**Equitable Distribution, Residence, Retirement and Tax Implications**

**Worksheet**

What are your goals for your family, long-term, regarding retirement?

How far are each of the parties from retirement?

What resources would you like to have available to you for retirement?

What financial goals do you have for your family, that make the residence and equitable distribution come into play?

What are you attempting to accomplish by staying in the homestead?

What goals do you have for your family that might require a consultation with someone who specializes in taxes?

Decision-making: How will you decide who gets what? On what basis will you make decisions if you both want the same item?

If you want suggestions for how to make decisions, mediators have significant training on the process of making decisions and can help you set precedents and axioms now for future decisions.

***Warning***: This section can take a good amount of time to collect information. It is also highly emotional to look at for many people. Pay attention to your feelings in this process and talk to someone more informed than yourself to ensure you are getting the best available advice. There are articles, books and people who can provide you with information on each of these areas. These can have long-term implications for your life, so please do not take this part lightly. We want you to freely agree and not come back later and challenge this. If you are making emotional decisions, without using logic to counterbalance, experience has shown that you could regret your decision. One mistake we have seen is that people don’t want to pay $500 for a CDFA to look over their numbers and then realize they made an uninformed decision worth significantly more than $5,000 and they wish they had asked more questions of an expert.

**Goal 1:** Each party gets their needs met and does not trample on the needs of the other, so that each person ends this with a sense of being able to say it was “fair enough” of a distribution.

**Goal 2:** After crunching the numbers, you can afford to live, can afford to retire and might have to adjust how many hours you work or make adjustments to your current lifestyle

Place a checkmark next to the preferences below.

Please bring this to your session, highlighting what parts you need to further discuss to come to agreement.

**Marital Residence**

Think long and hard about your goals for your family and the marital residence.

What are your goals and how can the two of you work together to make it happen? Are you being realistic about the process?

Address

This home was purchased in (yr) for $

The original *mortgage* was for $ and $ was the down payment.

The down payment of \_\_\_\_\_\_\_\_\_ (amount of money) came from the \_\_husband/\_\_wife or \_\_\_separate funds or the \_\_husband/\_\_wife‘s parents

\_\_There was no original mortgage.

The present first mortgage balance is $ at %. The monthly mortgage payment is $ and includes $\_\_\_\_\_\_\_\_\_\_in taxes and home insurance

The monthly cost for hazard insurance is $

The house is in ‘s name.

There were improvements in (what year) in the amount of approximately $\_\_\_\_\_\_

The money came from \_\_\_\_\_\_\_\_\_\_ (who and what were the terms?)

The present second mortgage home equity loan balance is $ at % (in whose name?)

The present market value is approximately $ \_\_\_\_\_\_ , based on an appraisal by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The \_\_husband \_\_wife will have sole possession of the marital residence

\_\_The house will be sold to a third party. The husband and wife agree to sell the marital residence no later than , pay off all marital debt and split the net proceeds this way: \_\_\_\_\_\_\_\_husband \_\_\_\_\_\_\_\_\_\_wife

The husband and wife will be \_\_\_ 50/50 responsible \_\_%\_husband/\_\_\_%\_wife (other percentage?) for any taxes owed on the sale.

The maintenance payment on the property is $ per month

\_\_\_Until the sale of the marital residence, the husband and wife will split the cost of major repairs \_\_50/50 or \_\_\_% husband/ \_\_\_%wife.

As part of the equitable distribution, the marital residence will become the sole possession of \_\_husband \_\_wife who will be solely responsible for all mortgage payments, all payments for assessment, improvements, taxes etc. and will hold the other harmless and indemnify the other from paying any expenses in regard to the marital residence.

The title/shares will be transferred from the husband and wife to the other.

\_\_As soon as possible

\_\_As soon as the \_\_\_husband’s \_\_\_wife’s name is removed from the mortgage

\_\_Within \_\_days of the signing of this agreement

The closing costs including the mortgage transfer taxes will be \_\_split 50/50 \_\_paid for by the \_\_husband/ \_\_wife

The \_\_husband/ \_\_wife will cause the other’s name to be removed from the mortgage within \_\_\_\_\_\_days from the signing of this agreement.

\_\_If we cannot agree on a price for the house, then we will pick a local real estate broker who will tell us how much to ask for the house and when to reduce the asking price

The house was sold on \_\_\_\_\_\_\_(date) for $\_\_\_\_\_\_\_\_\_ and the net proceeds of were split as follows:

The husband received $\_\_\_\_\_and the wife received $\_\_\_\_\_\_ after paying the following: (list)

\_\_If the \_\_husband \_\_wife is late making a mortgage payment then the other may make the payment and all future mortgage payments and deduct this payment from his monthly children support/spousal support payment.

\_\_Neither the husband nor the wife will live in the marital residence.

\_\_The house will be sold or the \_\_husband/ \_\_wife will buy out the other’s share no later than \_\_\_\_\_\_\_\_\_\_\_\_\_

The \_\_husband/ \_\_wife will be credited for any pay down of the mortgage or for any capital improvements before diving the net equity.

The \_\_husband/ \_\_wife will vacate the marital residence within \_\_\_\_ (60?) days of the signing of this agreement.

\_\_If the husband’s application for a mortgage is denied because of his name being on the existing mortgage of the Marital residence then the husband may request the wife cause the husbands name to be removed from the mortgage within \_\_\_\_(120?) days. If the wife is unable to have the husbands name removed the house/co-op will be sold

\*Please consider looking at how much your monthly payments will be, what will happen if money gets tight, what will happen if you find out you cannot truly afford the house even though you wanted to stay in the house. If you cannot afford it, please be aware that is how some couples lose the house and then no one gets it.

[ ] Mortgage held by what bank \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] Who pays for and how make decisions regarding Prep house for sale: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] capital improvements \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] tax benefits \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] equity to devolve if one should die: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] how equity to be determined \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] first right of refusal \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] net equity defined: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Many times couples want one person to remain in the house if they can afford it. Please make sure you run the numbers to see if you can afford it. Sometimes it makes more sense to not stay in the house and this might be a challenge emotionally to leave the marital home.

*RENTAL*:

*\_\_*There is no lease on this rental.

The lease on this rental is in the \_\_husband/\_\_wife’s joint name. The rent is $\_\_\_\_\_\_per month. The \_\_husband/\_\_wife will have the right to occupy this rental.

The \_\_husband/\_\_wife will solely be responsible for all costs associated with this rental and indemnifies and holds the husband/wife harmless.

The security deposit of $\_\_\_\_\_ will \_\_be split 50/50\_\_ belong to \_\_\_\_\_(who) \_\_Other

*Second home*:

Same questions as first home

**Marital Property**

Things acquired during the marriage are considered marital property. The marital residence has its own separate category. What long term life goals are you considering when you think about what you accumulated during your marriage and how to allocate?

Decision-making: How will you decide who gets what?

On what basis will you make decisions if you both want the same item?

If you want suggestions for how to make decisions, mediators have significant training on the process of making decisions and can help you set precedents now for future decisions.

\_\_The husband and wife agreed to divide equally all marital property

List what is relevant

\_\_The husband and wife agreed to divide all marital property to their mutual satisfaction, and if necessary, make a financial adjustment (if so, what is the financial adjustment and why?)

**Personal property**

What goals guide your decisions about your personal debt and assets? You will be asked to list what debt you have, what is in your bank account etc

\_The \_\_husband \_\_wife will remove all their personal belongings from the marital home by \_\_\_\_\_\_\_\_\_\_\_(date)

\_\_The husband and wife will each keep their separate property

\_\_Personal property has been divided between the husband and wife to the mutual satisfaction of both

\_\_Each the husband and wife will keep all **funds** in their separate checking and savings account, and each waives rights to each other‘s accounts

The following articles have particular value:

**Automobiles**

The \_\_husband/\_\_wife owns a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (make/model) with the monthly payment of \_\_\_\_\_\_\_\_\_(dollars)

The \_\_husband/\_\_wife owns a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (make/model) with the monthly payment of \_\_\_\_\_\_\_\_\_(dollars)

The \_\_husband/\_\_wife owns a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (make/model) with the monthly payment of \_\_\_\_\_\_\_\_\_(dollars)

\_\_The husband will be responsible for all costs associated with \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the car) and waives rights in any value that the others car may have

\_\_The husband will be responsible for all costs associated with \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the car) and waives rights in any value that the others car may have

\_\_The wife will be responsible for all costs associated with \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the car) and waives rights in any value that the others car may have

\_\_The wife will be responsible for all costs associated with \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the car) and waives rights in any value that the others car may have

\_\_The husband and wife will share all costs associated with the car 50-50

\_\_The wife waives any and all rights to the \_\_\_\_\_\_\_\_\_car and the title would be transferred to the husband’s name

\_\_The husband waives any and all rights to the \_\_\_\_\_\_car and the title would be transferred to the wife‘s name

**Bank and other accounts**

Just a reminder to strongly consider getting a credit check to ensure your information is correct. You might be surprised what is on your credit report. We aim for no surprises and total disclosure for the best possible decisions.

**Husband’s** bank account (We will need to document the last four numbers of every single account, please- as part of preparing for the Statement of Net Worth)

Bank Name

Last four digits Checking Balance in Checking

Last four digits Savings Balance in Savings

Other

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

**Wife’s** bank account (We will need to document the last four numbers of every single account, please)

Bank Name

Last four digits Checking Balance in Checking

Last four digits Savings Balance in Savings

Other

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

Credit card name

Last four digits Credit Card Balance on Credit Card

\_\_Each waives rights to each other‘s checking, savings and other accounts

\_\_Husband and wife have/will split 50-50 the total amount in the bank and money market accounts as follows:

\_\_\_How will you handle the amount due on each credit card?

Describe:

Other\_\_

**Pension, Retirement Accounts, Deferred Compensation**

Consider all the implications of dollar amounts Pre and Post tax (if you don’t know what I mean by this, please consider talking to your accountant or a Certified Divorce Financial Advisor (CDFA)) Also, please consider the value of a pension in addition to social security. Many people are not aware of their rights with regards to social security. Please get help with this section, almost everyone who does finds they saved a significant amount of money by talking to an expert.

Even if you waive your legal right to their pension, we have to have the conversation in mediation to ensure you know what you are waiving. For example, If you knew that the pension was worth $200,000 or $1.2 million, would you still walk away from it?

Do you want to get it valued by an independent party to know what the dollar amount is?

Can you live on the amount you’re agreeing to? Do you need to make adjustments to your lifestyle or get a part time job or switch jobs?

**IRS Regulations (tax implications for assets)**

As of the writing of this, the information was accurate and I simplified it for understanding. The point of me writing this is to let you know regulations change so frequently, that it is likely worth your while to get someone who keeps track of these changes, to ensure you get the best possible deal.

If you take money from an IRA or other tax deferred plan even for the purpose of transferring it into another IRA for yourself or your spouse the IRS withholds 20%.

Instead, have the trustee take out the 20% and send it to the IRS- you must replace the 20% out of your own pocket to transfer to the new IRA or you pay tax on the 20% as though you had received it as income that year (you’re penalized) you therefore not only lose this money from the IRA but you also pay tax on it.

If you do not replace 20% out-of-pocket, the IRS will then return the 20% you gave and return it without interest. You loaned the IRS your money and you did not benefit from this. If you requested as a tax refund on your next income tax return if you put it back into the IRA, you won’t pay tax on it. **If this sounds complicated to you, please consider talking with a CPA or Tax Attorney or at least reading more about this. The takeaway:** The only way to avoid this 20% is to never let your hands touch it. Have it transferred by the trustee directly to the trustee of another IRA for yourself or your spouse is part of the divorce agreement.

**Get used to this Acronym (QDRO)**

Retirement is the most difficult area of divorce law- this is acknowledged by people who do this every day for years. Mistakes in this area could hurt/destroy your retirement. Slow down the process, read what you can to ensure you know the implications, and get an expert’s input if you have any questions whatsoever. It might cost you $500 to see this expert and save you well over $5,000- well worth the money.

Many divorce attorneys/ divorce mediators do not have the technical skills or interest to handle complicated retirement benefits properly. In mediation, the idea is to know what you have, what the tax implications are now and in the future and then armed with that information, you can make an informed decision with your spouse.

Here’s the fear: You might not even know there’s a mistake until you’re ready to retire. Professionals are often overwhelmed by the complexity of thousands of different kinds of pension plans.

Note: If your retirement plan administrator provides a QDRO form for you, be sure to read it carefully. You must check that it does what you wanted it to do. It transfers exactly what you want transferred to person you want to transferred to and that it does not add something that you do not want to do. For example, it pays out the money, thus incurring 20% withholding, along with possible penalty.

*\*When you have completed your QDR0, preferably with an attorney who specializes in QDRO, be sure to send it to the plan administrator* ***before*** *you ask the court to sign it. Ask the plan administrator if he or she will carry it out as written. Usually he or she will tell you specifically if there is any problems with it.* ***Be sure*** *that you have time to correct any problems before giving it to the court for signature.*

Can you expect to do it yourself?

Commonsense prevails- for shorter marriages or small plans -your risk is smaller, especially if you’re merely waiting to claim to each other’s pensions. If you have large amounts in your plan or if you’re close to retirement age this might be the place to hire an expert. Not just any expert but one who has drafted lots of QDROS already.

**Retirement checklist**

Make copies and complete the following information for *each and every* retirement or pension plan either one of you has:

(Please note, there is a glossary of terms or you can look up what the terms mean. Most non-financial people find the definitions overwhelming, as if they are speaking a foreign language.)

Husband’s retirement funds

(list Name of institution for each and every one; balance now and at retirement and what percentage of the money was put in during the marriage)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Type | Institution | Balance Now | Balance at Retirement | What percentage was put in during the marriage? |
| Pension 1 |  |  |  |  |
| Pension 2 |  |  |  |  |
| Social security payout |  |  |  |  |
| 401 k |  |  |  |  |
| 403 b |  |  |  |  |
| IRA |  |  |  |  |
| Roth IRA |  |  |  |  |
| Private account |  |  |  |  |
| stocks |  |  |  |  |
| Bonds |  |  |  |  |
| Other assets |  |  |  |  |

Any money not mentioned yet that you are planning to use for retirement

Wife’s retirement funds

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Type | Institution | Balance Now | Balance at Retirement | What percentage was put in during the marriage? |
| Pension 1 |  |  |  |  |
| Pension 2 |  |  |  |  |
| Social security payout |  |  |  |  |
| 401 k |  |  |  |  |
| 403 b |  |  |  |  |
| IRA |  |  |  |  |
| Roth IRA |  |  |  |  |
| Private account |  |  |  |  |
| stocks |  |  |  |  |
| Bonds |  |  |  |  |
| Other assets |  |  |  |  |

Any money not mentioned yet that you are planning to use for retirement

Name of plan\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kind of plan, if known: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Vested?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(when will you be vested, then?)

Current vested value:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of loss of value:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Future benefit? \_\_\_Yes \_\_\_No At what age?\_\_\_\_\_

Monthly amount\_\_\_, lump sum\_\_\_ or a mathematical formula\_\_\_\_\_\_\_\_

Reductions for early retirement?\_\_\_\_\_\_\_\_\_\_\_Subject to divestment?\_\_\_\_

Divisible by QDRO? \_\_\_Yes \_\_\_No (some plans are not divisible by QDRO and often the strategy is to divide those easier plans and not touch the QDRO at all, due to the expense and legal complexity)

Loans available against the plan? \_\_\_Yes \_\_\_No (remember tax implications exist for how you touch retirement)

Early payout option? \_\_\_Yes \_\_\_No Survivor benefit? \_\_\_Yes \_\_\_No (find out now about survivor benefits so that there are not surprises. Nothing like thinking you have money coming, banking on it and not having it.)

Tax status of the money in the plan\_\_\_\_\_\_\_\_\_\_\_\_ (Do you have to pay taxes on the money when you take it out or were taxes already paid on this money?)

If you did not pay income tax on this money before it went into the account, you will pay tax on it when you receive it, typically at retirement.

Since you may be in a lower tax bracket in retirement than you are in now, you save money by deferring, or putting off, tax on this money until later. By contrast, some of your employer contributions may already have been taxed, It’ll likely be tax-free, and they should not be taxed again when those dollars are paid out to you. Ask about this, do not make assumptions.

 If you’re considering early pay out, when you examine the present value of the plan, be sure you understand which dollars are in what tax is, because it substantially changes the value to you of each dollar.

Note: The penalty on early withdrawal of funds does not apply to certain qualified plans and most people realize this is beyond their level of knowledge and ask the plan administrator or a tax/retirement profession. If early withdrawal would fit your situation be sure to consult with a CPA who specializes in divorce tax to see if your plan qualifies for this exemption.

**Divestment**

Whatever the nature of your retirement, all or some of it may be subject to “divestments” meaning you may lose it under certain circumstances; the most likely these is if you leave the employment before your retirement date by quitting, being fired or by dying. If your retirement is subject to divestment, you may want to consider dividing it with an agreement that goes into effect only if it pays. Talk about what to do if the person dies before retirement and what implications that might have on the survivor. Some people compensate for this by having a life insurance plan in place with the survivor being the beneficiary.

Some retirement does not need a lawyer, some does require it. Splitting some accounts means you need a lawyer to draft a Qualified Domestic Relations Order. The following is a Summary of Plan Description for attorney preparing DRO/QDRO

Defined Benefit: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] retirement benefits \_\_\_ % share \_\_\_\_ as of (date) \_\_

[ ] death benefits $\_\_\_\_\_\_\_\_ [ ] loans (\_\_\_\_\_\_\_\_\_) – paid in full prior to enrollment

[ ] valuation $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Defined Contribution: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] retirement benefits \_\_\_ % share \_\_\_\_ as of (date) \_\_\_\_\_\_\_\_\_\_\_

[ ] death benefits $\_\_\_\_\_\_\_\_\_\_\_\_ [ ] loans (\_\_\_\_\_\_\_\_\_) – paid in full prior to enrollment

**SOCIAL SECURITY**

Retirement planning – if you were married for at least 10 years, spouse may claim 50% of ex-spouse benefits if higher than 100% of own. Must be:

* Unmarried (divorced for at least 2 years if had been remarried)
* 62 or older

If you have remarried, you can only claim on ex-spouse if widowed or divorced at least 2 years –

-Can S.S. be supplemented by Spousal support? You need to have the conversation.

\_\_Husband and wife agreed to share 50-50 in each other’s retirement accounts

\_\_The husband and wife waive any and all rights in each other’s retirement accounts

\_\_There are no retirement accounts in either the husband’s or wife’s name

\_\_Pre-retirement death benefits (describe)

\_\_Post-retirement death **benefits**

**Inherited funds**

The \_\_wife/ \_\_husband inherited \_\_\_\_\_\_\_\_ (money) from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

These \_\_\_are separate funds and the \_\_husband/ \_\_wife waives any and all rights these funds.

These are not separate funds because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The \_\_wife/ \_\_husband inherited \_\_\_\_\_\_\_\_ (money) from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

These \_\_\_are separate funds and the \_\_husband/ \_\_wife waives any and all rights these funds.

These are not separate funds because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The \_\_wife/\_\_husband inherited \_\_\_\_\_\_\_\_ (money) from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. These \_\_\_are separate funds and the \_\_husband/\_\_wife waives any and all rights these funds. These are not separate funds because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Businesses and Licenses:**

Business

\_\_\_The \_\_husband and \_\_wife agree to waive any and all rights to \_\_husband/ \_\_wife’s business

\_\_\_The business is worth enough money to have it go through a valuation process by a professional valuator.

We are using \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name) to do that process.

Who will pay for the process?

If it is worth enough, we will include the business in our equitable distribution.

We will equitably distribute the business in this way: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other

**Debt and Liabilities**

\_\_All joint credit cards will be canceled as of what date? \_\_\_\_\_

Loans:

\_\_Loan in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from what bank \_\_\_\_\_\_\_\_\_\_\_\_ the last four digits of the account are \_\_\_\_\_\_\_\_\_\_\_and what are the terms of the loan?

What is the current balance?\_\_\_\_\_\_\_\_\_\_

\_\_Loan in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from what bank \_\_\_\_\_\_\_\_\_\_\_\_ the last four digits of the account are \_\_\_\_\_\_\_\_\_\_\_and what are the terms of the loan?

What is the current balance?\_\_\_\_\_\_\_\_\_\_

\_\_Loan in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from what bank \_\_\_\_\_\_\_\_\_\_\_\_ the last four digits of the account are \_\_\_\_\_\_\_\_\_\_\_and what are the terms of the loan?

What is the current balance?\_\_\_\_\_\_\_\_\_\_

\_\_Loan in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ from what bank \_\_\_\_\_\_\_\_\_\_\_\_ the last four digits of the account are \_\_\_\_\_\_\_\_\_\_\_and what are the terms of the loan?

What is the current balance?\_\_\_\_\_\_\_\_\_\_

Any other liabilities (financially) please list:

How will you pay off the debt you have incurred in a fair manner?

**Taxes**

\_\_They will file tax year \_\_\_\_\_\_\_(year) taxes jointly and they will split any tax refunds or liabilities \_\_50-50 \_\_other percentage (please describe and why)

\_\_The husband and wife will file taxes separately as of this year \_\_\_\_\_(year)

\_\_The husband and wife will split \_\_50-50 \_\_other any refunds or liabilities for any years they filed jointly

\_\_The accountant \_\_\_\_\_\_\_\_\_\_\_\_\_(name) filled them in on their individual tax liabilities

The father will claim\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_ and mother will claim \_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_ as dependents and claim the tax benefits they are entitled to (**Credit**) and the other parent will execute IRS form 88332 (IRS may double check to ensure you are both not claiming a tax credit on the same child).

\_\_If there are any tax liabilities or refunds for any year previously filed they will be assigned to the person who generated them

\_\_The \_\_father \_\_mother will file as **head of household** and the other will file single if only one child to claim. They will work together to maximize the tax benefit to them.

\_\_The husband and wife agree the above is an equitable distribution of the marital assets, including retirement funds and understand the tax implications of their many decisions because they have talked with a financial expert

\_\_\_\_\_\_Wife’s Initials \_\_\_\_\_Husband’s Initials

\_\_The husband and wife agree to cooperate obtaining a religious divorce. (The \_\_husband/ \_\_wife will pay for the cost to obtain “the get” if it is a religious divorce in the Jewish Religion.)

\_\_The husband and wife know to change wills, beneficiaries and the like and will consult with their own attorneys for this process.

\_\_The husband and wife will have an attorney write up a separation agreement, have the attorney file the necessary papers with the court and the attorney will alert them to when the separation/divorce is official.

\_\_The husband and wife agreed to obtain a divorce and grounds of constructive abandonment with the \_\_husband/\_\_wife as plaintiff

\_\_The husband will have this agreement reviewed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_The wife will have the agreement reviewed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_The husband will not have the agreement reviewed

\_\_The wife will not have this agreement reviewed

**Additional detail- Use only as needed:**

**Unique Assets**

Assets checklist directions: complete the following information for each additional assets either one of you has.

We have the following additional assets to be divided in our agreement:

*Patent number* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is in the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(which spouse)
*Copyrighted* \_\_\_\_\_\_\_\_\_(write: book, song, poem, artwork, software, other)

in the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (which spouse )
*Priority rights* (if you don’t know what this is, you don’t have them) \_\_\_\_\_\_\_\_\_\_\_ (which spouse)

*Season tickets* to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(what event) \_\_\_\_\_\_\_ who gets them?
*Fishing or hunting rights* on property in the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (which spouse )

*Frequent flyer miles* \_\_\_\_\_\_\_\_\_\_\_\_\_(how many and which company?) in the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (which spouse )

*Membership* in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(which club or organization) in the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (which spouse )

***Cryptocurrency*** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(how much and which? ) \_\_\_\_(which spouse?)
*Accounts receivable*: money owed to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(which spouse) by whom \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ under what terms?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Business Interests/Assets**

Business interests checklist directions:

Complete the following information for each business interest either one of you has. Some businesses need a valuation process to ensure each party knows what the actual assets are and then can make an informed decision about distributing these marital assets in a fair manner.

**Corporation** \_\_\_\_\_\_\_\_\_\_\_\_\_(what’s the name of the corporation)

Majority or controlling interest\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(which spouse owns this)

\_\_\_\_\_\_what are the number of shares of common / preferred or other stock in the corporation

\_\_\_\_\_\_\_\_\_what percentage majority

\_\_\_\_\_\_\_\_\_controlling interest you have \_\_\_\_\_\_\_\_\_\_(who holds the shares, a broker or agent?)

**Corporation minority interest**: we have listed the shares in our stocks and bonds checklist

**Sole proprietorship** \_\_\_\_\_\_\_\_\_\_\_(Who is this sole proprietor)

\_\_\_\_\_\_\_\_\_\_\_\_\_(name of business) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(business address)

**Partnership** \_\_\_\_who owns the business \_\_\_\_\_ who is the managing partner

\_\_\_\_\_\_\_\_\_what percentage partner are they at the business

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_what is the business called

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_what’s the address

**Limited partnership**

\_\_\_\_\_\_\_\_\_(which spouse) is a \_\_\_\_\_(what percent) limited partner in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (what’s the name of the business) which we have listed in our stocks and bonds checklist

**Joint Venture** \_\_\_\_\_\_\_\_\_\_\_\_what’s the name of the business

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_what’s the address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_who else is in the joint venture and \_\_\_\_\_\_what percentage?

Other Structure and understanding, please describe:

**Business valuation checklist**

Complete the following information for *each* business interest either one of you has

We will hire \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(name of the appraiser) to value our business \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(what’s the name of the business)

OR we will try to value our business \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_( what’s the name of the business) and will therefore need to gather the following profit and loss statement for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_( what period of time) prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(name of accountant)

 balance sheets for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(what dates)

prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(name of accountant)

K-1 tax return for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(how many years)

 income tax schedule C for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(how many years)

As a result of the above information gathered, we believe the following is true about the business \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and the assets are worth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_( how much)

liabilities are worth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(how much)

\*We believe the value of the business (which equals the assets minus the liabilities) is \_\_\_\_\_\_\_\_\_\_\_\_\_

In addition, we agreed this business has a goodwill value of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (what amount) figured using the following formula \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If the business has been assigned a value, how are the two of you allocating resources for/from the business? Is there money exchanged? How did you arrive at the decision to do what you did regarding the value of the business?

Please evaluate what you agreed to using the Five E’s. If you use a good process, you tend to end up with predictably better outcomes. That’s the goal.

Process Standards: Five E’s

d. Are the parties Educated (information is public, perfect and complete)?

e. Are the agreements Equitable (as a whole, reasonably fair to both parties, in terms of accomplishing their long term goals, not balance sheets as legal outcomes)?

f. Are the agreements Effective (unambiguous and clear)?

g. Are the agreements Equilibrant (can longer be improved for either party, without diminishing value for either of them)?

h. Are the agreements Envy Free (where neither of the parties would exchange their total package of agreements with the other party)?

After reviewing the MOU

Next steps:

\_\_The parties understand that the filing fee for their divorce may be @ $350

\_\_When the parties tell the mediator that the agreement meets with their approval (both), they will set up an appointment with a neutral attorney and after said appointment is made, mediator will send the attorney the MOU

\_\_The parties will sign the 23-24 forms with the attorney and the attorney will have them filed

\_\_The parties go together to the attorney to review, and sign the forms

\_\_It takes about 2 hours to review the Separation Agreement and sign the forms with the attorney

\_\_The attorney will have the separation agreement filed as well