

THIS IS A SEPARATION AGREEMENT DATED

Between

AND

()

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1. Background

- 1.1 and were married [or began cohabiting] on April 24, 2003.
- 1.2 They separated on April 24, 2003. The parties will continue living separate and apart.
- 1.3 They were divorced on [date].
- 1.4 They have one child, .
- 1.5 's social insurance number is and 's is .
- 1.6 They agree to be bound by this Agreement which settles all issues between them.
- 1.7 This Agreement replaces [or varies] the [interim] domestic contract they made on [date].
- 1.8 This Agreement replaces all oral or written agreements made between the parties.

2. Definitions

2.1 In this Agreement:

- (a) "child" means ,
- (b) "cohabit" means to live with another person in a relationship resembling marriage,
- (c) "company" means [name of company],
- (d) "cottage" means the property at [address] in [place],
- (e) "equalization payment" means the payment referred to in s. 5(1) of the *Family Law Act*,
- (f) "CCRA" means Canada Customs and Revenue Agency,
- (g) "Family Responsibility Office" (FRO) means the Family Responsibility Office described in the *Family Responsibility and Support Arrears Enforcement Act*, or any successor support enforcement agency,



Separation Agreement Review

YOU CAN save time and money by writing your own separation agreement
YOU CAN write a separation agreement that will stand up to lawyer scrutiny and ILA

HOW? By getting me, Ken S. Maynard, a Divorce Mediator and Certified Divorce Financial Analyst, to review your separation agreement, BEFORE you seek independent legal advice.

During my separation agreement review, I will:

- Completely read and review your agreement
- Edit your agreement to increase its clarity and certainty
- Confirm that your written separation agreement reflects the goals you have told me about
- Assess whether your separation agreement is in a state that means you're ready to seek ILA

My service will also make sure you get the most out of your ILA. I will start by recommending lawyers who are ready and willing to provide honest ILA regarding your self-written separation agreement. I will also:

- Prepare you for what to expect during your independent legal advice session
- Coach you on how to handle and contain any potential conflicts that might arise from ILA

The Benefits Of a Separation Agreement Review Before ILA

- Minimize the risk of incurring high legal fees when you get ILA about your separation agreement
- Reduce the chances of ILA being the catalyst for your separation/divorce turning nasty
- Getting any potential sticking points or shortfalls in your separation agreement sorted out before you seek ILA
- By giving your separation agreement clarity and preparing you for ILA, my service will mean a lawyer is much more likely to give you that coveted Certificate of Independent Legal Advice.

How My Separation Agreement Review Service Works

- 1) **YOU BOOK A TIME AND DATE FOR THE REVIEW** – this meeting will be over the phone or even via a video web meeting. The fee is payable when you book
- 2) **SEND ME YOUR DRAFT SEPARATION AGREEMENT** - in MS Word format when you make your booking. I will read this ahead of our meeting and make any necessary amendments to make things clearer, without changing the spirit of the document. I'll also make notes of things we need to discuss during the review.
- 3) **WE'LL HAVE OUR ½ HOUR REVIEW MEETING** – for the first 10-15 minutes, I will be asking you questions to help me build a better understanding of what you hope to achieve with your separation agreement. After that, I will share with you the ways in which you can improve your separation agreement to help you avoid problems with:
 - The Canada Revenue Agency
 - Family Responsibility Office
 - Canada Pension Plan
 - The ILA process

I will also talk about the next steps that need to be taken to complete your separation agreement and how to make sure you can get it signed after having taken independent legal advice.

Having agreed all the next steps verbally with you during the meeting, I will then go away and amend your separation agreement and return it to you within 24 hours.

Why risk wasting so much time writing your own separation agreement only for it to cause a whole world of trouble once you seek independent legal advice, when my service will help make sure you and your separation agreement are ready to get the right result from ILA?

To find out more about my self-written separation agreement review service which will get you ready for ILA, contact me, Ken S. Maynard at [Divorce the Smartway](tel:647-557-3500) by calling 647-557-3500 or [book online at](#)

- (h) "Guidelines" means the Child Support Guidelines, as defined in s. 2(1) of the *Divorce Act*, [or, in the case of unmarried parents or spouses, "Guidelines" means the Child Support Guidelines as defined in s. 1(1) of the *Family Law Act*],
 - (i) "indexing factor" means the percentage change for a given month in the Consumer Price Index for [Canada][Ontario][Toronto] for prices of All-Items (as published by Statistics Canada) from the same month of the previous year,
 - (j) "matrimonial home" means the property at [address] in [place],
 - (k) "net family property" means net family property as defined in the *Family Law Act*, and
 - (l) "property" means property as defined in the *Family Law Act*.
- 2.2 Any reference to a statute means the legislation bearing that name at the time the Agreement is signed and includes its regulations and any amending or successor legislation. For example, "Family Law Act" means the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, and includes O.Reg. 391/97.
- 2.3 Any legislation defined in this section includes its regulations and any amending or successor legislation.
- (a) "Arbitration Act" means the *Arbitration Act*, 1991, S.O. 1991, c. 17,
 - (b) "Change of Name Act" means the *Change of Name Act*, R.S.O. 1990, c. C.7,
 - (c) "Children's Law Reform Act" means the *Children's Law Reform Act*, R.S.O. 1990, c. C.12,
 - (d) "Divorce Act" means the *Divorce Act*, R.S.C. 1985, c. D.3.4,
 - (e) "Estates Act" means the *Estates Act*, R.S.O. 1990, c. E.21,
 - (f) "Family Law Act" means the *Family Law Act*, R.S.O. 1990, c. F.3,
 - (g) "Family Orders and Agreements Enforcement Assistance Act" means the *Family Orders and Agreements Enforcement Assistance Act*, R.S.C. 1985, c. 4 (2nd Supp.),
 - (h) "Family Responsibility and Support Arrears Enforcement Act" means the *Family Responsibility and Support Arrears Enforcement Act*, S.C. 1996, c. 31,
 - (i) "Garnishment, Attachment and Pension Diversion Act" means the *Garnishment, Attachment and Pension Diversion Act*, R.S.C. 1985, c. G.2,
 - (j) "Guidelines" means the applicable guidelines in s. 2(1) of the *Divorce Act* [or, in the case of unmarried parents or spouses, "Guidelines" means the Child Support Guidelines (Family Law Act), O.Reg. 391/97],
 - (k) "Health Care Consent Act" means the *Health Care Consent Act*, 1996, S.O. 1996, c. 2, Sch. A,

- (l) "Income Tax Act" means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.),
- (m) "Insurance Act" means the *Insurance Act*, R.S.O. 1990, c. I.8,
- (n) "Partition Act" means the *Partition Act*, R.S.O. 1990, c. P.4,
- (o) "Pension Benefits Act" means the *Pension Benefits Act*, R.S.O. 1990, c. P.8,
- (p) "Pension Benefits Division Act" means the *Pension Benefits Division Act*, S.C. 1992, c. 46, Sch. 2,
- (q) "Public Service Superannuation Act" means the *Public Service Superannuation Act*, R.S.C. 1985, c. P.36,
- (r) "Substitute Decisions Act" means the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30,
- (s) "Succession Law Reform Act" means the *Succession Law Reform Act*, R.S.O. 1990, c. S.26,
- (t) "Supplementary Retirement Benefits Act" means the *Supplementary Retirement Benefits Act*, R.S.C. 1985, c. S.24, and
- (u) "Trustee Act" means the *Trustee Act*, R.S.O. 1990, c. T.23.

3. Freedom From The Other

- 3.1 and will not harass or speak ill of each other.
- 3.2 Neither party will go on property where the other lives or works without the other's approval.
- 3.3 Neither party will go to the other's home except on reasonable notice and only for the purpose of picking up or dropping off .

4. Parenting

- 4.1 and will prefer 's interests to their own. and will:
 - (a) exchange information about ,
 - (b) encourage to have a good relationship [with each other and] with each parent,
 - (c) refrain from making disparaging remarks to about the other parent,
 - (d) attend counselling together to improve their communication and parenting skills,
 - (e) enrol in counselling to assist in coming to terms with the separation, and
 - (f) consult each other regularly about important issues such as 's education, health care and religious upbringing.
- 4.2 and will honour their Parenting Plan, attached as a Schedule to this Agreement.
- 4.3 The parent residing with at the relevant time will make the daily decisions affecting her welfare.

- 4.4 and will make important decisions about 's welfare together, including decisions about 's:
- (a) education,
 - (b) major non-emergency health care,
 - (c) major recreational activities, and
 - (d) religious activities.

If the parties cannot agree, they will use [the dispute resolution clause in the Parenting section of this Agreement,]4.38[or][the section of this Agreement entitled "Dispute Resolution"], to resolve the dispute.

- 4.5 will make important decisions about 's welfare after consulting with , including decisions about 's:
- (a) education,
 - (b) major non-emergency health care,
 - (c) major recreational activities, and
 - (d) religious activities.

If the parties cannot agree, they will use [the dispute resolution clause in the Parenting section of this Agreement,]4.38[or][the section of this Agreement entitled "Dispute Resolution"], to resolve the dispute.

- 4.6 If needs emergency medical care while with one parent, that parent will promptly notify the other of the emergency.

- 4.7 will reside with [provide residence schedule details].

- 4.8 and agree that it is in 's best interests to spend time with the other parent rather than with a third party. Accordingly, if either of them cannot care for , he or she will notify the other and give him or her the opportunity to do so. If the notified parent cannot care for , the other will make childcare arrangements at his or her own expense.

- 4.9 This holiday schedule overrides the regular schedule.

School Spring Break

- (a) will reside with in odd-numbered years and with in even-numbered years, from her leaving school as the school spring break starts until her return to school following the break.

Easter Weekend

- (b) will reside with in odd-numbered years and with in even-numbered years, from her leaving school on the Thursday before the Easter weekend until her return to school on the following Tuesday.

Mother's Day

- (c) If is not otherwise with on this weekend, will reside with on Mother's Day weekend, from [Saturday] at [7:00 p.m.] until her return to school on Monday.

Victoria Day Weekend

- (d) will reside with on Victoria Day weekends in odd-numbered years and with in even-numbered years, from her leaving school on Friday until her return to school on Tuesday.

Father's Day

- (e) If is not otherwise with on this weekend, will reside with on Father's Day weekend, from [Saturday] at [7:00 p.m.] until her return to school on Monday.

Summer Camp

- (f) will attend overnight summer camp each [time period].

Summer Vacation

- (g) will reside with each parent for [number] [consecutive or non-consecutive] weeks during 's summer school vacation. and will advise each other by [April 1st] of their chosen weeks, with to have first choice in odd-numbered years and to have first choice in even-numbered years. In making plans, each parent will take into account 's camp and other scheduled activities.

Thanksgiving Weekend

- (h) will reside with on Thanksgiving weekend in odd-numbered years and with in even-numbered years, from her leaving school on the Friday before Thanksgiving until her return to school on the following Tuesday.

Halloween

- (i) will have for Halloween in odd-numbered years and will have her in even-numbered years, from [3:30 p.m.] until [9:00 p.m.]. The parent who has for Halloween will be responsible for 's costume.

Christmas

- (j) The parties will share equally 's Christmas school break. will reside with for the first half of the break in odd- numbered years and with for the first half in even-numbered years. The first half will start at [3:30 p.m.] on 's last day of school in December. The second half will end on the morning returns to school in January.

Child's Birthday

- (k) will spend her birthday in accordance with the regular schedule.
- 4.10 will have custody of .
- 4.11 will have access on:
- (a) [set out access details],
- (b) [set out access details], and
- (c) [set out access details].
- 4.12 will have only supervised access to . Access will take place at a supervised access centre run by the Ministry of the Attorney General [specify times and location].
- 4.13 will have no access to until further agreement or court order. Before seeking access, must first successfully complete his drug and alcohol rehabilitation.
- 4.14 will apply for a Canadian passport for . will sign the passport application. will keep the passport and give it to when she needs it for travel. [will return the passport promptly.]
- 4.15 and may telephone and [or] communicate by e-mail with on a [once] daily basis. may telephone or e-mail or when she wishes.
- 4.16 and will each pay for a separate telephone line [with voicemail] for 's exclusive use.
- 4.17 and may make inquiries and be given information by 's teachers, school officials, doctors, dentists, health care providers, summer camp counsellors or others involved with .
- 4.18 It is in 's best interests to continue a relationship with her maternal and paternal grandparents [names]. The grandparents will have reasonable [telephone] access to . In addition, [names] can exercise access if [the child of these grandparents] is unavailable to care for during his or her scheduled time.
- 4.19 If is unable to spend her scheduled time with because of [illness or employment responsibilities], and will arrange make-up time.
- 4.20 If is unable to spend her scheduled time with , she will give at least 48 hours' notice. will be responsible for any reasonable costs incurs for the care of as a result of the change of schedule.
- 4.21 Unless the other agrees, and will not schedule activities for a child during the other's time with the child.
- 4.22 If either parent plans a vacation with , that parent will give the other a detailed itinerary at least [number] days before it begins, including the name of any flight carrier and flight times, accommodation, including address and telephone numbers, and details as to how to contact during the trip.

- 4.23 If either parent plans a vacation without , that parent will give the other a telephone number where he or she can be reached in case of emergency or if wishes to contact that parent.
- 4.24 If either parent plans a vacation outside Canada with , the other parent will provide a notarized letter authorizing to travel. (see attached Schedule "Travel Consent Form").
- 4.25 If or proposes to change his or her residence [within (number) kilometres from the municipal boundary of (name)], he or she will give his or her new telephone number and address to the other.
- 4.26 and will live near each other so that will have frequent contact with both parents. will not move 's residence from [area] without first providing [number] days written notice and obtaining 's written consent or a court order.
- 4.27 and will live near each other so that will have frequent contact with both parents. Neither parent will move 's permanent residence from [area] without the other's written consent.
- 4.28 If proposes to move 's residence, she will give at least [number] days notice of the move. They will then review the parenting arrangements. If they cannot agree on the changes, and will use [the dispute resolution clause in the Parenting section of this Agreement,]4.38[or][the section of this Agreement entitled "Dispute Resolution"], to resolve the issue.
- 4.29 Both parents may attend all school functions. The parents [may/will] attend parent-teacher meetings [together or separately].
- 4.30 Each parent [may/will] obtain his or her own school calendar and school notices.
- 4.31 The parents will alternate attendance on school field trips. If one parent is unable to attend, he or she will notify the other immediately.
- 4.32 and will not change 's name without the other's written consent.
- 4.33 will be raised in the [name of religion] faith.
- 4.34 will have no religious affiliation and will not undergo any religious ritual at the request of either parent.
- 4.35 If or dies, the other will have custody of and be guardian of 's property. and will make wills consistent with this section.
- 4.36 If both parents die, [name of chosen guardian(s)] will have custody of and become guardian of 's property. and will make wills consistent with this section.
- 4.37 and will each obtain motor vehicle insurance that includes \$[amount] of third party liability coverage for any vehicle which he or she:
- (a) owns or leases,
 - (b) uses to transport , or

(c) permits to drive.

4.38 If and are unable to resolve a parenting issue, they will mediate/arbitrate the issue with [name of parenting co-ordinator or mediator - include alternate name(s) in case that person is not available]. The terms of this mediation/arbitration are set out in the Mediation/Arbitration Agreement attached as a Schedule to this Agreement. The parties will share equally the cost of the mediation. If the parties cannot resolve the issue through mediation, the mediator will arbitrate the issue. If there is an arbitration, the arbitrator will have the right to reapportion costs.

5. Child Support

5.1 In this section,

- (a) "Table" and "income" mean "Table" and "income" as those terms are defined in s. 2(1) of the Guidelines,
- (b) "special or extraordinary expenses" means "special or extraordinary expenses" as this phrase is defined in s. 7(1) of the Guidelines,
- (c) "child support" refers to the monthly amount upon which the parties have agreed and may include both Table support and special or extraordinary expenses.

5.2 For purposes of determining table support for , 's annual income is \$[amount] and 's annual income is \$[amount].

5.3 Starting [date] and on the first day of each month, will pay to as child support for :

- (a) the Table amount of \$[amount], and
- (b) her share of the special or extraordinary expenses set out in section 5.7 or 5.8 or 5.9 [the applicable special or extraordinary expenses section] until a terminating event under section 5.23 [termination section] or a change under section 5.32 [review section] or section 5.35 [variation section].

5.4 [child name] resides primarily with and [child name] resides primarily with . owes the Table amount of \$[amount] a month for [child name]'s support. owes the Table amount of \$[amount] a month for [child name]'s support. To satisfy each party's obligation to pay child support in accordance with the Guidelines, starting [date], and on the first day of each month, [parent name] will pay to [parent name] as support for [child name]:

- (a) the difference in the two Table amounts of \$[amount]; and
- (b) the amount payable for special or extraordinary expenses in section 5.7 or 5.8 or 5.9 [the applicable special or extraordinary expense section] until a terminating event under section 5.23 [termination section] or a change under section 5.32 [review section] or section 5.35 [variation section].

- 5.5 lives primarily with , but has physical custody of not less than 40% of the year. The parties share custody of . The parties have considered the increased cost of this shared custody arrangement, including appropriate housing, transportation, and the duplication of toys, equipment and clothes. To satisfy each party's obligation to pay child support in accordance with the Guidelines, starting [date], and on the first day of each month, [parent name] will pay to [parent name] as child support for :
- (a) \$[amount]; and
 - (b) the amount payable for special or extraordinary expenses in section 5.7 or 5.8 or 5.9 [the applicable special or extraordinary expense section] until a terminating event under section 5.23 [termination section] or a change under section 5.32 [review section] or section 5.35 [variation section].
- 5.6 's current special or extraordinary expenses are:
- (a) [details of extraordinary expense and amount],
 - (b) [details of extraordinary expense and amount], and
 - (c) [details of extraordinary expense and amount].
- 5.7 For apportioning of special or extraordinary expenses 's income is [percentage amount] of the parties' combined incomes and so, she will pay [percentage amount] of 's special or extraordinary expenses. Starting [date] and on the first day of each month, will pay to \$[amount] for those expenses until a terminating event under section 5.23 [termination section] occurs or a change under section 5.32 [review section], or a variation is made under section 5.35 [variation section].
- 5.8 For apportioning of special or extraordinary expenses, 's income is [percentage amount] of the parties' combined incomes. Therefore, will pay [percentage amount] of the following special or extraordinary expenses directly to the following third parties:
- (a) [details of special or extraordinary expense, who it is paid to, and amount],
 - (b) [details of special or extraordinary expense, who it is paid to, and amount], and
 - (c) [any other special or extraordinary expenses agreed on in advance or ordered by a court.]
- 5.9 will pay to [percentage amount] of 's special or extraordinary expenses within five days of delivering proof to her of the expense. In determining her contribution to the expense, may deduct any income tax benefit or other subsidy for that special or extraordinary expense.
- 5.10 The parties will only contribute to 's [additional] special or extraordinary expenses if the parties consent to the expenses in advance, in writing. Neither party will unreasonably withhold consent. If the parties cannot agree, they will use the section of this Agreement entitled "Dispute Resolution" to resolve this issue.

- 5.11 Future special or extraordinary expenses may include [specify possible future special or extraordinary expenses]. will pay [percentage amount] of these future expenses as they arise.
- 5.12 These items will not constitute special or extraordinary expenses:
- (a) [specify item],
 - (b) [specify item], and
 - (c) any school event that costs less than \$[amount].
- 5.13 By [date] each year, the parties will provide reasonable evidence, in writing, of the amounts they incurred for 's special or extraordinary expenses for the previous calendar year [or the previous 12-month period]. A party who has not contributed his or her proportionate share of the special or extraordinary expenses will immediately reimburse the other.
- 5.14 is paying more than the Table amount of child support because she recognizes the costs of maintaining the residence in which resides and the other needs of require this greater contribution. [Accordingly, the parties have settled on the amount of child support in this Agreement to reflect those circumstances and specifically acknowledge that the amount payable by is not based on the Table for 's income.]
- 5.15 is paying less than the Table amount of child support because the parties have made special provisions which benefit . [specify details of the special provisions.] Given these special provisions, the application of the Guidelines would result in an amount of child support that is inequitable. The parties' child support arrangement is reasonable and meets the objectives of the Guidelines.
- 5.16 is paying less than the Table amount of child support because [set out details]. Given these special provisions, the application of the Guidelines would result in an amount of child support that is inappropriate. and agree that this child support arrangement is reasonable and meets the objectives of the Guidelines.
- 5.17 is paying less than the Table amount of child support because the Table amount would cause undue hardship and 's household standard of living is less than 's household standard of living. [Set out reasons for undue hardship.]
- 5.18 The parties will review the issue of undue hardship by [date]. The parties will exchange the information under section 5.33 [disclosure section] and use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 5.19 's undue hardship will end by [date]. Starting [later date] and on the first day of each month, will pay to the Table amount of child support. The parties will exchange the information under section 5.33 [disclosure section] by [date] and use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.

- 5.20 If and cannot resolve the issue, the parties will both ask the judge to consider the special provisions under section 5.15 or 5.16 [special provisions section].
- 5.21 The parties each support without contribution from the other. Any application of the Guidelines would result in an amount of child support that is inappropriate. The parties' present child support arrangements are reasonable and meet the objectives of the Guidelines.
- 5.22 will pay lump sum child support of \$[amount] as follows:
- (a) \$[amount] when the Agreement is signed, and
 - (b) \$[amount] from [her share of the matrimonial home sale proceeds].
- This payment fully satisfies all of 's child support obligations forever. This payment is a special provision that benefits the child[ren]. The application of the Guidelines would result in an amount of child support that is inequitable in the circumstances. and 's child support arrangements are reasonable and meet the objectives of the Guidelines.
- 5.23 Child support ends for when:
- (a) ceases to be a "child" as defined in the *Divorce Act*,
 - (b) no longer resides with the custodial parent, ("Resides" includes the child living away from home for school, summer employment or vacation),
 - (c) turns 18, unless she is unable to become self-supporting due to illness, disability, education or other cause,
 - (d) becomes self-supporting,
 - (e) obtains one post-secondary degree or diploma,
 - (f) turns [age] years of age,
 - (g) marries,
 - (h) dies, or
 - (i) a party dies, provided that the security in the section of this Agreement entitled "Life Insurance" is in place at the time of death.
- 5.24 Child support for ends when is no longer a "child" as defined by the Guidelines.
- 5.25 When an event in section 5.23 [termination section] occurs, will immediately notify and the FRO in writing. If does not notify the FRO and must end or vary her support obligation by court action, will reimburse for any overpayment of support, for all her legal costs and out-of-pocket expenses and damages.

- 5.26 When begins to live away from home for educational purposes, the parties will review the amount of support payable by under section 5.32 [review section] in order to take into account the reduced costs to and the fact that is contributing to tuition and residency costs.
- 5.27 When a child begins to live away from home for educational purposes, will reduce the amount of child support for that child by [percentage amount] for the months of September to April, inclusive.
- 5.28 Child support will change when moves away from home to attend a post-secondary educational institution. (See section 5.27 [automatic reduction of support].) In addition to child support, will also pay [percentage amount] of's post-secondary educational expenses directly to [institution], including tuition, residence or equivalent shelter and food costs, books and supplies. will pay [percentage amount] of the same expenses directly. If and cannot agree on their post-secondary educational expense contributions, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 5.29 Child support will change when moves away from home to attend a post-secondary educational institution. For the months that is living away from home, will pay to the Table amount for the [number] child[ren] who remain[s] with . For the child living away from home, will pay to \$[amount] and will also pay [percentage amount] of the child's post-secondary educational expenses directly to [institution], including tuition, residence or equivalent shelter and food costs, books and supplies. will pay [percentage amount] of the same expenses directly. When a child returns to live at home for the months of May to August, will pay to the Table amount for [number] child[ren]. If they cannot agree on the post-secondary educational expense contribution, and will use the section of the Agreement entitled "Dispute Resolution" to resolve the issue.
- 5.30 If ceases to be a "child" as defined in the Guidelines because she has interrupted her schooling for any purpose, but she later returns to school full-time and is still under the age of [age], then she will be deemed once again to be a "child" as defined in the Guidelines and support will resume until a terminating event under section 5.23 [termination section] occurs.
- 5.31 If's obligation to support a child ends, the parties will determine the support payable for the other child[ren] at that time under the Guidelines under section 5.32 [review section] and will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 5.32 Once a year, if either party asks in writing, and will review the child support arrangements in this Agreement and, if they do not agree about any change, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue(s).
- 5.33 If either party asks in writing for disclosure, both will, in writing, provide the following information to the other, within 30 days of the request:

- (a) the documents required in s. 21(1) of the Guidelines that have not previously been provided,
- (b) current information about 's special or extraordinary expenses,
- (c) current information about a party's claim of undue hardship, if any, and his or her household's standard of living,
- (d) details of Canada Child Tax Benefits or other child benefits received in the previous year and anticipated in the coming year, and
- (e) any other information needed to review child support.

This may be asked for once a [calendar] year.

5.34 Until the support is adjusted by an amending agreement, court order or arbitration award, will continue to pay the child support and her contribution to 's special and extraordinary expenses under the parties' most recent written agreement, court order or arbitration award.

5.35 [In addition to a yearly review,] Either or may seek a change in child support if there is a material change in the condition, means, needs or other circumstances of , or that would affect child support.

5.36 A material change in the condition, means, needs or other circumstances of the parents or children may be foreseen or unforeseen, foreseeable or unforeseeable, and may include:

- (a) a material change in either party's financial position,
- (b) a change causing undue hardship for either party or the children,
- (c) a change in the number of children entitled to receive support under this Agreement,
- (d) a change in the child's special or extraordinary expenses,
- (e) a change in the child's residence that affects the amount of child support under the Guidelines,
- (f) a child turning 18 years of age, or
- (g) a change in the child's need for support.

5.37 Whoever seeks a change will give the other, in writing:

- (a) notice of the proposed change,
- (b) evidence supporting the proposed change, and
- (c) any request for information necessary to determine the issue.

5.38 The following will not justify a change in child support:

- (a) a child earning up to \$[amount] from personal earnings, scholarships, bursaries, grants, loans, inheritances or gifts from third parties,
- (b) a child residing with during the summer months, even if this amounts to physical custody for more than 40% of the year,
- (c) [example], or
- (d) [example].

5.39 On the first day of [month] ("indexing date") in each year, starting on [date], child support will increase by the indexing factor for the third month immediately before the indexing date in that year. For example, if the indexing date is April 1, the indexing factor applicable on April 1, 2004 will be the indexing factor for January 1, 2004. An example of this calculation is set out as a Schedule ("Indexing Calculation") to this Agreement.

5.40

- (a) In this section, "Relevant Year" means the calendar year immediately before the calendar year in which the particular indexing date occurs, and "percentage annual increase in 's income for the Relevant Year" means the percentage increase, if any, in 's income for the Relevant Year compared to the calendar year immediately before the Relevant Year. For example, if the particular indexing date is April 1, 2004, (i) the Relevant Year is calendar year 2003, and (ii) the percentage annual increase in 's income for the Relevant Year is the percentage increase, if any, in her annual income for calendar year 2003 compared to that for calendar year 2002.
- (b) If the indexing factor applicable on any particular indexing date is greater than the percentage annual increase in 's income for the Relevant Year, may choose to increase child support for the year beginning on that particular indexing date by the percentage annual increase in 's income for the Relevant Year instead of by the applicable indexing factor. An example of this calculation is set out as a Schedule ("Calculation of Adjustment if Payor's Income Change is Less Than Indexing Factor") to this Agreement. To so choose, must provide with copies of her income tax returns, including all schedules and attachments and notices of assessment and reassessment for the previous two years and any other documents may need to confirm 's income. If the increase will be other than the indexing factor, the parties will sign an amending agreement setting out the new amount of child support [and will file the amending agreement with the court and the FRO].

5.41 If neither nor asks for a review of child support under section 5.32 [review section] in any year, child support will be indexed under sections 5.39 to 5.40 [indexing sections] and will continue to be indexed yearly until child support is reviewed under section 5.32 [review section].

- 5.42 will not ask for the financial information prescribed in s. 25 of the Guidelines more often than every [number] years, unless there has been a change of circumstances affecting the financial needs of the children.
- 5.43 may claim the Canada Child Tax Benefit including the National Child Supplement and the dependant credit (equivalent-to-spouse credit) for the child[ren]. These benefits will not affect the child support in this Agreement.
- 5.44 may claim the Canada Child Tax Benefit including the National Child Supplement and dependent credit (equivalent-to-spouse credit) for [child(ren) name(s)] and may claim the Canada Child Tax Benefit including the National Child Supplement and dependent credit (equivalent-to-spouse credit) for [child(ren) name(s)]. These benefits will not affect the child support in this Agreement.
- 5.45 and will share the income tax benefits related to 's religious school tuition, and will direct the school to issue charitable tax receipts in proportion to the amounts paid by each of them.
- 5.46 If the income tax benefit for a child's post-secondary educational institution is not fully used by the child, and will share that benefit in proportion to the amounts paid by each of them for that tuition.
- 5.47 will pay the child support directly to and not to the FRO. If defaults and does not pay within five days of getting a written notification from , she may file the Agreement with the court and the FRO for enforcement.
- 5.48 By December 1st each year, will give post-dated child support cheques for the following year.
- 5.49 will pay child support by direct bank transfer from her bank account at [name of bank, branch and account number] to 's bank account at [name of bank, branch and account number] on the first day of each month.
- 5.50 will pay [percentage amount] interest on any late support payments from the date of the default to the date of payment.
- 5.51 If provides with a cheque that cannot be negotiated at 's bank, will reimburse for any bank charges that she incurs as a result.

6. Dispute Resolution

- 6.1 If and disagree about a reviewable aspect of this Agreement, they will try to resolve the dispute through negotiation.
- 6.2 If or seeks a change in [specify reviewable sections of the agreement], he or she will give the other, in writing:
- (a) notice of the proposed change,

- (b) evidence supporting the proposed change, and
 - (c) any requests for information from the other necessary to determine the issue.
- 6.3 A request under section 6.2(c) will be answered within [number] days.
- 6.4 After exchanging any information required by this Agreement, and will meet personally [or through their personal representatives] to resolve the issues in dispute. If they come to an agreement, and will sign and date an amending agreement before witnesses.
- 6.5 If and cannot agree within [number] days of the request for disclosure under section 6.2(c), they will try mediation [or submit the issue to binding arbitration or mediation first and then arbitration or mediation and then by court application].
- 6.6 The parties wish [name of person] to act as a mediator, but if [he/she] is unable or unwilling to act, they wish [alternate] to act.
- 6.7 The parties will share the costs of mediation. will pay [percentage amount] of the cost of mediation and will pay [percentage amount] of the cost.
- 6.8 If and cannot resolve an issue that has been the subject of mediation, they will arbitrate the dispute.
- 6.9 and wish to have [name of person] but, if [he/she] is unable to act, the parties wish to have [alternate] as arbitrator. The arbitration will be conducted in accordance with the *Arbitration Act*.
- 6.10 and have attached their Mediation/Arbitration Agreement as a Schedule to this Agreement.
- 6.11 When the mediator and the arbitrator are the same person, and waive section 35 of the *Arbitration Act*.
- 6.12 If and cannot agree on a change within [number] days of the initial request for disclosure under section 6.2(c), they will submit the issue to binding arbitration, under the *Arbitration Act*. and will jointly select an arbitrator and will share [equally] the arbitration costs. [Name] will be the arbitrator. If [he/she] is unavailable, [name] will be the arbitrator.

7. Spousal Support Release

7.1

- (a) [will pay \$(amount)].
- (b) As a result of the terms of this Agreement, [or, upon payment] and are financially independent of each other and release his or her rights to spousal support from the other forever. and intend this Agreement to be forever final and non-variable.
- (c)

- (i) This Agreement has been negotiated in an unimpeachable fashion and fully represents the intentions and expectations of the parties. Both parties have had independent legal advice and all the disclosure they have asked for and need in order to understand the nature and consequences of this Agreement and to come to the conclusion, as they do, that the terms of this Agreement, including the release of all spousal support rights, constitutes an equitable sharing of both the economic consequences of their relationship and its breakdown.
 - (ii) The terms of this Agreement substantially comply with the overall objectives of the *Divorce Act* now and in the future and the parties' need to exercise their autonomous rights to achieve certainty and finality.
 - (iii) The terms of this Agreement and, in particular this release of spousal support, reflects their own particular objectives and concerns. Among other considerations, they are also depending upon this spousal release, in particular, upon which to base their future lives.
- (d) and do not want the courts to undermine their autonomy as reflected in the terms of this Agreement, which they intend to be a final and certain settling of all issues between them. They wish to be allowed to get on with their separate and independent lives, no matter what changes may occur. and specifically anticipate that one or both of them may lose their jobs, become ill and be unable to work, have additional child care responsibilities that will interfere with their ability to work, find their financial resources diminished or exhausted whether through their own fault or not, or be affected by general economic and family conditions changing over time. Changes in their circumstances may be catastrophic, unanticipated or beyond imagining. Nevertheless, no change, no matter how extreme, will alter this agreement and their view that the terms of this Agreement reflect their intention to always be separate financially. and fully accept that no change whatsoever in their circumstances will entitle either of them to spousal support from the other.

7.2 The terms of this Agreement are inextricably linked so that if, despite and 's agreement and intent as expressed in this Agreement, a court ever orders any spousal support, the equalization payment must be immediately repaid and its calculation redone as [/] says it is an overpayment and paid in exchange for the spousal support release.

7.3 and are each financially self-sufficient but has been diagnosed with [potentially disabling disease, etc.]. If becomes unable to work as a result of her condition worsening, will pay spousal support based on the circumstances at that time.

7.4 will pay spousal support to until remarries or cohabits with another person for more than [number] months, at which time she releases her right to spousal support. [adopt applicable portions of Payment and Release of Spousal Support clause, above.]

8. Spousal Support

8.1 In full satisfaction of her spousal support obligation, will pay \$[amount] when this Agreement is signed and \$[amount] from [her share of the matrimonial home sale proceeds on closing]. She will pay interest [monthly] on the outstanding balance at [percentage amount] a year, compounded [period].

8.2 will pay spousal support of \$[amount] a month starting [date] and ending on [date]. will make the payments on the first day of each month. On [date], spousal support ends forever. This term cannot be changed [consider utilizing language from section] 7.1 ["Payment and Release of Spousal Support"].

8.3 will pay spousal support of \$[amount] a month, starting [date]. will make the payments on the first day of each month.

8.4 will pay spousal support of \$[amount] a month, starting [date]. will make the payments on the first day of each month. 's entitlement to support [or the amount of 's support] will be reviewed [number] years from the date of this Agreement. At that time, the parties will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.

8.5 Starting [date] and until the closing of the sale of the matrimonial home, will pay these expenses for the matrimonial home:

- (a) realty taxes,
- (b) utilities, including hydro, water, gas, telephone [basic and long distance] and cable,
- (c) home insurance, and
- (d) mortgage interest payments.

Sections 56.1(2) and 60.1(2) of the *Income Tax Act* will apply to these payments. will deduct these payments from her taxable income and will include these payments in her taxable income.

8.6 Starting [date] and until [date] will pay these expenses:

- (a) [specify item, amount, and who is to receive payment],
- (b) [specify item, amount, and who is to receive payment], and
- (c) [specify item, amount, and who is to receive payment].

will not deduct these payments from her taxable income and will not include them in her taxable income.

- 8.7 Since [date], has paid spousal support of \$[amount] to on a periodic basis. These payments are deemed to have been paid and received under this Agreement and subsections 56.1(3) and 60.1(3) of the *Income Tax Act*. will deduct these payments from her taxable income and will include them in her taxable income.
- 8.8 will reimburse for any additional income tax she must pay as a result of including these payments in her income. will also pay any related interest and penalties, unless fails to file her return on time. will give a copy of her income tax return which includes these additional payments. will provide the certified cheque payable to the Canada Customs and Revenue Agency before [April 15th] for to include with her income tax return. If gives her return in a timely way and does not provide the cheque before [April 15th], will not have to include the prior payments in her taxable income.
- 8.9 Spousal support ends when:
- (a) dies,
 - (b) makes the final payment due on [date], or
 - (c) dies, if the insurance required by this Agreement is in place. If it is not, 's estate will continue to pay the support. As 's estate will not be able to deduct the support payments for income tax purposes and may not have to include the support in her taxable income, the monthly support payment will be reduced to the net after-tax monthly support was entitled to receive immediately before 's death. If they cannot agree on the amount, 's estate and will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 8.10 knows that she must contribute to her own support [or will make reasonable efforts to support herself]. She will make reasonable efforts to find a job or become self-employed and will provide with written proof every six months.
- 8.11 When 's income, excluding child and spousal support, is more than \$[amount], she will immediately notify in writing. [On 's written request,] will provide her with all relevant income information, including her employment contracts, pay slips, T4 slips, income tax returns and notices of assessment. While receiving support, she will provide her income tax return to by April 30th each year and the other information as soon as she receives it.
- 8.12 Starting on the first day of the month after 's income exceeds the amount set out in section 8.11 above, may reduce 's spousal support payments by 50 cents for every dollar that 's income, excluding child and spousal support, exceeds \$[amount]. For example, if pays spousal support of \$750.00 a month and receives a salary increase of \$500 a month, may reduce 's spousal support payments to \$500.00 a month (a reduction of \$250 or 50% of 's \$500 increase) starting in the month following 's salary increase. NOTE: This is an example only.

- 8.13 If has overpaid 's support, she may deduct the overpayment over [number] months in equal instalments. [If 's support obligation has ended, will immediately repay the amount of the overpayment to .]
- 8.14 Spousal support may be changed if there is a material change in circumstances, even if the change was foreseen or foreseeable. The change may be:
- (a) in either party's financial position,
 - (b) in the child support arrangements,
 - (c) 's remarriage,
 - (d) 's cohabitation with another person in a relationship resembling marriage for more than [number] months,
 - (e) [other circumstances],
 - (f) [other circumstances],
- or any other similar change.
- 8.15 Neither nor has any obligation to inform the other of changes in either party's financial position unless and until the review provisions of this agreement are implemented.
- 8.16 's spousal support is less than it would have been because of the amount of child support being paid. When the child support is reduced or ends, if requests, there will be a review of spousal support under sections 8.19, 8.20 and 8.21 of this Agreement.
- 8.17 will not pay spousal support while is cohabiting with another person in a relationship resembling marriage. If she stops cohabiting, 's obligation to pay support will be reviewed [or re-instated] in accordance with sections 8.19, 8.20 and 8.21 of this Agreement.
- 8.18 will not pay spousal support when 's cohabitation with another person entitles her to seek support from that person.
- 8.19 Either or may request a review of spousal support:
- (a) on [date],
 - (b) when is no longer obligated to pay child support or her child support obligation is reduced, or
 - (c) under section 8.17, when ceases to cohabit,
 - (d) [other circumstances], or
 - (e) [other circumstances].
- 8.20 If and cannot agree, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.

- 8.21 Until spousal support is adjusted by an amending agreement, court order or arbitration award, will continue to pay spousal support under the parties' most recent written agreement, court order or arbitration award.
- 8.22 On the first day of [month] ("indexing date") in each year, starting on [date], spousal support will increase by the indexing factor for the third month immediately before the indexing date in that year. For example, if the indexing date is April 1, the indexing factor applicable on April 1, 2004 will be the indexing factor for January 1, 2004. An example of this calculation is set out as a Schedule ("Indexing Calculation") to this Agreement.
- 8.23
- (a) In this section, "Relevant Year" means the calendar year immediately before the calendar year in which the particular indexing date occurs, and "percentage annual increase in 's income for the Relevant Year" means the percentage increase, if any, in 's income for the Relevant Year compared to the calendar year immediately before the Relevant Year. For example, if the particular indexing date is April 1, 2004, (i) the Relevant Year is calendar year 2003, and (ii) the percentage annual increase in 's income for the Relevant Year is the percentage increase, if any, in her annual income for calendar year 2003 compared to that for calendar year 2002.
- (b) If the indexing factor applicable on any particular indexing date is greater than the percentage annual increase in 's income for the Relevant Year, may choose to increase spousal support for the year beginning on that particular indexing date by the percentage annual increase in 's income for the Relevant Year instead of by the applicable indexing factor. If so, must provide with copies of her income tax returns, schedules and attachments and notices of assessment for the previous two years, and any other documents reasonably requires to confirm 's income. An example of this calculation is set out as a Schedule ("Calculation of Adjustment if Payor's Income Change is Less Than Indexing Factor") to this Agreement. If the increase is other than the indexing factor, the parties will sign and date an amending agreement before witnesses setting out the new amount of spousal support [and will file the amending agreement with the court and the FRO] .
- 8.24 Neither party will file this Agreement with the Family Responsibility Office for enforcement unless defaults in payment for more than [number] weeks.
- 8.25 will pay [percentage amount] interest on any late support payment from the date of default to the date of payment, compounded annually.
- 8.26 If does not pay the spousal support as required by this Agreement and later pays the arrears in a lump sum, and this payment results in paying more income tax than she would have had she complied with her obligations on time, will also pay this extra tax on 's behalf, immediately after

she provides her with the necessary calculation and tax return. This payment will be treated as liquidated damages, not support. is still liable to pay interest on the delayed payments.

- 8.27 If defaults on timely payment of support, then will pay to all of the solicitor and client costs she incurs to collect the arrears. [She will also pay her \$ (amount) for her time and trouble collecting the arrears because of her default.]
- 8.28 By [date], will give twelve post-dated cheques for the following year.
- 8.29 If provides with a cheque that is not negotiable, will reimburse for any resulting bank charges.
- 8.30 will pay support by direct bank transfer from her bank account at [name of bank, branch and account number] to 's bank account at [name of bank, branch and account number] on the first day of each month.
- 8.31 and agree that neither will apply to the [Ontario Court of Justice] [Family Court of the Ontario Superior Court of Justice] to vary or index the support provisions of this Agreement, pursuant to s. 35(2)(b) of the *Family Law Act*.

9. Medical and Dental Benefits

9.1 In this section:

"medical" means all mental and physical health needs, including prescriptions, vision care, psychological counselling, dental and orthodontic costs, chiropractic costs, speech therapy, occupational therapy, physiotherapy, homeopathy, acupuncture and massage therapy.

9.2 In this section:

"medical" means all health needs for the children.

- 9.3 While required to pay child support under this Agreement, will maintain the child[ren] as beneficiary[ies] of medical, extended health and dental coverage through her employment for as long as it is available to her.
- 9.4 While required to pay child support under this Agreement, will pay that child's medical expenses.
- 9.5 will:
- (a) promptly submit receipts given to her by to the insurer, and
 - (b) immediately endorse the reimbursement cheques from the insurer to and deliver them to her.
- 9.6 If the coverage is no longer available to her through her employment, will immediately obtain and maintain replacement coverage for as long as she is obliged to support under the terms of this Agreement [provided the coverage is available at reasonable cost.]

- 9.7 If, for any reason, 's extended health coverage is no longer available to cover , she will immediately notify , in writing. She will immediately reimburse for any expense incurred by her for before she received notice that the expense was not covered by the extended health insurance.
- 9.8 will pay for 's orthodontic expenses, provided that 's consent is obtained before the expenses are incurred. will not unreasonably withhold her consent. If the parties cannot agree, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 9.9 and will both maintain as beneficiar[ies] of extended health insurance through his or her employment, and will sign documentation authorizing the other to make claims directly to his or her insurer. A party who is reimbursed for a medical expense paid by the other will immediately forward the reimbursed amount to the other.
- 9.10 Medical expenses not covered by either party's extended health insurance are special or extraordinary expenses and will be paid according to section 5.7 (or 5.8 or 5.9) [the applicable special or extraordinary expenses section].
- 9.11 will pay [percentage amount] and will pay [percentage amount] of 's medical expenses not covered by either party's extended health insurance. A party incurring non-emergency child medical expenses will obtain the other's consent in advance, in writing. Neither party will unreasonably withhold his or her consent. If they cannot agree, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.
- 9.12 will not be required to contribute to any medical expenses under section 9.10 (or 9.11) of this Agreement unless her consent was obtained in advance, in writing, or the issue was resolved under the section of this Agreement entitled "Dispute Resolution" in advance.
- 9.13 After the obligation to pay child support ends, on 30 days notice to , in writing, may remove the child's name from the extended health insurance coverage.
- 9.14 will maintain her medical, extended health and dental coverage through her employment for [and] for as long as it is available to her for her [their] benefit. She will immediately reimburse for all amounts recovered by her for expenses incurred by her for herself [and].
- 9.15 If 's employer no longer makes medical, extended health or dental coverage available, will immediately tell . She will also immediately purchase private medical, extended health and dental insurance for [and] [if available to her at comparable or reasonable cost.]
- 9.16 will, either personally or through her employer, maintain medical, extended health and dental insurance coverage for [and] as long as she is required to pay spousal [and child] support under this agreement. will give a written direction to the medical and extended health insurer permitting the insurer to advise on a timely basis that the coverage remains in force or is about to change in any material way.

9.17 will repay for any expense or loss she incurs because of 's failure to maintain medical, extended health or dental coverage as required by this Agreement.

9.18 and are each responsible for his or her own medical, extended health and dental expenses.

10. Life Insurance

10.1 The parties will jointly apply for two life insurance policies ("the policies") on 's life, each in the amount of \$[amount]. will take any medical examinations or tests required to obtain the policies.

10.2 will pay all policy premiums when due. If she does not and pays any premiums, interest or penalties to prevent the policies lapsing, those amounts will be considered child support and enforceable against . If the policy lapses because failed to pay the premiums, will also pay all necessary costs incurred by her to reinstate the policy.

10.3 As long as is obligated to pay child support to , the parties will:

- (a) keep a policy in force for each child,
- (b) ensure that each policy remains unencumbered,
- (c) designate and keep [name of beneficiary] as beneficiary of each policy under the terms of this Agreement for at least one year after 's obligation to pay child support ends in accordance with the child support termination provisions in this Agreement. After that, can deal with the policy as she wishes,
- (d) maintain [independent third party] as trustee for the policies on the following terms [set out proposed scheme of distribution of capital proceeds and income such as the following]:
 - (i) until a child is 23 years old, the proceeds will be used to pay the child support. Any income from the proceeds not used in one year will be added to capital. The trustee may use capital for the child's needs, and
 - (ii) pay to the child the remaining proceeds when the child turns [age].

10.4 When 's obligation to pay child support for a child ends, will transfer her interest in this policy to . If she does not, may obtain a court order transferring 's interest in the policy to . will be responsible for the costs incurs in obtaining the order. (See attached Schedule "Transfer of Interest in Insurance Policy".)

10.5 will keep a life insurance policy ("the policy") on her life in the amount of \$[amount], naming as the irrevocable beneficiary. will not borrow against the policy while she is obligated to pay spousal support.

10.6 [If/When] spousal support ends, 's obligation to maintain the policy ends. When it does, will provide 's insurer with a direction to withdraw the policy's irrevocable designation (see attached

Schedule "Consent to Release of Irrevocable Beneficiary Status"). If she does not, may obtain a court order directing the insurer to do so. will be responsible for the costs incurs in obtaining the order.

- 10.7 Within 14 days of signing this Agreement, will provide with a copy of the policy and the irrevocable beneficiary designation. will sign the direction in the attached Schedule ("Authorization and Direction"), permitting to confirm directly with 's insurer that the policy is unencumbered and in force.
- 10.8 Within 14 days of the policy's anniversary date, will give proof that she has paid the premium.
- 10.9 When dies, 's estate will pay support as if she were still alive [adjusted to reflect that may not have to pay tax on it and the estate cannot deduct it], until receives the insurance proceeds.
- 10.10 authorizes a lien and first charge against her estate for the full amount of the policy proceeds if the policy is not in force on 's death.
- 10.11 If the policy is not in force when dies, in addition to any other remedy may have against 's estate, she may apply under the *Succession Law Reform Act* for relief for herself or any child.
- 10.12 If 's policy cannot be maintained for any reason, she will immediately obtain replacement coverage at a reasonable cost, ensuring no gap in coverage. If learns that there may be a change in insurance coverage, she will advise of the proposed change in coverage and the reason for the change.
- 10.13 may occasionally ask that the policy amount be reduced. The following factors may be taken into account in setting the appropriate amount of insurance:
- (a) the support owed,
 - (b) the estimated remaining period of the obligation,
 - (c) any increase in premium or change in policy, and
 - (d) any other [material] change in circumstance since the policy amount was last set.

11. Property

- 11.1 When this Agreement is signed [or within five business days following the signing of this Agreement], will make an equalization payment to of \$[amount] by certified cheque delivered before [time of day and date] to at [address] [or 's lawyer at (address)].
- 11.2 will make an equalization payment by certified cheque to of \$[amount] in [four] instalments:
- (a) \$[amount] by [date],
 - (b) \$[amount] by [date],
 - (c) \$[amount] by [date], and

- (d) \$[amount] by [date].
- 11.3 If does not pay on time, she will pay the amount due plus interest at the rate of [percentage amount] within 14 days [and/or the balance of the payments will also become due immediately and will pay the outstanding amount in full, together with interest at the rate of (percentage amount) compounded (period) from (date)] [and/or 's spousal support release will become void until all amounts owing are paid].
- 11.4 When signs this Agreement, she will also sign [form of security, e.g., General Security Agreement, pledge of shares, a mortgage, etc.] attached as a Schedule to this Agreement.
- 11.5 To secure this payment, will irrevocably direct her RRSP plan holder to prohibit her from collapsing or transferring her RRSP without 's written consent until the equalization payment is paid, attached to this Agreement as a Schedule ("Direction to RRSP Planholder").
- 11.6 and will share equally their accumulated air miles. [party 1] will transfer [quantify one-half of the difference] in air miles to [party 2]'s plan. If [party 1]'s air plan does not permit transfer, [he/she] will pay \$[amount] to [party 2] or arrange the number of airline tickets at [party 2]'s choice, equal in value to [his][her] entitlement at separation.
- 11.7 [driver] has possession of the [vehicle]. [owner] will immediately transfer its ownership to [him][her]. [owner] will sign any documents necessary to ensure that [driver] will not pay any sales tax on the transfer. [owner] will maintain the vehicle insurance until the transfer. [He/She] will indemnify [driver] from any loss [he/she] incurs if [he/she] fails to do so. From the date of the ownership transfer, [driver] will insure the vehicle.
- 11.8 On signing this Agreement, [transferor] will transfer to [transferee] the [capital asset] as a tax-free rollover.
- 11.9 and will execute and file with their personal income tax returns for the year this Agreement is signed, the joint election attached to this Agreement as a Schedule ("Joint Election Under Section 74.5(3)(b) of the *Income Tax Act*") not to have the taxable capital gain attribution provisions of the *Income Tax Act* apply to dispositions of property by either party after the date of this Agreement. The transferee indemnifies the transferor from all tax liability relating to the transferred property.
- 11.10 On signing this Agreement, [transferor] will transfer to [transferee] the [capital asset] at its fair market value of \$[amount].
- 11.11 [transferor], as transferor, will elect in [his][her] income tax return in the year the transfer is made not to have the terms of s. 73(1) of the *Income Tax Act* apply.
- 11.12 The spousal support and property sections of this Agreement are interdependent and inextricably intertwined. Together, they fully satisfy the support objectives set out in the *Divorce Act* and the *Family Law Act*.

- 11.13 The spousal support and property sections of this Agreement are interdependent and inextricably intertwined in that they:
- (a) fully satisfy the support objectives set out in the *Divorce Act* and the *Family Law Act*,
 - (b) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown,
 - (c) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage,
 - (d) relieve any economic hardship to the spouses arising from the breakdown of the marriage,
 - (e) insofar as is practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time,
 - (f) recognize each spouse's contribution to the relationship and the economic consequences of the relationship for the spouse,
 - (g) share the economic burden of child support equitably,
 - (h) fairly assist the spouses to become able to contribute to their own support, and
 - (i) relieve all financial hardship.

12. Matrimonial Home

- 12.1 The parties own the matrimonial home jointly [or as tenants-in-common].
- 12.2 On signing this Agreement, will transfer her interest in the matrimonial home to , free of all encumbrances. will pay the cost of the preparation and registration of the transfer.
- 12.3 On signing this Agreement, will transfer her interest in the matrimonial home to for \$[amount] (or value reached through "Value of Matrimonial Home" calculation in section 12.6 (or 12.7)). will pay the cost of the preparation and registration of the transfer.
- 12.4 On signing this Agreement, will transfer her interest in the matrimonial home to , and will transfer her interest in the cottage to . will pay the cost of the preparation and registration of the matrimonial home transfer and will pay the cost of the preparation and registration of the cottage transfer.
- 12.5 If any encumbrance is registered on title after the date of this Agreement but before the transfer, the responsible party will immediately remove it and fully indemnify the other from all liability relating to it.

- 12.6 If and cannot agree on the value of the matrimonial home, it will be determined by a jointly retained, qualified real estate appraiser.
- 12.7 If and cannot agree on the value of the matrimonial home, it will be determined as follows. and will each select a qualified real estate appraiser who will appraise the home. They will then exchange these appraisals and if they are within ten percent of each other, the value will be the average of the two. If the appraisals are not within ten percent of each other, the two appraisers will select a third appraiser to prepare a third appraisal. The two closest appraisals of the three will be averaged, and the value will be the average of the two appraisals. If either or is purchasing the other's interest in the property, he or she may deduct [percentage amount] of notional real estate commission and legal expenses of [percentage amount] from the value.
- 12.8 will use her best efforts to immediately obtain a release of 's mortgage obligations from [name of lending institution]. If cannot obtain 's release, she indemnifies her for all claims the lending institution may make against on the mortgage. will be responsible for all penalties, interest and costs resulting from this mortgage.
- 12.9 If cannot obtain 's release, she will refinance the home and discharge the current mortgage. will pay any penalties resulting from this refinancing.
- 12.10 On signing this Agreement, and will each designate the matrimonial home as his or her principal residence from the year of purchase until the year of 's transfer to [or the year the Agreement is signed]. If either becomes liable for income tax resulting from the other's failure to designate the matrimonial home as his or her principal residence, the one who failed to designate under the terms of this Agreement will be liable for the other's tax.
- 12.11 will have exclusive possession of the matrimonial home until the sale closes, and will pay [utilities, mortgage, insurance, common expense charges, cable T.V., gardening, snow removal, alarm monitoring and maintenance]. and will equally pay [realty taxes, repairs over \$ (amount)].
- 12.12 For the purposes of this Agreement:
- (a) "daily household expenses" in connection with the matrimonial home means:
 - (i) utilities,
 - (ii) water and sewer fee,
 - (iii) electricity,
 - (iv) telephone, and
 - (v) repairs that are not major repairs.
 - (b) "major repairs" means repairs required to preserve the matrimonial home or maintain it in a marketable condition, such as:

- (i) roof repairs,
- (ii) exterior repairs,
- (iii) exterior painting,
- (iv) major plumbing or electrical repairs, and
- (v) replacement of:
 - (1) chimney,
 - (2) hot water tank,
 - (3) furnace,[air conditioning, air cleaner, humidifier,]
 - (4) major appliances, [and]
 - (5) [swimming pool]

but does not include remodelling or redecorating.

(c) "major expenses" of the matrimonial home means:

- (i) major repairs,
- (ii) premiums on [type of] insurance,
- (iii) mortgage payments, and
- (iv) property taxes.

12.13 will pay the daily household expenses.

12.14 and will pay equally the major expenses [or percentage split or one pays and is to be reimbursed from sale proceeds].

12.15 Neither party will arrange for major expenses without the other's prior consent, in writing.

12.16 The parties will direct the lawyer on the sale to pay these expenses from the matrimonial home sale proceeds:

- (a) real estate commission,
- (b) adjustments for taxes, utilities, municipal fees or levies,
- (c) amounts required to discharge registered encumbrances,
- (d) legal fees and disbursements relating to the sale, and
- (e) all other sale adjustments.

12.17 From the net proceeds, before distribution between the parties, they will:

- (a) pay to [name] as agreed \$[amount],

- (b) reimburse \$[amount], as agreed, and
- (c) pay the [institution] to retire the parties' [joint credit card debt or personal credit line] of \$[amount].

12.18 After paying these amounts, the remaining proceeds will be divided [equally] between the parties.

12.19 While has exclusive possession of the matrimonial home in accordance with this Agreement, will execute or guarantee:

- (a) any mortgage renewal, [and/or]
- (b) any mortgage replacement, provided the principal amount secured does not exceed \$[amount].

12.20 will indemnify from any expense or loss incurred by as a result of her co-signing or guaranteeing the mortgage.

12.21 and hold title to the matrimonial home as joint tenants [or tenants-in-common]. They will continue to hold title jointly until the matrimonial home is sold. [Neither party will sever the joint tenancy.]

12.22 and will sell the matrimonial home when:

- (a) [the youngest child] leaves or completes high school,
- (b) remarries or cohabits in a relationship resembling marriage for more than [number] months, or
- (c) [date].

12.23 and have divided their household contents.

12.24 and have divided their household contents as set out in a Schedule attached to this Agreement.

12.25 and will equally divide their household contents. If the parties cannot agree on a division, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the issue.

13. Debts

13.1 and have the following debts in their joint names:

- (a) [debt],
- (b) [debt], and
- (c) [debt].

13.2 will be responsible for [name debt and proportion, if appropriate].

13.3 will be responsible for [name debt and proportion, if appropriate].

- 13.4 If or becomes liable for a debt the other has assumed, the party who has assumed the debt will fully indemnify the other.
- 13.5 and will be solely responsible for payment of their own personal debts and liabilities, which include:
- (a) [debt],
 - (b) [debt], and
 - (c) [debt],
- and will indemnify the other from any expense or liability with respect to his or her own debts.
- 13.6 When this Agreement is signed, and will terminate the following credit cards:
- (a) [credit card and account #],
 - (b) [credit card and account #],
 - (c) [credit card and account #], and
- will be responsible for any balance owing on [credit card(s) and account #(s)].
- will be responsible for any balance owing on [credit card(s) and account #(s)].
- 13.7 and are both liable to [institution] for [line of credit/mortgage/collateral mortgage]. [name] will assume full responsibility for this debt and will use [his/her] best efforts to arrange [name]'s release from it. Whether or not [name] is able to arrange [name]'s release, [he/she] will fully indemnify [her/him] from the debt.
- 13.8 [name]'s family loaned and \$[amount], which is evidenced by a promissory note. [name] will assume full responsibility for this debt and indemnify [name] from it. [name] will also obtain [name]'s release from the debt, and provide proof at the time this Agreement is signed.
- 13.9 has exclusive possession of the matrimonial home, which is mortgaged to [institution]. will continue to guarantee the mortgage until 's period of exclusive possession ends when she will use her best efforts to remove her from the guarantee. She will sign all renewals within one week of providing her with a copy for signing.
- 13.10 [name] loaned [name] \$[amount] in [year]. [name] forgives that loan completely.
- 13.11 Neither nor will pledge the credit of the other or bind the other for any debts he or she may incur after the signing of this Agreement. and acknowledge that they have not pledged the credit of the other since separation.
- 13.12 A party who is under an obligation in this Agreement to reimburse or indemnify the other will:
- (a) pay the other's expenses, damages or loss, including costs arising from the party's obligation to reimburse or indemnify, and

- (b) indemnify the other from:
 - (i) any amounts paid by him or her with respect to the liability, plus interest on the amount at [percentage amount] a year compounded annually, and
 - (ii) actual legal fees and disbursements incurred by him or her.

13.13 In this Agreement, one party's indemnification of the other with respect to a debt will be enforceable as a consent to judgment in favour of the party owed the indemnity and against the party owing it [can be more specific if the debts are specifically listed] in the amount of the liability, plus the costs incurred to obtain the judgment and enforce it.

14. Pensions

14.1 Either party may apply for a division of Canada Pension Plan credits.

14.2 In this section of the Agreement:

- (a) "PBDA" means the *Pension Benefits Division Act*,
- (b) "pension benefit" means any pension or other benefit or amount payable under a pension plan as defined in section 2 of the PBDA, and
- (c) "Plan" means a superannuation or pension plan provided by the *Public Service Superannuation Act* and the *Supplementary Retirement Benefits Act*.

14.3 The parties confirm that:

- (a) is a member of the Plan,
- (b) 's interest in the Plan which has accumulated from [date of marriage unless parties agree otherwise] to [valuation date] is property within the meaning of the *Family Law Act*,
- (c) a report containing a valuation of 's entitlements under the Plan was obtained from [name of actuary],
- (d) each has reviewed the report and the basis for the valuation thoroughly with his or her lawyer,
- (e) the value of 's pension for the purposes of this paragraph is [the value] and is entitled to one-half of that amount, and
- (f) is not now in receipt of pension income pursuant to the Plan.
[or]
- (g) is currently receiving \$[amount] annually of pension income under the Plan.

14.4 The value of 's interest in the Plan will not be included in her net family property. 's entitlement will be paid according to the PBDA and the terms of this Agreement.

- 14.5 Either party may apply for a division of the value of 's pension benefit ("the benefits") under the Plan pursuant to subsection 4(1) of the PBDA and the terms of this Agreement. For the purposes of the application, and confirm that:
- (a) they have been living separate and apart since April 24, 2003,
 - (b) both and will co-operate fully in order to have the application processed as quickly as possible,
 - (c) 's address is , and 's address is , .
 - (d) 's birthdate is April 24, 2003,
 - (e) 's most recent place of employment in the Public Service is [place of employment]. ceased to be employed in the Public Service on [date],
 - (f) 's employee identification number, regimental number or pension number is [number],
 - (g) neither nor will file a Notice of Objection with the Minister under section 6 of the PBDA and each party waives the right to file a Notice of Objection,
 - (h) neither nor will submit evidence to the Minister suggesting that it would not be just to approve the application and the parties waive the right to submit such evidence,
 - (i) for the purpose of section 8 of the PBDA, the "period subject to division" is the period from [time period to time period], and
 - (j) during the period subject to division, and were spouses of one another within the meaning of the PBDA and there was no other person who could be considered a spouse under the PBDA during that time.
- 14.6 The Minister will transfer an amount representing fifty percent of the value of the pension benefits that have accrued to under the Plan during the period subject to division into a [details of qualified retirement savings vehicle] chosen by . The amount to be transferred will be determined in accordance with the regulations under the PBDA ("the maximum transferable amount").
- 14.7 and agree that the value of 's interest in 's plan on valuation date was \$[amount]. agrees that if the maximum transferable amount payable pursuant to section 14.6 is less than that amount, then will pay the difference in value to . The amount owed to will be calculated as follows:
- [provide details]
- 14.8 and acknowledge that the amount transferred under the PBDA will be in before-tax dollars. Consequently, in calculating the balance, if any, of the equalization payment owing from to under section 11.1 or 11.2, the amount actually transferred by the Minister under section 8 of the PBDA will be deducted from the equalization payment using the before-tax value of 's pension [or the net (after tax) value, if appropriate].

- 14.9 The Minister will transfer \$[amount] into a qualified retirement savings vehicle chosen by in accordance with the regulations under the PBDA.
- 14.10 If dies before the transfer under the PBDA, the application will be cancelled and will retain the full value of her pension benefits.
- 14.11 If dies before the transfer under the PBDA, the amount otherwise payable to will be paid to her estate.
- 14.12 Until the transfer of the value of the pension benefits under subsection 8(1) of the PBDA, :
- (a) will be a trustee for 's interest in the Plan,
 - (b) will ensure that 's interest in the Plan is not prejudiced,
 - (c) must immediately [or within (number of days)] deliver to copies of all written communications between her and the administrator of the Plan ("the administrator"),
 - (d) must immediately forward to the administrator a copy of this Agreement with a letter drawing to the administrator's attention the terms of this Agreement that deal with the Plan, and
 - (e) will immediately deliver an irrevocable direction to the administrator authorizing the administrator to:
 - (i) provide with any information she requests about the Plan, and
 - (ii) promptly send to copies of all communications between and the administrator prior to the division of the value of the pension benefits. If the administrator requires a specific form of direction, must comply with the administrator's requirement.
- 14.13 Until the completion of the transfer of the value of the pension benefits under the Plan, is entitled to communicate directly with the administrator of the Plan.
- 14.14 If does not comply with these trust terms, consents to obtaining an order without notice to her directing the administrator to refrain from any action that might impact negatively on 's ability to apply for the division of benefits.
- 14.15 directs the administrator to:
- (a) comply with all applicable terms of this Agreement, and
 - (b) take all steps required to protect 's interest in and claims to 's pension benefits as provided in this Agreement.
- 14.16 will designate irrevocably as beneficiary of \$[amount] of life insurance to ensure that if she dies prior to satisfying the requirements under the pension sections of this Agreement, may enforce her rights to the balance of the equalization payment owing to her.

- 14.17 Recognizing the mutual intention of the parties that receive a one-half interest in the pension benefits accumulated during [the marriage or period of cohabitation], if, for any reason, the above requirements cannot be accomplished in a reasonable period of time:
- (a) will remain entitled to a one-half interest in 's pension benefits accumulated during the years of [marriage/cohabitation],
 - (b) the court may make further orders as to the pension, including security, as may be necessary to give effect to the intention of the parties contained in this Agreement,
 - (c) 's entitlement will be satisfied:
 - (i) in any other manner the parties may agree upon, or
 - (ii) if they cannot agree, then as may be:
 - (1) resolved by using the section of this Agreement entitled "Dispute Resolution", or
 - (2) by a court of competent jurisdiction, and
 - (d) for these purposes, and waive the application of any limitation period which might otherwise apply. If, for any reason, any term in this Agreement concerning the transfer of the value of the pension benefits becomes difficult or impossible to complete, the parties will execute any amendments to this Agreement that may be necessary to give effect to this Agreement.
- 14.18 and will sign any documents required to carry out these pension terms.

15. Releases

- 15.1 This Agreement is a full and final settlement of all issues between and and all rights and obligations arising out of their relationship.
- 15.2 Except as otherwise provided in this Agreement, and release each other from all claims at common law, in equity or by statute against each other, including claims under the *Divorce Act*, the *Family Law Act*, and the *Succession Law Reform Act*.
- 15.3 Except as otherwise provided in this Agreement, and release each other from all claims either may have against the other now or in the future under the terms of any statute or the common law, including all claims under the *Divorce Act*, the *Family Law Act*, and the *Succession Law Reform Act*, for:
- (a) possession of property,
 - (b) ownership of property,
 - (c) division of property,

- (d) compensation for contributions to property, and
 - (e) an equalization payment.
- 15.4 Except as otherwise provided in this Agreement, and each renounce any entitlement either may have in the other's will made before the date of this Agreement or to share in the estate of the other upon the other dying intestate.
- 15.5 Except as otherwise provided in this Agreement, and release each other from all claims either may have against the other now or in the future under the terms of any statute or the common law, including claims for:
- (a) a share in the other's estate,
 - (b) a payment as a dependant from the other's estate under the *Succession Law Reform Act*,
 - (c) an entitlement under the *Family Law Act*,
 - (d) an appointment as an attorney or guardian of the other's personal care or property under the *Substitute Decisions Act*, and
 - (e) participation in decisions about the other's medical care or treatment under the *Health Care Consent Act*.
- 15.6 Except as otherwise provided in this Agreement, on the death of either party, the surviving party will not:
- (a) share in any testate or intestate benefit from the estate, or
 - (b) act as personal representative of the deceased; and,
 - (c) the estate of the deceased party will be distributed as if the surviving party had died first.

16. General Terms

- 16.1 There are no representations, collateral agreements, warranties or conditions affecting this Agreement. There are no implied agreements arising from this agreement and this agreement between the parties constitutes the complete agreement between them.
- 16.2 If and agree to try and reconcile their relationship but they cohabit for no longer than 90 days, this Agreement will not be affected. If they cohabit for more than 90 days, this Agreement will become void, except that any transfers or payments made to that time will not be affected or invalidated.
- 16.3 Except as otherwise provided in this Agreement, the invalidity or unenforceability of any term of this Agreement does not affect the validity or enforceability of any other term. Any invalid term will be treated as severed from the remaining terms.

- 16.4 The section headings contained in this Agreement are for convenience only and do not affect the meaning or interpretation of any term of this Agreement.
- 16.5 If a divorce judgment or order issues, all of the terms of this Agreement will continue.
- 16.6 If a divorce judgment or order issues, sections [numbers] will be incorporated in the judgment or order and this constitutes and 's consent to that.
- 16.7 and wish to remove any religious barriers to either party's remarriage and they will co-operate in immediately obtaining a [Catholic annulment, Jewish Ghet or Muslim divorce]. They will share the cost equally.
- 16.8 The interpretation of this Agreement is governed by the laws of Ontario.
- 16.9 This Agreement binds and 's heirs, executors, administrators and assigns.
- 16.10 Any amendments to this Agreement must be in writing, signed by the parties, dated and witnessed.
- 16.11 and will sign any documents necessary to give effect to this Agreement.
- 16.12 and have disclosed their income, assets and other liabilities existing at the date of [marriage or start of cohabitation], separation and the date of this Agreement.
- 16.13 and have each investigated the other's financial circumstances to his or her satisfaction.
- 16.14 and attach their sworn financial statements as Schedules to this Agreement.
- 16.15 Although neither nor has requested financial disclosure from the other, they are satisfied with the financial information he or she has about the other and each waives further financial disclosure.
- 16.16 or 's failure to insist on the strict performance of any terms in this Agreement will not be a waiver of any term.
- 16.17 and will pay their own costs for the negotiation and preparation of this Agreement.
- 16.18
- (a) and have both had independent legal advice, from [full name] and from [full name].
 - (b) and :
 - (i) understand his or her rights and obligations under this Agreement and its nature and consequences,
 - (ii) acknowledge that this Agreement is fair and reasonable,
 - (iii) acknowledge that they are not under any undue influence or duress, and
 - (iv) acknowledge that both are signing this Agreement voluntarily.

16.19

(a) [or] has been told to obtain independent legal advice, has had the opportunity to obtain independent legal advice, and has declined it.

(b) and :

(i) understand his or her rights and obligations under this Agreement and its nature and consequences,

(ii) acknowledge that this Agreement is fair and reasonable,

(iii) acknowledge that they are not under any undue influence or duress, and

(iv) acknowledge that both are signing this Agreement voluntarily.

16.20 and will each inform the executors named in his or her will that this Agreement exists, and where a copy is located.

16.21 Where consent is required under this Agreement, it will not be unreasonably withheld. If and cannot agree whether consent is being reasonably withheld, they will use the section of this Agreement entitled "Dispute Resolution" to resolve the matter.

16.22 The effective date of this Agreement is the date on which the latter party signs it.

TO EVIDENCE THEIR AGREEMENT AND HAVE SIGNED THIS AGREEMENT BEFORE A WITNESS.

DATE:

Witness

DATE:

Witness



Ken S. Maynard AccFM, CDFA

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