

MEDIATION/ARBITRATION SUBMISSION AGREEMENT

John Smith ("Husband") and Mary Smith ("Wife") (collectively, the "Parties") wish to obtain a Massachusetts divorce as simply and as sensibly as possible, and they are willing to make a good faith effort to reach agreement.

BACKGROUND INFORMATION

- A. The Parties were married on September 10, 1998 in Anytown, Massachusetts.
- B. There are two children of the marriage – Harry, age 8, and Sally, age 7.
- C. The Parties are living separately and now seek to resolve the issues associated with their anticipated divorce through mediation/arbitration, as provided in this Agreement.

AGREEMENT

1. Selection of Neutral

The Parties have selected David A. Hoffman to serve as the mediator/arbitrator (the "Neutral") in this matter.

2. Timing of Mediation/Arbitration

The mediation and arbitration called for under this Agreement (the "Proceedings") shall be conducted at Boston Law Collaborative, LLC, at times agreed upon by the Parties and the Neutral.

3. Scope of the Mediation/Arbitration

The Proceedings shall consider all issues relating to the Parties' divorce, including, without limitation, parenting issues, the division of assets/liabilities, child support and/or alimony, health insurance, life insurance, and taxes.

4. Mediation

a. The mediation process. The Parties shall attempt, with the help of the Neutral, to resolve each issue under discussion by agreement. The purpose of the mediation process is to assist the parties in negotiating a fair and reasonable resolution of any disputed issues. The Neutral may meet with the Parties jointly or in separate caucus sessions.

b. Sharing information. The Parties agree to share with each other during these proceedings all information, both financial and non-financial, that is pertinent to the case. The Parties must make their own determination as to whether they are satisfied with these voluntary disclosures or instead wish to undertake, on their own or with their own counsel, further inquiry.

c. Respectful communications. The Parties agree that respectful communications are essential to the mediation process and that they will endeavor to communicate with each other in that manner.

d. Mediated settlement. If the Parties reach a settlement during the mediation phase of these proceedings, the Parties shall execute, before the proceedings are adjourned, a Memorandum of Understanding or Separation Agreement.

e. Partial settlement. If the Parties reach a settlement of some, but not all, issues during the mediation phase of these proceedings, they shall execute a Memorandum of

Understanding or Separation Agreement reflecting: (i) the agreed-upon terms, and (ii) a list of the issues to be resolved by arbitration.

f. Termination of mediation. If either Party concludes that further mediation is not likely to be useful, that phase of the proceedings shall be terminated and the Neutral shall proceed with arbitrating any open issues.

5. Arbitration Proceedings

a. The arbitration process. Each of the Parties shall have a full and fair opportunity to present to the Neutral all evidence that is material to the issues to be decided by arbitration. The decision of the Neutral with respect to all such issues shall be final and binding to the full extent provided for in Mass. Gen. Laws ch. 251. The Parties understand that issues relating to the minor Children are reviewable by the Probate and Family Court.

b. Arbitration decision. The Neutral shall provide the Parties with a written decision no later than thirty (30) days after all evidence and argument have been submitted.

c. Correction or modification of decision. Any application for correction or modification of the Neutral's Decision shall be made to the Neutral (with a copy served simultaneously upon the other Party) within ten (10) business days of the Neutral issuing his decision. If the Neutral is inclined to modify or correct his decision pursuant to an application for correction or modification, he shall so notify the Party who did not file said application and that Party shall have ten (10) business days to respond to the application for correction or modification. After receiving submissions from both Parties, the Neutral shall issue a final decision within ten (10) business days.

d. Filing of decision. Either Party may file the Neutral's final decision with the Probate and Family Court, and that decision shall be subject to modification by the Probate and Family Court only on the grounds set forth in Mass. Gen. Laws ch. 251.

6. Preserving the Financial Status Quo

The Parties agree that, commencing with the signing of this Agreement, and unless a Court orders otherwise or both Parties agree otherwise in writing:

a. Neither party shall borrow against, cancel, transfer, dispose of, or change the beneficiaries of any pension, retirement plan or insurance policy or permit any existing coverage to lapse, including life, health, automobile and/or disability held for the benefit of either party or the child(ren).

b. Neither party shall change any provisions of any existing trust or will or execute a new trust or will.

c. Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of any property, real or personal, belonging to or acquired by, either party, except: (i) as required for reasonable expenses of living, (ii) in the ordinary and usual course of business, (iii) in the ordinary and usual course of investing, or (iv) for payment of reasonable attorney's fees and costs in connection with the action.

d. Neither party shall incur any new debts that would burden the credit of the other, including but not limited to borrowing against any credit line secured by the marital residence, unreasonably using credit cards or cash advances against credit or bank cards or incurring any liabilities for which the other may be responsible.

7. Legal Representation

The Parties understand that the Neutral does not represent either Party as an attorney in connection with the divorce. The Parties understand that they may consult counsel at any time, and, if the Parties have not already arranged for legal representation in connection with the mediation, they are strongly urged to do so. The Parties may have counsel present with them at any time in these proceedings. Although the Neutral will provide the Parties with copies of the basic forms that they, or their counsel, need to submit to the Court, and the Neutral will answer questions about those forms, neither the Neutral nor the Neutral's staff will fill out the Parties' financial statement forms, since the Neutral: (a) does not represent either or both of the parties, (b) does not engage in any independent inquiry into the Parties' finances, and therefore (c) cannot vouch for the accuracy or completeness of the Parties' financial disclosures.

8. Confidentiality

a. Scope of confidentiality. The Parties and the Neutral agree that the mediation portion of this process is confidential and privileged pursuant to Mass. Gen. Laws ch. 233, § 23C, and shall be treated as a compromise negotiation for the purposes of applicable Massachusetts law.

b. Exceptions to confidentiality.

i. The Parties may disclose information about the Proceedings to their respective attorneys, therapists (if any), and financial advisors, provided however that they shall inform all such individuals that the information is confidential and privileged, may not be disclosed to others, and is governed by the terms of this Agreement.

ii. The Neutral may disclose to appropriate authorities information obtained in the course of the Proceedings concerning: (a) child abuse or neglect, (b) elder abuse or neglect, (c) the risk of serious harm to an individual, or (d) the planned commission of a crime.

iii. The confidentiality and privilege provided for in this Agreement shall not apply to evidence relating to the liability of the Neutral in a subsequent suit against the Neutral or disciplinary proceedings against the Neutral.

iv. The confidentiality and privilege provided for in this Agreement shall not apply to information which the Parties agree in writing, after the conclusion of the mediation, may be disclosed.

v. Unless the Parties agree otherwise in writing, nothing in this Agreement shall prevent any Party from presenting a separation agreement, interim agreement, or signed memorandum of understanding executed as part of the mediation process to a court for purposes of enforcement.

c. Testimony. The Parties agree that they will not seek to obtain: (i) the testimony of the other Party or of the Neutral regarding the Proceedings, or (ii) the disclosure of the Neutral's file, in conjunction with any court proceeding, and that if either Party seeks such testimony or disclosure by the Neutral in contravention of this provision, that person will reimburse the Neutral for all costs in connection therewith, including reasonable attorney's fees, and will compensate the Neutral for time spent, such compensation to be at the Neutral's then-current hourly rate.

d. Financial statements and other financial documents. Notwithstanding the foregoing, any financial statements or other financial documents exchanged by the Parties in connection with these Proceedings shall be considered admissible in any court proceedings. In addition, documents that are independently obtained and admissible shall not be rendered inadmissible because they are produced in connection with these Proceedings.

e. Email communications. Email often plays a large role in the Parties' communications with the Neutral. Please note that if the Parties use email hosted on an employer's server or a shared email account, the ordinary rules concerning privilege may not apply, and therefore the Parties are encouraged to use a private email account for all such communication.

f. Research, education and training. The Parties agree that a description of the case may be used for research, education, or training (or any combination of these), but only if information that might identify the parties has been removed.

9. Disclosure of Prior Relationships

a. The Neutral's obligation. The Neutral has made a reasonable effort to learn and has disclosed to the Parties: (i) all social, business or professional relationships of which the Neutral is aware that the Neutral and/or the Neutral's firm has had with the Parties or their counsel, (ii) any financial interest the Neutral has in any Party or in the outcome of the case, and (iii) any other circumstances that may create doubt regarding the Neutral's impartiality in the mediation.

b. The Parties' obligation. The Parties hereby confirm that they are not aware of any conflict of interest with regard to the Neutral's serving in this matter, or any prior relationship with the Neutral or the Neutral's firm that has not been disclosed. Information about the Neutral's professional experience is available at our website: www.BostonLawCollaborative.com, including the firms and organizations with which the Neutral has been affiliated; the Parties agree to advise the Neutral as soon as possible if they have any difficulty accessing this information.

10. Future Relationships

a. Neither the Neutral nor the Neutral's firm shall undertake any work for or against either Party regarding their divorce at any time.

b. The Neutral shall not personally work on any matter for or against either Party, regardless of subject matter, until one (1) year after termination of his services as Neutral in this divorce.

c. The Neutral's firm may work on matters for or against either Party if such matters are unrelated to the subject matter of these proceedings, provided however that if such work is done, the Neutral shall establish appropriate safeguards to ensure that other members and employees of the Neutral's firm working on any such matter do not have access to any confidential information obtained by the Neutral during the course of these proceedings.

11. Compensation

a. Services covered by this Agreement. The Parties agree to pay Boston Law Collaborative, LLC ("BLC") for the Neutral's time at the hourly rate of \$500. The Parties understand that they will be billed for all time spent in preparation for and at

mediation/arbitration sessions, in telephone conferences, for sending and responding to emails, preparing documents, whether before, during, or after the mediation session(s), and review of memos and other material submitted to the Neutral by the Parties. The Parties will be billed (at BLC's cost) for necessary expenses such as copies, faxes, and long distance telephone calls. A one-time \$200 per-party administration fee will also be charged.

b. Allocation of costs. The Parties agree to pay these fees and costs in the following manner: 50% by John and 50% by Mary.

c. Retainer. The Parties agree to pay a retainer of \$5,000 (to be paid as follows: \$2,500 by John and \$2,500 by Mary) at the commencement of this process, which will be applied toward the services rendered and applicable costs. The Parties agree to replenish the retainer to \$5,000 when the retainer falls below that amount. The retainer will be deposited in a segregated client funds account, and any unused portion of the retainer will be returned to the Parties at the conclusion of this process. **Please note that the retainer is not an estimate of the total cost for your case.**

d. Cancellation. In the event that a Party cancels a scheduled mediation/arbitration session, for any reason, on less than one week's notice to the Neutral, that Party shall pay the Neutral a cancellation charge equal to half of the time charges for the time reserved. If both Parties cancel a scheduled session on less than one week's notice to the Neutral, each Party shall pay the Neutral half of the cancellation charge.

e. Billing. BLC issues bills monthly, normally on or about the 15th of each month, for the work done in the previous month, and payments are due upon receipt of the statement. Bills show the amount of time, in tenths of an hour, spent on the case, as well as costs and expenses. If a bill remains unpaid for more than thirty (30) days after it is sent, BLC charges interest at the rate of one percent (1%) per month on the unpaid balance starting on the first day of the following month – in other words, approximately forty-five (45) days after the bill is sent. (Bills will be sent via email unless the Parties prefer to have them sent by mail.) The Parties agree that if they have an objection to a bill, they will bring it to BLC's attention within sixty (60) days from the date that the bill is sent; absent such an objection, the bill will be considered final. Any changes in BLC's bills or billing arrangements need to be made in writing. In the event of a disagreement about BLC's charges for fees or expenses, the Parties and BLC agree to place the matter before the Legal Fee Arbitration Board of the Massachusetts Bar Association and agree to be bound by the decision of the arbitrator(s).

12. Miscellaneous

a. Entire agreement. This Agreement constitutes the entire agreement of the Parties and the Neutral as to the Proceedings described above and supersedes all previous oral or written agreements between or among them regarding this process.

b. Modification. No modification of this Agreement may be made except in a writing signed by the Parties and the Neutral.

c. Governing law. The terms of this Agreement, and the issues (if any) to be determined by arbitration, shall be governed by the laws of the Commonwealth of Massachusetts.

d. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument.

EXECUTED under seal as a Massachusetts instrument, as of the _____ day of March, 2012.

John Smith

Mary Smith

David Hoffman
Neutral

Date: _____

Date: _____

Date: _____