

Cal Divorce 123

MARITAL SETTLEMENT AGREEMENT CHECKLIST

FACTUAL RECITALS

- Identity of parties and minor children
- Statistical facts of marriage
- Dissolution proceeding contemplated or filed
- Each party's employment (or, in the case of an unemployed party, employment background, skills, etc.)
- Each party's current earnings
- Each party's age
- Health of parties
- Finality of agreement, or issues left unresolved

PROPERTY DISPOSITIONS

- Identity, value and disposition of community and quasi-community property
- Identity, value and disposition of noncommunity property joint tenancy and tenancy in common interests
- Confirmation of each spouse's separate property interests
- REA waivers (waiver of survivorship benefit rights in other spouse's ERISA pension)
- Waiver of rights in deceased spouse's estate
- Sale of property (and/or deferred sale re, e.g., "family home award")
- Warranty: disclosure of property
- Warranty: value of property
- After-discovered property
- Disposition of furnishings and personal effects
- Allocation of debt responsibility; "hold harmless" clauses

REIMBURSEMENT CLAIMS

- SP contributions to the "acquisition" of CP
- Payments on debts
- Property improvement payments
- Contributions to education and training

CUSTODY AND VISITATION

- Sole custody (legal and/or physical)
- Joint custody (legal and/or physical)
- Other custody arrangement: shared custody; split custody
- Reasonable visitation; or defined visitation
- Removal of child from jurisdiction– State, County of *[Insert name of County]*
- Child's surname

CHILD SUPPORT

- Guideline minimum child support requirements
- Spouses' recognition of guideline limitations where agreement is for less than the mandatory minimum
- "Family home award" as component of child support
- Payment schedule": weekly, monthly, or other; when payments under agreement shall commence
- Duration of child support (effect of emancipation or adulthood)
- Special support considerations: health insurance, medical and dental payments; special educational needs, etc.
- Right to claim dependency exemption; waiver of exemption by custodial parent
- Agreement to support adult children

SPOUSAL SUPPORT

- Amount of support
- Payment schedule: weekly, monthly, or other; when payments under agreement to commence
- Combined spousal and child support option ("family support")
- Payment of debts as payment of support
- Satisfaction of state and federal tax requirements for deductibility to payor
- Modifiability of spousal support
- Duration of support; reservation of jurisdiction
- Waiver of spousal support
- Pendente lite support

FEES AND COSTS

- Attorneys'/mediator's fees and costs of litigation
- Experts' fees
- Costs

TAX PROVISIONS

- Tax returns (separate or joint returns during the separation period?)
- Tax refunds and deficiencies; indemnification provisions
- Allocation of dependency exemption
- Designation of spousal support as nonincludible, nondeductible for federal tax purposes

GENERAL PROVISIONS

- Effect of reconciliation
- Effect of invalidity
- Law applicable
- Mutual releases
- Modification, revocation or termination of agreement
- Costs of enforcement; waiver of costs of enforcement
- Execution of instruments

- Execution formalities (notary, recordation, etc.)
- Effective date of agreement
- Independent legal representation (or acknowledgment of voluntary and knowing refusal to obtain independent legal advice)
- Persons bound
- Parties
- Counsel

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