

SAMPLE MARITAL SETTLEMENT AGREEMENT PROVISIONS

(date)

This Agreement is between _____, husband, hereinafter " _____ ",
and _____, wife, hereinafter " _____ ".

RECITALS:

1. The parties to this Agreement were duly married on _____, 19____, in _____, and have ever since been and are now husband and wife.

2. The parties' only children, living or deceased, are: _____, born _____; and _____, born _____. _____ is not now pregnant.

2a. No children have been born to the parties and none are expected.

3. Irreconcilable differences between the parties have caused the irremediable breakdown of their marriage and they separated on or about _____, 19____.

4. _____ has filed a domestic relations suit in the _____ County, Oregon, Circuit Court, Case No. _____, which suit is now pending.

4a. The parties, or one of them, anticipate soon filing a domestic relations suit in the _____ County, Oregon, Circuit Court.

5. The parties desire by this Agreement to voluntarily and equitably settle all of the issues between them, including all parenting arrangements, child and spousal support, property division, responsibility for debts and attorney fees and costs.

(for your consideration as examples of possible personal recital statements - not required)

6. In coming to this Agreement, _____ and _____ desire first and foremost to express their love and affection for _____. The parties recognize and here state that their children had nothing to do with their decision to terminate their marriage. Through the making of this Agreement, the parties hope to avoid any unnecessary hardship to _____. In here providing for the future parenting of _____, the parties have the best interests of their children in mind.

7. In coming to this Agreement, _____ and _____ also desire to state that neither of them blames the other for the failure of their marriage through any

deliberate intention and that each party has greatly contributed to the other party's growth during their marriage. The parties here express their desire to maintain their friendship and to provide each other with emotional support and encouragement.

IT IS AGREED:

A. Each Parent Fit and Proper

_____ and _____ agree that each is a fit parent and proper person to care for _____. The parties also agree that it is in the best interests of _____ for each parent to continue to have an active and constructive role in providing a moral, social, economic and educational environment for _____. The parties intend that _____ have a sense of security and the benefit of a good relationship with each parent.

B. Parenting Arrangements

The parties agree that _____ shall have primary custody of _____ subject to _____'s visitation and parenting rights as follow:

The parties agree that they shall have joint legal and physical custody of _____ as follows:

The parties agree that _____ shall have primary physical custody and that they shall have joint legal custody of _____ as follows:

The parties agree that their children shall have the following time with each parent and that each parent shall have the following responsibilities for the children:

1. Residential Schedule

a. Weekends

_____ shall have time with _____ every other weekend from _____ on _____ until _____ on _____.

b. Weekdays

_____ shall also have time with _____ every (other) _____, beginning at _____ and ending at _____, if _____ are (is) in school, and

commencing at _____ and ending at _____, if _____ are (is) not in school.

c. Holiday and Vacation Periods

The parties agree that they shall, overall, equally share holiday and vacation time with their children. The parties agree to communicate at least _____ days prior to each holiday or vacation period to determine a residential scheduling for the period. If practicable and mutually desired, the parties shall share, approximately equally, each holiday and vacation period. To the extent that the parties do not so share a particular holiday and vacation period, they agree that they shall annually alternate the ability to spend that holiday or vacation time with the children. Thus, if one party has the children for a particular holiday or vacation period in "year one", the other party shall have the option of having comparable time with the children during that same holiday or vacation period the next year. This option shall continue to so annually alternate between the parties, exercisable by notice during the parties' advance holiday communication (at least ___ days prior to the holiday or vacation period).

In the event that the above-stated rules for determination of holiday and vacation periods with the children do not sufficiently define a particular holiday (for example, to determine who shall initially have a mutually desired entire holiday period), the parties agree that they shall flip a coin to make such holiday determination.

In addition to the above general arrangements, the parties specifically agree to the following holiday arrangements:

Winter Vacation from School

The parties agree that they shall share the winter vacation from school with the children and annually alternate which of them gets the "first half" and which gets the "second half," with the mid-point being Christmas day at _____ each year.

Christmas

On Christmas Day, the parties agree that the children will open gifts first at _____'s home each year, and then, beginning at approximately _____, open presents at _____'s home and stay with _____ for the balance of that night until noon the next day.

Three-Day Weekends

The parent who would ordinarily have the child(ren) on a given weekend shall also have them for the following Monday, through _____, in the event of a three-day holiday weekend.

The parties shall alternate having time with the children on three-day weekends and modify their regular weekend schedule to so balance three-day weekends with the children.

Spring Break from School

If the parties are both in town over spring break, they shall share time with the children approximately equally, dividing the vacation at noon on Wednesday, if the parties do not then agree otherwise. If one parent wants to travel with the children, that parent can do so and the other parent shall have a comparable travel option the following year (which shall continue to so annually alternate).

Summers

_____ shall also have time with _____ for _____ weeks total of consecutive days during the summer in not more than _____ blocks of time. The parties shall communicate by _____ each year to establish which continuous days _____ will have with _____ that summer. Thereafter, changes in that year's summer scheduling will not be allowed except by written agreement of both parties.

or

The parties further agree that they shall meet by _____ each year to determine any changes in their regular parenting schedule for the following summer. The parties specifically agree that _____ shall have the option of spending up to _____ weeks, to be exercised in not more than _____ blocks of time, with the children each summer; and also that _____ shall have the additional option of spending up to _____ weeks each summer alone, for travel or otherwise, without any residential responsibility for the children. If the parties are not able to promptly agree upon such scheduling of a summer, they agree that they shall alternate weekly choices of desired time with the children and desired time alone so as to complete the summer schedule.

Child(ren)'s Birthdays

The parties shall annually alternate responsibility for coordinating the children's birthdays.

_____ shall coordinate _____'s birthday celebration each year and _____ shall be invited to attend.

Parents' Birthdays and Mother's and Father's Days

Notwithstanding other provisions herein, _____ shall have the children in residence with _____ on his birthday and _____ shall have the children in residence with _____ on her birthday. _____ shall also have the children in residence on Father's Day and _____ have the children in residence on Mother's Day.

d. Flexible Time with

_____ shall flexibly be able to see the children, or any of them, conditioned upon prior notice to _____ and _____'s desired time with the child(ren) not conflicting with _____'s or the child(ren)'s established plans.

e. Overnight Child Care

The parties further agree that, in the event the scheduled residential parent for the children is unable to care for the children overnight and needs to obtain substitute child care, such scheduled and unavailable parent shall first contact the other parent, with the greatest notice reasonably possible, to advise the other parent of the need for child care and to give the other parent a first option to provide the needed care for the children.

2. Parental Cooperation

The parties agree to give support to each other in their roles as parents and to take into account the views of the other for the physical and emotional well-being of _____. Each party agrees to seek to obtain the agreement of the other, in advance, with regard to any activity of _____ that could reasonably be expected to be of substantial concern to the other. The parties agree that major decisions affecting _____'s health, welfare, education and upbringing shall be made by _____, after discussion and consultation with one another. The only exception to this provision shall be that of an emergency reasonably necessitating immediate attention and decision-making.

3. Parental Communication

Both parties will provide contact telephone numbers and addresses to the other party, including travel itineraries, for travel longer than _____ with the children and will seek to immediately notify the other party of any emergency circumstances or substantial changes in the health of _____. The parties also agree to communicate _____ not less often than once each _____ to discuss _____'s upbringing and how it may be best supported.

4. Right to Communicate with _____

Each party shall have the unlimited right to correspond with _____ and to telephone _____ during reasonable hours without interference or monitoring by _____ or by anyone else in any way.

5. Affection and Respect

Each party shall exert every effort to maintain free access and unhampered contact between _____ and the other party, and to foster affection and respect between _____ and the other party. Neither party shall thus intentionally do anything that would estrange _____ from the other party or that would intentionally impair the natural development of _____'s love and respect for each parent.

6. Access to Information

Each party shall insure that the other has full access to all information available from _____'s schools and medical, dental and religious resources and the parties shall fully share such information. Both parties shall have the right to visit with _____ at school, attend _____'s school activities and to have full access to _____'s school teachers and administrators for complete information about _____ in school.

Additionally, each parent shall seek to notify the other of all significant programs, meetings, performances, games and other activities the other may not be aware of involving or concerning _____ at which parents are allowed.

7. Mediation

The parties will exert every effort to cooperatively resolve any disagreements they may have concerning their children. If they alone cannot resolve a conflict, the parties agree to present their disagreement to a mutually acceptable mediator for mediation. This

procedure shall be followed to its conclusion prior to either party seeking relief from the court, except in the case of an abusive or other emergency situation.

8. Review

The parenting arrangements provided for herein shall be reviewed by the parties for possible change and improvement as follows. In so reviewing their parenting arrangements, the parties do not necessarily acknowledge these circumstances of agreed-upon review to be a "substantial change in circumstances" justifying court modification.

- a. Upon the intended co-habitation or remarriage of either party.
- b. Annually, during _____ each year, beginning with _____, 199_.
- c. Upon one party intending to move more than ____ miles from _____. In such event, the party intending to move shall give to the other party the greatest notice reasonably possible, in no event less than _____ days' notice of the intended move and the parties shall meet within ____ days of such notice for the review.

In the event that the parties are unable to resolve any disagreement in so reviewing their parenting arrangements, they agree to mediate such disagreement, as provided above.

C. Child Support

Husband shall pay to Wife, by deposit into a bank account owned and designated by her, the sum of \$___ per month support for each child of the parties (\$___ total) by the ___ day of each month, beginning _____, 199_, until such child reaches the age of 18 years and thereafter so long as the child is a "child attending school" as defined in ORS 107.108(4) and still living at least half time with Wife. The parties attach as Exhibit "1" to this Agreement their support computation worksheet which indicates presumed child support as provided above.

Husband and Wife further agree that they shall annually review such child support arrangements during _____ each year, upon either party's request, beginning _____ 199_. The parties also agree to review the provision of child support upon the happening of any of the following events:

1. Upon either party's gross earned income otherwise increasing or decreasing by __% or more.

2. Upon _____ obtaining employment.
3. Upon either party moving more than ____ miles from _____.
4. If either party should come to have one or more of the parties' children in residence more than 65% of the time.

At such time, the parties agree to review related child support issues, such as responsibility for medical and/or dental insurance, uninsured health expenses, dependent exemption methods, travel costs to accomplish the parties' parenting plan, and the like. So long as Husband's child support obligation to Wife exists, the parties shall both provide to each other copies of their respective federal tax returns each year upon the request of either party. At such time as only one child is entitled to support under Oregon law, the child support obligation for the remaining child shall be recomputed under the applicable State of Oregon Child Support Regulations.

Wife and Husband also agree that any child support disagreement following any such review shall be presented to a mutually acceptable mediator for mediation prior to either party seeking modification of the above-described child support obligation through the court. The parties shall equally pay for any such mediation.

NOTICE OF INCOME WITHHOLDING

The support order is enforceable by income withholding under Sections 2,3 and 5 to 20 of Chapter 796 Oregon Laws 1993. Withholding shall occur immediately, whenever there are arrearages at least equal to the support payment for one month, whenever the obligated parent requests such withholding for good cause. The district attorney or, as appropriate, the Support Enforcement Division of the Department of Justice will assist in securing such withholding. Exceptions may apply to some circumstances.

D. Children's College Expenses

Upon each child reaching the age of 16 years, Wife and Husband agree that they shall then meet to discuss and seek agreement upon their the payment of the expenses of such child's undergraduate college education. In the event that Husband and Wife are not able to agree in these regards, they agree that they shall in good faith mediate such disagreement, with each party to pay one-half of such mediation expenses.

D1. Savings Trust Account

By _____, 19____, the parties shall establish an interest bearing account, at a duly chartered savings bank or credit union which is federally insured, in their joint names as trustees for _____. Each party shall be obligated to deposit \$ _____ the account prior to _____ and \$ _____ by the _____ day of each month thereafter. The primary purpose of this account shall be to cover the anticipated expenses of _____'s future education. The parties may, however, agree to use portions of the fund for other major fixed expenses or for travel for _____. The obligation to contribute to this account shall terminate when _____ reaches the age of _____. Upon termination, any remaining monies in such trust account shall be distributed to _____.

D2. _____ Trust Account

The parties agree to establish and maintain, for _____ and _____ respective sole benefit, children's trust accounts, with both parties to be designated as co-Trustees, for the children's benefit. The parties, as Trustees, and any and all successor Trustees, shall serve without bond and shall have full authority to administer these trusts.

All trust assets shall be managed for the children's general support, welfare, and education. Such trust assets are not intended to be utilized for day to day child rearing expenses. Each disbursement shall be a charge against the child's individual equal trust.

In the event that either party should be unable or unwilling to serve as Trustee for these described children's trusts, the other party shall be successor Trustee. In the event that neither party is available to act as Trustee, _____ of _____ if available and willing to serve, shall be successor Trustee; and, if _____ should be unable or unwilling to so serve, the U. S. National Bank of Oregon shall be designated as successor Trustee for the children's trusts. All rights, title and interest in the property of each such trust shall immediately vest in any such successor Trustee at the time of appointment. The prior Trustee shall, without warranty, transfer to the successor Trustee the existing trust property. No successor Trustee shall be under any duty to examine, verify, question, or audit the books, records, accounts, or transactions of any preceding Trustee; and no successor Trustee shall be liable or responsible for the acts or defaults of any predecessor Trustee. A successor Trustee shall be liable only for its own acts and defaults.

Each Trustee hereunder shall have all powers conferred upon a Trustee by the laws of Oregon for the orderly administration of each child's estate, including, but not limited to, those specified in the Oregon Uniform Trustee's Powers Act in effect in Oregon, as it may be amended from time to time.

The parties, as Co-Trustees, shall require _____ to contribute to each of the children's individual trusts \$ _____ by _____; and an additional \$ _____ to be contributed into each child's individual trust by _____, unless _____, in which case _____.

_____ 's above-described obligation to contribute not less than \$ _____ to each child's trust shall be memorialized in a Promissory Note to each child's trust, in the standard Oregon form with provision for attorney fees in the event of collection and/or court action. Such Promissory Notes are due and payable by - _____ to the children's trusts as described herein above.

Neither child shall have an assignable interest in any trust existing as of the date of this Agreement or created under this instrument or in the income therefrom. Neither the principal nor the income shall be liable for debts of any beneficiary. No beneficiary shall have any power to sell, assign, transfer, encumber or in any other manner to anticipate or dispose of his or her interest in the trust or the income produced thereby prior to its actual distribution by the Trustees to the beneficiary, or to another for the benefit of the beneficiary, in the manner authorized by this instrument.

At such time as one of the parties' children reaches the age of _____, that child's remaining trust assets described above shall be distributed to _____. In the event that a child should die prior to distribution, that deceased child's trust assets shall be transferred to _____.

E. Agreement to Make Will

Each of the parties agrees, within _____ days of the signing of this Agreement, to make and keep in full force and effect, at all times until each child reaches the age of _____, a legal Will devising and bequeathing not less than _____ % of that party's net estate to each _____ and _____ (_____ total). Such Wills shall designate the survivor of the parties or the children's guardian as trustee of all estate assets received by a child during the child's minority. The parties also agree that such Wills shall designate _____ of _____ as the children's legal guardian in the event of both parties' deaths during a child's minority. Each party shall promptly provide to the other a copy of the relevant portions of any and all such Wills and also of any and all subsequent Codicils and Wills.

F. Spousal Support and Inheritance Rights

Each party waives any support or inheritance rights that party may have against

the other party.

F1. Spousal Support

Husband shall pay to Wife, by deposit into a bank account owned and designated by her, the sum of \$_____ per month as spousal support, by the first day of each month, beginning with the month of _____, 199_ through and including the month of _____, 199_. If Wife is earning \$_____ or more per month (gross income) as of _____, 199_ through full-time employment for at least one year, Husband's spousal support obligation shall then terminate.

If, however, Wife's gross earnings are less than \$_____ per month or she does not then have full-time employment for at least one year, Husband will make up the difference between \$_____ and what Wife actually receives in monthly gross earned income by way of a monthly spousal support payment to Wife through the end of _____, 199_, at which time Husband's spousal support obligation will terminate regardless of Wife's earnings.

To accomplish this support arrangement between _____ 199_ and _____ 199_, the parties agree that Wife shall provide Husband with copies of her pay stubs documenting her gross earnings during a calendar month by not later than the 15th day of the following month. Upon receiving such written documentation of Wife's earnings, Husband shall immediately pay to Wife the difference between her gross earnings and \$_____ for the most recent calendar month. The final support payment to Wife contemplated hereunder would, thus, be made by not later than _____, 199_.

Husband's spousal support obligation shall also end in the event of the death of either party, or the remarriage of Wife, whichever first occurs. The parties also understand and agree that Wife shall have full responsibility for the payment of all federal and state income taxes upon received spousal support. Husband shall have no liability to make any such spousal support payment for any period after Wife's death and there is no liability to make any payment (in cash or property) as a substitute for such payments after Wife's death.

The parties further agree that they shall annually review such spousal support arrangements during ____ each year, upon either party's request, beginning with _____, 199_. The parties also agree to review the provision of spousal support upon the happening of any of the following events: *(list)*

So long as Husband's spousal support obligation to Wife exists, the parties shall both provide to each other copies of their respective federal tax returns each year upon

the request of either party.

The parties also agree that they shall present any spousal support disagreement following any review to a mutually acceptable mediator for mediation prior to either party seeking modification of the above-described spousal support obligation through the court. The parties shall equally pay for any such mediation.

G. Excess Support

Any payments voluntarily made by Husband to Wife at any time for her support and maintenance or for the support, maintenance and education of the children in excess of the sums herein above specified shall not alter Husband's obligations hereunder nor create any precedent for the future. Such excess payments shall not be construed as proof or indication of Husband's ability to make increased payments nor of Wife's need thereof and accordingly shall not be used in any action or proceeding for evidentiary purposes or otherwise.

H. Life Insurance for Wife's Benefit

As long as Husband is required to pay spousal support hereunder, he shall maintain in effect with Wife as irrevocable beneficiary a policy or policies of insurance on Husband's life with a face value of not less than \$ _____.

Husband shall also deliver to Wife a copy of such policy or policies, or a certificate or other instrument evidencing the existence of such policy or policies and the designation of Wife as irrevocable beneficiary. Husband hereby authorizes Wife to be informed by the insurance company or companies with respect to the status of said policy or policies and the payment of the premiums, dues and assessments thereon and shall execute and deliver to Wife such forms, instruments and documents as may be required so that Wife may obtain full information. The parties shall also cooperate so as to require each such life insurance company to provide Wife with at least 30 days' prior written notice of any intended cancellation of any such life insurance.

I. Life Insurance for Children's Benefit

Until the parties' youngest child reaches the age of __, each party shall maintain in effect with their surviving children as equal and irrevocable beneficiaries a policy or policies of insurance on that party's life with a face value of not less than \$ _____.

Each party shall also deliver to the other a copy of such policy or policies, or a certificate or other instrument evidencing the existence of such policy or policies and the designation of the children as beneficiaries. Each party hereby authorizes the other to be

informed by the insurance company or companies with respect to the status of said policy or policies and the payment of the premiums, dues and assessments thereon and shall execute and deliver to the other party such forms, instruments and documents as may be required so that the other party may obtain full information. The parties shall also cooperate so as to require each such life insurance company to provide the other party with at least 30 days' prior written notice of any intended cancellation of any such life insurance.

J. Medical Insurance and Health Expenses

So long as a child is under the age of __, Wife and Husband agree that they shall cooperate to obtain the most economic major medical insurance coverage available for such child. Unless and until Husband and Wife agree otherwise in writing, Husband shall pay any and all costs of providing medical insurance for the children. The parties shall share equally any and all uninsured medical, dental, optical, pharmaceutical and counseling expenses for a child until the child reaches the age of __.

K. Dependency Exemption - Head of Household Filing Status

For the 199_ tax year only, Husband shall have both children as deductions on his state and federal tax returns. In subsequent tax years, Husband shall have _____ as a deduction on his state and federal income tax returns each year and Wife shall have _____ as a deduction on her state and federal income tax returns each year. At such time as only one of the children remains eligible to be claimed as a tax dependent, the parties agree that they shall flip a coin to determine which of them shall be entitled to claim such child during the first such year, with the parties thereafter annually alternating which of them may so claim such child as a dependent for tax purposes. Each party shall execute and furnish to the other any and all appropriate and necessary IRS written waiver(s) to give effect to this agreed-upon allocation of the dependency deductions for their children within ten (10) days of being provided with the same by the other party.

For the 199_ tax year only, Wife and Husband also agree that Husband shall pay to Wife one-half his tax savings resulting from his claiming a second child as a deduction on his state and federal tax returns. Husband's taxes shall be computed as if he only claimed one child as a deduction and with Husband claiming both children as a deduction and one-half of the difference (Husband's tax savings for claiming the second child) shall be paid to Wife by not later than May 1, 199_.

Further, the parties agree that they shall arrange their parenting arrangements so that Wife has _____ in her residence for slightly more than one-half of the time each year during _____'s minority, and that Husband shall have _____ in his residence for slightly

more than one-half of the time each year during ____'s minority (so that each party may respectively and appropriately claim head of household tax filing status).

L. Distribution of Personal Property

The parties have divided between them, and to their mutual satisfaction, the personal effects, household furniture and furnishings, and all other articles, tangible and intangible, of personal property which heretofore had been used by them in common, and neither will make any claim for such articles which are now in the possession or control of the other. This distribution of personal property includes, but is not limited to, the following:

Wife:

1. The 198_____, Oregon License #_____.
2. All checking and savings accounts in her individual name.
3. One-half of the proceeds from the sale of the parties' 1967
_____.

4. Husband shall pay to Wife \$_____ in cash or by certified check, as soon as possible after the parties sign this Marital Settlement Agreement and in no event later than _____, 199_.

5. One-half interest in all IRA's in Husband's or Wife's individual name (with such equal division to be in kind of each such interest) including: _____.
Wife shall be fully responsible for any and all tax liability associated with her receiving the interests described in this paragraph and shall hold Husband harmless and indemnify him from the same. If not accomplished at an earlier time, this division of IRA interests shall be accomplished within 30 days after the court's issuance of the parties' decree of dissolution of marriage, and the final valuation of these interests shall take place at that time.

Husband:

1. The 199_____, Oregon License #_____.
2. One-half of the proceeds from the sale of the parties' 1967
_____.

3. The 1987 _____, Oregon License # _____.
4. All checking and savings accounts in his individual name.
5. All interest in Husband's whole life insurance policy with _____.

6. One-half interest in all IRA's in Husband's or Wife's individual name (with such equal division to be in kind of each such interest) including: _____.
Husband shall be fully responsible for any and all tax liability associated with his receiving the interests described in this paragraph and shall hold Wife harmless and indemnify her from the same. If not accomplished at an earlier time, this division of annuity and IRA interests shall be accomplished within 30 days after the court's issuance of the parties' decree of dissolution of marriage, and the final valuation of these interests shall take place at that time.

7. All of Husband's _____ tax deferred annuity, account _____.

8. Within 10 days of the closing of the sale of the parties marital home, as described in section N., below, Wife shall give to Husband the lawnmower and weed eater used at the marital home as well as one-half the parties' garden and household maintenance tools and the cement stepping stones with _____ and _____'s handprints.

M. PERS Pension Benefits

1. Husband has vested interest in the Oregon Public Employees Retirement System ("PERS"), including the right to receive benefits upon death, disability, retirement or termination of employment under various options, including "refund annuities", "non-refund annuity" and "lump-sum settlements", the latter of which provides for payment of a lump-sum refund of the total member's account, plus a monthly employer pension from the employer's contributions. "Vested interest in benefits under PERS" as used in this Agreement means all vested benefits, including benefits attributable to the member's account balance, as well as rights to the employer pension from the employer's contribution, under any option available to the member upon death, disability, retirement or termination of employment, or any other event.

2. Wife is hereby awarded 50 percent (50%) of Husband's vested interest in benefits under PERS payable by reason of all contributions and service through March 1, 1993. Wife shall be entitled to receive any and all income, earnings and other monies generated by her portion of husband's account, including a proportionate share of any ad hoc and/or cost-of-living increases granted by the legislature, as previously set forth, based upon the following formula:

$$\begin{array}{r}
 \text{Account balance} \\
 \text{at } \underline{\hspace{2cm}} \text{ 199}__, \\
 \text{plus earnings} \\
 \text{thereon to date} \\
 \text{of retirement} \\
 \hline
 \text{Total account} \\
 \text{balance at} \\
 \text{retirement}
 \end{array}
 \times
 \begin{array}{l}
 \text{Actual} \\
 \text{monthly} \\
 \text{benefit} \\
 \text{based on} \\
 \text{Option 1}
 \end{array}
 \times
 50\%
 =
 \begin{array}{l}
 \text{Wife's} \\
 \text{monthly} \\
 \text{benefit}
 \end{array}$$

3. Option 1 shall be defined as the non-refund annuity with no lump sum payment, if available. If not available, Wife's monthly benefit shall be calculated based upon the option which provides the highest income benefit. Nothing herein, however, shall preclude Husband from exercising any option which may be available to him, provided Wife's benefits are calculated on the option which provides her with the highest income benefit. Further, nothing herein shall preclude the parties from agreeing to select any other benefit option that may be available, provided the agreement is in writing and signed by both parties. In the event the parties select a survivor benefit option, then Wife shall be considered the primary beneficiary to the extent of her interest herein. Further, in the event Wife has the right to select her own option, then she shall be entitled to do so, provided her election does not impair Husband's rights or benefits.

4. Wife shall be entitled to collect her share of the Public Employees Retirement System benefits and any income generated thereby at the same time and in the same manner that Husband, his estate or his beneficiary shall collect the same, and such payment shall be made directly to Wife.

5. In the event that Husband is eligible to, and applies to withdraw his account upon termination of employment, PERS shall immediately notify Wife in writing and shall then pay fifty percent (50%) of the account payable by reason of contributions and service through _____, 199_, and any and all income, earnings and other monies generated by Wife's portion, directly to Wife.

6. Husband hereby designates Wife as beneficiary of fifty percent (50%) of any death benefits payable by reason of husband's death before benefits become payable and attributable to all contributions (and earnings and income thereon) and service through _____, 199_ Wife's interest in these benefits shall be calculated as follows:

Account balance at March 1, 1993, plus earnings thereon to date of death <hr style="width: 100%;"/> Total account balance at Husband's	x	Actual death benefit based upon lump sum	50%	=	Wife's death benefit distribution
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7. Husband hereby irrevocably authorizes PERS to permit Wife to obtain any and all information directly from PERS which is pertinent to Wife's or Husband's interests or the protection or enforcement thereof under this Agreement. Husband further instructs PERS to immediately notify Wife when application is made for any benefits by Husband, his estate or any other person.

8. Each party shall keep the Public Employee's Retirement System Fund advised at all times of his or her current mailing address. In the event that Husband applies for retirement, disability benefits or should death benefits become payable upon his death, the Public Employees Retirement System shall immediately notify Wife by mail at her last address on file with the fund.

9. Except as provided for herein, Husband is awarded all contributions made to said Fund after _____, 199_, and all income, earnings and other monies attributable to said future contributions.

10. The parties agree that the court which signs a Judgment of Dissolution incorporating this Agreement shall reserve jurisdiction to make further orders as appropriate to enforce or clarify the provisions of this Agreement relating to the PERS benefits.

11. Wife shall have the right, if the law should allow it in the future, to elect to receive benefits under the Public Employees Retirement System on or after the earliest date on which Husband is or would have been entitled to receive benefits, and Husband shall cooperate in executing any documents necessary to do so, provided that Husband's remaining portion of the benefits is not reduced.

12. In the event state law or administrative regulations should change to permit an outright distribution to wife of her interest awarded herein or the establishment of a separate account without prejudice to Husband, Husband agrees to cooperate in effecting this distribution.

13. In the event Wife predeceases Husband, her interest awarded herein shall be payable to her estate unless she designates some other beneficiary or beneficiaries by written notice to PERS.

14. Wife agrees to be solely responsible for any income taxes attributable to any payments she receives from PERS and she agrees to indemnify and hold Husband harmless therefrom.

N. Real Property

The former residence of the parties, located at _____ shall, upon entry of a Decree dissolving this marriage, be owned by Wife, free and clear of any claim of Husband, except as specifically described herein. This real property is legally described as follows:

Wife shall have the right to occupy the premises as her home until the sale of the home. This home shall be placed on the market for sale on or before _____, sold and the proceeds distributed as described below. During the period of Wife's occupancy, she shall maintain the mortgage payments, pay the taxes and necessary fire and extended coverage insurance (to the extent of its replacement value) on the premises and shall generally see that the same are properly maintained. Husband and his mother shall be listed as additional insureds on such policy, to the extent of their interests, as described below, until Wife's obligations to both have been paid. During the period of her occupancy, Wife shall pay for on-going maintenance of the home and any improvements to the home. Wife shall be responsible for maintaining the property in good condition, normal wear and tear excepted.

From the gross proceeds of the sale of this home, the following adjustments and payments shall be made prior to payment of all remaining proceeds to Wife:

1. Any sales commission.
2. Any additional expenses of sale and closing expenses.
3. Payment of the secured mortgage on the home.
4. Payment of the secured credit line on the home.
5. Payment of the \$5,000 down payment debt (with 5% per annum simple interest) to Husband's mother, as evidenced by the Promissory Note attached to this

Agreement as Exhibit "2." Such obligation owing by Wife to Husband's mother shall be evidenced by a replacement promissory note which shall itself be secured by a trust deed in fourth position both in the form shown in Exhibit "3" attached to this Agreement. Exhibits "2" and "3" are, by this reference, incorporated herein.

6. Payment of \$_____ to Husband, without interest through _____, and with 9% per annum simple interest from _____ until the closing date of the sale of the home, provided, however, that such payment (and any interest) owing to Husband shall be reduced by the amount of Wife's documented graduate school expenses, including tuition, books, fees and interest upon any school loan(s), incurred prior to _____, 199_, with such reduction of the amount otherwise owing to Husband to not exceed \$_____ total. Such obligation owing by Wife to Husband shall be evidenced by a promissory note in the form shown in Exhibit "4" attached to this Agreement, which shall itself be secured by a trust deed in third position in the form shown in Exhibit "5" attached to this Agreement. Exhibits "4" and "5" are, by this reference, incorporated herein.

7. In the event that sale of the home is not closed prior to _____ 199_, then Husband shall receive an additional \$_____ payment out of such real property sale proceeds. In any event, such home shall be sold by not later than _____. The final due date on the promissory notes owing to Husband and Husband's mother, described above, shall be designated as _____, 199_.

8. The parties also understand and agree that Wife shall be responsible for reporting all gain from the sale of the property on her individual income tax returns and that she shall pay all income taxes attributable thereto and shall indemnify and hold Husband harmless therefrom, including any attorney and accounting fees in the enforcement of this indemnification protection.

Also as a part of the equitable division of property and debts herein, the parties agree that Husband shall have as his sole and separate property the real property located at _____ free and clear of any claim of Wife, and subject to all debts and encumbrances thereon. This real property is legally described in Exhibit "6" attached hereto, which exhibit is, by this reference, incorporated herein. In so agreeing to award these properties to Husband, Wife acknowledges that these property interests are gifts from Husband's family and that neither the value of these properties nor their potential income producing capacity have been included in the calculations of the property and debt division nor the support arrangements in this Agreement.

N1. Retention of Jointly Owned Income Property

The parties agree to retain joint ownership of the property located at _____ and legally described in Exhibit " _ " hereto, which exhibit is, by this reference, incorporated herein.

Income from the above jointly held property shall be placed in a jointly maintained checking account at _____ Bank. This account shall be administered by _____ for the purposes of receiving income from the above property and paying expenses incurred in the management of the same. _____ shall share with _____ all records relating to this joint property. It is further agreed that any surplus income from this property shall be distributed equally between the parties annually on _____ of each year. If _____ and _____ cannot jointly agree on the disposition or use of the property, it shall be sold and the net proceeds divided equally between them. If the net income realized from any such property is insufficient to cover direct expenses of upkeep, maintenance, mortgage payments, insurance and taxes, the parties shall jointly share and equally make up the deficit.

N2. Money Judgement and Lien

As a part of the equitable division of property and debts herein, _____ shall pay to _____ the sum of \$ _____ according to the terms of the promissory note attached hereto as Exhibit " _ "

The parties intend that such \$ _____ obligation owing to _____ from _____ shall be entered as a judgement in _____'s favor against _____ until fully paid and shall be secured by the real property located at _____, which real property is legally described in Exhibit " _ " attached hereto, which exhibit is, by this reference, incorporated herein.

O. Debts

The party awarded an asset against which there are debts or encumbrances shall pay the same and hold the other party harmless therefrom. The only exception to this provision is that Husband shall pay \$ _____ monthly and Wife \$ _____ monthly against the credit line secured by the home located at _____. Each party shall also pay all post-separation debts incurred by that party and hold the other harmless therefrom.

Husband shall pay and hold Wife harmless from the following debt: VISA account _____ in Husband's individual name. Wife shall pay and hold Husband harmless

from the following debts: All debt owing on her _____ and all debt on the joint VISA account _____. Husband agrees to not incur any additional debt on this joint VISA account. Further, Wife agrees that, not later than 30 days after entry of the parties' Judgement, she shall make every reasonable effort to establish her own individual VISA account and terminate this joint VISA account.

P. Income Tax Returns for 199

State and federal income tax returns for the calendar year 199_ shall be filed individually by the parties and each of the parties agrees to assist in the preparation of such returns by furnishing the necessary data. The parties agree that Husband shall have the right to claim any mortgage interest and real property taxes he has paid through _____. As of _____, when Husband's spousal support obligation begins, Wife shall be entitled to claim all mortgage interest (both on the parties' mortgage and secured credit line) and real property taxes she has paid. Any additional taxes shown thereon or any refunds due thereunder shall be paid or received by the individual filing party.

Q. Prior Tax Liabilities

Any additional tax assessments, penalties and interest to be paid on joint income tax returns filed by the parties in prior years shall be paid by the parties equally.

R. Wife's Former Name

Wife shall be restored her maiden name of _____ and does hereby request any court considering this Agreement to order restoration of that name.

S. Attorney and Mediation Fees and Costs

Each party shall pay that party's own attorney fees and costs in the pending domestic relations suit. Any mediation fees remaining to be paid at the time of the signing of this Agreement shall be paid equally by the parties.

T. Incorporation into Decree

Each party shall, at any hearing on any domestic relations suit between them, ask the court to approve, ratify and confirm this Agreement, to incorporate it in any Decree entered therein and to require each party to comply with all the terms thereof.

U. Litigation Fees and Costs

If any suit, action or other proceeding (including any proceeding under the U.S. Bankruptcy Code) or appeal from a decision therein is instituted to establish, obtain, or enforce any right resulting from this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements, such additional sums as the court may adjudge reasonable as attorneys fees, both in the trial and appellate courts, whether or not such right to attorney fees is established by statute.

V. Necessary Documents and Actions

Each party shall execute and deliver to the other party any documents, and take such other actions, as reasonably may be necessary or convenient to accomplish the intentions of this instrument forthwith upon demand. If either party shall fail to comply with this paragraph, this Agreement shall constitute an actual grant, assignment and conveyance of property and/or rights in such manner and with such force and effect as shall be necessary to effectuate the terms and intentions of this Agreement.

W. Release

Except as specifically provided herein, each party releases the other from any and all claims or demands of whatsoever nature which either party has or may claim to have against the other arising out of or in any way connected with their marriage to each other and its subsequent dissolution. This Agreement is intended to be a full, binding and complete settlement between the parties, except as specifically set forth herein, subject only to approval of the court.

X. Successors Bound

Each and every provision herein shall inure to the benefit of, and be binding upon, the heirs, assigns, personal representatives and all other successors in interest of each party.

Y. Non-Waiver

The failure of either party to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of any right to insist upon strict performance of such provision or of any other provision of this Agreement at any time.

Z. Complete Agreement

Both parties acknowledge that no representations of any kind have been made to

them as an instrument to enter into this Agreement other than the representations set forth herein. Both parties further acknowledge that this Agreement contains all of the terms of their Agreement and constitutes the entire understanding between the parties.

AA. Partial Invalidity

If any provision of this Agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

AB. Effective Date

This Agreement shall be binding upon the parties immediately upon it being fully signed by both parties.

AC. Paragraph Headings

The headings of particular paragraphs are inserted for convenience only and are not a part of this Agreement or a limitation of the scope of the particular paragraph to which each refers.

AD. Modification

No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties or ordered by a court.

AE. Full Disclosure

The parties have of their own volition entered into this Agreement upon mature consideration, and it is expressly based upon the premise that both parties have made full disclosure of their assets and debts and that neither party has any significant asset or debt except that which is described and distributed herein. Each party hereby warrants to the other party that they have not incurred any liability or obligation on which the other is or may be liable except as expressly set forth herein.

AF. Legal Representation

This Agreement is the result of a comprehensive and deliberative mediation process between the parties with _____ as mediator. Both during this mediation process and upon completion of the mediation, the parties acknowledge being strongly advised by such mediator to obtain independent legal advice and review of this

Agreement before signing it. The parties understand that they are under no obligation to sign this Agreement at this or any other time and that they can take any extra time desired for additional consultation with independent legal counsel regarding the legality and effect of this Agreement.

Wife (date)

Husband (date)