

# DIVORCE AGREEMENT / MARITAL SETTLEMENT AGREEMENT

This Marital Settlement Agreement (this "Agreement") is entered into and made effective as of (the "Effective Date"), by and between [SPOUSE 1 FULL LEGAL NAME], residing at [SPOUSE 1 CURRENT ADDRESS] ("Husband" or "Spouse 1"), and [SPOUSE 2 FULL LEGAL NAME], residing at [SPOUSE 2 CURRENT ADDRESS] ("Wife" or "Spouse 2"). Spouse 1 and Spouse 2 are each a "Party" and together the "Parties."

## 1. Recitals

A. The Parties were lawfully married on in [PLACE OF MARRIAGE CITY STATE].

B. The Parties have been living separate and apart since , and irreconcilable differences have arisen between them that have caused the irremediable breakdown of the marriage.

C. There are no minor children of the marriage, and neither Party is pregnant.

D. The Parties have filed or intend to file a petition for dissolution of marriage in the State of [STATE], and desire by this Agreement to resolve fully and finally all issues arising from their marriage, including the characterization and division of property and debts, spousal support, tax allocations, and all other incidents of their marital relationship.

E. Each Party has had the opportunity to consult with independent legal counsel, has made full disclosure of assets and liabilities, and enters into this Agreement freely, voluntarily, and with full understanding of its terms.

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows.

## 2. Voluntary Execution and Independent Counsel

Each Party represents that: (a) this Agreement has been entered into voluntarily and without duress, coercion, or undue influence; (b) each Party has had the opportunity to consult with independent legal counsel of their own choosing before signing; (c) each Party understands the rights being waived and the obligations being assumed; and (d) each Party believes the terms of this Agreement are fair, just, and reasonable under the circumstances.

## 3. Full Financial Disclosure

Each Party represents and warrants that they have made a full, complete, and accurate disclosure to the other of all assets, liabilities, income, and financial obligations, whether held separately or jointly, and

whether located within or outside the State of [STATE]. Each Party acknowledges that this Agreement is entered into in reliance upon such disclosure, and that the failure to disclose a material asset, liability, or source of income may render this Agreement voidable, in whole or in part, at the election of the non-breaching Party, in addition to any other remedy available at law or in equity.

#### **4. Division of Property**

**Property awarded to Spouse 1 ([SPOUSE 1 FULL LEGAL NAME]), as sole and separate property free and clear of any claim by Spouse 2:**

**Property awarded to Spouse 2 ([SPOUSE 2 FULL LEGAL NAME]), as sole and separate property free and clear of any claim by Spouse 1:**

**Tax treatment (IRC §1041).** All property transfers between the Parties pursuant to this Agreement are intended to qualify as nontaxable transfers between spouses or incident to divorce under Internal Revenue Code §1041. The receiving Party takes a carryover basis in any transferred asset. Neither Party shall report any such transfer as a taxable event.

#### **5. Debts**

**Debts assigned to Spouse 1 ([SPOUSE 1 FULL LEGAL NAME]):**

**Debts assigned to Spouse 2 ([SPOUSE 2 FULL LEGAL NAME]):**

**Indemnification.** The Party to whom each debt is assigned shall pay that debt when due and shall indemnify, defend, and hold harmless the other Party from any and all liability, cost, and expense (including reasonable attorneys' fees) arising from or related to such debt. The Parties acknowledge that assignment of a joint debt does not release the non-assigned Party from liability to the creditor; the non-assigned Party's remedy is against the assigned Party under this indemnification.

#### **6. Spousal Support**

**Mutual waiver.** Each Party knowingly, intelligently, and voluntarily waives and releases any and all claims for spousal support, alimony, maintenance, or separate support from the other Party, now and forever. Each Party acknowledges the opportunity to consult independent counsel before executing this waiver, and intends this waiver to be final, non-modifiable, and binding for all time.

#### **7. Health Insurance for Spouse**

**COBRA continuation coverage.** Upon entry of the divorce decree, the non-employee spouse loses coverage under the employee spouse's employer-sponsored health plan as a qualifying event under 29 U.S.C. §§1161-1168. The non-employee spouse may elect COBRA continuation for up to thirty-six (36)

months by notifying the plan administrator within sixty (60) days. The **recipient (non-employee spouse) shall pay the COBRA premium.**

### **Tax Returns and Tax Liabilities**

The Parties shall file tax returns for the year in which this Agreement is executed in accordance with their filing status as of December 31 of that year. Any refund attributable to a joint return shall be divided equally, and any liability attributable to a joint return shall be paid equally, unless otherwise allocated above. Each Party indemnifies the other for any pre-marital or separately-attributable tax liability. The Parties shall cooperate in any audit of a jointly-filed return.

### **Mutual Release and Waiver of Claims**

Except as expressly provided herein, each Party releases and discharges the other, and the other's heirs, successors, and assigns, from any and all claims, demands, rights, actions, causes of action, and obligations of every nature arising out of or in any way related to the marital relationship, including but not limited to claims for property division, support (to the extent waived), reimbursement, tort arising from the marriage, and interests in each other's estates. Each Party waives all rights to inherit from the other as a surviving spouse, to serve as personal representative of the other's estate (unless separately designated by will after the Effective Date), and to any elective share, homestead, or family allowance from the other's estate — to the extent permitted by applicable state law.

### **Social Security Derivative Benefits**

A divorced spouse may be entitled to Social Security benefits based on the other spouse's earnings record under 42 U.S.C. §402(b) and (c) if the marriage lasted at least ten (10) years and other statutory conditions are met. **This right arises by operation of federal law and cannot be waived by private agreement.**

### **Social Media and Non-Disparagement**

Neither Party shall post, publish, transmit, or otherwise disseminate on any social media platform, website, blog, podcast, or other public forum any content that: (a) disparages, defames, or portrays the other Party in a negative light; or (b) discloses details of these proceedings beyond what is required by law. This provision does not restrict either Party from making truthful statements to law enforcement, in court proceedings, to licensed mental health professionals, or as otherwise required or protected by law.

### **Dispute Resolution and Enforcement**

**Mediation escalation.** Before filing any motion to enforce or modify this Agreement (other than an emergency motion involving the safety of the minor children or an order for immediate injunctive relief), the Parties shall attempt in good faith to resolve the dispute through: (1) direct negotiation with written

notice and at least one meeting within fourteen (14) days; (2) mediation with a certified family law mediator within forty-five (45) days; and (3) court, if mediation fails.

**Incorporation without merger.** The Parties request that the court incorporate this Agreement into the Final Decree of Divorce by reference but that this Agreement shall **survive as an independent contract** and shall not be merged with the Decree. The Agreement shall be enforceable both as a contract and as a court order.

## State-Specific Provisions

### General Provisions

**Governing Law.** This Agreement is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules.

**Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior and contemporaneous negotiations.

**Modification.** This Agreement may be modified only by a written instrument signed by both Parties and, where required, approved by the court. Child-related provisions are always subject to court modification.

**Severability.** If any provision is held invalid, the remaining provisions shall continue in full force and effect.

**Counterparts and Electronic Signatures.** This Agreement may be executed in counterparts. Electronic signatures are valid under the federal ESIGN Act (15 U.S.C. §7001) and UETA.

**Further Assurances.** Each Party shall execute such further documents (quitclaim deeds, title transfers, account re-titling, beneficiary changes, QDRO documents, Form 8332 releases) as reasonably necessary to effectuate this Agreement.

**Binding Effect.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns.

### Signatures

The Parties have executed this Agreement as of the Effective Date.

#### Spouse 1

\_\_\_\_\_ PRINTED NAME

\_\_\_\_\_ SIGNATURE

\_\_\_\_\_  
DATE

**Spouse 2**

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**Notary Acknowledgment**

State of [STATE] County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20, before me, the undersigned notary public, personally appeared [SPOUSE 1 FULL LEGAL NAME] and [SPOUSE 2 FULL LEGAL NAME], proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the foregoing instrument, and each acknowledged that they executed the same voluntarily for the purposes contained therein.

Notary Public: \_\_\_\_\_ My commission expires: \_\_\_\_\_ [Notary Seal]