

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT,  
IN AND FOR CHARLOTTE COUNTY, FLORIDA

Case No.: 14-2466-CA  
Division: Civil/Family

IN RE THE MARRIAGE OF:

CINDY CHEEK,  
Wife,

and

JOHN CHEEK,  
Husband

**MARITAL SETTLEMENT AGREEMENT**

This Agreement is made in connection with an action for dissolution between John Cheek, referred to as "Husband" and as "Father" herein, and Cindy Cheek, referred to as "Wife" and as "Mother" herein, who are sworn and agree as follows:

**WHEREAS**, the parties hereto were married to each other on or about July 7, 1990;

**WHEREAS**, the following child involved in this action has been born to or adopted by the parties:

Name	Date of Birth
F.C.	May 16, 2001

**WHEREAS**, no other children were adopted, and none are expected;

**WHEREAS**, Wife has filed a petition for dissolution of marriage in the above case, and this Agreement is intended to be introduced into evidence in such action, to be incorporated in a Final Judgment entered therein;

**WHEREAS**, the parties acknowledge that irreconcilable differences exist, that the marriage is irretrievably broken, and that the parties intend to live separate and apart from each other;

**WHEREAS**, the parties wish to settle between themselves, now and forever, their respective rights, duties, and obligations regarding property, liabilities, and child;

**WHEREAS**, each party has read this Agreement and understands its terms and consequences, and each party believes that this Agreement is fair, just, and reasonable, and in the

best interest of the child;

**WHEREAS**, each party has assented to this Agreement freely and voluntarily, without coercion or duress;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and undertakings set forth herein, and for other good and valuable consideration, the parties have agreed and do hereby agree as follows:

## **ARTICLE I PARENTING PLAN**

1.1 The parties shall have shared parental responsibility and shall retain full parental rights and responsibilities with respect to the child.

1.2 The parties have agreed to a Parenting Plan attached hereto, which is incorporated herein by reference and made a part of this Agreement for all purposes. The parties agree that this Parenting Plan is in the best interest of the child, and represents the parties' agreement regarding their responsibilities for the daily tasks associated with the upbringing of the child, including decision-making, time-sharing, transportation, communication.

## **ARTICLE II CHILD SUPPORT AND INSURANCE**

### **Statement of the Parties Relative to Child Support**

2.1 The parties agree that the amounts in the Child Support Guidelines Worksheet attached hereto are correct and should be incorporated into the judgment of the Court as findings of fact.

### **Child Support**

2.2 Father shall pay to Mother child support in the amount of One Thousand One Hundred and Fifty and No/100 Dollars (\$1,150.00) per month for the child commencing November 1, 2014. Father shall pay ½ of the monthly obligation (\$575.00) on or before the 1<sup>st</sup> of each month, and the second ½ (\$575.00) on or before the 15<sup>th</sup> of each month. Father's child support obligation as set forth herein shall terminate on May 16, 2020.

2.3 Father shall continue payment of child support until the minor or dependent child: (a) reaches the age of 18; (b) becomes emancipated; (c) marries; (d) joins the armed services, (e) dies, or (f) becomes self supporting; or until modified by order of the Court or by written agreement of the parties approved by the Court.

2.4 The child support obligation shall continue beyond the age of 18 and until high school graduation if the child is (a) dependent in fact; (b) between the ages of 18 and 19; and (c)

still in high school, performing in good faith with a reasonable expectation of graduation before the age of 19.

**Other Provisions Regarding Child Support**

2.5 **No Income Deduction.** The parties agree that immediate income deduction shall not be implemented at this time, and that income deduction is not in the best interest of the child. Father agrees to advise Mother and the depository of any change relating to Father including name, address, employment information, and health insurance.

2.6 **Direct Payment of Child Support.** The parties agree that payments of child support shall be made directly by Father to Mother, instead of through a central depository, the State Disbursement Unit, or immediate income deduction. Payments shall be made by check or by money order, and both parties shall each keep their own records of all payments due and all payments made.

2.7 In the event of a default in the payment of support equal to one month's obligation, either party may initiate payment of child support through an income deduction order by filing an affidavit pursuant to Section 61.13(1)(d) of the Florida Statutes.

**Health and Dental Insurance**

2.8 For as long as either party has a legal duty to support the child who is the subject of this Agreement, or until further order of the Court, Father shall provide health insurance for the child through group insurance available to Father and Father shall pay the premiums for such insurance.

2.9 For as long as either party has a legal duty to support the child who is the subject of this Agreement, or until further order of the Court, Father shall provide dental insurance for the child through group insurance available to Father and Father shall pay the premiums for such insurance.

2.10 Each party shall cooperate with the other in the procurement of the above-described insurance and the filing of claims. The party providing an insurance policy covering the child hereunder shall (a) submit all forms required by the insurance company for payment or reimbursement of health or dental care expenses incurred by either party on behalf of the child to the insurance carrier within ten days of that party's receiving any form, receipt, bill, or statement reflecting the expenses, and (b) shall provide to the other party the following information, as applicable, no later than the thirtieth (30th) day after the date this Agreement has been signed: the name and address of the employer of the party providing insurance; whether the employer is self-insured or has health or dental insurance available; proof that such insurance has been provided for that child; and the name of the insurance carrier, the number of the policy, a copy of the policy and schedule of benefits, an insurance membership card, claim forms, and any other information necessary to submit a claim or, if the employer is self-insured, a copy of the schedule of benefits, a membership card, claim forms, and any other information necessary to submit a claim. Any change in the foregoing information (including a termination or lapse in

insurance) shall be provided by the party providing insurance to the other party within ten (10) days after the providing party learns of such change.

### **Noncovered Health Care Expenses**

2.11 "Noncovered Health Care Expenses" means all ordinary, reasonable and necessary expenses not covered by insurance and incurred for medical, health, dental, psychological or psychiatric care on behalf of the child who is the subject of this Judgment, including but not limited to hospitalization, prescriptions, physicians, dentists, orthodontics (including braces), contact lenses and eyeglasses, examinations, and insurance copayments, and which are incurred while either party has a legal duty to support such child.

2.12 Noncovered Health Care Expenses shall be divided by the parties as follows: Deductibles and In-Network: Father shall pay one hundred percent (100%) and Mother shall pay zero percent (0%); Out-of- Network: Father shall pay fifty percent (50%), and Mother shall pay fifty percent (50%). A party who pays for a Noncovered Health Care Expense or receives notice of the same shall submit to the other party proof of payment or such notice within fifteen (15) days of payment or receipt of notice. Within fifteen (15) days after the other party receives such notification, the other party shall reimburse the paying party or pay the billing party directly for his or her share of the expense, as applicable. Mother agrees to utilize the funds available in the Osage Nation flexible spending account whenever possible in lieu of Father being required to pay his percentage.

## **ARTICLE III REAL ESTATE**

### **The Cape Horn Marital Home**

3.1 There exists certain real property in which one or both parties may claim an interest, herein referred to as the "Cape Horn Marital Home," located at 17378 Cape Horn Blvd., Punta Gorda, FL 33955.

3.2 The Cape Horn Marital Home shall be the property of Husband, and Wife hereby waives and releases any and all claim or interest in said property. Wife shall execute and deliver a special warranty or quitclaim deed to convey any and all such interest in said property to Husband. Wife hereby assigns to Husband any and all of her interest in any escrow accounts, homeowner's insurance policies, and/or utility deposits in connection with the Cape Horn Marital Home. Husband shall pay all taxes and insurance on the Cape Horn Marital Home as of November 1, 2014. Husband shall be entitled to take any itemized deductions available under the Internal Revenue Code in connection with the Cape Horn Marital Home, including items such as mortgage interest and real estate taxes for the tax year in which this Agreement is executed, and every year thereafter.

3.3 There is a mortgage owing to Nation Star secured by said property, with a current balance of approximately \$181,000.00. As of November 1, 2014, Husband shall assume said mortgage, and shall indemnify and hold Wife and her property harmless from any failure to pay

the same.

#### **ARTICLE IV RETIREMENT**

##### **Husband's Pension**

4.1 Husband is awarded one hundred percent (100%) of his interest in the Husband's Pension arising out of his employment with LCEC, and Wife hereby waives and releases any and all claim or interest therein.

##### **New York Life Investment Management Services- 401K**

4.2 Wife is awarded a lump sum interest of Twenty-three Thousand Seven Hundred and Twenty-eight and 87/100 Dollars (\$23,728.87) from the New York Life Investment Management Services- 401K arising out of Husband's employment with LCEC, effective as of November 1, 2014. Such lump sum shall be paid to Wife as soon as the QDRO is accepted.

4.3 Husband shall be responsible for the costs of preparing the Qualified Domestic Relations Order for the distribution of the New York Life Investment Management Services- 401K described above.

#### **ARTICLE V DIVISION OF OTHER ASSETS AND LIABILITIES**

##### **Division of Other Assets**

5.1 The parties have already divided all other marital property in an agreeable and satisfactory manner prior to the execution of this Agreement. Each party shall have exclusive ownership in all items of property that are currently in his or her possession or control, and the other party waives and releases any and all claim or interest in such items. Each party shall retain his/her own vehicle.

##### **Division of Liabilities**

5.2 Any obligation or liability that is not listed herein shall be the responsibility of the party that incurred the same, and the party that incurred the same shall indemnify the other party and the property of the other party harmless from liability therefor.

5.3 Neither party shall hereafter incur any obligation or liability for which the other party will be liable.

5.4 Husband shall be solely responsible for the following debts and agrees to indemnify and hold Wife harmless for her failure to pay same:

- a. The debt owing to the IRS with a current approximate balance of

\$6,278.28.

- b. ½ of the debt owing to Jon M. Waage as Chapter 13 Trustee with an approximate balance owing of \$896.00.
- c. The debt owing to Wells Fargo Platinum Credit Card (2556) with an approximate balance owing of \$803.00.

5.5 Wife shall be solely responsible for the following debts and agrees to indemnify and hold Husband harmless for her failure to pay same:

- a. ½ of the debt owing to Jon M. Waage as Chapter 13 Trustee with an approximate balance owing of \$896.00.

### General Provisions

5.4 Full and Complete Disclosure. Each party hereto warrants and agrees that he or she has made a full and complete disclosure to the other party of all marital and nonmarital property, income, assets and liabilities.

5.5 Other Information or Instruments. Each party agrees to provide to the other party any necessary information or to execute and/or deliver any instrument or document necessary to transfer title or interest in property consistent with this Agreement.

5.6 Nondischargeable in Bankruptcy. All terms of this Agreement pertaining to the division of marital property, including but not limited to any hold harmless or indemnification provisions, are specifically intended by the parties to be nondischargeable in the event of bankruptcy.

## ARTICLE VI ALIMONY

6.1 The parties agree that Wife has an actual need for alimony or maintenance, and Husband has the ability to pay the same.

### Durational Alimony

6.2 The parties agree that Husband shall pay durational alimony as provided below in order to provide Wife with economic assistance for a set period of time.

6.3 Husband shall pay to Wife as durational alimony the amount of One Hundred and No/100 Dollars (\$100.00) per month as of November 1, 2014. Husband shall pay the first ½ (\$50.00) on or before the 1<sup>st</sup> of each month, and the second ½ (\$50.00) on or before the 15<sup>th</sup> of each month until June 1, 2020. As of June 1, 2020 Husband shall pay to Wife as durational alimony the amount of Eight Hundred and No/100 Dollars (\$800.00) per month. Husband shall pay the first ½ (\$400.00) on or before the 1<sup>st</sup> of each month, and the second ½ (\$400.00) on or before the 15<sup>th</sup> of each month until November 1, 2024.

6.4 **Payment of durational alimony as set forth above shall terminate on the date set forth herein above in paragraph 6.5. The Parties specifically agree that the alimony is NOT modifiable in amount and duration. The alimony shall terminate upon the remarriage of Wife.**

**Other Provisions**

6.5 **Payment Made Directly.** Payments of alimony shall be made by check or by money order directly to Wife, and both parties shall each keep their own records of all payments due and all payments made. Husband agrees to advise Mother and the depository of any change relating to Husband including name, address, and employment information. In the event of a default in the payment of alimony equal to one month's obligation, either party may immediately initiate payment of alimony through a governmental depository and, if Husband is receiving a salary or other regular income, by income deduction order pursuant to Section 61.13(1)(d) of the Florida Statutes.

6.6 **Nondischargeable in Bankruptcy.** It is the express intent of the parties that all alimony payable or to be made hereunder is specifically intended to be nondischargeable in the event of the bankruptcy of the paying party.

6.7 **Life Insurance.** Husband agrees that, as long as Husband is obligated to pay alimony, Husband will contract for and keep in full effect and force a life insurance policy with a face value of \$100,000.00, with Wife designated as irrevocable beneficiary. Within thirty (30) days after the insurance policy has been obtained, Husband will provide to Wife the name and address of the insurance company, the policy number, and a copy of the insurance policy.

6.8 **Interest on Past Due Amounts.** Any amounts that are past due shall bear interest at the rate of ten percent (10%) per annum from date of default until paid in full.

6.9 **Acceleration in Event of Default.** In the event of default of payment of periodic durational alimony as specified hereinabove, then the entire remaining amounts due shall, at the option of Wife, become immediately due and collectible without notice, time being of the essence. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

6.10 **Taxable Income for Wife.** The parties acknowledge that the alimony specified hereinabove shall constitute taxable income for Wife, and that Husband shall be entitled to deduct from his income all such alimony payments made by and shall not be liable for taxes thereon.

**ARTICLE VII  
TAX ISSUES**

**Federal Income Taxes for Tax Year 2014**

7.1 For tax year 2014, each party shall file an individual income tax return in accordance with the Internal Revenue Code.

7.2 Unless otherwise specified in this Agreement, and in addition to income attributable to each party's respective nonmarital property, each party must report as the party's income one-half of all income attributable to marital property, including earnings from personal services received on or before the date of the dissolution of the marriage. Additionally, each party may take credit for all of the reporting party's estimated tax payments and federal income tax payroll withholding deductions occurring after the date of the dissolution of the marriage, and, to the extent allowed by law, all deductions, exemptions, credits, and adjustments attributable to his or her income and expenses after the date of the dissolution of the marriage.

7.3 Each party shall timely pay his or her tax liability in connection with the tax return filed by such party. Any refund received as a result of a party's tax return shall be the sole property of the party filing such tax return.

7.4 Each party shall indemnify and hold harmless the other party for such taxes, liabilities, deficiencies, assessments, penalties, or interest due thereon or the omission of taxable income or claim of erroneous deductions of the applicable party.

#### **Other Provisions**

7.5 **Attorney is Not Tax Expert.** The parties acknowledge that any attorney involved with this Agreement does not claim to be an expert in tax matters. Each party states that he or she has consulted or has had the opportunity to consult with a tax professional to fully evaluate the tax implications and consequences of this Agreement.

7.6 **Request for Information and Cooperation.** It is agreed that each party shall provide any information reasonably necessary to prepare federal income tax returns, within thirty (30) days of receipt of a written request for the same. Each party shall reasonably cooperate with the other in the preparation of income tax returns as set forth hereinabove. Within five days of receipt of written notice from the other party, each party will allow the other party access to these records in order to respond to an IRS examination or request for information. Purposes for which access to such records will be granted includes, but is not limited to, the determination of acquisition dates or tax basis, and such access shall include the right to copy the records.

7.7 **Preservation of Information.** Each party shall preserve for a period of seven years from the date of the filing of the applicable tax return, all financial records relating to the marital property. Each party shall preserve indefinitely, any records which determine or affect the tax basis in any marital property.

7.8 **No Waiver of "Innocent Spouse".** The parties agree that nothing contained herein shall be construed as or is intended as a waiver of any rights that a party has under the "Innocent Spouse" provisions of the Internal Revenue Code.

### **ARTICLE VIII COURT COSTS AND ATTORNEY'S FEES**



8.1 Any costs of court, including the filing fee for the petition for dissolution, will be borne by the party incurring the same.

8.2 Each party will be responsible for his or her own attorney's fees incurred herein.

## **ARTICLE IX GENERAL PROVISIONS**

9.1 **Written Notice of Change of Information.** Any parent shall give written notice to the other party (and, if paying child support through the State Disbursement Unit, to the State Disbursement Unit) by registered or certified mail of any intended change in the following information: (a) name, (b) marital status, (c) residence address, (d) mailing address, (e) home telephone number, (f) name of employer, (g) address of employment, or (h) work telephone number. Such written notice must be provided no later than five (5) days before a change of any of the foregoing information; provided, however, if the party does not know or could not have known of the change in sufficient time to provide such prior notice, the party shall provide written notice of the change on or before twenty-four (24) hours after the party learns of the change. The parent shall also notify the Court in writing within seven (7) days of any changes.

9.2 **Exchange of Information Relating to Income.** As long as any financial obligation is payable under this Agreement, each party shall provide to the other party a true and correct copy of federal and state income tax returns, along with all documentation filed therewith (including W-2 forms, 1099s, returns showing partnership and other income or loss, and the like), to be delivered to the other party within fifteen (15) days of filing such returns.

9.3 **Mutual Release.** Each party waives, releases and relinquishes any actual or potential right, claim or cause of action against the other party, including but not limited to asserting a claim against the estate of the other party or to act as a personal representative of such estate, except as otherwise provided for in this Agreement or arising hereunder.

9.4 **Resolution of Future Disputes.** In the event of any disagreement regarding an issue between the parties, the parties shall first confer and exercise reasonable efforts to resolve such a dispute. Except in an emergency, before a party files legal action regarding an issue of any such dispute or regarding modification of any terms and conditions of this Agreement, that party shall make a good faith attempt to submit the dispute or controversy to mediation.

9.5 **Reconciliation.** In the event of a reconciliation or resumption of marital relations, this Agreement or its provisions shall not be abrogated in any way without further written agreement of the parties.

9.6 **No Oral Agreements.** The parties agree that this Agreement constitutes the entire agreement of the parties, that this Agreement supersedes any prior understandings or agreements between them, and that there are no representations, warranties, or oral agreements other than those expressly set forth herein.

9.7 **No Waiver of Breach.** The failure of a party to insist on strict performance of

any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

9.8 Severability. This Agreement is severable, and if any term or provision is determined to be unenforceable, this shall not render the remainder of the Agreement unenforceable.

9.9 Other Acts. Each party agrees to timely perform such other acts that are reasonably necessary or that may be reasonably requested by the other party to effectuate the provisions of this Agreement.

9.10 Survival of Agreement; No Merger. This Agreement may be offered into evidence by either party in an action for dissolution of marriage, and may be incorporated by reference in a final judgment entered therein. Notwithstanding incorporation, this Agreement shall not be merged in such judgment but shall survive the judgment and be binding on the parties.

9.11 Remedies for Enforcement. The terms and provisions of this Agreement are enforceable in contract, in addition to any remedies for enforcement that may also be available under any final judgment of dissolution of marriage entered between the parties.

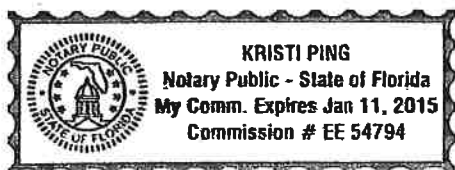
I, CINDY CHEEK, certify that I have been open and honest in entering into this Agreement. I am satisfied with this Agreement and intend to be bound by it.

Dated: October 11, 2014

Cindy Cheek  
CINDY CHEEK

STATE OF FLORIDA  
COUNTY OF CHARLOTTE

Sworn to or affirmed and subscribed before me on October 11, 2014 by  
CINDY CHEEK.



Kristi Ping  
NOTARY PUBLIC - STATE OF FLORIDA

Kristi Ping  
Printed Name of Notary

       Personally known

X Produced identification

Type of identification produced Florida Drivers License

I, JOHN CHEEK, certify that I have been open and honest in entering into this Agreement. I am satisfied with this Agreement and intend to be bound by it.

Dated: October 11, 2014

*John Cheek*  
JOHN CHEEK

STATE OF FLORIDA  
COUNTY OF CHARLOTTE

Sworn to or affirmed and subscribed before me on October 11, 2014 by  
JOHN CHEEK.



*Kristi Ping*  
NOTARY PUBLIC - STATE OF FLORIDA

*Kristi Ping*  
Printed Name of Notary

         Personally known

  X   Produced identification

Type of identification produced Florida Drivers License