

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

-----X

Plaintiff,

INDEX NO.: _____

-against-

Defendant.

-----X

CHILD SUPPORT OPTING OUT AGREEMENT

(This form is to be used only when the parties are deviating from the presumptively correct amount of child support under New York State's Child Support Standards Act)

THIS AGREEMENT, made the ____ day _____ 20__, between _____, hereinafter "Husband" and _____, hereinafter "Wife", herein provides as follows:

1. That the parties have been advised of the provisions of the Child Support Standards Act (CSSA) in New York State, and each has received a copy of the Child Support Standards Act Chart.

2. That the parties are aware of their right to utilize the services of the Child Support Collection Unit (SCU), and their right to a wage deduction Order for the payment of child support through the Unit. The parties further understand that if they utilize the services of the SCU, that the child support levels agreed to herein shall be subject to a bi-annual (every two years) review. They also understand that the SCU often utilizes wage deduction, also known as income garnishment, to assure the consistent payment of support. The parties choose/choose not (**circle one**) to utilize the services of the SCU.

3. The parties have been advised of the provisions of DRL §240.

The gross income of Husband is \$_____/week from his employment at _____. The Husband has: (a) no other sources of regular income/**or** (b) regular sources of other income as follows:_____

(cross out inapplicable provision)

The gross income of the Wife is \$_____/week from her employment at _____. The Wife has: (a) no other sources of regular income/**or** (b) regular sources of other income as follows:_____

(cross out inapplicable provision)

The Parties have _____ children, and their names, social security numbers and dates of birth are as follows:

The children reside in the primary care of the Husband/Wife. **(circle one)**

4. The non-custodial parent is the Husband/Wife **(circle one)**.

He/She is not under any existing Court Order[s] or written Agreement[s] to pay child support for a child or children other than the child or children which are the subject of this Agreement.

OR

He/She is under an existing Court Order[s] or written Agreement[s] to pay child support for a child or children as follows:

(Attach copies of listed Order[s] or Agreement[s] to this Agreement.)

The non-custodial parent is the Husband/Wife **(circle one)**.

He/She is not under any existing Court Order[s] or written Agreement[s] to pay spousal maintenance or support to the custodial parent.

OR

He/She is under an existing Court Order[s] or written Agreement[s] to pay spousal maintenance or support to the custodial parent as follows:

The Husband/Wife has agreed to pay/has been Ordered to pay to the Wife/Husband for her/his support and maintenance the sum of \$_____ per week/biweekly/per month until _____(date) or the remarriage of the Wife/Husband/ (other) **(circle one)**.

**(Attach copies of listed Order[s] or Agreement[s])
(cross out inapplicable provision)**

5. The Husband's gross income, less FICA (social security and medicare deductions), is \$_____/week. The Wife's gross income, less FICA is \$_____/week. The Parties acknowledge that the sum of \$_____ is the presumptively correct amount* of child support. However, they have agreed that the Husband/Wife shall pay the Wife/Husband the sum of \$_____ per week.

The reasons for the deviation are: (set forth reason)

[(If spousal support and maintenance is being paid from one party to the other and if the amount of child support is to increase after termination of spousal support and maintenance add the following:)]

"Upon the termination of the payment of spousal support and maintenance by the Husband/Wife to the Wife/Husband, the parties agree that the Husband/Wife shall pay to the Wife/Husband child the sum of \$_____ per week for child support".]

*Up to the first \$80,000 of combined adjusted parental income, the child support is calculated by first subtracting from the payor's adjusted income, any existing Court Ordered child support or maintenance obligations. Thereafter, the appropriate percentage is applied to the payor's adjusted income, as follows: 17%, one child; 25%, two children; 29%, three children; 31%, four children, 35%, five children or more.

"The parties acknowledge that the annual amount of the presumptively correct amount of child support would reduce the noncustodial parent's income below the poverty guidelines amount for a single person as reported by the federal department of health and human services and as a result thereof, they agree that the noncustodial parent shall pay to the custodial parent for child support the sum of \$25.00 per month or the difference between the noncustodial parent's income and the self-support reserve whichever is greater.

OR

The parties acknowledge that the annual amount of the presumptively correct amount of child support would reduce the noncustodial parent's income below the self-support reserve but not below the poverty income guidelines amount for a single person as reported by the federal department of health and human services, they agree that the noncustodial parent shall pay to the custodial parent \$50.00 per month or the difference between the noncustodial parent's income and the self-support reserve, whichever is greater."

6. Payments shall be made directly by the Husband/Wife (**circle one**) to the Husband/Wife (**circle one**) commencing _____. Payments shall then be made through _____ County Support Collection Unit and mailed to NYS Child Support Processing Center, PO Box 15363, Albany, NY 12212-5363 commencing the first Friday following Judgment entry in the _____ County Clerk's Office. (Delete the foregoing sentence if payments are being made directly, and the parties are waiving the services of the SCU). The obligations herein shall continue until an emancipation event as defined below occurs, or a subsequent Court Order modifying the terms herein is entered.

An emancipation event is defined as follows:

- a) Reaching the age of 21 years;
- b) Marriage (even though such marriage may be void or voidable and despite any annulment thereof);
- c) Permanent residence away from the residence of the Mother, except that residence at a boarding school, camp or college is not deemed to be a residence away from the Mother;
- d) Death of a child;
- e) Death of the Father/Mother;
- f) Entry into the Armed Forces of the United States;
- g) Engaging in full-time employment where the child earns enough to be self-supporting. If the child is working full-time, but not earning enough to be self-supporting, then the same would be grounds for either party to seek modification of the amount of child support being paid. Part-time employment, including summer employment, does not negate the child support obligation.

7. The parties agree to the following health insurance coverage for the children: _____
The Husband shall pay _____% of the cost of providing health insurance coverage for the children and Wife shall pay _____% of such cost.

8. The parties agree to the following regarding uncovered health related expenses** of their children and daycare expenses of their children incurred to enable the Husband/Wife to work outside the home:

**Health-related expenses shall include medical, dental, orthodontic and optical expenses.

9. Both parties realize that the child support provisions herein may be modifiable at any time in the future, based upon a change[s] in circumstances and the nature of such change[s]. They further agree that the terms of the Agreement may be incorporated into the Judgment of Divorce/Separation and shall merge therein and not survive said Judgment.

OR

Shall not merge therein and survive said Judgment.
(cross out inapplicable provision)

Dated: _____

Husband

Dated: _____

Wife

State of New York

County of _____