

## MARITAL PROPERTY AGREEMENT

This Marital Property Agreement (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, pursuant to Article XVI, §15, Texas Constitution, by and between \_\_\_\_\_ (Husband) and \_\_\_\_\_ (Wife) to provide for definition of their respective marital property rights. The parties hereto agree as follows:

1. **Matrimonial Domicile.** The parties, residing in the State of Texas, planning to be married, and having substantial and continuing ties with the State of Texas, do specifically recognize and agree that the State of Texas is and shall be their matrimonial domicile and intend that the laws of the State of Texas shall govern all matters concerning their marital property. The provisions of this Agreement shall prevail over any contrary provision of law which may be supplanted or modified by private agreement.

2. **Separate Property.** The parties acknowledge that the property owned by each of them prior to the marriage and all property acquired thereafter by gift, devise or descent, or by investment or reinvestment of separate property, is the separate property of each of them respectively. The separate property of a spouse shall never be liable for any debt of the other spouse unless such debt is explicitly assumed in writing by the spouse owning such separate property. Neither spouse shall have any authority to contract with respect to the separate property of the other spouse.

3. Income As Separate Property.

A. Income from Capital. All mutations, increases, issues, rents, dividends, interest and other earnings upon the separate property of a party (including any increase in the value of a party's separate property on account of the time, talent, and labor of such party) shall be the separate property of the party owning such property.

B. Compensation for Personal Services. All compensation for personal services (including pension, profit-sharing, or deferred compensation in any form) shall be (\_\_\_) community property of the parties or (\_\_\_) separate property of the party performing such services. [CHOOSE AN OPTION]

C. Partition and Exchange. Should any property intended by paragraphs 3A and/or 3B to be separate property ever be characterised as community property, the parties agree to partition and exchange such community property to effectuate the intent of this paragraph 3.

4. **Presumptions.** Property held, registered, or titled in the name of one of the spouses only shall be presumed to be the separate property of the spouse in whose name such property is held, registered, or titled. Property held, registered, or titled in the names of both parties shall be presumed to be jointly owned separate property unless some written indicia of ownership shows that such property is held in another manner.

5. Marital Expenses. The parties agree to make reasonable provision for their mutual expenses during marriage.

6. Allocation of Income Tax Expense. In the event the parties should file joint returns with respect to income tax liabilities, each party shall contribute to the payment of such taxes that proportion of the tax payable by reason of such joint return which the tax which would be payable by each of them if separate returns were filed bears to the total tax which would be payable by both of them if separate returns were filed; provided, however, this paragraph is for the sole benefit of the parties hereto, who may waive the provisions of this paragraph as they see fit. Any payment of any tax by the parties shall be conclusive as to the proper allocation of such tax liability unless the parties have agreed otherwise.

7. Dissolution of Marital Community. In the event of any dissolution of the marriage of the parties, property shall be distributed as follows:

A. Each spouse shall retain the ownership of his or her separate property.

B. Liabilities associated with separate property (for example, for improvement or acquisition), if joint liability exists for any reason, shall be assumed by the spouse with whose separate property such debts are associated unless the parties have agreed otherwise. Any joint liabilities not associated with separate property shall be paid equally by the spouses.

C. Jointly owned property shall be partitioned equally between the parties unless the parties have agreed otherwise.

D. In the event that the separate property of either party is spent for the improvement, repair or expansion of real estate owned by the other party as such other party's separate property, such expenditures shall constitute a monetary charge against the separate estate of the party owning the real estate improved arising upon dissolution of the marriage by death or divorce. Such charge shall draw interest after dissolution of the marriage at the legal rate until paid and shall be amortized monthly over a period not exceeding five years.

8. Severability. Should any provision of this Agreement be unenforceable, all other provisions of this Agreement shall nevertheless remain in full effect. Each party acknowledges that this Agreement constitutes the sole agreement of the parties with respect to their marital property and that there are no prior or contemporaneous understandings or agreements, oral or written, with respect to the subject matter of this Agreement.

9. Amendment. Any agreement between the parties in furtherance or derogation of this Agreement must be in writing and signed by the parties.

10 Attorneys' Fees and Costs. Attorneys' fees and costs incurred by either party in any contest of or attack upon this agreement or in divorce proceedings shall be paid solely by the party incurring the same.

11. Effective Date. This Agreement shall be effective upon and operative from the date of the marriage of the parties.

12. Enforceability.

THE PARTIES HERETO SPECIFICALLY AGREE THAT THE PROVISIONS OF THIS AGREEMENT ARE JUST AND RIGHT, HAVING DUE REGARD FOR THE RIGHTS OF EACH PARTY, AND INTENT HEREBY TO ESTOP THEMSELVES FROM ANY CONTENTION TO THE CONTRARY IN ANY COURT OR JURISDICTION.

EACH PARTY VOLUNTARILY AND EXPRESSLY WAIVES ANY RIGHT TO DISCLOSURE OF PROPERTY OR FINANCIAL OBLIGATIONS OF THE OTHER PARTY TO THIS AGREEMENT.

EACH PARTY EXPRESSLY ACKNOWLEDGES THAT SUCH PARTY UNDERSTANDS THAT THIS AGREEMENT MODIFIES OR ELIMINATES MARITAL PROPERTY RIGHTS WHICH WOULD OTHERWISE EXIST UNDER TEXAS LAW IN THE ABSENCE OF THIS AGREEMENT.

EACH PARTY EXPRESSLY ACKNOWLEDGES THAT SUCH PARTY HAS BEEN ADVISED OF HIS OR HER RIGHT TO OBTAIN THE SERVICES OF INDEPENDENT LEGAL COUNSEL WITH RESPECT TO THIS AGREEMENT.

13. Execution of the Agreement.

I have read this document; I understand it, and I agree to all the terms of this contract.

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Husband

I have read this document; I understand it, and I agree to all the terms of this contract.

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Wife

