

## CHECKLIST FOR DIVORCE AGREEMENT

### PARENTING ARRANGEMENT:

Custody: Legal decision making

Physical residence

Scheduling: days and hours begins and ends

Weekends

Weekdays

New Year's Eve/Day

Thanksgiving Day/vacation

Christmas Eve/Day

Jewish Holidays

Summer Recess

Spring Recess

Mother's Day/Father's Day

Halloween

President's Day

Good Friday/Easter Sunday

Memorial Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Vacations with child(ren)

Vacation without child(ren)

Child(ren)'s birthday - parties, other occasions

Parent's birthday

Transportation

Illness of the child(ren)

Access to records

Grandparents and/or others access

Travel outside of a geographic area

Relocation

- Will either parent move away from the other parent?
- How far?
- Until what age of the child(ren) will the custodial parent remain near the non-custodial parent?

Guardians

Religion

Notice of extra-curricular activities.

Death of the parent with whom the child(ren) reside(s).

Telephone access.

Notice for contact in case of emergency.

Surname

## **II. MARITAL RESIDENCE**

### 1. Exclusive Use and Possession

- Length of time for use and possession.
- Liability for costs of: present and future mortgages (including equity lines)  
real estate taxes

homeowner's insurance  
condo fees; if applicable  
Maintenance of marital residence  
Major repairs and / or improvements  
Capital gains taxes upon sale

2. Triggers for use and possession:
  - upon the remarriage of one party
  - cohabitation
  - upon a change in child custody
  - ability to refinance
  - any other.....
  
3. Future ownership:
  - Joint Tenants with Right of Survivorship
  - Tenants in Common
  - Individual
  
4. Mortgage Issues:
  - Indemnification
  - Refinance
  - Release of Lien
  - Satisfaction
  - Jointly continue to remain on the mortgage
  - Escrow balance
  
5. Sale of residence to a third party
  - timing of sale
  - costs of preparation for sale
  - appraisal and agreement regarding price
  - definition of proceeds
  - division of proceeds
  - tax consequences, specifically capital gains tax.
  
6. Buy-out residence by one spouse or ex-spouse
  - agreement regarding price
  - broker's commission
  - time of transfer
  - "incident to divorce"
  - Payment
  - capital gains tax consequences

### III. OTHER REAL PROPERTY

- Identification

- Rental property and/or second homes
  - Who keeps income?
  - Who is responsible for upkeep of property?  
tax consequences

#### IV. PERSONAL PROPERTY

- How will it be divided?
- Tangible property - who gets the furniture, TV, etc.
  - Possession; distribution; storage
- Checking/Savings Accounts
- Investments: stocks and/or mutual funds
- Stock options
- Retirement –
  - Defined Benefit Plans
  - Defined Contribution Plans
  - Q/DRO
  - Value of plan
  - Majauskus
  - Division, buy-out or other disposition
- Social Security – notification of application for SS

#### V. CHILD SUPPORT

- Amount of child support pursuant to CSSA?
- What is CSSA income?
- Is income capped?
- Percentages based on number of children.
- Reduction as child becomes emancipated.
- Time of payment
- Length of child support?
- Discretionary expenses.
- Mandatory inclusions – Childcare  
Health expenses
- College Expenses – state vs private  
Tuition, room and board, other.....
- Dollar for Dollar Credit
- Review of child support - Statutory review  
Cola Provision  
Other
- Emancipation events: age 21?
  - graduation from college
  - marriage of the child
  - ceasing to permanently reside with custodial parent
  - full-time employment

- Tax consequences - not taxable to recipient  
not deductible by payer

**VI. MAINTENANCE / ALIMONY**

- Statutory Calculation for amount and duration
- Amount of support
- Duration
- Time of payment
- Triggers for payment to cease, if any

**VII. HEALTH INSURANCE**

- Policy in effect
- Obligation
- Duration
- Change of policy
- Coverage of child(ren) - who pays premiums?
- Coverage of spouse
- Uninsured expenses of children
- Uninsured expenses of spouse

**VIII. OTHER ASSETS**

**IX. LIFE INSURANCE**

- Policy – whole/term
- Cash balances
- Ownership
- Division, buy-out, or other disposition
- Beneficiaries
- How long to maintain
- Issue of life insurance trust or UGMA beneficiary

**X. EQUITABLE DISTRIBUTION OF BUSINESS/LICENSE/DEGREE**

- Identification
- Description
- Form of ownership
- Division/compensation

**XI. MISCELLANEOUS**

- Pending legal actions
- Potential settlement award or liability
- Other Property including, royalties, copyrights, trade marks, etc.

**XII. TAXES**

- Filing of tax return
- Refunds / liabilities
- Reporting of available deductions for each: Exemptions  
Head of Household – 8332
- Tax consequences of alimony and child support if not described elsewhere
- Capital gains tax consequences for all assets and / or capital loss
- Cooperation for audit / investigation of prior year tax returns

**XIII. ADDITIONAL DOCUMENT PROVISIONS**

- Name and / or signature of the parties
- Name of the mediator
- Confidentiality
- Disclosure of all financial information
- Review attorney
- Mediation Clause to review future disputes
- Mediation and legal expenses