

## SETTLEMENT AGREEMENT

This Settlement Agreement is effective September 30, 2003, by and between Kurt A. Edwards ("Kurt") and Katherine M. Edwards ("Kathy").

**WHEREAS**, Kathy and Kurt were married and are now divorced; and

**WHEREAS**, Kathy and Kurt have one child, Hannah Edwards ("Hannah"); and

**WHEREAS**, under the decree dissolving their marriage, Kathy was ordered to pay child support to Kurt; and

**WHEREAS**, as of the date of execution of this Agreement, Kathy owes Kurt back child support of \$6,487 (the "Currently Delinquent Child Support"); and

**WHEREAS**, Kathy filed a petition in the United States Bankruptcy Court for the District of Minnesota commencing a case under Chapter 7 of the United States Bankruptcy Code, captioned *In re Katherine M. Edwards* (the "Bankruptcy Case"); and

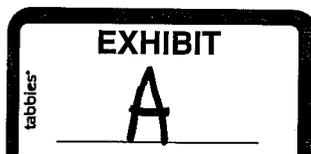
**WHEREAS**, Kurt filed an adversary proceeding in the Bankruptcy Case captioned *Kurt A. Edwards v. Katherine M. Edwards* (the "Adversary Proceeding") for a determination that certain claims by Kurt against Kathy in the Bankruptcy Case totaling \$30,264.93 (the "Claims") are non-dischargeable; and

**WHEREAS**, the Adversary Proceeding is currently pending; and

**WHEREAS**, Kurt and Kathy have agreed to a resolution of the Adversary Proceeding as set forth below.

**NOW THEREFORE**, the parties hereby agree and stipulate, in consideration of the mutual covenants set forth below, as follows:

1. **Settlement Payment.** In full satisfaction of the Claims, Kathy shall pay the sum of \$15,000 (the "Settlement Amount") as follows: \$100 each month commencing March 31,



2004, and \$100 on the last day of each successive month until the \$15,000 Settlement Amount is paid in full; provided that, if Kathy obtains full-time employment (minimum of 40 hours per week) sooner than March 31, 2004, she shall begin making the \$100 monthly payments on the last day of the month following the month in which she starts her employment; provided further that, if Kathy obtains part-time employment (at least 20 hours per week) before March 31, 2004, she shall make monthly payments of \$50 each month beginning on the last day of the month following the month in which she starts her part-time job and ending March 31, 2004, at which time the payments will increase to \$100 each month as provided above. Notwithstanding anything in this paragraph to the contrary, if Kathy provides Kurt or his attorney with a medical report verifying that she is physically disabled and unable to work, the amount of the monthly payments shall be reduced to \$50 for no more than 12 months from the date that she provides the report (the "12 month Disability Period"), and, thereafter, payments shall be \$100 per month. The 12 Month Disability Period shall only be available to Kathy Edwards once during the term of this Agreement.

2. **Payees of Settlement Amount.** The payees of the Settlement Amount are as follows:

- (a) **Trust Account.** Kathy shall make the first \$6,500 of monthly payments of the Settlement Amount (the "Settlement Amount Child Support Payments") to the Trust Account of Tom Van Hon, and these payments shall be applied to reduce the Currently Delinquent Child Support. Kurt agrees that, so long as Kathy complies with the terms of this Agreement, he will not take any steps to collect the Currently Delinquent Child Support. Kurt further agrees that either he or his attorney will promptly inform Renville County Child

Support and Scott County Child Support, in writing, with a copy to Kathy and to her attorney David A. Orenstein, that Kurt has agreed that Kathy will pay the Currently Delinquent Child Support directly to him and that he does not wish Renville County Child Support or Scott County Child Support to take any steps to collect any of the Currently Delinquent Child Support Payments until further notice from him or his attorney. In addition, either Kurt or his attorney will report to Renville County Child Support and Scott County Child Support each month the amount of the Currently Delinquent Child Support Payments that Kathy makes to the Trust Account and direct Renville County and Scott County to reduce the Currently Delinquent Child Support by that amount.

(b) Hannah Edwards Trust. After Kathy makes all of the Settlement Amount Child Support Payments to Kurt, Kathy will pay the remaining Settlement Amount (the "Remaining Settlement Amount") to the Hannah Edwards Trust (the "Trust") until such time as there may be a default by Kathy.

3. **Establishment of the Trust.** Immediately after Kathy makes her final Settlement Amount Child Support Payment, Kathy and Kurt shall establish the Trust for the benefit of Hannah. If the parties fail to reach an agreement on the terms of the Trust documents within 60 days of the date that Kathy makes her final Settlement Amount Child Support Payment, then the parties agree to submit their dispute to the Court having jurisdiction over the custody and visitation of Hannah and to abide by the Court's decision regarding the terms of the Trust. Parsinen Kaplan Rosberg & Gotlieb, P.A. (PKR&G") shall contribute legal services required to draft the Trust documents up to a time dollar value of \$1,500. The time dollar value of

PKR&G's services shall be determined solely by PKR&G. From the time that Kathy makes the final Settlement Amount Child Support Payment to the date that the Trust is established, Kathy shall make all payments of the Remaining Settlement Amount to PKR&G in trust. Upon establishment of the Trust, PKR&G shall deposit all payments of the Remaining Settlement Amount that it is holding into the Trust. The Trust documents shall provide, among other things, that all trust funds will be used for educational purposes, including but not limited to camps, school trips, school tuition, school books, post-secondary education living expenses, or other school-related expenses. Kurt shall be the sole trustee of the Trust. The Trust account will be a mutual fund account. The Trust will terminate when Hannah reaches the age of 25, at which time all unused funds will be distributed to Hannah. In the event of Hannah's death prior to the termination of the Trust, all remaining Trust funds shall be immediately distributed to Kurt. Kurt shall direct the mutual fund or investment advisor to mail a copy of the monthly account statement for the funds invested in the Trust to Kathy. With respect to every withdrawal of Trust funds, Kurt shall provide Kathy with written receipts detailing the use of the funds and, if not evident from the receipts, identifying the educational purpose for which the Trust funds were used.

4. **Default by Kathy.** If Kathy fails to pay the Settlement Amount when and as provided herein, then she shall be in default under this Agreement; provided that, any failure of Kathy to make child support payments due and owing from the date of this Agreement forward ("Future Child Support Payments") shall not constitute a default in this Agreement; provided that, nothing herein shall be construed to limit the rights and remedies available to Kurt to collect Future Child Support Payments by any lawful means whether or not Kathy is current in her payments of the Settlement Amount.

5. **Kurt's Remedies for Kathy's Default.** If Kathy defaults under this Agreement, Kurt shall have the right to confess judgment against Kathy in state district court (the "State Court Judgment"), in the amount of \$30,264.93, less all payments of the Settlement Amount that Kathy has made up to the date of her default and less the unpaid amount of the Bankruptcy Court Judgment (as that term is defined below). Further, as a pre-condition for confessing judgment in state district court under this paragraph, Kurt shall file a partial satisfaction of the Bankruptcy Court Judgment reducing it to the unpaid amount thereof. The State Court Judgment shall be nondischargable in the Bankruptcy Case or in any future bankruptcy case filed by Kathy. To confess judgment, Kurt shall file with the state district court: (a) an affidavit describing the default and calculating the amount of the judgment, and (b) a fully executed copy of this Agreement. Any sums paid by Kathy or collected by Kurt following a default by Kathy shall be available to Kurt for any use.

6. **Default by Kurt.** Kurt shall be default of this Agreement if he fails to: (a) comply with his obligations under paragraph 2(a) of this Agreement; (b) deliver to Kathy a written receipt detailing the use of the funds withdrawn from the Trust and identifying the educational purpose for which the Trust funds were used, if not evident from the receipt; or (c) uses any Trust funds for purposes for beyond the scope of the Trust.

7. **Kathy's Remedies for Kurt's Default.** In the event of default by Kurt, all obligations of Kathy to make further payments of the Settlement Amount shall be terminated. In addition, Kathy shall have all other rights and remedies available for breach of the Trust or for breach of this Agreement that are available at law or in equity. In the event of a default by Kathy and Confession of Judgment, Kathy may not later raise as a defense to enforcement of the

judgments entered pursuant to this Agreement in state or federal court that Kurt has defaulted and thus suspend her obligation to make payments.

8. **No Admission by Kathy.** Nothing in this Agreement shall be construed as an admission by Kathy that she has committed a fraud.

9. **Stipulation to Judgment.** Upon execution of this Agreement, the parties shall cause their respective attorneys to execute and file a stipulation, in the form attached hereto as Exhibit A, to the entry of a non-dischargeable judgment against Kathy in the sum of \$15,000 (the "Bankruptcy Court Judgment.") So long as Kathy is not in default under this Agreement, Kurt shall take no steps to execute the Bankruptcy Court Judgment. In the event of default, Kurt may exercise any remedy as a judgment creditor including transcribing the Bankruptcy Court Judgment into state court. In the event of default by Kathy, the fact that the obligations of Kathy are reduced to judgment shall not in any way affect any collection remedies by Kurt or by Renville County Human Services, including revenue recapture, wage withholding, or any other process. Upon completion by Kathy of the payment of the Settlement Amount, as provided herein, Kurt shall file a satisfaction of the Bankruptcy Court Judgment.

10. **Waiver of Claims.** Effective upon payment in full of the Settlement Amount, as provided herein, Kurt hereby releases and waives all of the Claims against Kathy.

11. **Effect of Headings.** The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

12. **Entire Agreement; Modification; Waiver.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and therein and supersedes all prior and contemporaneous agreements, representations,

and understandings of the parties and their agents and representatives. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by Kathy and Kurt. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

13. **Change in Address.** Kathy and Kurt shall notify each other and their respective attorneys of any change in address.

**IN WITNESS WHEREOF**, the parties hereto have executed this Settlement Agreement effective the date first set forth above.

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Kurt A. Edwards

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Katherine M. Edwards

