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MEMO CONCERNING STATUS (Marriage and CIR) AGREEMENTS

1 INTRODUCTION.

1.1 **Purpose.** This Memo is an introduction to agreements relating to **Marriage** and **CIRs**. Being married is, amongst other things, entering into a civil contract with your **Spouse**. Being in a **CIR** means that a **Partner** has some of the rights of a **Spouse**. You should understand what this contract provides and what your options to change it are.

1.2 **Marriage Agreements.** If general, the persons who want to enter into **Prenuptial Agreements** or **Marital Status Agreements** for a reason. In my experience, a person who enters into such an agreement does so either because they, or their **Spouse** meet one or more of the following factors:

1.2.1 **Age.** They are at least 50 years of age and are concerned about maintaining financial independence.

1.2.2 **Children.** They have children from a prior relationship;

1.2.3 **Prior Experience.** Have had a bad experience or memory in a prior relationship.

1.2.4 **Wealth.** They are wealthy or expect to inherit wealth.

1.3 **CIR Agreements.** While it is possible to tailor a **Relationship Status Agreement** to meet the specific needs of a **CIR**, it has been my limited experience that at least one of the **Partners** wants to avoid all financial obligations that come with a relationship.

1.4 **Existing Law.** If you enter into **Marriage** or a **CIR**, the State of Washington (and all other States) have laws that define your **Rights & Obligations**. As long as children are not affected (e.g. you cannot agree not to seek or pay child support), you have right to alter these **Rights & Obligations**. Before making these decisions, you have to know what your **Rights & Obligations** are and your options to change them.

1.5 **Disclaimer.** This Memo is a brief introduction into **Marriage** and **CIR** agreements. You should not rely on this Memo in making planning decisions. This Memo is not a substitute for a deeper understanding of the various issues. Each person's situation is unique and requires specific planning. You should use professionals in deciding whether or not to enter into, or not enter into a **Prenuptial Agreement**, **Marital Status Agreement**, or a **Relationship Status Agreement**. You should also use a professional in deciding what terms any such agreement should contain. Please review this Memo from time to time.

2 **DEFINED TERMS.** Defined terms (capitalized and/or in bold) have the following meanings:

2.1 **CIR.** A committed intimate relationship. A legal status given to two unmarried persons living in a relationship similar to marriage, but without a formal ceremony or marriage certificate. Sometimes referred to as a meretricious relationship. Similar to a common law marriage.

2.2 **Community Property.** **Property** owned by the **Spouses** that is acquired after marriage and is not **Separate Property**. **Community Property** is defined in Revised Code of Washington §26.16.030.

2.3 **Husband.** A male **Spouse**.

2.4 **Marital Status Agreement.** A contract entered into by **Spouses** after their Marriage to define and/or change their respective rights and obligations. Sometimes referred to as a "Marriage Agreement" or a "Postnuptial Agreement."

2.5 **Marriage.** Under Washington law, marriage is a civil contract between two persons who are each at least 18 years of age and meet other technical requirement.

2.6 **Partner.** A member of a **CIR**.

2.7 **Prenuptial Agreement.** A contract entered into by **Spouses** prior to their **Marriage** to define and/or change their respective rights and obligations. Sometimes referred to as a “Premarital Agreement.”

2.8 **Relationship Status Agreement.** A contract entered into by two unmarried persons who want to cohabit, and not enter into a **Marriage** nor into a **CIR**. Each party to such an agreement typically does not want to have legal rights nor obligations to the other, unless specifically defined in this agreement.

2.9 **Rights & Obligations.** As used in this Memo, the financial rights and obligations that each **Spouse** or a **Partner** have with regard to each other. It does not include non-financial rights and obligations nor does it refer to relationships to children of a **Marriage** or of a **CIR**.

2.10 **Separate Property.** **Property** belonging to an unmarried person or to one of the **Spouses**. **Separate Property** is defined in Revised Code of Washington §§26.16.010 and .020.

2.11 **Shared Ownership.** The ownership of any item of **Property** by two or more parties, including by co-ownership, Tenancy in Common, Co tenancy, Joint Tenancy, etc.

2.12 **Spouse.** A partner in a marriage. A **Spouse** may be a **Husband** or a **Wife**.

2.13 **Wife.** A female **Spouse**.

3 **PROPERTY RIGHTS PRIOR TO A CONTRACT.** You have various rights if you are unmarried, in a **Marriage** or in a **CIR**. These rights, in simple, basic terms are as follows.

3.1 **Unmarried.** If you are not married (and not in a **CIR**), all of your property interests are **Separate Property**. You have essentially full power to acquire, dispose of and use **Separate Property** as you wish.

3.2 **Married.** If you are married, all of your property is in one of the following two categories:

3.2.1 **Community Property.** **Community Property** includes all property acquired after **Marriage**, including earnings. If **Separate Property** is commingled with **Community Property**, it becomes **Community Property**. Any property that is not **Separate Property** is **Community Property**.

3.2.2 **Separate Property.** **Separate Property** includes all property that was owned by you prior to **Marriage**. Once you are married, you can acquire **Separate Property** by gift or inheritance, or from the profits or proceeds of other **Separate Property**.

3.3 **CIR.** Being in a **CIR** can result in the **Partners** having some of the **Rights & Obligations** of an unmarried person and some of the **Rights & Obligations** of a **Spouse**.

4 **MISCELLANEOUS RIGHTS PRIOR TO A CONTRACT.** You have various rights if you are unmarried, in a **Marriage** or in a **CIR**. These rights, in simple, basic terms are as follows.

4.1 **Unmarried.** If you are not married, you have no additional rights that are of concern in this Memo.

4.2 **Married.** If you are married, your **Rights & Obligations** with regard to your **Spouse** include:

4.2.1 **Divorce.** In the event of a divorce (marriage dissolution) or legal separation, a **Spouse** may seek, and often recover, a share of his/her **Spouse's** assets and separate maintenance (alimony).

4.2.2 **Inheritance.** If your **Spouse** dies intestate (without a will) you have a right to all of his/her interest in **Community Property**. With regard to his/her **Separate Property**, you have a right to the following percentages: (a) 50% if he/she is survived by descendants; (b) 75% if not survived by descendants, but survived by parent(s) and/or descendants of parents; and (c) 100% if not survived by descendants, parents nor descendants of parents.

4.2.3 **Surviving Spouse Election.** If a surviving **Spouse** is not adequately provided for in the decedent's Will, the surviving **Spouse** can seek an award from the Court if he/she follows statutory procedures.

4.3 **CIR.** Being in a **CIR** can result in the **Partners** having some of the **Rights & Obligations** of **Spouses**.

5 **PRENUPTIAL AND MARITAL STATUS AGREEMENTS.** A **Prenuptial Agreement** and a **Marital Status Agreement** can change the **Rights & Obligations** in many ways, including the following:

5.1 **Community Property.** Items of **Community Property**, such as wages and retirement benefits, can be designated as **Separate Property**. The right of a **Spouse** to gain a **Community Property** in **Separate Property** (such as paying for a mortgage or improvements to **Separate Property**) can be waived.

5.2 **Custom.** The **Spouses** can make specific provisions that suit their needs. This frequently comes up in the case of a family home that was either owned prior to **Marriage** or acquired with the **Separate Property** on one **Spouse** by having a portion of the asset **Community Property** and a portion **Separate Property** of one **Spouse**.

5.3 **Divorce.** A **Spouse** can waive a claim for **Separate Maintenance** or for a portion of his/her **Spouse's Separate Property** in the event of a divorce or legal separation.

5.4 **Inheritance.** A **Spouse** can waive any claim for a portion of his/her **Spouse's** estate, except for those portions, if any, the **Spouse** leaves in his/her post agreement Will.

6 **RELATIONSHIP STATUS AGREEMENTS.** A **Relationship Status Agreement** is more variable than a **Prenuptial Agreement** or **Marital Status Agreement**. A **Relationship Status Agreement** can:

6.1 **No CIR.** Insure that the relationship between the parties is not a **CIR**.

6.2 **Custom.** Allow the **Partners** pick and choose which **Rights & Obligations** they will each have. They can create **Community Property** and/or preserve **Separate Property**.

7 **REQUIREMENTS OF A VALID AGREEMENT.**

7.1 **Prenuptial Agreement and Marital Status Agreement.** In order for a **Prenuptial Agreement** or **Marital Status Agreement** to be valid, at a minimum:

7.1.1 **Full Disclosure.** Each **Spouse** must fully disclose their financial situation, including assets, liabilities, income and expenses to the other **Spouse**.

7.1.2 **Lack Of Duress.** Neither **Spouse** should be under a time pressure prior to signing the agreement, such a receiving the agreement the day before a scheduled wedding with lots of guests.

7.1.3 **Representation.** Each **Spouse** must have adequate opportunity to consult with their own attorney.

7.2 **Relationship Status Agreement.** In order for a **Relationship Status Agreement** to be valid, as a minimum, each **Partner** must have adequate opportunity to consult with their own attorney.

Please feel free to contact us regarding any questions or concerns you have.

Irv Sonkin