in any year in which one party is receiving the child as an exemption, the other party shall take "Head of Household" status. The Husband shall have the Head of Household status for the year this Agreement is executed, and the Wife shall have the exemption for such year. the parties shall alternate thereafter.

**15. Debts.**

- a. Each party shall be responsible to pay their separate debt.
- b. Each party covenants, represents and warrants that he or she has not, subsequent to the separation of the parties, on \*SEPARATIONDATE incurred or contracted any debt, obligation, charge or liability whatsoever for which the other, or his or her legal representative, property or estate may become liable. Each further covenants and represents that he or she will not contract at any time or times in the name of the other, or in any way subject him or her to liability for any debt, obligation, charge or liability for which the other might in any way become liable; and each further covenants that he or she will at all time save harmless the other and indemnify him or her should he or she be called upon to pay any debt, obligation, charge or liability contracted by the other.

**16. Child's Funds.**

The parties are presently custodians of certain funds as trustee for the minor child under \*STATENAME Uniform Gifts to Minors Act. The parties shall continue to hold these funds and shall be used solely for the child's college education or medical emergency as approved by both parents.

**17. Personal Property.**

The parties are presently custodians of certain funds as trustee for the minor child under

\*STATENAME Uniform Gifts to Minors Act. The parties shall continue to hold these funds and shall be used solely for the child's college education or medical emergency as approved by both parents.

a. The Wife shall keep all of the personal property located in the Vacation Home which she is receiving as part of the settlement.

b. The Husband shall keep all of the personal property from the family home with the exception of the following: \*LISTWIFEPROPERTY.

### **18. Sweet Sixteen.**

The parents shall fully cooperate in putting on a "Sweet 16" party for their daughter at age Sixteen (16). Each party shall pay for the per person costs for their separate relatives and friends at the party. The parties shall jointly and equally pay for the cost for the child's friends and proportionally (based on the number of their friends and relative attending) any overall costs that are not based on a per person basis. If either party does not wish to put on a joint "party", then each parent shall be free to put on a separate "party" at his or her own expense.

### **19. Tax Returns.**

The parties shall file a joint federal and state tax return for the calendar year of \*DIVORCEYEAR. Any refund or additional tax due shall be shared by the parties equally. However, in calculating the taxes due, any taxes as a result of capital gains from the \*SPECIFIEDTRANSACTION shall be separately calculated and shall be the husband's sole responsibility to pay.

### **20. Home Based Business.**

The parties are presently partners in a \*BUSINESSTYPE name, business known as \*BUSINESSNAME. Upon the date of dissolution of marriage, the said business, its good will, its checking account, its accounts receivables shall all belong to the Husband. He may continue to use the name of \*BUSINESSNAME. The Wife shall not use such name or any similar name, and she shall not set up a competing business of a similar type for two (2) years from the date she signed this Agreement. Neither party shall disparage the other's professional abilities. The wife shall fully cooperate at all times in helping the Husband find, list or explain any parts of the clients' orders.

### **21. Legal Counsel.**

The Husband has been represented by \*HUSBANDATTORNEY. The Wife has been represented by \*WIFEATTORNEY. Each party is responsible for paying his/her own attorney's fees.

### **22. Law of \*STATENAME to Govern.**

The validity, effect and operation of this Agreement shall be determined according to the laws of the State of \*STATENAME.

### **23. Mutual Releases.**

Subject to the provisions of this Agreement, each party releases and discharges the other of and from all causes of action, claims, rights, obligations, or demands whatsoever,



in law or in equity, which either of the parties ever had or now has against the other, except the pending action for dissolution of marriage. It is the intent of the parties that henceforth there shall be, as between them, only such rights and obligations as are provided in this Agreement.

**24. Release of Estate Rights.**

Subject to the provision of this Agreement, and to any will or Codicil executed after the date of this Agreement, each party expressly releases, waives and relinquishes any and all rights to share in the estate of the other party, or to serve as Executor or Administrator of the estate of the other party. Nothing in this section, however, shall be deemed to relieve either party of her or his estate from, or deprive either party of the right to enforce, the provisions of this Agreement.

**25. Informed and voluntary Execution.**

Each party expressly represents that he or she has entered into this Agreement upon mature consideration. Consent to the execution of this Agreement has not been obtained by duress, fraud or undue influence. The provisions of this agreement and their legal effects have been fully explained to the parties; and that each party has been furnished with all information relating to the financial affairs of the other which has been requested by either party.

**26. Further Assurances.**

Husband and Wife agree that they will execute, acknowledge and deliver any further instruments that may reasonably be required to give full force and effect to this Agreement.

**27. Acceptance of Settlement**

Each party acknowledges that the provisions of this Agreement are fair, adequate and satisfactory, and accepts such provisions in full and final settlement and satisfaction of all claims and demands for financial support and in satisfaction of all property rights and all obligations otherwise arising out of the marital relationship of the parties.

**28. Modification or Waiver.**

A modification of any provision of this Agreement shall be effective only if made in writing, executed with the same formality as this Agreement and submitted to a court of competent jurisdiction for purposes of modifying the then existing court order or judgment, so as to make this Agreement and the related court order or judgment consistent. The failure of either party to insist upon strict enforcement of any provision of this Agreement shall not be construed as a waiver of any subsequent default of any similar nature.

**29. Independent Covenants.**

Each of the respective rights and obligations of the parties shall be deemed independent and may be enforced independently irrespective of any other the other rights and obligations set forth herein.

**30. Entire Agreement.**

This Agreement, and the Exhibits Attached, contain the entire understanding of the parties, and no oral statement or prior written matter shall have any force or effect upon this Agreement. The parties confirm that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

In Witness Whereof, the parties have signed and acknowledged three counterparts of this Agreement, each of which shall be deemed an original and shall constitute an Agreement.

Signed, Sealed and Delivered in the presence of:

\_\_\_\_\_

\*HUSBANDNAME

\_\_\_\_\_ Date of Signing: \_\_\_\_\_

\_\_\_\_\_

\*WIFENAME

\_\_\_\_\_ Date of Signing: \_\_\_\_\_

Sample Preview

Sample Preview