SEPARATION AGREEMENT

AGREEMENT made by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ County, Massachusetts (the "Husband") and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ County, Massachusetts (the "Wife"), referred to in this Agreement individually as a "Party" or together as the “Parties," effective as of the date both Parties have signed the Agreement.

STATEMENT OF FACTS

The Parties were married on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, in \_\_\_\_\_\_\_\_\_\_\_\_, and last lived together at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Massachusetts on or about \_\_\_\_\_\_\_\_\_\_, 20\_\_. This is the \_\_\_\_\_\_\_\_ marriage for the Husband and the \_\_\_\_\_\_\_\_\_\_ marriage for the Wife.

There are \_\_\_\_\_\_\_\_\_\_ unemancipated children born of the marriage whose names and dates of birth are: \_\_\_\_\_\_\_\_\_\_\_\_ (date of birth \_\_\_\_\_\_\_\_\_\_\_\_\_) and \_\_\_\_\_\_\_\_\_\_\_\_ (date of birth \_\_\_\_\_\_\_\_\_\_\_) (collectively, the “Children”).

The Parties are living separate and apart. Serious and irreconcilable differences have arisen between the Parties, and the Parties acknowledge there is an irretrievable breakdown of their marriage. The Parties intend to file a Joint Petition for Divorce in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Probate and Family Court.

**[The Parties have jointly hired David A. Hoffman of Boston Law Collaborative, LLC as a neutral mediator to help them in the planning, negotiation, and preparation of this Agreement. At no time has Hoffman acted as counsel for either Party, and neither Party shall request that he testify or produce evidence in connection with any Court proceeding.]**

Each of the Parties has obtained the advice of independent legal counsel of his or her own choosing prior to executing this Agreement. The Husband is represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the Wife is represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

PURPOSE

The purpose of this Agreement is to determine:

1. The custody of and parenting schedule for the Parties’ Children;
2. The support of the Parties’ unemancipated Children, including what should be paid for the Children’s educational expenses;
3. An equitable distribution of property;
4. What should be paid, if anything, to the Husband or the Wife as alimony, including whether and to what extent either Party shall have an obligation to provide healthcare coverage for the other beyond the date of the Judgment of Divorce; and
5. All other matters that should be settled in connection with the Parties’ divorce.

GENERAL PROVISIONS

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained in this Agreement, the Parties mutually agree as follows:

1. Separation

The Parties shall have the right to live separate and apart from each other. To preserve each Party’s privacy, neither shall visit the other’s home or place of work without the other’s prior consent**, [except in connection with arrangements for parenting time with the Children as provided herein]**. This provision is not to be interpreted as an Abuse Prevention Order and shall not be filed with the Domestic Violence Record Keeping System, and a violation of this provision shall not be considered a criminal offense.

2. Acceptance of Terms of the Agreement

The Parties acknowledge that each of them understands the provisions of this Agreement and believes these provisions to be fair, reasonable, and acceptable. The Parties further state that, after consultation with their respective attorneys, after being fully advised as to all the facts and circumstances set forth in this Agreement, and after having read this Agreement line by line, each accepts the provisions of this Agreement as the complete resolution of all issues regarding their divorce. Each Party acknowledges entering this Agreement freely and voluntarily and without any coercion of any kind. This Agreement shall be binding on the Parties’ heirs, executors, administrators, assigns, and personal representatives.

3. Entire Agreement

The Parties acknowledge that this Agreement contains the entire agreement between the Parties, and that neither Party is relying on any representations, agreements, statements, promises, or understandings, expressed or implied, other than those set forth in this Agreement. No oral statement or prior written matter extrinsic to this Agreement shall have any force or effect except as may be necessary to resolve any ambiguity. Except as set forth in this Agreement, each Party’s obligations to the other for alimony, support, transfer, conveyance, gift, assignment, or otherwise shall cease entirely as of the date of this Agreement, and each Party shall forever be discharged with respect to those obligations. Neither Party shall at any time, or under any circumstances or under any statutory authority or case law of any jurisdiction, make any demands or claims against the other Party or his or her estate for alimony, support, maintenance, transfer, conveyance, property assignment, or otherwise, inconsistent with the terms of this Agreement, and this Agreement shall be and is, both at law and in equity, a bar to any such demands or claims as to any portion of this Agreement that survives. ***[For CL cases:* Notwithstanding the foregoing, the Parties agree that the confidentiality and attorney-disqualification provisions contained in their Collaborative Law Participation Agreement are not superseded by this Agreement and continue in full force and effect.*] [For mediation cases:* Notwithstanding the foregoing, the Parties agree that the confidentiality provisions contained in their Agreement to Mediate are not superseded by this Agreement and continue in full force and effect.*]***

4. Financial Disclosures

The Parties represent and warrant that they have each fully disclosed their respective incomes, assets, and liabilities to the other Party to the best of their knowledge by exchanging financial statements prepared pursuant to Supplemental Probate Rule 401. The Parties each represent and warrant that neither of them has (a) any undisclosed assets or liabilities, or (b) an undisclosed interest in any assets held by any other person, company, institution, or other entity. Each Party has carefully considered the current assets, liabilities, income, and expenses of the other, and each has executed this Agreement in reliance upon the representations set forth in their respective financial statements. Each Party has also considered the financial circumstances of the Parties’ respective families and the possibility of future inheritance.

5. Waiver of Trial and Further Discovery

The Parties have entered into this Agreement in preference to, and in lieu of, offering evidence at trial and obtaining a Judgment from the Court on the issues relating to their divorce. The Parties acknowledge that (a) they have engaged in such discovery as they deem necessary; and (b) each Party, being cognizant of his or her respective rights, hereby waives discovery of any matter up to the date of the divorce, except as regarding any claim of misrepresentation.

6. Merger/Survival of Agreement

The Parties shall submit this Agreement to the Probate and Family Court and seek the Court’s approval of its terms and its incorporation into the Judgment of Divorce.

a. Merger. The following terms and conditions of this Agreement shall be merged into the Judgment of Divorce and therefore be modifiable upon a showing that there has been a material change of circumstances warranting modification: (i) the custody and care of the Children, (ii) parenting arrangements including the parenting schedule, (iii) child support and child-related expenses, (iv) the Children’s education and education costs, and (v) the Children’s health and dental insurance coverage and costs associated with their medical and dental care. **[Others?]**

b. Survival. All of the other terms and conditions of this Agreement shall not be merged into the Judgment of Divorce, but instead shall survive and have independent legal significance as a binding, non-modifiable contract of the Parties.

7. Release of Claims

Except as otherwise provided in this Agreement, the Parties each hereby release and forever discharge each other from any and all suits, actions, debts, demands, claims, and obligations whatsoever, both at law and in equity, which either of them has ever had, now has, or may hereafter have against the other, by reason of any matter, cause, or thing from the beginning of the world up to the date of this Agreement, including, but not limited to, claims against the property of the other, it being the intention of the Parties that henceforth there shall exist between them only such rights and obligations as are specifically provided for in this Agreement and in any Judgment on the Divorce Petition, except in the event of fraud or misrepresentation by either Party.

8. No Further Liabilities

Except as otherwise provided in this Agreement, the Parties shall not enter into any contracts or incur any debt, charge, or liability for which the other, her or his legal representatives, her or his property, or her or his estate will or may become liable. The Parties hereby represent and warrant that, at the time of this Agreement, there are no outstanding bills, charges, debts, or liabilities incurred by either Party except as set forth in this Agreement. The Parties further represent that neither of them has utilized the other’s name for the purpose of having credit extended to her or him, except with respect to the liabilities described in this Agreement. Neither Party shall hereafter use the other’s name for the purpose of having credit extended to her or him.

9. Waiver of Estate Claims / Estate Provisions

Except as otherwise provided in this Agreement,

a. The Husband and Wife each hereby waive any right at law or in equity to elect to take against the provisions of any last will or codicil made by the other. Except as may be necessary to enforce the terms of this Agreement, the Husband and Wife each hereby waive and relinquish unto each other, their respective heirs, executors, administrators, personal representatives, and assigns forever all and every interest of any kind or character which either may now have or hereafter acquire in or to any real or personal property of the other.

b. Except as may be necessary to enforce the terms of this Agreement, the Husband and Wife each hereby waive and release any rights at law or in equity to share in the other’s estate in case of intestacy, and to act as executor, personal representative, special personal representative, or administrator of the other’s estate.

c. Except as provided in this Agreement, the Husband and Wife shall each have the right to dispose of her or his property during her or his lifetime and upon her or his death, whether by will, intestacy, or otherwise, in such manner as each may in his or her uncontrolled discretion deem proper, except that neither Party shall make any disposition intended or reasonably likely to frustrate or defeat the purposes or obligations embodied in this Agreement, and neither shall claim any interest in the estate of the other except to enforce any obligation created by this Agreement.

d. Notwithstanding the foregoing, nothing in this Agreement shall constitute a waiver by either Party of any rights or claims s/he may have against the other’s estate by reason of: (i) this Agreement; (ii) the other’s breach of this Agreement; (iii) any testamentary provision that the other may voluntarily make for him or her after the entry of a final Judgment of Divorce; or (iv) any testamentary provision that is currently in effect.

e. Neither Party shall serve under any health care proxy or power of attorney executed by the other before the date of this Agreement, and any such appointments are hereby revoked.

10. Documents

Whenever called upon to do so by the other, each Party shall forthwith execute, acknowledge, and deliver to or for the other, without consideration, any and all deeds, assignments, waivers, bills of sale, or other instruments or documents that are reasonably necessary (a) to carry out or enforce the provisions of this Agreement; (b) to enable the other Party to sell, encumber, pledge, or otherwise dispose of the property now or hereafter owned or acquired by such other Party; or (c) to accurately reflect ownership of property. With respect to any expenses that the Husband and Wife are to share under any provision of this Agreement, the Party who has incurred the expense and is seeking contribution from the other Party shall provide the other Party with a copy of the bill prior to or simultaneously with the request for reimbursement or payment.

11. Bankruptcy

In the event that either Party intends to file a Petition for Bankruptcy at any time during which any obligation of that Party to the other or to the Children remains in force and applicable, s/he shall notify the other of her or his intention in writing at least thirty (30) days prior to the filing of such Petition. Such notice shall be mailed by registered or certified mail, return receipt requested, to (a) the other Party’s last known address, and (b) such other person as either Party designates in writing to the other. Such notification shall include, in addition to expressing the intent of a Party to file such a Petition, the name, address, and telephone number of the attorney, if any, who has or will be retained relative to the filing of the Petition and shall identify the Court in which the Petition will be filed. The provisions of this paragraph are not intended to, and shall not in any manner, limit, restrict, or prevent either Party from taking any action against the other. The obligations set forth in this Agreement, and in particular obligations arising from those provisions requiring the payment of support (including without limitation provisions relating to the payment of costs for health and dental insurance and life insurance), payment of child-related expenses, and the division of marital assets, shall not be dischargeable in bankruptcy.

12. Counsel Fees **[and Mediation Fees]**

Except as otherwise provided in this Agreement, the legal fees and costs incurred in connection with the negotiation and execution of this Agreement shall be **[shared equally] [paid from separate funds of the Party that incurred the expense]**. From and after the date of this Agreement, each of the Parties shall be separately responsible for their own legal fees and costs. **[The Parties shall share equally the cost of the mediator’s fees.]**

13. Costs and Counsel Fees in the Event of Breach

If either Party defaults on an obligation contained in this Agreement, and if such a default is not remedied within ten (10) days of the delivery of written notice of the default to the breaching Party (which may be via email), the non-breaching Party shall be entitled to, in addition to enforcement of the obligation, reasonable attorneys' fees, costs, and expenses incurred as a result of such breach, or as a result of resisting or defending any claims or demands made by the breaching Party, or by anyone claiming by, through, or under her or him. In the event that both Parties are found to be in breach, the Court (or, if applicable, the arbitrator) may assess such expenses between the Parties as may be deemed appropriate. In the event that a Party incurs attorney’s fees as a result of defending an unsuccessful claim of breach, the non-breaching Party shall be entitled to recover her/his reasonable attorney’s fees. Each Party agrees to submit to the jurisdiction of any foreign court to enforce this Agreement by an Order or Judgment from a court of competent jurisdiction when s/he resides in and/or owns assets in a foreign nation.

14. Severability of Provisions

If any provision of this Agreement is not approved by the Probate and Family Court, the Parties shall make reasonable efforts to agree on a modification that does meet with the approval of the Court. If the Parties fail to agree on such a modification, and the Court does not approve the Agreement, the entire Agreement shall be null and void and of no legal effect. Once the Agreement is approved by the Court, if any provision of the Agreement shall be held invalid, the invalidity shall not affect the validity of the remainder of the Agreement, and the remaining provisions shall continue in full force and effect so long as they continue to reflect fairly the intent and understanding of the Parties in executing this Agreement.

15. Modification

Except as otherwise provided in this Agreement, the rights and obligations created by this Agreement shall not be altered or modified except by a notarized instrument signed by both Parties or by further order of a Court of competent jurisdiction. All such written modifications shall be submitted to a Court of competent jurisdiction for approval. Neither Party shall seek from any Court having jurisdiction over the Parties any Order or Judgment for the division or transfer of property that would modify any surviving provision of this Agreement. Each Party shall hold the other Party harmless and indemnified from any Order or Judgment that may vary in any manner the provisions of this Agreement except those that are expressly modifiable.

16. Strict Performance

The failure of either Party to insist upon the strict performance of any of the provisions of this Agreement shall not (a) be construed as a waiver of such provision(s), which shall continue in full force and effect, or (b) diminish the validity or enforceability of the other terms of this Agreement.

17. Massachusetts Law to Govern

This Agreement shall be construed and governed according to the laws of the Commonwealth of Massachusetts, without regard to conflict of law principles.

18. Captions

All section, paragraph, and Exhibit headings in this Agreement are for the reader’s convenience only and shall not be construed or interpreted as part of the Agreement.

19. Holidays

If the last or appointed day for the taking of any action required or permitted by this Agreement is a Saturday, Sunday, or legal holiday, then such action may be taken on the next following weekday that is not a legal holiday.

20. Exhibits

There are attached to this Agreement the following Exhibits, which are hereby incorporated by reference into this Agreement:

|  |  |  |
| --- | --- | --- |
| Exhibit A | Custody and Parenting Plan | p. \_\_ |
| Exhibit B | Child Support, Extracurricular Activities, and Child-Related Expenses | p. \_\_ |
| Exhibit C | College Expenses | p. \_\_ |
| Exhibit D | Alimony | p. \_\_ |
| Exhibit E | Health and Dental Insurance | p. \_\_ |
| Exhibit F | Life Insurance and Estate Planning | p. \_\_ |
| Exhibit G | Assets and Liabilities | p. \_\_ |
| Exhibit H | Taxes | p. \_\_ |
| Exhibit I | Mutual Waivers | p. \_\_ |
| Exhibit J | Dispute Resolution | p. \_\_ |
| Exhibit K | Miscellaneous | p. \_\_ |

The Parties shall be bound by the terms of these Exhibits to the same extent as if each of them was fully set forth in the text of this Agreement.

21. Notice

The Parties shall keep each other fully informed as to where and by what means (email or ordinary mail) any notices, demands, or other communication called for in this Agreement shall be sent. Until notification in writing of a change of address, all such notices, demands, and other communications shall be deemed duly given when mailed, postage prepaid, to the address listed for that Party on their financial statement filed with the Court, or sent by email to the last known email address for that Party.

22. Construction

In any proceedings regarding the interpretation of this Agreement, neither Party shall be deemed to be the sole drafter of any provision of this Agreement, and therefore any provision of this Agreement deemed ambiguous shall not be presumptively construed against either Party.

23. Death

a. Unless otherwise provided in this Agreement, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective executors, personal representatives, special personal representatives, administrators, heirs, assigns, legal representatives, and successors in interest. The Parties’ rights and obligations under this Agreement shall survive the death of either Party such that if either Party should predecease the other without having fulfilled her or his obligations under this Agreement, the estate of the obligated Party shall fulfill such obligations.

b. In the event that either or both of the Parties dies before a final Judgment of Divorce incorporating this Agreement is entered, but after this Agreement is executed by both Parties, the Parties intend that this Agreement shall be fully enforceable as if it had been incorporated in a Judgment of Divorce prior to the death of either or both Parties.

24. Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original instrument.

This Agreement shall take effect as a sealed instrument as of the date both Parties have signed the Agreement.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name] [Name]

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Then personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who proved to me by his driver’s license that he is the person whose name is signed on this Agreement, and acknowledged the foregoing instrument to be his free act and deed, before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Then personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who proved to me by her driver’s license that she is the person whose name is signed on this Agreement, and acknowledged the foregoing instrument to be her free act and deed, before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public:

My Commission Expires:

EXHIBIT A

CUSTODY AND PARENTING PLAN

1. Legal Custody

The Parties shall have shared legal custody of the Children. The Parties shall consult and make best efforts to agree on major life decisions for the Children, including for example, religious upbringing and education, major medical procedures, the Children’s activities, education, including the choice of college, disciplinary matters of a substantial nature, and the Children’s participation in any hazardous activities. The Wife shall have the authority and responsibility for decisions concerning the daily living needs, care, and activities of the Children when they are in her care. The Husband shall have the authority and responsibility for decisions concerning the daily living needs, care, and activities of the Children when they are in his care. It shall at all times be the objective of both Parties to decide all questions affecting the Children in such a manner as to promote the safety, welfare, happiness, and well-being of the Children and to share the responsibility for making such decisions.

2. Parenting Schedule

The Children shall live primarily with the **[Husband/Wife]**, but the **[Husband/Wife]** shall be with them every other weekend starting Friday as early in the afternoon as **[he/she]** can arrange and shall take the Children to school on Monday morning. The **[Husband/Wife]** shall provide dinner for the Children Friday night. On holiday weekends on which Monday is a public holiday, the **[Husband/Wife]** shall take the Children to school on Tuesday morning. In addition, the **[Husband/Wife]** shall have the Children with **[him/her]** overnight every Thursday, starting as early in the afternoon as **[he/she]** can arrange.

**OR**

2. Parenting Schedule

The Children shall spend equal time with the Husband and the Wife. The Children shall spend one week with the Husband and the following week with the Wife. Whichever Party has the Children shall bring them to the home of the other Party at 5 p.m. on Sunday, or Monday on holiday weekends on which Monday is a public holiday.

3. Summer Parenting Schedule

When a Child is not in summer camp, the Parties shall divide the remaining summer vacation time equally. No later than February 1 of each year, or earlier if a camp program being considered requires earlier notification, the Parties shall agree on summer plans. If they cannot readily agree on summer plans, they shall use the dispute resolution procedures in this Agreement. When plans are proposed by either Party, each shall also provide the other with information about the camp program being proposed. The Parties recognize that the success of any summer plan depends partly upon the response of a Child to being away from either Party, and the Parties shall discuss changing any arrangement if either Party believes a Child is not doing well in that particular schedule.

4. Vacations and Holidays

The Parties shall divide the holidays, birthdays, and vacations of the Children in such manner as they agree in advance of the occasion, trying to balance their time with them as equally as possible, not just in terms of amount but also considering the nature of the occasion. The Wife shall be entitled to be with the Children during the four-day Thanksgiving holiday from Wednesday morning until Sunday night in odd-numbered years, and the Husband shall be entitled to be with them during that holiday in even-numbered years. The Party who has the Children for Thanksgiving shall also have them for the Easter weekend in the same calendar year. The Party who does not have the Children for Easter and Thanksgiving shall be entitled to have them during the Christmas vacation. The Wife shall have the Children with her during the February school vacation in odd-numbered years, and the Husband shall have the Children with him during the February vacation in even-numbered years. The Parties shall use the reverse of that schedule for the Children’s April school vacation. Holiday and vacation schedules shall supersede the regular parenting schedule described above. Prior to embarking on any vacation or out-of-town travel with the Children that involves an overnight stay, each Party shall provide the other with a proposed itinerary, the name and address of the proposed accommodations, and a telephone number at which s/he can be reached.

5. Flexibility and Review of the Parenting Schedule

a. The Parties recognize that there will be times when, due to illness, work schedules, or other factors beyond their control, they will need to adjust the schedules outlined above.

b. Each year, on or before \_\_\_\_\_\_\_\_\_\_\_, the Parties shall confer about the parenting schedule with a view to determining whether it should be changed in order to best accommodate the Children’s needs and those of the Parties.

c. The Parties also recognize that it may be beneficial for the Children to create opportunities, from time to time, for each of the Parties to be alone with one Child at a time.

6. Extracurricular Activities

It shall be the responsibility of the Party who has the Children with her or him to ensure that the Children get to and from any extracurricular or social activities scheduled during her or his time with the Children. Each Party shall consult with the other and obtain their approval, which shall not be unreasonably withheld, conditioned, or delayed, prior to committing a Child to an extracurricular or social activity that takes place during the other Party’s scheduled time with the Children. The Parties agree that having a Child remain in activities in which s/he has historically been involved shall be agreed upon in the future unless the cost substantially increases such that reconsideration is advisable and/or it is no longer in the best interests of the Child to continue to engage in the activity.

7. Attendance at Events

Both Parties shall have the option of attending the Children’s events (e.g., school conferences, medical appointments, athletic events, performances). Each Party shall keep the other Party informed of such events as soon as they are scheduled and shall take no action to impair or otherwise impede the other Party’s access to such events.

8. Childcare

a. The Party responsible for the Children shall notify the other Party if s/he plans to be away from them for an extended period of time **[four hours or more]** or overnight, so that the other Party has the opportunity to take care of the Children. If the other Party declines for whatever reason, the Party responsible for the Children shall be obligated to provide appropriate care for them, at her or his own expense.

b. When one or more of the Children is sick and cannot attend his/her regular day’s activities, the Party who is with him/her in the morning shall be responsible to provide or secure care for him/her for that day, first checking with the other Party in case that Party is available to care for the Child.

9. Parental Involvement and Collaboration

a. It is of paramount importance for each Party to remain involved in the major parental decisions affecting the Children, for the Children to feel affection and respect for each Party, and for each Party to refrain from any act, or from condoning action by another, that might tend to reduce the Children’s respect and affection for the other Party, all to the end that each Party’s relationship with the Children should remain as close as possible.

b. The Parties shall endeavor at all times to coordinate their decision-making regarding the Children, so as to avoid giving them inconsistent messages and to prevent the Children from engaging in ‘splitting’ of the Parties.

10. Phone, Email, and Other Electronic Access

a. Each Party shall be allowed reasonable telephone access and, if possible, e-mail and/or video-conferencing access to the Children, at reasonable times while the Children are with the other Party. **[Optional: Absent exigent circumstances, neither Party shall call the Children when they are with the other Party more frequently than once a day.]**

b. Each parent shall respond within a reasonable time to email, text, and phone calls as needed with regard to Child-related logistical issues.

c. The Children may initiate calls, text messages, or email messages to either Party at any time.

11. Communications with Schools, Camps, Activities, and Healthcare Providers

a. Each Party shall be entitled to communicate directly with the faculty and administration of the schools and camps that the Children attend. For purposes of M.G.L. ch. 71, § 34H, regarding the Parties’ access to the Children’s educational records, each Party shall have access to such records. The Parties hereby confirm that neither Party (a) has ever been denied legal custody of the Children based on a threat to the safety of a Child or to the custodial parent, (b) has ever been denied visitation or ordered to supervised visitation, or (c) has ever had access to the Children or to the other Party restricted by a temporary or permanent protective order.

b. Each Party shall have direct access without the need for further permission of the other Party to review medical, dental, psychological, developmental, and other health and education-related records of the Children, as well as to receive all reports and records concerning the Children’s progress at school, school activities, extra-curricular activities, and camp.

c. Each Party shall be entitled to participate in all functions that are scheduled for the benefit of parents of students and campers.

d. Each Party shall keep herself/himself and each other informed in a timely manner regarding the academic, physical, emotional, and social status and activities of the Children, and shall forward to the other in a timely manner copies of all school, medical, dental, and other reports or written communications concerning the welfare of the Children, and information concerning school events known to either that might entail parental involvement, unless the notice was sent to both Parties.

e. Each Party shall reasonably copy the other on that Party’s communications with schools, camps, activity providers, health care providers, and others involved in the Children’s lives.

12. Emergencies, Illness, or Medical Treatment

The Parties shall consult with each other in advance before committing the Children to any course of non-emergency medical, dental, psychological, or ophthalmological treatment (other than routine care), and neither Party shall unreasonably withhold, condition, or delay their approval of such treatment. In the event of any potentially serious illness or injury of a Child, the Party who first becomes aware of the situation shall notify the other Party as soon as possible, and both Parties shall have the right to visit with the Child during her or his care, treatment, and recuperation. If such access is not feasible because of geographical distance or for any other reason, the Party who is with the Child shall keep the other Party informed of the Child’s condition in a timely manner. Notwithstanding the Parties’ shared legal custody of the Children, either Party shall have the right to unilaterally authorize advisable or necessary emergency medical treatment or procedures in the absence of the other Party. Each of the Parties shall keep the other informed of her/his contact information when that Party is out of town, so that in the event of an emergency involving the Children, the Party who is not with the Children can be contacted.

13. Non-Disparagement; Relationships with Extended Family

a. Both Parties acknowledge that it is in the best interests of the Children to have a positive ongoing relationship with each Party and with the family of each Party, such that the Children may have the greatest number of loving and positive extended family relationships possible.

b. To that end, neither Party shall disparage the other Party or the other Party's family in communications with each other or with the Children.

c. Each Party shall promote a healthy, loving, positive relationship between the Children and their parents, grandparents, and extended families, including reasonable access of those family members to the Children.

14. Surviving Parent and Access of Deceased Parent’s Family

If one of Parties should die while the Children are still minors, the living parent shall permit continued access of the deceased parent’s extended family to the Children at a frequency consistent with that prior to the deceased’s death.

**[Optional]**

15. Guardianship of Children

The Parties shall nominate and appoint in their respective wills \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[fill in name]** (subject to her/his approval) to act as guardian, in the event that both Parties are deceased and survived by one or more Children who are at an age when they need a legal guardian.

16. Religious Upbringing

The Parties shall consult with each other before committing the Children to a course of religious instruction, training, or worship.

17. Significant Others

The Parties shall communicate with one another about the existence of a significant other in one of their lives before telling the Children about the relationship and/or introducing that person to the Children. **[Optional:** **Neither Party shall introduce a significant other to the Children until s/he has been dating that person for a minimum of [6] months.]** Until that time, the Parties shall make best efforts to avoid a situation where the Children are in contact with a significant other in person, by phone, or electronically. The purpose of this provision is to permit each parent to know in advance of the existence of individuals who may become significant in the Children’s lives.

18. Removal and Travel Outside Massachusetts

a. Neither Party shall permanently remove the Children or change their principal residence from Massachusetts without the prior written notarized consent of the other or permission of the Probate and Family Court obtained pursuant to G.L. c. 208, § 30.

b. Both Parties shall have the right to remove the Children from Massachusetts for trips and vacations that are temporary in nature. Prior to embarking on any vacation or out-of-town travel with the Children that involves an overnight stay, each Party shall provide the other with a proposed itinerary, the name and address of the proposed accommodations, and a telephone number at which s/he can be reached.

c. Each Party shall provide written approval, as reasonably needed, for the Children to travel outside the United States with the other Party.

**[Optional]**

19. Parenting Coordinator

a. Appointment. In the event of a dispute arising between the Parties concerning any matter related to the unemancipated Children (other than custody, child support, or other financial issues relating to the Children), the Parties shall attempt to resolve the matter by negotiation. If they fail to resolve the matter, the Parties shall designate an impartial person to serve as Parenting Coordinator, in a manner consistent with Probate and Family Court Standing Order 1-17. In the event that the Parties cannot agree on who shall serve as the Parenting Coordinator, either Party may request appointment of a Parenting Coordinator by the Probate and Family Court.

b. Responsibilities. The Parenting Coordinator (a) shall be entitled to speak with each of the Parties separately or together, (b) shall, if necessary, be entitled to speak with other relevant individuals, and (c) shall, if necessary, speak with the Children if the Parenting Coordinator determines that it would be appropriate and helpful to do so. Unless otherwise provided by law or Court rule, the Parties shall determine, by agreement with the Parenting Coordinator, the extent to which discussions with the Parenting Coordinator shall be confidential, and the Parties and the Parenting Coordinator shall maintain such confidentiality. The Parenting Coordinator shall conduct discussions and negotiations, as s/he may determine, by telephone, videoconference, email, and/or in person with one or both Parties. The time and place, as well as the length and frequency of such discussions or negotiations are within the Parenting Coordinator's discretion. S/he shall afford each Party a fair and reasonable opportunity to be heard on the issue(s).

c. Recommendation. If, after the Parties have made a good faith effort to resolve the matter with the Parenting Coordinator, the disagreement remains unresolved, either Party may request that the Parenting Coordinator make a recommendation. The Parenting Coordinator’s recommendation shall be immediately binding on the Parties, provided however that either Party may seek review of the Parenting Coordinator’s recommendation by a court of competent jurisdiction if that Party believes that the recommendation is not in the Children’s best interest. If the Court substantially agrees with or approves the recommendation, the Party seeking such review shall pay the other Party’s reasonable attorney’s fees and costs incurred in connection with the Court proceeding. If the Court substantially agrees with the Party challenging the decision of the Parenting Coordinator, the Parties shall bear their own costs incurred in connection with the Court proceeding. For purposes of this Agreement, the question of whether the Parties have made a good faith effort to resolve the matter with the Parenting Coordinator shall be determined, if it is in dispute, by the Parenting Coordinator.

d. Costs. The Parties shall share equally the costs of the Parenting Coordinator, unless the Parenting Coordinator determines that the actions of one of the Parties has required a disproportionate amount of time, or that one Party has acted unreasonably in connection with the issues under review by the Parenting Coordinator. In such event, the Parenting Coordinator may assess the costs of her or his services unequally as circumstances may warrant. The Parenting Coordinator shall be paid at her or his customary rate. If the Parenting Coordinator requires a retainer to be paid in advance, the Parties shall make an equal and timely payment of the retainer. All invoices of the Parenting Coordinator shall be paid in full by the Parties within thirty days of receipt, unless the Parenting Coordinator’s fee agreement provides otherwise.

e. Removal of Parenting Coordinator. The term of the Parenting Coordinator may be terminated by mutual agreement of the Parties, by the Parenting Coordinator, or by the Court in accordance with the Court’s Standing Order.

f. Subpoenas. The Parenting Coordinator shall not be made subject to subpoena by either Party in connection with her/his service in this matter.

EXHIBIT B

CHILD SUPPORT, EXTRACURRICULAR ACTIVITIES, AND CHILD-RELATED EXPENSES

1. Amount of Support

The **[Husband/Wife]** shall pay the **[Husband/Wife]** each month, no later than the first day of each month, **[$\_\_\_\_\_\_\_\_\_\_\_]** as child support until (a) the Children are emancipated, as that term is defined in this Agreement, or (b) the death of either Party. This amount was determined by applying the Massachusetts Child Support Guidelines to the Parties’ earned incomes. The Husband and Wife shall designate all payments made pursuant to this paragraph as child support and therefore excludable from the income of the **[Husband/Wife]** and non-deductible from the income of the **[Husband/Wife]** for Massachusetts income tax purposes.

***OR***

1. Amount of Support

As child support, each of the Parties shall contribute to the Joint Account for the Children’s expenses, as described below in this Exhibit, until the Children are emancipated. The Husband and Wife shall designate all payments made pursuant to this paragraph as child support and therefore non-deductible and non-includible for income tax purposes.

2. Modification of Child Support

a. On or before May 1 each year the Parties shall exchange copies of their federal and state income tax returns and supporting schedules, and adjust the child support amount by applying the Massachusetts Child Support Guidelines to the Parties’ then-current incomes. When one of the Children is emancipated, the amount of child support shall be adjusted in accordance with the Guidelines. Once all of the Children are emancipated, the obligation to pay child support, except as to any arrears, shall end.

b. If one or more of the Children are attending college or vocational training, Child Support shall be reviewed in order to determine whether the amount of child support should be modified. If the Parties are unable to agree, the matter shall be resolved in accordance with the dispute resolution provisions of this Agreement.

3. True-up of Child Support

a. On or about May 1 of each year in which child support has been paid during some or all of the prior calendar year, the Parties shall share with each other their W-2 forms for the prior calendar year and determine whether the child support paid during the prior calendar year was more or less than should have been paid during that prior calendar year based on (a) the Massachusetts Child Support Guidelines applicable during that prior calendar year; (b) the Parties’ earned income from during that year; and (c) any payments actually made or deducted for health, dental, and vision insurance for one or both of the Parties and their Children.

b. If this determination shows that the payor *over*paid child support for the prior calendar year, the amount of the overpayment divided by 12 shall be deducted from each of the monthly child support payments to be made beginning on May 1 of the year in which this calculation is made. Alternatively, if this determination shows that the payor *under*paid child support for the prior calendar year, the amount of the underpayment divided by 12 shall be added to each of the monthly child support payments to be made beginning on May 1 of the year in which this calculation is made.

c. If the Parties disagree about any of the calculations described above, they shall use the dispute resolution provisions of this Agreement to resolve the matter.

4. Extracurricular Activities and Other Child-Related Expenses

a. The Parties shall consult with each other regarding lessons, sports, summer camp or any other extra-curricular activities before enrolling any of the Children in them, and neither Party shall unreasonably withhold, delay or condition his/her consent for such activities.

b. In the event that a Party wishes a Child to participate in an extra-curricular activity that the other reasonably does not agree to because of the cost, that Party has the option of enrolling the Child in the activity in question so long as s/he bears the additional financial costs and the activity does not significantly impact the other Party’s time with that Child.

5. Child-Related Expenses and Joint Account

a. The Parties shall share in paying for the following Child-Related Expenses through a Joint Account, which is described below:

i. Summer camp;

ii. Child care needed in connection with Parties’ employment, unless the other Party elects to care for the Children during such time;

iii. Lessons and, if needed, tutoring;

iv. Extra-curricular activities, including sports, and the equipment for those activities;

v. Clothing or a reasonable clothing allowance;

vi. At an appropriate age, a reasonable spending allowance;

vii. A reasonable amount for gift-giving (i.e., gifts given by the Children);

viii. At an appropriate age, cell phone and cell phone usage costs;

ix. At an appropriate age, a computer and related equipment;

x. At an appropriate age, car insurance, and/or any increase in car insurance premiums assessed to either Party as a result of the Children receiving their driver’s license;

xi. Reasonable pre-college expenses, including but not limited to admission and placement examination fees (such as the SAT); placement examination preparation course fees; college counselor fees; admission application fees; and the Child’s reasonable pre-admission college-visit expenses;

xii. Cost of medical and dental insurance premiums for the Children; and

xiii. Uninsured medical, dental, ophthalmological and mental health expenses;

b. Child-Related Expenses shall not include:

i. Childcare not related to employment;

ii. Entertainment and travel that a Party may enjoy with a Child – e.g., trip to Florida, ski vacation;

iii. Food, toiletries, and incidental expenses (such as haircuts) incurred while the Child is at either Party’s home; and

iv. Toys and games at either Party’s home.

5. Joint Account

a. Establishing the Account. The Parties shall establish and maintain a joint bank account at \_\_\_\_\_\_\_Bank, with statements to be sent to both Parties and with information about the account to be available to both Parties via the Internet (the “Joint Account”). The Parties shall make an initial deposit of $\_\_\_\_\_\_\_\_\_ into the account, with \_\_\_% of that amount paid by the Husband and \_\_\_% paid by the Wife.

b. Replenishment of the Account. On or about the first day of each month, the Parties shall replenish the account, such that the balance is restored to $\_\_\_\_\_\_\_\_\_, with \_\_\_% of the replenishment amount paid by the Husband and \_\_\_% paid by the Wife.

c. Child-Related Expenses Exceeding $\_\_\_. Neither Party shall incur an expense in excess of **[$\_\_\_\_\_]** without first consulting with, and obtaining the approval of, the other Party concerning the need for that expense, such approval not to be unreasonably withheld, conditioned, or delayed.

d. Ownership of Joint Account. The Parties shall share the ownership of the Joint Account, with right of survivorship, and shall divide equally any balance remaining in that account at the time that the Children are emancipated. The Parties shall share equally any taxes due on interest earned by the Account.

e. Direct Payments from the Account. Either Party may make a payment directly from the Joint Account for a Child-Related Expense. If a Party wishes to be reimbursed from the Joint Account for a Child-Related Expense that s/he incurred personally, s/he shall provide the other Party with documentation of the expense no less than five (5) days prior to withdrawing the funds for the reimbursement from the Joint Account.

f. Payments for Medical and Dental Insurance. The Party providing medical and/or dental insurance for the Children may withdraw from the Joint Account the entire cost of medical and dental insurance premium payments, so long as notice is provided to the other Party concerning any changes to premiums, in conformity with Exhibit E. [If a Party provides medical and/or dental insurance for the Children and only one Party, then such Party may withdraw from the Joint Account the cost of premiums for the Children, so long as notice is provided concerning any changes to premiums, in conformity with Exhibit E.]

g. Review. On or about one year from the signing of this Agreement, the Parties shall discuss whether the Joint Account is working well to meet their and the Children’s needs. If they disagree on this point, they shall use the dispute resolution provisions of this Agreement to resolve the matter.

6. Emancipation

A Child’s emancipation shall occur or be deemed to have occurred on the earliest happening of any of the following, all in accordance with Massachusetts General Laws, chapter 208, section 28, which shall control:

a. If the Child is not attending college or an accredited vocational program as a full-time student, attaining the age of 18 or three months after graduation from high school, whichever occurs later, however, emancipation shall not be deemed to have occurred until the Child is twenty-one years of age if s/he has attained the age of eighteen years but not twenty-one years, is residing with one of the Parties, and is principally dependent on one or both of the Parties for support;

b. If the Child is attending college or an accredited vocational program as a full-time student, attaining the age of 23 or completing such program or college, whichever occurs first;

c. Marriage (even though such marriage may be void or voidable and despite its annulment);

d. Permanent residence away from the residences of the Parties. Residence at boarding school, camp or college is not to be deemed a residence away from either parent;

e. Death;

f. Entry into the military service (provided, however, that emancipation shall be deemed to terminate upon discharge from such service; thereafter, emancipation shall be determined in accordance with other applicable provisions of this paragraph);

g. Engaging in full-time employment after the age of 18, except that full-time employment during vacations and summer periods shall not be deemed emancipation. Such emancipation shall be deemed to terminate upon cessation by the Child for any reason from full-time employment; thereafter, emancipation shall be determined in accordance with other applicable provisions of this section.

h. Notwithstanding the foregoing, the Child shall be considered emancipated only during that period of time when the conditions supporting emancipation continue to exist.

i. The parties acknowledge that in accordance with the provisions of Massachusetts General Laws, Chapter 208, Section 28, either Party may request a determination of whether a child is emancipated, notwithstanding the language contained herein.

**[The following section is needed only if you decide to use a proportional payment approach to child-related expenses.]**

7. Income Ratio

a. Each year on or before May 1, until the Children are emancipated, the Parties shall exchange copies of their tax returns in order to determine the income ratio to be used for allocating the child-related expenses listed in this Exhibit (the “Income Ratio”). This calculation, as described below, ignores any differences in the Parties’ income from investments because (i) they are dividing their marital assets and liabilities equally [equitably], and (ii) do not wish to distort their incentives with regard to investing in income-producing assets.

b. The Parties shall include as income in this ratio all earned income, as that term is defined in § 32(c)(2)(A) of the Internal Revenue Code (as amended from time to time), received during the prior calendar year, without deduction for retirement savings, payroll taxes, or other deductions, and shall include any contribution by an employer to a Party’s retirement accounts and any cafeteria-plan payments that are excluded from W-2 wages. For purposes of this calculation, the [Husband/Wife]’s income shall include all child support and alimony payments received during the prior calendar year from the [Husband/Wife], and the [Husband/Wife]’s income shall be reduced by the same amounts.

c. Both Parties’ incomes shall be reduced by the amount of “pro forma tax” that they will owe for the prior calendar year. The Parties’ “pro forma tax” shall be calculated based on their actual filing status, with no exemptions other than their personal exemption, and with no itemized deductions other than state and local income taxes.

d. The resulting calculation shall be used for expenses incurred from May 1 of the year in which the calculation is made until April 30 of the following year.

e. In the event that either of the Parties has remarried and files a joint return, that Party’s income shall be calculated as if s/he were filing Married Filing Jointly, including only that Party’s income and excluding any income from that Party’s spouse.

EXHIBIT C

COLLEGE EXPENSES

The Parties wish to provide the Children with the best post-secondary education available which is appropriate for their needs. The Parties shall each participate, with the Child, in decisions about college, vocational training, or other accredited post-secondary programs (collectively, “college”), and shall cooperate with regard to applications for admission and for any financial aid that may be available.

1. Definition of “College Expenses”

For purposes of this Agreement, “College Expenses” shall include tuition; room and board (including the cost of off-campus housing if approved by the Parties and capped at the amount that living on campus would cost); laboratory fees and other school-required fees; student union fees; all other charges that routinely appear on college bills; books and supplies; a computer, software, and printer; reasonable travel expenses to and from home; tutoring (if needed); and reasonable expenses associated with furnishing a room away from home. **(and the Child’s costs associated with a semester abroad)**

2. Calculation of Parental Contribution

The Children’s College Expenses shall be paid with funds from any scholarships (i.e., grants that do not need to be repaid) that the Children may obtain. To the extent that such funds, and any joint savings for the Children’s education, are not sufficient to pay their College Expenses, the remaining expenses shall be shared by the Parties in a ratio proportional to the average of their earned income, adjusted by support (paid or received), less taxes for the three prior calendar years. This ratio shall be determined each year on or about July 1, and shall apply to expenses incurred from that date until June 30 of the next following year. For purposes of illustration, if the average of the Husband’s income (as adjusted for support and taxes) for three previous years is $80,000 and the Wife’s is $120,000, the ratio is 40/60.

OR

2. Calculation of Parental Contribution

The Children’s College Expenses shall be paid with funds from any scholarships (i.e., grants that do not need to be repaid) which the Children may obtain. To the extent that such funds, and any joint savings for the Children’s education, are not sufficient to pay their College Expenses, the remaining expenses shall be shared by the Parties **[equally] [in the following ratio: \_\_% by the Husband and \_\_\_% by the Wife]**.

3. Children’s Contribution

The Parties anticipate that the Children will be employed during the summer throughout the time that they attend college (unless they are engaged in a summer educational program or unpaid internship), and that, if they are employed, earnings from such employment shall be used to pay their incidental expenses such as entertainment and special events during the summer and also saved for similar use during the school year.

4. Agreements in Writing

All agreements made by the Parties with respect to college expenses, other than those set forth in this Agreement, shall be in writing.

5. Notice of Changes

The Parties agree that whoever first learns of any change in the college enrollment status of the Children shall notify the other Party within 14 days.

6. Family Educational Rights and Privacy Act Waiver (FERPA)

The Parties shall be obligated to pay their respective portion of the College Expenses, as set forth in this Agreement only if the Children execute a FERPA waiver or, if FERPA does not apply (such as a college outside the United States), the equivalent of a FERPA waiver.

7. Tax Effect

The payments set forth above shall not be treated by either Party as alimony for income for tax purposes.

8. College Savings Accounts

a. If the Parties have created 529 Plan accounts or other joint savings accounts for the Children's College Expenses, any funds remaining in those accounts after the Children are emancipated shall be repaid to the Parties in the same proportion as their contributions into the accounts.

b. The 529 Accounts existing as of the date of this Agreement, including any future appreciation of those funds, shall be considered the contributions of both Parties equally.

c. Neither Party shall make withdrawals from such accounts without the express written permission of the other Party.

EXHIBIT D

WAIVER OF ALIMONY

## 1. Waiver of Alimony

## Taking into account all relevant facts and circumstances, including but not limited to the financial circumstances of the Parties, both Parties hereby waive any claim for alimony, maintenance, or spousal support – past, present, and future. The Parties acknowledge that they have exchanged good and valuable consideration for these alimony waivers, including but not limited to the property division being made under the terms of this Agreement. Hereafter each Party shall be responsible for payment of his and her own personal and living expenses except as otherwise provided in this Agreement. The survival of the alimony waivers is an essential term of the Agreement. In the event that the Court does not approve the survival of these waivers, the Parties shall seek to re-negotiate the terms of this Agreement.

[Optional:]

2. Adverse Change of Circumstances

Notwithstanding the foregoing paragraph, in the event of any major, involuntary, and adverse change of medical or financial circumstances rendering the non-payment of alimony by one Party to the other Party inequitable, the Parties shall make a good faith effort to reach mutual agreement on whether there should be a revision and, if so, what the revision should be. If the Parties are unable to agree, the matter shall be resolved in accordance with the dispute resolution provisions of this Agreement.

EXHIBIT D

ALIMONY

**[Fixed Amount]**

1. Amount of Alimony

On or before the first day of each month, beginning \_\_\_\_\_\_\_ 1, 20\_\_\_, the **[Husband/Wife]** shall pay the **[Husband/Wife]** $\_\_\_\_\_\_\_\_/month as alimony. The Husband and Wife shall designate all payments made pursuant to this paragraph as alimony and therefore includable in the income of the **[Husband/Wife]** and deductible from the income of the **[Husband/Wife]** for Massachusetts income tax purposes.

2. Termination of Alimony

Except as to any arrears, the **[Husband/Wife]**’s obligation to pay alimony to the **[Husband/Wife]** shall terminate upon the soonest to occur of the following: (a) the death of the Husband; (b) the death of the Wife; (c) the remarriage of the **[Husband/Wife]**; or (d) the **[Husband/Wife]**’s retirement (but not before the age of \_\_\_). If the **[Husband/Wife]** remarries, **[he/she]** shall notify the **[Husband/Wife]** no later than the date of the wedding. In the event of termination of alimony as a result of the **[Husband/Wife]**’s remarriage, the Parties shall determine a fair and reasonable amount of child support to be paid by the **[Husband/Wife]** to the **[Husband/Wife]** and, absent agreement, use the dispute resolution provisions of this Agreement to determine the amount. In the event of termination of alimony as a result of the death of the payor, the recipient shall be entitled to receive the death benefits from life insurance provided for in this Agreement.

3. Cost of Living Adjustment

The alimony amount shall be adjusted on April 1, 20\_\_, and each year thereafter on April 1, to account for changes in the Consumer Price Index (“CPI”) in the following manner. If the CPI has increased during the previous calendar year at a percentage rate that is greater than the increase (if any) in the **[Husband/Wife]**’s income, the amount of alimony shall be increased effective April 1 by the difference between those two figures, up to the percentage increase (if any) in the **[Husband/Wife]**’s earned income. By way of example,

1. If the CPI goes up 4%, the **[Husband/Wife]**’s earned income goes up 6%, and the **[Husband/Wife]**’s earned income stays the same, the alimony payments would be increased by 4%.
2. If the CPI goes up 4%, the **[Husband/Wife]**’s earned income goes up 2%, and the **[Husband/Wife]**’s earned income stays the same, the alimony payments would be increased by 2%.
3. If the CPI goes up 4%, the **[Husband/Wife]**’s earned income goes up 10%, and the **[Husband/Wife]**’s earned income goes up 8%, the alimony would not be increased.
4. If the CPI goes up 4%, the **[Husband/Wife]**’s earned income stays the same, and the **[Husband/Wife]**’s earned income goes up 10%, the alimony would stay the same.

For purposes of this Agreement, the CPI shall be the Consumer Price Index for the City of Boston for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor (the "CPI-U" for all items less food) (available at the U.S. Bureau of Labor Statistics web site: <http://www.bls.gov>). The following is an example of how to calculate the increase in the CPI: Index for July 2012: 246.3; Index for July 2013: 251.1. To find the percentage change in the cost of living, subtract Index figure for the earlier year from the Index figure for the later year (251.1 minus 246.3 = 4.8). Divide that figure (4.8) by the earlier Index figure (4.8 divided by 246.3 = .0195). Multiply this by 100 to arrive at the percentage change in the cost of living (.0195 x 100 = 1.95%).

4. Definition of Earned Income

For purposes of making the cost of living adjustment described above, a Party’s “earned income” shall equal the total of all “earned income” as that term is defined in Section 32(c)(2)(a) of the Internal Revenue Code (as amended from time to time), without deduction for retirement savings, payroll taxes, or other deductions, and shall include any contribution by an employer to a Party’s retirement accounts and any cafeteria-plan payments that are excluded from W-2 wages.

[Optional:]

5. Adverse Change of Circumstances

In the event of any major, involuntary, and adverse change of medical or financial circumstances rendering the amount of alimony provided for in this Agreement inequitable, there shall be an appropriate revision of the alimony provisions of this Agreement. The Parties shall make a good faith effort to reach mutual agreement on any such revisions. If they are unable to agree, the matter shall be resolved in accordance with the dispute resolution provisions of this Agreement. Notwithstanding the status of any other provision in this Agreement, this paragraph shall survive and remain as an independent contract between the Parties.]

[Optional:]

5. Cohabitation

In the event of the cohabitation of the recipient of alimony, the Parties shall review the alimony obligation with a view to determining whether it should be modified based on the provisions of the Massachusetts Alimony Reform Act of 2011, or other applicable law. Absent agreement on this issue, the Parties shall utilize the dispute resolution provisions of this Agreement.

6. Lump Sum Alimony Buy-out

The Parties may in the future decide to exchange a distribution of assets for the release of the obligation to pay alimony and, if they do so, they shall, for income tax purposes, treat such a payment as a non-taxable, non-deductible payment of marital assets, even if the payment is structured as a series of periodic payments.

EXHIBIT D

ALIMONY

**[Straight percentage formula]**

1. Amount of Alimony

Beginning on \_\_\_\_\_\_\_\_\_\_\_\_ 1, 20\_\_, and thereafter on or before the first day of each month, the **[Husband/Wife]** shall pay the **[Husband/Wife]** $\_\_\_\_\_\_\_ as alimony. The Husband and Wife shall designate all payments made pursuant to this paragraph as alimony and therefore includable in the income of the **[Husband/Wife]** and deductible from the income of the **[Husband/Wife]** for Massachusetts income tax purposes.

2. Termination of Alimony

The **[Husband/Wife]**’s obligation to pay alimony to the **[Husband/Wife]** shall terminate upon the soonest to occur of the following: (a) the death of the Husband; (b) the death of the Wife; (c) the remarriage of the **[Husband/Wife]**, or (d) the full retirement of the **[Husband/Wife]** (meaning that he has no earned income) provided however that said termination shall not occur prior to the **[Husband/Wife]** reaching the age of 65. If the **[Husband/Wife]** remarries, **[he/she]** shall notify the **[Husband/Wife]** no later than 48 hours after the remarriage. In the event of termination of alimony as a result of the **[Husband/Wife]**’s remarriage, the Parties shall determine a fair and reasonable amount of child support to be paid by the **[Husband/Wife]** to the **[Husband/Wife]** and, failing agreement, use the dispute resolution provisions of this Agreement to determine the amount. In the event of termination of alimony as a result of the death of the payor, the recipient shall be entitled to receive the death benefits from life insurance provided for in this Agreement.

3. Alimony Formula

The amount of monthly alimony to be paid by the **[Husband/Wife]** to the **[Husband/Wife]** shall be determined by (a) subtracting the annual Gross Earned Income of the **[Husband/Wife]** from the annual Gross Earned Income of the **[Husband/Wife]**; and (b) dividing that amount by 36. By way of illustration, if the **[Husband/Wife]**’s annual Gross Earned Income was $300,000 and the **[Husband/Wife]**’s was $30,000, the **[Husband/Wife]**’s monthly alimony payment would be $7,500 (i.e., $270,000 divided by 36 = $7,500/month). For purposes of this Agreement, a Party’s “Gross Earned Income” shall equal the total of all “earned income” as that term is defined in Section 32(c)(2)(a) of the Internal Revenue Code (as amended from time to time), without deduction for retirement savings, payroll taxes, or other deductions, and shall include any contribution by an employer to a Party’s retirement accounts and any cafeteria-plan payments that are excluded from W-2 wages.

4. Adjustment of Alimony

a. The Parties’ intention is for the alimony amount to be determined on a calendar-year basis. However, because the information concerning the Parties’ Gross Earned Income, as reflected on their tax returns for the previous year, may not be available until April 15 of the following year, the Parties have chosen May 1 as the date on which to calculate (i) the amount of alimony to be paid for the twelve months beginning on May 1 (by applying the Alimony Formula to the Parties’ Gross Earned Incomes for prior calendar year), and (ii) the amount by which the alimony paid by the **[Husband/Wife]** during the previous calendar year should be adjusted based on the actual Gross Earned Incomes of the Parties during the previous calendar year. If, based on this calculation, the **[Husband/Wife]** was entitled to more support during the prior calendar year than she was paid, the **[Husband/Wife]** shall pay, in twelve equal monthly installments beginning on May 1, the additional amount of alimony due for the prior calendar year. If, based on this calculation, the **[Husband/Wife]** was entitled to less support during the prior calendar year than **[he/she]** was paid, the **[Husband/Wife]** shall be entitled to deduct, in twelve equal monthly amounts beginning on May 1, the amount of the overpayment. The Parties shall adjust the amount of alimony to be paid on May 1, 20\_\_, and on each May 1 thereafter so long as the **[Husband/Wife]** has earned income.

b. In the event of termination of the **[Husband/Wife]**’s alimony obligation, the Parties shall calculate what adjustment, if any, should be made through the date of termination, and the Husband shall pay that amount within 30 days of the termination of alimony. By way of illustration, if the **[Husband/Wife]** remarries on April 1, 2012, but the **[Husband/Wife]** has received a substantial increase in earned income during 2011 (while the Wife’s earned income has remained the same), the Parties shall determine the amount of alimony adjustment that should be paid for the period up to April 1, 2012.

c. In the event that the Parties disagree about the alimony calculations to be performed pursuant to this Agreement, they shall jointly retain a certified public accountant to perform the calculations. If they cannot agree on the accountant, they shall each select an accountant, and those two accountants shall select a neutral and independent accountant to make the determination. If, after receiving the opinion of that accountant, the Parties still do not agree on the adjustment of alimony, they shall utilize the dispute resolution procedures of this Agreement. The Parties shall share equally the cost of the accountant’s services.

5. Disability or Severance Payments

In the event that the **[Husband/Wife]** receives severance pay or disability insurance payments, those payments (adjusted, in the case of disability payments, to reflect their favorable tax treatment) shall be included in his Gross Earned Income for purposes of the alimony calculations set forth in this Exhibit of the Agreement.

EXHIBIT D

ALIMONY

**[Straight percentage based on salary, with separate bonus [payments]**

1. Alimony on Base Income

a. Initial Amount of Alimony. Beginning on \_\_\_\_\_\_\_\_\_\_\_\_ 1, 2015, and thereafter on or before the first day of each month, the Husband shall pay the Wife $\_\_\_\_\_\_\_ as alimony on base income (“Alimony on Base Income”) until Alimony on Base Income shall be recalculated or until the termination of alimony.

b. Base Income. Base Income shall be defined as gross earned income received by either Party on a regular, periodic basis, e.g., a paycheck.

c. Alimony Formula. The amount of monthly alimony to be paid by the Husband to the Wife shall be determined by subtracting the Base Income of the Wife from the Base Income of the Husband and multiplying it by the factor described in the matrix below.

d. Adjustment of Alimony on Base Income. If and when, Husband receives an adjustment to his Base Income, he shall forthwith notify the Wife in writing and the alimony payments shall be adjusted in accordance with the formula below. Adjusted payments shall commence on the date of his receipt of the new amount of Base Income.

e. Wife’s Income. If and when, Wife obtains employment and at all times thereafter when she receives an adjustment to her Base Income, she shall forthwith notify the Husband in writing and the alimony payments shall be adjusted in accordance with the formula below. Adjusted payments shall commence on the date of her receipt of the new amount of Base Income.

f. Documenting Recalculated Alimony on Base Income. Upon recalculating the Alimony on Base Income, the parties shall put into writing the amount of the recalculated Alimony on Base Income and the date it will begin, signed by both parties with signatures notarized. The parties intend that the foregoing signed writing shall be enforceable by a court of competent jurisdiction. If the Parties fail to reach agreement on this matter, they shall use the Exhibit J dispute resolution provisions of this Agreement and if necessary, bring the matter to Court for resolution.

2. Alimony on Additional Income

a. Additional Income. For purposes of this Agreement, a Party’s Additional Income shall equal the total of all “earned income” as that term is defined in Section 32(c)(2)(a) of the Internal Revenue Code (as amended from time to time), without deduction for retirement savings, payroll taxes, or other deductions, and (i) *shall* include contributions by an employer to a Party’s retirement accounts and any cafeteria-plan payments that are excluded from W-2 wages, and severance pay, unemployment compensation or disability insurance payments, those payments (adjusted, in the case of disability payments, to reflect their favorable tax treatment) shall be included in his Gross Earned Income for purposes of the alimony calculations set forth in this Exhibit of the Agreement, and (ii) shall *not* include Base Income as defined in the paragraph above; and income generated from exercising stock options and from grants of restricted or other stock allocated in this Agreement.

b. Reporting Additional Income. When either Party receives Additional Income, such Party must report, in writing, such income to the other Party within 7 days of receipt of the same.

c. Payment of Alimony on Additional Income. Wife shall not pay to Husband alimony on any such Additional Income, however, the amount of Wife’s Additional Income shall be deducted from the Husband’s Additional Income when calculating the alimony payment by the Husband based on his Additional Income. Within \_\_\_ days of Husband’s receipt of Additional Income, the Husband shall pay to the Wife the amount of Husband’s Additional Income less Additional Income of the Wife received but not used for an adjustment at such date, if any, and the remaining amount multiplied by the multiplication factors set forth in the matrix below.

***[Insert matrix here]***

3. Stock Grants and Stock Options

***[Add provision describing how stock and options will be calculated for alimony purposes, including timing of payment.]***

4. Annual Adjustment of Alimony

a. Calendar Year Basis. The Parties’ intention is for the total amount of alimony to be determined on a calendar-year basis.

b. Exchange of Information. On or by April 15of each year, the Parties shall exchange the following documents: prior year’s W-2 statements for each employment, unemployment or for any and all other sources of “earned income” as that term is defined in Section 32(c)(2)(a) of the Internal Revenue Code (as amended from time to time).

c. Review of Information. The parties will review such financial information to determine whether the alimony payment for the previous year was accurate.

d. Recalculation and reconciliation of previous year alimony payment. If, based on this calculation, the Wife was entitled to more support during the prior calendar year than she was paid, the Husband shall pay, in twelve equal monthly installments beginning on May 1, the additional amount of alimony due for the prior calendar year. If, based on this calculation, the Wife was entitled to less support during the prior calendar year than she was paid, the Husband shall deduct, in twelve equal monthly amounts beginning on May 1, the amount of the overpayment.

e. Documenting Annual Adjustment of Alimony. Upon recalculating the previous year alimony payment, the Parties shall put into writing the amount of the alimony over payment or the amount of alimony underpayment and the parties shall sign such agreement and have their signatures notarized. The Parties intend that the foregoing signed writing shall be enforceable by a court of competent jurisdiction. If the Parties fail to reach agreement on this matter, they shall use the Exhibit J dispute resolution provisions of this Agreement and if necessary, bring the matter to Court for resolution.

f. Calculation upon Termination of Alimony. Upon the termination of the Husband’s alimony obligation, the Parties shall calculate what adjustment, if any, should be made through the date of termination, and the Husband shall pay that amount within \_\_\_\_ days of the termination of alimony.

g. Dispute Resolution. In the event that the Parties disagree about the alimony calculations to be performed pursuant to this Agreement, they shall jointly retain a certified public accountant to perform the calculations. If they cannot agree on the accountant, they shall each select an accountant, and those two accountants shall select a neutral and independent accountant to make the determination. If, after receiving the opinion of that accountant, the Parties still do not agree on the adjustment of alimony, they shall utilize the dispute resolution procedures of this Agreement. The Parties shall share equally the cost of the accountant’s services.

5. Termination of Alimony

The Husband’s obligation to pay alimony to the Wife shall terminate upon the soonest to occur of the following: (a) the death of the Husband; (b) the death of the Wife; (c) the remarriage of the Wife, or (d) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. If the Wife remarries, she shall notify the Husband no later than the date of the remarriage. In the event of termination of alimony as a result of the Wife’s remarriage or \_\_\_\_\_\_\_\_\_\_\_\_, the Parties shall determine a fair and reasonable amount of child support to be paid by the Husband to the Wife and, failing agreement, use Exhibit J provisions of this Agreement to determine the amount. In the event of termination of alimony as a result of the death of the payor, the recipient shall be entitled to receive the death benefits from life insurance provided for in this Agreement.

6. Cohabitation

In the event of the Wife’s cohabitation (as that term is defined in the Massachusetts Alimony Reform Act), the Parties shall confer about what change, if any, should be made in the alimony payments in accordance with the Act and, absent agreement, shall use the dispute resolution provisions of this Agreement to resolve the matter.

***[Alternative Language]***

1. Initial Amount of Alimony

On or before the first day of each month, beginning July 1, 20\_\_, the **[Husband/Wife]** shall pay the **[Husband/Wife]** **[$\_\_\_\_\_\_\_\_\_/month]** as alimony. The Husband and Wife shall designate all payments made pursuant to this paragraph as alimony and therefore includable in the income of the **[Husband/Wife]** and deductible from the income of the **[Husband/Wife]** for Massachusetts income tax purposes.

2. Termination of Alimony

a. The **[Husband/Wife]**’s obligation to pay alimony to the **[Husband/Wife]** shall terminate upon the soonest to occur of the following: (a) the death of the Husband; (b) the death of the Wife; or (c) the remarriage of the **[Husband/Wife]**. In addition, if, at the time that the **[Husband/Wife]** reaches the age of 65, the obligation to pay alimony has not terminated, the Parties shall confer as to whether it is equitable for that obligation to continue and, if so, on what terms; if they cannot agree, they shall use the dispute resolution provisions of this Agreement. If the **[Husband/Wife]** remarries, **[s/he]** shall notify the **[Husband/Wife]** no later than 48 hours after the remarriage. In the event of termination of alimony as a result of the **[Husband/Wife]**’s remarriage, the Parties shall determine a fair and reasonable amount of child support to be paid by the **[Husband/Wife]** to the **[Husband/Wife]** and, failing agreement, use the dispute resolution provisions of this Agreement to determine the amount. In the event of termination of alimony as a result of the death of the payor, the recipient shall be entitled to receive the death benefits from life insurance provided for in this Agreement.

b. The **[Husband/Wife]** shall have no obligation to continue working and may retire at any time, provided however if **[s/he]** partially retires and continues to have earned income prior to [his/her] reaching the age of 65 (or beyond, if the Parties agree to a continuation of the alimony obligation or such a continuation is ordered by a Court of competent jurisdiction), that income shall be included in the calculation of alimony.

3. Adjustment of Alimony

a. The Parties determined the amount of monthly alimony to be paid under this Agreement by means of the following calculation: (a) subtract the **[Husband/Wife]**’s annual earned income from the annual earned income of the **[Husband/Wife]** (including in each Party’s earned income any deferred compensation from an employer or contribution by the employer to the Party’s retirement account(s)), (b) multiply the difference by one-third, and (c) divide the resulting amount by 12. This calculation shall be referred to as the “Alimony Formula” in this Exhibit.

b. For purposes of this calculation,

i. Both Parties’ earned incomes shall be reduced by the amount spent by them for (a) life insurance premiums required to be paid under this Agreement; (b) disability insurance premiums; (c) Social Security deductions; and (d) Medicare deductions (collectively the “Qualifying Expenses”).

ii. If any of these amounts are paid from after-tax dollars, the amount of the Qualifying Expense shall be the pre-tax amount. Calculating the amount of pre-tax income involves “grossing up” the amount paid by a Parties for the Qualifying Expense, based on the average rate paid by that Party for state and federal income taxes for the year in question. For purposes of this calculation, the amount of such expenses is the amount actually paid or withheld, and does not include any amounts paid by an employer.

iii. Annual earned income shall mean earned income during a calendar year, but for 20\_\_, all alimony amounts, including alimony based on bonus payment(s), shall be prorated for the portion of 20\_\_ covered by this Agreement.

iv. The Parties shall use \_\_\_\_\_\_\_\_\_\_\_\_, CPA, \_\_\_\_\_\_\_\_\_\_, Massachusetts, to perform the annual calculation of the alimony or, if \_\_\_\_\_\_\_\_\_\_\_ is not available, a mutually agreeable neutral accountant.

b. Each year, on or before May 1, the Parties shall (i) exchange copies of their W-2, K-1, and 1099 forms and other documents reflecting their earned income for the previous year and their Qualifying Expenses, and (ii) re-calculate the amount of alimony to be paid for the next 12 months, starting on May 1, based on the Parties’ earned income during the previous calendar year and the Alimony Formula.

c. The Alimony Formula shall be applied to both the **[Husband/Wife]**’s monthly draw and **his/her** bonus, but the amount of his monthly alimony payment shall be based on **his/her** draw. When the **[Husband/Wife]** receives a bonus, **he/she** shall apply the Alimony Formula to the bonus and pay the resulting alimony amount, in one lump sum, within 30 days of **his/her** receipt of the bonus.

d. In making the annual adjustment of the alimony payment, the Parties shall determine whether the **[Husband/Wife]** underpaid or overpaid alimony during the previous calendar year based on an application of the Alimony Formula to **his/her** actual earned income for the previous calendar year. In the event of an overpayment, one-twelfth of the overpayment shall be deducted each month for the next twelve months from the **[Husband/Wife]**’s alimony payment to the **[Husband/Wife]**. In the event of an underpayment, one-twelfth of the underpayment shall be added each month for the next twelve months to the **[Husband/Wife]**’s alimony payment to the **[Husband/Wife]**.

e. Solely for purposes of illustration, the following is an example of an annual alimony calculation. Assume that during 2010, the **[Husband/Wife]** (i) has been paying alimony at the rate of $9,000/month, (ii) receives a pay increase during the year, and then (iii) at the end of the year, receives a bonus of $240,000 and at the same time pays one-third of that bonus to the Wife (i.e., $80,000). Assume further that on May 1, 2011, the Parties exchange tax information and determine that the **[Husband/Wife]**’s total earned income (after deducting the Qualifying Expenses) is $600,000 ($360,000 of draw and $240,000 of bonus). Application of the Alimony Formula to the draw shows that the monthly alimony payments should, in retrospect, have been $10,000 per month, and therefore starting on May 1, 2011, the monthly alimony payments for the next twelve months would be (i) $10,000/month based on the **[Husband/Wife]**’s draw in 2010, plus (ii) $1,000/month in “catch-up” payments to adjust for the underpayment in 2010. In addition, if the **[Husband/Wife]** receives a bonus prior to the next alimony calculation on or before May 1, 2012, **he/she** would pay one-third of that bonus to the **[Husband/Wife]** within thirty days of receiving it.

4. Adverse Change of Circumstances

In the event of any major, involuntary, and adverse change of medical or financial circumstances rendering the amount of alimony provided for in this Agreement inequitable, the Parties shall review the alimony provisions of this Agreement to determine whether those provisions should be modified. The Parties shall make a good faith effort to reach mutual agreement on any such revisions. If they are unable to agree, they shall resolve the matter in accordance with the dispute resolution provisions of this Agreement. Notwithstanding the status of any other provision in this Agreement, this paragraph shall survive and remain as an independent contract between the Parties.

5. Cohabitation

In the event of the cohabitation of the recipient of alimony, the Parties shall review the alimony obligation with a view to determining whether it should be modified based on the provisions of the Massachusetts Alimony Reform Act of 2011, or other applicable law. Absent agreement on this issue, the Parties shall utilize the dispute resolution provisions of this Agreement.

6. Definition of Earned Income

For purposes of this Agreement, earned income shall have the same meaning as the term “earned income” under Section 32(c)(2)(a) of the Internal Revenue Code (as amended from time-to-time), without deduction for retirement savings, payroll taxes, or other deductions, and shall include any contribution by an employer to a Party’s retirement accounts and any cafeteria-plan payments that are excluded from W-2 wages.

EXHIBIT E

HEALTH AND DENTAL INSURANCE

1. Health and Dental Insurance for the Children

a. The Parties shall arrange for comprehensive health and dental insurance coverage for the Children so long as such coverage is available to either of them through their employment (i.e., an employer-sponsored group plan).

b. Regardless of which Party maintains the health and dental insurance coverage, the Party providing coverage for one or more of the Children shall be entitled to receive from the Joint Account in a monthly basis the additional cost of that coverage (the “Additional Cost”), which shall mean the marginal out-of-pocket cost, over and above individual coverage, reduced, if the premium payments are made from pre-tax funds, by the recipient’s average tax rate for state and federal income taxes (based on the recipient’s income tax returns for the previous calendar year).

c. The Party providing coverage for one or more of the Children shall promptly notify the other Party in writing of any cost increases or changes in coverage. The Parties’ obligation to provide this coverage for each Child shall end when the Child becomes emancipated, as that term is defined in this Agreement, provided however that the obligation shall continue beyond emancipation if the Child (i) is still eligible for such coverage, and (ii) has no comparable coverage available to him/her through his/her employment. Notwithstanding the foregoing, if the Parties’ obligation ends because the Child has such coverage available through the Child’s employment and then s/he becomes ineligible for that coverage but is still eligible for coverage under one of the Parties’ plans, they shall continue to provide him/her with coverage until s/he is no longer eligible under one of their plans.

2. Health and Dental Insurance for the Parties

a. If either Party is unable to obtain health or dental insurance through his or her employment and wishes to be covered on a plan of the other Party, or if a Party is eligible for such coverage but the other Party’s plan is more favorable, the eligible Party shall be entitled to coverage on the other Party’s plan, and the Party providing the coverage shall be entitled to receive from the eligible Party on a quarterly basis 100% of the Additional Cost incurred as a result of including the eligible Party in the coverage plan (over and above the cost of including the other Party and the Children), reduced, if the premium payments are made from pre-tax funds, by the recipient’s average tax rate for state and federal income taxes (based on the recipient’s income tax returns for the previous calendar year).

b. The Party providing coverage for the other Party shall promptly notify the other Party in writing of any cost increases or changes in coverage.

c. These provisions shall be deemed to be sufficient to satisfy the requirements of COBRA; OBRA; G.L. c. 175, § 110I; G.L. c. 176G, § 5A; and G.L. c. 208, § 34 as to the continuation of medical insurance coverage after a divorce.

3. Effect of Remarriage

a. If the Wife remarries, she shall be permitted to obtain coverage for herself through her new spouse’s medical and/or dental insurance plans, without any further obligation to provide coverage for the Husband. Likewise, if the Husband remarries, he shall be permitted to obtain coverage for himself through his new spouse’s medical and/or dental insurance plans, without any further obligation to provide coverage for the Wife.

b. If the Wife remarries, and if she maintains health insurance coverage under which the Husband is eligible, the Husband shall have the right to continue his coverage under her plan to the extent permitted by law and by the coverage provider. Likewise, if the Husband remarries, and if he maintains health insurance coverage under which the Wife is eligible, the Wife shall have the right to continue her coverage under his plan to the extent permitted by law and by the coverage provider.

c. Nothing in the foregoing paragraphs shall mitigate the Parties’ obligations to provide medical and dental insurance for the unemancipated Children.

4. The Children’s Uninsured Medical and Dental Expenses

a. The Parties shall pay from the Joint Account the uninsured medical, dental, surgical, hospital, psychological, pharmacological, orthodontic, ophthalmological, and other health care expenses for the unemancipated Children and any co-payments. However, neither Party shall incur uninsured, non-emergency medical, dental, mental health, or other health care expenses on a Child’s behalf in excess of **[$\_\_\_\_\_]** in each instance, or for a series of related treatments, without first consulting with, and obtaining the approval of, the other Party concerning the need for the treatment and the selection of the physician, dentist, mental health professional, or institution that is to furnish the treatment. The other Party’s approval shall not be unreasonably withheld, conditioned, or delayed.

b. Absent an emergency, the Parties shall use the most cost-effective treatments, and the Parties shall use in-network providers unless there is a compelling health-related reason to do otherwise.

5. The Parties’ Uninsured Medical and Dental Expenses

The Husband and the Wife shall each pay for her or his own uninsured medical, dental, surgical, hospital, psychological, pharmacological, orthodontic, ophthalmological, and other health care expenses and any co-payments.

6. Tax Treatment of Payments

a. Payments made by either Party pursuant to this Exhibit shall not be considered alimony payments for income tax purposes.

b. In the event that one Party is required to pay income tax on health insurance coverage provided by that Party’s employer for the other Party, the Party whose employer is providing the coverage shall be entitled to reimbursement from the other Party for that cost on an annual basis on or before May 1 after the calendar year for which those taxes are paid. The Party paying this reimbursement shall be entitled to reasonable documentation of the amount of the tax due.

EXHIBIT F

LIFE INSURANCE AND ESTATE PLANNING

1. Life Insurance Obligations

So long as one or more of the Children are unemancipated, each of the Parties shall maintain in full force and effect a life insurance policy or policies on his or her life with total death benefits of **[$\_\_\_\_\_\_\_\_\_\_\_\_]**, the proceeds of which shall be payable to (a) the other Party or (b) at the election of the insured Party, a trust for the benefit of the other Party and the Children (the “Insurance Trust”). The Parties shall agree on the trustees and the terms of the Insurance Trust, such agreement not to be unreasonably withheld, conditioned, or delayed. **[Optional: For purposes of this provision of the Agreement, \_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_ are acceptable as trustees if they are willing to serve in that capacity.]**

2. Current and Future Coverage

a. At the time of the execution of this Agreement, life insurance policies, identified by name of insurer and policy number on the Parties’ Rule 401 Financial Statements, were in effect in an amount sufficient to satisfy the obligations set forth in the previous paragraph.

b. The Parties agree that the beneficiary-designation obligations of this Exhibit satisfy the “contract exception” set forth in the Massachusetts Uniform Probate Code, § 2-804, and therefore the beneficiary designations required by the terms of this Exhibit shall remain in full force and effect notwithstanding the Parties’ divorce.  In addition, at the request of either Party, the insured Party shall re-execute the beneficiary designation after the Parties’ divorce becomes final to confirm the Parties’ intention that the beneficiary designation(s) required by the terms of this Exhibit shall remain in full force and effect after the Parties’ are divorced.

3. Notification Regarding Coverage

Upon reasonable written request by a Party, the other Party shall furnish to the requesting Party written evidence that the policy or policies described above remain in full force and effect in compliance with this Agreement. Each Party shall each notify the other in the event of any nonpayment of premiums or other conditions that would cause the policy or policies to lapse, and each Party shall request the insurance company issuing the policy to send to the other Party (and the trustees of the Insurance Trust, if applicable) copies of all notices of premiums due, together with notices of default on premiums, if any, and notices of any change in beneficiary.

4. Lapse of Coverage

In the event that a Party’s life insurance policy or policies required under this Exhibit would otherwise lapse for nonpayment of premium(s), the other Party or, if applicable, the trustees of the Insurance Trust may opt to pay such premium(s) due and make demand upon the insured Party to be reimbursed, forthwith, for the unpaid premium(s) and for all reasonable costs associated with seeking repayment from the insured. The insured shall, within 14 days of that demand, reimburse the other Party (or, if applicable, the Insurance Trust) for the cost of such premium(s) and costs associated with seeking repayment, if any, and for any costs charged by the insurance carrier for the reinstatement or maintenance of such policy or policies.

5. Creditor’s Claim

If the policy or policies required under this Exhibit are not in full force and effect at the time of the insured’s death, then notwithstanding anything to the contrary contained in this Agreement, the surviving Party, his or her estate, or the Insurance Trust (the “Beneficiaries”) shall have a priority creditor's claim against the decedent’s estate (as well as any other remedy available to the Beneficiaries) for (a) the difference between the face amount of the policy or policies required to be maintained under this Exhibit and the amount actually paid from those policies upon the decedent’s death, and (b) attorney’s fees and costs reasonably incurred in connection with the assertion of this claim.

6. New Policies

If either Party dies while in breach of the provisions of this Exhibit, any new policy or policies of life insurance acquired after the execution of this Agreement insuring that Party’s life shall be deemed to have been intended by the insured Party to secure the obligations set forth in this Exhibit, regardless of any other beneficiary designation. In that event, the after-acquired insurance policy or policies shall be payable to the other Party (or, if applicable, the Insurance Trust), in an amount no less than that required for coverage under this Exhibit, as if the insured Party or Insurance Trust had duly maintained the specifically identified life insurance policies referenced in this Exhibit with the beneficiary designations required under this Exhibit.

7. Ownership of Policies

In order to increase the tax efficiency of these provisions, if the ownership of the policy or policies required to be maintained under the terms of this Agreement can be transferred, the insured Party shall not be the owner of the policies, and instead the policies shall be owned by the beneficiary or, if applicable, the Insurance Trust.

8. Tax Treatment

No payments made by either Party to or for the benefit of the other pursuant to this Exhibit are intended to be alimony payments that would be deductible by either Party or includable in either Party’s income for tax purposes.

**[Optional:]**

8. Reduction of Death Benefit

Either Party may reduce the amount of the death benefits for coverage required under this Exhibit to the amounts listed below **[these are just sample numbers]**.

|  |  |
| --- | --- |
| During 2024 | 1,000,000 |
| During 2025 | 900,000 |
| During 2026 | 800,000 |
| During 2027 | 700,000 |
| During 2028 | 600,000 |
| During 2029 | 500,000 |
| During 2030 | 400,000 |
| During 2031 | 300,000 |
| During 2032 | 200,000 |
| During 2033 | 100,000 |
| During 2034 and thereafter | 0 |

**[Optional]**

9. Estate Planning

a. In addition, until the Children are emancipated, each Party shall designate the other Party or, if applicable, the Insurance Trust, as the beneficiary of no less than \_\_% of the value of that Party’s Net Assets at the time of death. For purposes of this Agreement, a Party’s “Net Assets” shall include, without limitation, (a) all assets owned individually or jointly (and, if jointly, calculating the value of the asset based on the Party’s percentage share of ownership); (b) all assets held in trust that are under the effective control of a Party and available for that Party’s benefit; (c) all retirement accounts, pensions, annuities, and deferred compensation plans; (d) the value of any unvested options or stock, valued using commercially reasonable methods of valuation; (e) life insurance death benefits payable upon the Party’s death regardless of whether they are paid to a trust or individual beneficiaries (but not including those that are described above in this Exhibit), and (f) reduced by the following:

i. Federal and state estate or inheritance taxes;

ii. Federal and state taxes that will be due upon transfer or liquidation of an asset (such as retirement accounts)

iii. Debts of the Party as of the date of the Party's death; and

iv. Funeral expenses and expenses of administering the Party's estate.

b. The Parties shall have the right to verification of compliance with the provisions of this paragraph upon reasonable notice and at reasonable intervals. [If either Party remarries, s/he shall enter into a prenuptial agreement that includes the substance of this Section of the Agreement as a provision.]

c. If the arrangements required under this section of the Agreement are not in full force and effect at the time of a Party’s death, then notwithstanding anything to the contrary contained in this Agreement, the other Party shall have a creditor's claim against the Party’s estate (as well as any other remedy available to her/him) for (a) the amount of money needed to satisfy these terms, and (b) attorney’s fees and costs reasonably incurred in connection with the assertion of this claim.

d. Under this provision, the Children are third-party beneficiaries of the contract between Husband and Wife. If the arrangements required under this section of the Agreement are not in full force and effect at the time of a Party’s death, then notwithstanding anything to the contrary in this Agreement, each Child shall have a creditor’s claim against the Party’s estate (as well as any other remedy available to her/him) for (a) the amount of money needed to satisfy these terms, and (b) attorney’s fees and costs reasonably incurred in connection with the assertion of this claim.

EXHIBIT G

ASSETS AND LIABILITIES

In exchange for the mutual covenants contained in this Agreement, the Parties shall make the following division of assets (which is reflected in the Appendix attached to the Parties’ Rule 401 Financial Statements) within 30 days after the approval of this Agreement by the Court unless another time is specified in this Agreement for the division of a particular asset:

1. Motor Vehicles

a. The Husband shall retain as his separate property the 20\_\_\_ \_\_\_\_\_\_\_\_\_ currently in his possession, and the Wife shall retain as her separate property the 20\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_ currently in her possession.

b. From and after the date of this Agreement, each Party shall be solely responsible for all costs, expenses, and liabilities associated with their respective automobiles, and shall fully indemnify and hold the other Party harmless with respect to those costs and expenses. Each Party hereby waives and releases any claim of right, title, and interest in and to the motor vehicle(s) currently in the other’s possession.

c. Within thirty (30) days of the approval of this Agreement by the Court, the Parties shall transfer to each other, if necessary to effectuate that Party’s sole ownership, title to the automobile currently in that Party’s possession.

d. The Parties shall cooperate to ensure that there is no interruption in the insurance currently in place with respect to these automobiles.

2. Furniture, Furnishings and Other Tangible Items

a. The Parties have divided their furniture, furnishings, and other tangible items of personal property to their mutual satisfaction. **[Or:** The Parties shall divide their furniture, furnishings, and other tangible items of personal property to their mutual satisfaction and, failing agreement, shall use the dispute resolution provisions of this Agreement to resolve the matter.]

b. The Parties shall arrange for copying of family photographs and videotapes, so that each Party has a full set of those photographs and videotapes that s/he wants. The Parties shall share equally the cost of duplicating any and all such items. [Or: Each Party shall have the right to duplicate any photos or videos that they want.]

3. Retirement Accounts

The Parties shall ascertain the value of their 401(k), pension, IRA and other retirement plans as of **[the date of this Agreement]**, and shall divide those plans and accounts (adjusted to reflected gains and losses to the date of division). If a Qualified Domestic Relations Order (“QDRO”) is needed to accomplish this divsion, the Parties shall share **[equally]** the reasonable costs of preparing the QDRO and presenting it to the Court for approval. The Parties shall also share equally any processing fees charged by the institution(s) in which the retirement assets are held for executing the QDRO. If the division of retirement accounts is accomplished by the transfer of funds from an IRA or SEP account, it shall be deemed to be made pursuant to this Agreement and intended to be a tax-free transfer under Section 408(d)(6) of the Internal Revenue Code. Thereafter, each Party shall own, as his or her separate property, the qualified retirement plans and individual retirement accounts in his or her name and shall be solely responsible for all costs and expenses associated with those plans and accounts.

4. Marital Home

a. The Parties own as tenants by the entirety a home located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Massachusetts (the “Marital Home”), which is currently encumbered by a mortgage and equity credit line. It is the Parties’ intention to list the Marital Home for sale immediately upon the approval of this Agreement by the Court.

b. The Parties shall cooperate with one another on all aspects of the house sale, including the selection of a broker, the broker’s agreement, listing price, offers to accept, and any purchase and sale contracts. In the event that the Parties cannot agree on any issue relating to the sale of the house, they shall employ the dispute resolution provisions of this Agreement.

c. Upon the sale of the Marital Home, the Parties shall divide **[equally] [in the following ratio: \_\_\_\_\_\_\_\_\_]** the net proceeds (i.e., the sales price less capital gains taxes, closing costs, broker’s commission, mortgage and equity credit line balance, and fix-up costs).

**[OR]**

4. Marital Home

a. The Parties own as tenants by the entirety a home located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Massachusetts (the “Marital Home”), which is currently encumbered by a mortgage. Within thirty days after the approval of this Agreement by the Court, the Parties shall execute a Quitclaim Deed, transferring all of their right, title and interest in the Marital Home, free of any encumbrances other than the mortgage, to the **[Husband/Wife]**. The Parties shall share equally the cost of preparing and recording the Quitclaim Deed. The **[Husband/Wife]** waives any claim to any real estate tax escrow, insurance escrow, or any unearned premium on the home owner’s insurance.

b. From and after the date of this conveyance, the **[Husband/Wife]** shall have the exclusive right to possession, occupancy and control of the Marital Home, and shall, beginning at that time, be solely responsible for all liabilities and obligations on the property, including but not limited to the mortgage, taxes, insurance, maintenance, and utilities. The **[Husband/Wife]** shall indemnify the **[Husband/Wife]** and hold **[him/her]** harmless with respect to all such liabilities and expenses.

c. In the event that the **[Husband/Wife]** intends to list the Marital Home for sale less than \_\_\_\_ years after the execution of this Agreement, s/he shall provide the **[Husband/Wife]** with written notice of the intended listing price no less than \_\_\_ days prior to the house being listed (the “Notice Period”). If the **[Husband/Wife]** elects in writing, during the Notice Period, to purchase the property at the intended listing price, s/he shall have \_\_\_ days from the date of the notice to complete a closing on the property. If s/he fails to do so within \_\_\_ days of her/his notice, the **[Husband/Wife]** may list the property and then the **[Husband/Wife]** shall no longer have a right of first refusal.

. d. The **[Husband/Wife]** shall (i) arrange to have the **[Husband/Wife]**’s name removed from the currently existing mortgage on the Marital Home no later than \_\_\_\_\_ years from the date of execution of this Agreement.

e. If the **[Husband/Wife]** is not able to have the **[Husband/Wife]**’s name removed from the mortgage by that date, s/he shall place the Marital Home on the market for sale at a commercially reasonable price and sell the home to the first bona fide purchaser for value offering an amount equal to or in excess of the listing price unless mutually agreed otherwise between the Parties, in writing.

5. Inheritance

Each Party waives any claim of right, title and interest in and to any future inheritance that the other Party may receive. Each Party makes this waiver knowing that either of them could inherit or otherwise acquire assets in the future.

6. Frequent Flier Miles and Credit Card Points

The Parties shall equally share their frequent flier miles and credit card award points accumulated through the date of this Agreement. The Parties shall cooperate in filling out any forms needed to accomplish this equal division. This division shall be accomplished within thirty (30) days from the approval of this Agreement by the Court.

**[OR]**

6. Frequent Flier Miles and Credit Card Points

Each of the Parties shall retain as their separate property any frequent flier miles and credit card award points accumulated through the date of this Agreement.

7. Bank Accounts and Investment Accounts

The Parties shall divide **[equally] [in the following ratio: \_\_\_\_\_\_\_\_\_]** their bank accounts and investment accounts, which are listed in their Rule 401 Financial Statements, as of the date on which **[the payments of alimony / child support provided for in this Agreement begin].** In making this division, the Parties shall consider any appreciation that may result in capital gains taxes and adjust the allocation of assets in their brokerage account so that each of them receives equal net after-tax value.

8. Credit Cards

The Parties shall each pay, contemporaneously with the execution of this Agreement, from their separate funds all balances owed by each of them on their joint credit cards, and the Parties shall arrange at that time for all credit cards held in their joint names to be either cancelled or transferred to an individual name of the one of the Parties. **[(This shall not apply to the Parties’ Joint Account.)]**  The Wife shall be solely responsible for all credit cards listed on her financial statement, and the Husband shall be solely responsible for all credit cards listed on his financial statement, and each Party shall indemnify and hold the other harmless from any liabilities associated with their respective credit cards.

9. Other Assets and Liabilities

a. The Parties represent that they have disclosed on their respective Rule 401 Financial Statements all of their assets, including assets (if any) held by another for their benefit.

b. The Parties represent that neither is aware of any liabilities, individually or jointly held, other than those reflected on their respective Rule 401 Financial Statements, all of which have been addressed in this Agreement.

EXHIBIT H

TAXES

## 1. Tax Returns for 20\_\_

## If the Parties are eligible to file joint tax returns for 20\_\_, and if filing jointly will result in a lower amount of aggregate taxes due, the Parties shall cooperate in the filing of joint federal and state income tax returns for 20\_\_. In determining whether to file joint returns, the Parties shall first calculate what their individual tax liabilities would be if they each filed separately using the most advantageous status, and shall then calculate what their tax liability would be if they filed jointly. If their joint tax liability is less than the total of their individual tax liabilities, the Parties shall file joint returns. In this event, the Parties shall **[divide the joint tax liability equally and share any refund or credit equally] [divide the joint tax liability in the same proportion as their respective individual tax liabilities bear to the total of their individual tax liabilities, after crediting to each of them any amounts already paid or withheld]**. Notwithstanding the foregoing, in sharing any tax liability, credit, or refund, neither Party shall be responsible for a higher share of the balance due, or receive a smaller share of the refund due, than s/he would have paid or received if filing individually. The Parties shall share equally the costs of preparation of the federal and state income tax returns for 20\_\_ if they file jointly. For 20\_\_ and thereafter, the Parties shall file separate income tax returns.

## 2. Representation and Warranty

## a. Each Party hereby represents and warrants to the other that s/he has duly paid all federal and state income taxes attributable to her or him on all joint returns previously filed by the Parties, and that with respect to those returns, (a) to her or his knowledge no interest or penalties are due or owing, (b) no tax deficiency proceeding is pending or threatened, and (c) no audit is pending.

b. **[Optional]** The Parties acknowledge that the **[Husband/Wife]** has no familiarity with the **[Husband's/Wife’s]** representations on any previously filed joint tax returns and by joining in such returns the **[Husband/Wife]** does not confirm or endorse the accuracy of those representations.

## 3. Deficiency or Refund

## a. If there is a deficiency assessment in connection with any joint return previously filed by the Parties, the Party first notified of the assessment shall inform the other Party immediately in writing.

## b. Each Party shall keep the other fully informed of any and all steps taken by him or her with respect to any such deficiency assessment, and the parties shall share equally the cost of defending against and/or satisfying such deficiency assessment.

## c. In the event of a refund or credit from past returns, the Parties shall share the refund or credit equally.

## 4. Indemnification

## a. Notwithstanding the foregoing, each Party shall in all respects indemnify and hold the other harmless from any deficiency assessment or tax lien (including any associated penalties and interest) arising out of any reckless or intentional error or omission caused by him or her on any and all joint returns previously filed by the Parties, as well as all damages and expenses whatsoever in connection therewith.

## b. Neither Party shall assert a position in the preparation and filing of their respective income tax returns filed after the date of this Agreement that is inconsistent with the terms and conditions of this Agreement. Each Party shall indemnify the other against and hold the other harmless from any and all liabilities, claims, losses, damages, and expenses, including reasonable attorneys’ fees and expenses, incurred by either which arise out of the other’s breach of this paragraph.

## 5. Transfers of Marital Property

## The Parties agree that Internal Revenue Code (“IRC”) sections 1041(a) and (b) apply to all transfers of property between the Parties provided for in this Agreement, and that therefore no gain or loss will be recognized by either Party upon such transfers. The transferee’s basis in any transferred property shall be the transferor’s adjusted basis in such property. Upon reasonable request, each Party shall provide the other with any information necessary for tax reporting in connection with any transferred property. The Parties agree that (a) the conveyances and transfers of property described in this Agreement do not qualify as alimony as that term is defined by applicable law, including IRC § 71, as amended, and Mass. Gen. Laws ch. 62, as amended, and (b) such transfers shall neither be deductible by the transferor, nor taxable to the transferee as income, for federal and state income tax purposes.

## 6. Dependency Exemptions and Child Tax Credit

## a. During each eligible tax year, the Parties shall determine which of them would derive the greater economic benefit from the right to claim the Children as dependents on his and her state and federal income tax returns and claim the Child Tax Credit, and they shall allocate those benefits to that Party. The Party to whom those benefits are allocated shall pay to the other Party, within sixty (60) days after filing the tax returns, half of the resulting economic benefit. The amount of the benefit shall be determined by subtracting the tax due when calculated with the exemptions and child tax credit from the tax due without those exemptions and credits. The Parties shall execute such tax forms as are necessary to permit the other Party to claim the exemptions and credits. In the alternative, at the election of either Party with reasonable notice, the Parties shall each claim the Children as dependency exemptions and take the child tax credit in alternating years, beginning with the Party who did not make the election.

## b. If, prior to her/his emancipation, a Child has taxable income, the Parties shall confer with the Child about whether one of the Parties will declare the Child as an exemption (as opposed to the Child doing so), in order to avoid a situation where one of the Parties and the Child are taking inconsistent positions on their income tax returns.

7. Change in Tax Laws

In the event of any change in the rules, rulings or regulations of the Internal Revenue Service (“IRS”), or in the event of any subsequent statutory amendment, judicial or administrative order, or decision contrary to the anticipated taxability, or non-taxability, of the transactions required under the terms of this Agreement, the amounts paid and payable pursuant to this Agreement shall be adjusted to reflect the intent and understanding expressed in this Agreement.

8. Health Insurance Documentation

A Party maintaining health insurance for the other shall provide to the other Party a copy of Form MA 1099-HC on or before February 15 of each year.

## **[Optional:]**

## 9. Exchange of Tax Returns

In order to verify the calculations used by the Parties to establish their support obligations under this Agreement, the Parties shall exchange copies of their income tax returns annually, no later than May 1 of each year in which such an obligation is due. If either Party remarries, s/he shall have the right to redact those portions of the tax returns that relate solely to the income and deductions of that Party’s new spouse.

10**.** Allocation of Loss Carry Forward

The Parties shall share equally any loss carry forward that has accrued during the marriage through the date of execution of this Agreement, and shall cooperate in communicating to the IRS and the Massachusetts Department of Revenue (“DOR”) this allocation.

11. Notification

Neither Party shall list on any future tax return any existing refund, loss carry forward, or credit of any kind resulting from a joint return, or from estimated taxes paid prior to the execution of this Agreement, except after written notice to the other Party. Any such notice shall be provided no less than 14 days before a Party files a tax return listing the refund, loss carry forward, or credit.

EXHIBIT I

# MUTUAL WAIVERS

1. Waiver by the Husband

Except as otherwise provided by the terms of this Agreement, the Husband expressly waives and relinquishes any and all claim, right, title, and interest he may now have or may hereafter acquire, whether arising out of the marital relationship of the Parties or otherwise, in and to any bank or investment account, certificate of deposit, trust, security, bond, share of stock, stock option, restricted stock unit, IRA, pension, profit sharing, savings or retirement plan, inheritance, partnership, limited partnership, corporation, business, cause of action, receivable, uncollected fees, or any other form of property, whether real or personal, tangible or intangible, held by the Wife individually, or with others, or in any other form for the benefit of the Wife.

2. Waiver by the Wife

Except as otherwise provided by the terms of this Agreement, the Wife expressly waives and relinquishes any and all claim, right, title, and interest she may now have or may hereafter acquire, whether arising out of the marital relationship of the Parties or otherwise, in and to any bank or investment account, certificate of deposit, trust, security, bond, share of stock, stock option, restricted stock unit, IRA, pension, profit sharing, savings or retirement plan, inheritance, partnership, limited partnership, corporation, business, cause of action, receivable, uncollected fees, or any other form of property, whether real or personal, tangible or intangible, held by the Husband individually, or with others, or in any other form for the benefit of the Husband.

3. Retirement Accounts

Except as otherwise provided for in this Agreement, each Party waives any and all rights to any retirement assets owned by the other Party. Each Party agrees to sign any and all documents necessary to implement a spousal waiver of his/her interest in the other Party’s retirement assets.

EXHIBIT J

###### DISPUTE RESOLUTION *[using court instead of arbitration]*

Any dispute arising out of or relating to the non-financial Child-related provisions of this Agreement shall be resolved in accordance with the Parenting Coordinator provisions set forth above. With respect to all other disputes arising out of or relating to this Agreement, the following procedures shall be the sole and exclusive procedures for the resolution of any such disputes.

**OR**

Any dispute arising out of or relating to this Agreement shall be resolved in accordance with following procedures.

1. Negotiation

The Parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation.

2. Mediation

If the dispute has not been resolved by negotiation, the Parties shall attempt to resolve the dispute with any mutually agreeable mediator or, failing agreement on the selection of the mediator, with a mediator appointed by the chair of the Family Law Section of the Massachusetts Bar Association. Either Party may terminate the mediation if no agreement has been reached after ***[three]*** hours of mediation. The cost of the mediator’s fee shall be borne equally by the Parties.

3. Court

Any dispute arising out of or relating to this Agreement (or the breach, termination or validity of the Agreement) that has not been resolved by mediation may be presented to any Court of competent jurisdiction for resolution.

4. Emergency Circumstances

Either Party may forego the processes set forth in this Exhibit and proceed directly to the Court for relief if, because of emergency circumstances, delay would unfairly and unreasonably prejudice the Children or the Party seeking relief.

***[If the Agreement contains annual adjustment of support obligations:]***

5. Support Calculations

Each year, on or before \_\_\_\_\_\_\_\_, the Parties shall communicate in writing either (a) the calculated adjustment of support obligations required under this Agreement, or (b) that no adjustment is required. If the Parties fail to reach agreement on this matter, they shall use the dispute resolution provisions of this Agreement and bring the matter to Court, if necessary, for resolution.

6. Costs of the Dispute Resolution Process

Although the Parties shall, in the first instance be equally responsible for the payment of any mediation, the Court shall have the authority to reallocate those costs in accordance with Paragraph 13 of this Agreement.

EXHIBIT J

###### DISPUTE RESOLUTION *[using arbitration instead of court]*

Any dispute arising out of or relating to the non-financial Child-related provisions of this Agreement shall be resolved in accordance with the Parenting Coordinator provisions set forth above. With respect to all other disputes arising out of or relating to this Agreement, the following procedures shall be the sole and exclusive procedures for the resolution of any such disputes.

**OR**

Any dispute arising out of or relating to this Agreement shall be resolved in accordance with following procedures.

1. Negotiation

The Parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement by negotiation.

2. Mediation

If the dispute has not been resolved by negotiation, the Parties shall attempt to resolve the dispute with any mutually agreeable mediator or, failing agreement on the selection of the mediator, with a mediator appointed by the president of the Massachusetts Council on Family Mediation. Either Party may terminate the mediation if no agreement has been reached after ***[three]*** hours of mediation. The cost of the mediator’s fee shall be borne equally by the Parties.

3. Arbitration

Any dispute arising out of or relating to this Agreement (or the breach, termination or validity of this Agreement) that has not been resolved by mediation shall be settled by binding arbitration in Boston, or any mutually agreeable location, by any mutually agreeable arbitrator, , pursuant to Massachusetts General Laws, chapter 251. Absent agreement on the selection of the arbitrator, either Party may request the appointment of an arbitrator by the president of the Massachusetts Chapter of the American Academy of Matrimonial Lawyers. Judgment upon the award rendered by the arbitrator may be entered by any court of competent jurisdiction. The arbitrator shall determine the arbitrability of the dispute if there is a dispute regarding arbitrability. The cost of the arbitrator’s fee and any administrative fees shall be borne equally by the Parties.

4. Emergency Circumstances

Either Party may forego the processes set forth in this Exhibit and proceed directly to the Court for relief if, because of emergency circumstances, delay would unfairly and unreasonably prejudice the Children or the Party seeking relief.

***[If the Agreement contains annual adjustment of support obligations:]***

5. Support Calculations

Each year, on or before \_\_\_\_\_\_\_\_, the Parties shall communicate in writing either (a) the calculated adjustment of support obligations required under this Agreement, or (b) that no adjustment is required. If the Parties fail to reach agreement on this matter, they shall use the dispute resolution provisions of this Agreement and bring the matter to Court, if necessary, for resolution.

6. Costs of the Dispute Resolution Process

Although the Parties shall, in the first instance be equally responsible for the payment of any mediation or arbitration fees, the arbitrator (and, if needed, the Court) shall have the authority to reallocate those costs in accordance with Paragraph 13 of this Agreement.

EXHIBIT K

MISCELLANEOUS

1. Phone Numbers and Mailing Addresses

The Parties shall cooperate in making reasonable arrangements for the forwarding of mail from the Marital Home and any other address that they have shared during their marriage. With respect to any phone number that the Parties have shared, either Party may elect to have an outgoing message placed on that line informing callers of that Party’s new phone number.