

Association for Conflict Resolution
Sample Guideline Standard for Memorandum of
Understanding
(With and without children)

(Must be listed if applicable)

ASSETS

Marital Residence

1. Some identification of real estate
 - a. Property address or legal description
 - b. Indication of form of ownership

2. Use of possession
3. A length of time for the responsibility for/liability for costs of
 - a. Present and future mortgages (including equity lines)
 - b. Real estate taxes
 - c. Homeowners insurance
 - d. Condo fees; if applicable
 - e. Maintenance
 - f. Major repairs and/or improvements
 - g. Capital gains taxes upon sale

4. Changes in use of possession
 - a. Upon the remarriage of one party
 - b. Upon a change in child custody
5. Future ownership form
 - a. joint mortgage liability
Some acknowledgement of liability of both for mortgage and possible difficulties
Obtaining future mortgage for the non-occupant
6. Sale of residence to a third party
 - a. Timing of sale
 - b. Costs of preparation for sale
 - c. Appraisal and agreement regarding price
 - d. Definition of proceeds
 - e. Division of proceeds
 - f. Tax consequences, specifically capital gains tax

7. Buy-out of residence by one Spouse or ex-spouse
 - a. Agreement regarding price
 - b. Time of transfer
 - c. Payment
 - d. Capital gains tax consequences or if applicable, "incident to divorce"

- e. how do the parties deal with the non-owner staying on the mortgage?

Other Real Estate

1. Some identification of other real estate
2. If applicable, the issues listed under marital residence.
3. Rental Property
 - a. who keeps income?
 - b. who is responsible for upkeep of property?- tax consequences
4. Real Estate Trusts
 - a. tax benefits
 - b. who keeps income?
 - c. who is responsible for upkeep of property?
- tax consequences

Additional Property

1. Retirement Accounts
 - a. description of plan(s)
 - contributory plan
 - defined benefit plan
 - b. value of plan
 - c. division, buy-out or other disposition
2. Accounts
 - a. such as bank accounts, money market funds or certificate of deposit
 - b. balance of account
 - c. ownership
 - d. division or other disposition
3. Securities such as stocks, bonds, stock options
 - a. identification
 - b. balance of account
 - c. ownership
 - d. division, buy-out, or other disposition
4. Life insurance
 - a. identification
 - b. cash balances
 - c. ownership
 - d. division, buy-out, or other disposition
5. Business
 - a. identification
 - b. description
 - c. form of ownership
 - if less than 100%, amount of ownership

- d. value
- e. division, buy-out or other disposition

Additional Property (cont'd.)

- 6. Trusts
 - a. identification
 - b. value
 - c. division, buy-out or other disposition
- 7. Partnerships and Limited Partnerships
 - a. identification
 - b. value
 - c. division, buy-out or other disposition
- 8. Tangible Personal Property
 - a. possession
 - b. storage
 - c. division
- 9. Pending Legal Actions
 - a. Potential settlement award or liability
- 10. Other Property including royalties, copyrights, trademarks, etc.
- 11. Vehicles

Tax Consequences

- 1. Filing of tax return.
- 2. Refunds /liabilities.
- 3. Reporting of available deductions for each.
- 4. Tax consequences of alimony and child support if not described elsewhere.
- 5. Capital gains tax consequences for all assets and/or capital loss.
- 6. Cooperation for audit/investigation of prior year tax returns.

Additional Document Provisions

- 1. Name and/or signature of the parties
- 2. Name of mediator
- 3. Confidentiality
- 4. Disclosure of all financial information
- 5. Mediator recommends separate and independent legal advice
- 6. Mediation Clause
 - a. current

- b. future

7. Privacy Clause

Alimony (spousal support or maintenance)

1. Amount of support
2. Duration
3. Time of payment
4. Adjustments or fixed payments
 - a. how calculated
 - b. COLA, or some other method, including percentage method
 - c. re-negotiation
5. Tax Consequences
 - a. tax deductibility
 - b. tax reporting for inclusion of income

Liabilities

1. Mortgage, include equity line
2. Charge card accounts
 - a. If joint:
 - future action
 - responsibility
 - b. If individual:
 - responsibility
3. Debt
 - a. Kind of debt/ personal line of credit/ business line of credit/
student loans
 - b. Amount of debt
 - c. Responsibility

MEMORANDUM OF AGREEMENT
(with children)

The same document standards as described with the addition of the following:

Custody

1. Children indicated
2. Ages or birth dates

3. Legal Custody
4. Physical custody
5. Schedule for children
 - a. weekdays
 - b. weekends
 - c. holidays
 - d. vacation

6. Notification of illness
7. Access to records
8. Grandparents and/or others access
9. Travel outside of a geographic area
10. Relocation
11. Change in custody or other provision

Child Support

1. Amount of child support
2. Time of payment
3. Length of child support
 - a. Emancipation description
4. Adjustments or fixed payment
 - a. description
 - b. if more than one child
 - c. COLA or some other method to adjust child support
 - d. state guidelines
 - e. renegotiation
5. Tax consequences
 - a. not taxable to recipient
 - b. not deductible by payor

Education

- a. if applicable:
 - private primary education costs
 - private secondary education costs
- b. post-secondary education costs

Health Insurance

1. Policy in effect
2. Obligation of maintaining policy for.
 - a. children
 - b. spouse
3. Duration
4. Change of policy
5. Coverage of spouse
 - a. remarriage
 - b. payments upon remarriage
6. Uninsured expenses of children
7. Uninsured expenses of spouse

Children's Accounts

1. Custodial accounts
 - a. identification
 - b. balance of accounts
 - c. who contributes
 - d. future control of accounts
 - e. disposition of accounts
2. Other investments, accounts
 - a. identification
 - b. balance of accounts
 - c. who contributes
 - d. future control of accounts