

**SEPARATION AGREEMENT**

This Agreement, made and entered into this \_\_ day of \_\_\_\_\_, 20\_\_, by and between:

Name  
Address  
Social Security no.: xxx-xx-\_\_\_\_\_

hereinafter referred to as First Party and/or Wife, and

Name  
Address  
Social Security no.: xxx-xx-\_\_\_\_\_

hereinafter referred to as Second Party and/or Husband.

**Witnesseth:**

WHEREAS, the parties hereto are Husband and Wife, by reason of their marriage on \_\_\_\_\_ at \_\_\_\_\_; and

WHEREAS, disputes and unhappy marital differences have for a long time arisen between the First Party and Second Party; and

WHEREAS, there are \_\_\_ children born of this marriage between the parties, one being an adult and the other still a minor, to wit:

Name            dob  
Name            dob; and

WHEREAS, the First Party and the Second Party having come to a mutual understanding, have mutually consented and agreed and do hereby mutually consent and agree to live separate and apart from each other in the future and during their natural lives, unless they shall hereafter mutually agree to vacate this agreement, and hereby further consent and agree that neither of them will interfere with the rights, privileges, doings and actions of each other, and will not interfere in any way, shape or manner with each other and that each of the parties is at liberty to act as they see fit; and

WHEREAS, the parties hereby have fully, separately and independently appraised and have been advised of their right to be represented by independent legal counsel of their own choosing, and their respective legal rights, remedies, privileges and obligations arising out of the marriage relationship, including, among other things, maintenance, child support, custody, equitable distribution and/or a division of marital assets, and all other respective rights, remedies, privileges and obligations to each other arising therefrom; and

WHEREAS, the parties hereto each warrant and represent to the other that they and each of them fully understand all of the terms, covenants, conditions, provisions and obligations incumbent upon each of them by virtue of this agreement to be performed or contemplated by each of them to perform, and each believes the same to be fair, just, reasonable and to their respective individual best interests, as to the provisions herein pertaining to child custody, visitation and child support, equitable distribution and division of the parties' marital property, and all other issues pertaining to the marital relationship of the parties; each party acknowledging that no provision herein is unconscionable, particularly in view of the complete financial disclosure between the parties,

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

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#### I. General Provisions

1. Separate Residence. The parties hereto agree that it shall be lawful for both parties to this agreement to live separate and apart from the other, and to reside and be in such place and places and in such family and families and with such relatives, friends or other persons as they may from time to time elect, free from the marital control and authority of the other.
2. Mutual Release. Subject to the provisions of this agreement, each party has remised, released and forever discharged, and by these presents does for himself and herself, and his or her heirs, legal representatives, executors, administrators and assigns, remise, release and forever discharge the other from all cause or causes of action, claims, rights or demands whatsoever, in law or in equity, which either of the parties hereto ever had or now has against the other, except any or all cause or causes of action for divorce and any defenses either may have to any divorce action brought by the other.
3. No Molestation. Neither of the parties shall, at any time, sue the other for living separate and apart from him or her or compel him or her to live with the other, nor sue, molest, disturb or trouble any person whomsoever for receiving, entertaining or harboring said parties to this agreement.

4. Waiver of Claims Against Estates. Subject to the provisions of this agreement, each of the parties hereto, for himself or herself, and for his or her heirs, legal representatives, executors, administrators or assigns hereby waives any right of election which he or she may have or hereafter acquire regarding the estate of the other, or to take against the Last Will and Testament of the other, whether heretofore or hereafter executed, as provided by Section 501.1 of the Estates, Powers and Trust Law of the State of New York, or as may now or hereafter be provided for in any law of the State of New York or any state or territory of the United States, or any foreign country, and renounces and releases all rights, interests or claims or right of dower, or otherwise that he or she now has or might otherwise have against the other, and the property of whatsoever nature, real or personal, of the other, by and under virtue of the laws of any state or country, and each will, at the request of the other, or his or her legal representatives, executors and assigns, execute, acknowledge and deliver any and all deeds, releases or other instruments necessary to bar, release or extinguish such interests, rights or claims which may be needed for the proper carrying into effect of any of the provisions of this agreement. Each of the parties renounces and relinquishes any and all claims and rights that he or she may have or hereafter acquire to act as executor or administrator of the other's estate.

All gifts, devises or bequests to either party made under an existing will of the other party are hereby revoked.

5. Entire Understanding. The parties have incorporated in this agreement their entire understanding, and no oral statement or prior written matter extrinsic to this agreement shall have any force or effect. The parties are not relying upon any representations other than those expressly set forth herein.

6. Debt. Subject to the provisions of this agreement, each of the parties agree to pay, hold harmless and indemnify the other party, his or her legal representative, property or estate, from all liability on account of all obligations incurred hereafter by such party, whether incurred under the separate account of the Husband or Wife, *i.e.* debts, loans or charges made by the Wife shall not be the responsibility of the Husband, and vice-versa.

All charge accounts to which both parties have privileges shall be immediately closed, unless mutually satisfactory arrangements are made by the parties to retain one or more existing accounts, *i.e.*, the holder of a charge account obtains the release of the other spouse herein as to the particular charge card and account, thus permitting the owning spouse to continue use of such charge card without liability to the released spouse herein.

All credit cards or other written authority to incur debts or obligations to which the other might be liable shall be immediately surrendered unless otherwise agreed as above provided. However, each party may open with any such companies or accounts, separate credit lines, credit cards or similar credit arrangements for each party separately, providing no joint liability accrues to the non-applying party.

Debts Wife to assume:

None

Or list by name and current balance \$+-

Debts Husband to assume:

Debts the partes agree to share jointly:

7. Full Disclosure. Each party has made independent inquiry into the complete financial circumstances of the other and is fully informed of the income, assets, property and financial prospects of the other. Each has had a full opportunity to consult or has consulted at length with his or her attorney regarding all of the circumstances hereof and acknowledges that this agreement has not been the result of any fraud, duress or undue influence exercised by either party upon the other.

Both parties acknowledge that this agreement has been achieved after full disclosure, competent legal representation, and honest negotiations.

8. Representations. No representations or warranties have been made by the Husband to the Wife, or by anyone else to the Wife, with respect to the past, the present, or the future income and assets of the Husband, and, without limiting the foregoing, no representations or warranties have been made by the Wife to the Husband or by anyone else to the Husband, with respect to the past, present or future income or assets of the Wife, except as stated on the financial net worth statements of the parties.

9. Necessary Documentation. Husband and Wife shall at any and all times, upon request by the other party or his or her legal representatives, promptly make, execute and deliver any and all such other and further instruments as may be necessary or desirable for the purpose of giving full force and effect to the provisions of this agreement without charge therefor.

10. Construction and Severability. If a court of competent jurisdiction at any time holds that any one or more provisions of this agreement are invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect. Except as otherwise provided for herein, each of the provisions of this agreement shall be deemed to be an independent covenant.

11. Conflict of Laws. This agreement and all of the rights and obligations of the parties hereunder shall be construed according to the laws of the State of New York as an agreement made and to be performed within this state.

12. Divorce. Nothing herein contained shall be construed to bar or prevent either party from suing for absolute divorce in any competent jurisdiction because of any past or future fault on the other's part.

This Agreement, at the request of either party, shall be filed in the appropriate County Clerk's Office pursuant to the provisions of Section 170, Subdivision 6, of the Domestic Relations Law of the State of New York. This Agreement, if acceptable to the Court, shall be

incorporated by reference in the decree that may be granted in such divorce action. Notwithstanding such incorporation, however, the provisions of this Agreement shall not merge in said judgment but shall in all respects be forever binding and conclusive upon the rights and obligations of the parties to this agreement. This agreement, in any event, shall survive any decree of divorce and not merge therein if not incorporated in a court decree.

13. Voluntary Execution. This parties acknowledge that they are entering into this Agreement freely and voluntarily; that they have given due consideration to all of the provisions; and that they clearly understand and assent to all provisions hereof.

14. Parties Bound. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, executors, personal representatives, administrators and assigns.

15. Independent Legal Advice. Each party acknowledges that they have had the opportunity to consult or otherwise have consulted and obtained independent legal advice regarding this Agreement of Separation and acknowledge that the same is valid and enforceable under the present laws of the State of New York.

16. Reconciliation and Matrimonial Decrees. The parties recognize the possibility of a reconciliation. It is their intention that a reconciliation or a resumption of marital relations shall in no way abrogate or affect the provisions of this Agreement, unless said reconciliation or sai resumption be documented by a a written statement executed and acknowledged by the parties specifically stating their intention to reconcile and resume their marital relationship and to void this Agreement.

17. Attorney Fees Where Default Occurred Before Judgment, Decree or Order. In the even that either party defaults with respect to any provision of this Agreement and said default is not remedied within ten (10) days after sending of a written notice by certified mail to the defaulting party specifying said default, the defaulting party agrees to indemnify the other party against, or to reimburse her or him for any and all expenses, costs and attorney fees resulting from or made necessary by the bringing of any proceeding to enforce any of the terms, covenants or conditions of this Agreement to be performed or complied with by the defaulting party, or to enforce any of a party's rights to recover an amount to be paid to her or to him by the other party or to be otherwise performed pursuant to this Agreement, provided such proceeding results in a judgment, decree or order in favor of the non-defaulting party.

For the purposes of this Agreement, it is understood and agreed that in the event a party shall institute a suit or other proceeding against the other party to enforce any of the terms, covenants or conditions of the Agreement and after the institution of such action or proceeding and before judgment is or can be entered, the defaulting party shall comply with such term or condition of the Agreement, then and in that event, the suit, motion or proceeding instituted by the party shall be deemed to have resulted in a judgment, decree or order in favor of the party.

18. Notice. Should any portion of this Agreement require notice be given by one party to the other, then the address for such notice shall be as stated on page 1 of this Agreement. In the

event of a change of address for any party, he or she is required to immediately notify the other, in writing.

19. Gender. Whenever the context hereof so requires, the words “he”, “his”, “him” and like words of the male and female gender shall be construed to refer to the other gender.

20. Headings. The descriptive paragraph headings contained herein are for convenience only and are not intended to include or conclusively define all of the subject matter in the paragraphs accompanying such headings, and, accordingly, such headings shall not be definitive with respect to interpretation of this Agreement.

## II. Custody of the Parties' Minor Children

21. Custody. The parties agree that custody of their minor son \_\_\_\_\_ shall be jointly shared between the parties, with the primary physical residence being with the Husband at his residence at \_\_\_\_\_; the same being subject to a visitation schedule with the Wife as the parties may agree to and taking into account the schedules and preferences of son \_\_\_\_\_ who is in college and daughter \_\_\_\_\_ who is in high school. Each party reserves the right to apply to the Family Court for any modifications of Order as they deem appropriate in the event they encounter any disagreement regarding visitation herein.

A. Each parent shall have the right to communicate with the children by telephone at reasonable hours when the children are with the other parent.

B. Notwithstanding the possible remarriage of either party, the children shall continue to be known under the Husband's surname unless he consents otherwise. The children shall not, for any purpose or reason, use or assume the name of any subsequent husband of the wife. Each party shall encourage the children to refer to the other as “Father” and “Mother” or an equivalent title and that such title shall not be encouraged by either party as to a third party for the children.

The parties do herein affirm that it is their desire to promote the best interests and welfare of the minor children of the marriage; that each of the parties herein view with grave concern and acceptance that the welfare of the said children is of paramount importance and that each of the said parties herein does affirm that he and she will faithfully and in all respects adhere to this provision of this Agreement, and that each will do everything in his or her power to promote the best interests and welfare of the children and refrain from any act or actions, word or words, insinuations or any other form of expression which would, in any way, tend to lessen the respect of the children for either the Husband or the Wife, all to the extent that the mutual love, affection and respect can and should exist between the children and the parties hereto.

C. Each party shall promptly inform the other with respect to any serious illness or accident of the children, and in the event that any such serious illness or accident causes the children to be confined to bed or home (whether of the Husband or Wife) for more than twenty-four (24) hours, such other parent shall be entitled to visit the children at reasonable times and for reasonable periods.

D. Each party shall be entitled to complete, detailed information from any physician, pediatrician, dentist, consultant, specialist, teacher or school providing care or instruction to the children or to which the children may attend and to have copies of a report prepared by them or any of them, to a person, provided only that the expenses associated with the acquisition of copies of such reports shall be borne by that party requesting the same.

E. The parties shall be under a duty to inform the other of important events in the life of the children having to do with school, social, religious, athletic or extra-curricular activities, and the parties shall have the right to be in attendance thereat and each party shall notify the other of any and all teacher conferences or counseling sessions or meeting involving the children, and each party shall have the right to be in attendance for such meetings so that there may be complete disclosure with respect to a course of action to nurture the psychological, emotional and intellectual development of the children.

F. It is the parties intention to each exercise fully the rights of joint custody with the children; however, the exercise of such rights is entirely optional with each party and the failure to exercise such rights on any particular occasion shall not be deemed, construed or constitute a waiver of the right thereafter to full compliance with the provisions hereof.

### III. Child Support

22. Child Support. The parties have been advised of the Child Support Standards Act and all of its provisions, which set forth guidelines for child support obligations and acknowledge that this has been fully explained to their respective satisfactions. With said knowledge and understanding of the Act, the parties have voluntarily entered into this Agreement containing the provisions for child support as set forth herein and the parties agree that the same are fair and reasonable.

The parties represent that the income of the parties is as follows:

20__	W-2 statements	Husband	\$	+75%
20__	Wage capability	Wife	\$ _____	+25%
			\$	100%

The parties hereby opt out of the Child Support Standards Act and agree that each party shall pay the expenses of their minor children when they are with each respective parent. Neither parent shall look to the other parent for a child support payment.

Each party shall use their best, good faith effort to bear a fair and equal share of these child related expenses, i.e. food, day care, clothing, health costs, etc.

The Husband agrees that he shall continue to pay all household expenses for the children and the college expenses of

The parties have agreed to opt out of the Child Support Standards Act because of the division of time that each child resides in college and/or with each parent.

The Husband also agrees to pay the college expenses over and above college loans and grants. Currently that is \$ \_\_\_\_\_ calculated as follows:

In the event of disagreement between the parties over these child expenses, either party may apply to the appropriate Family Court for a determination to resolve the disagreement.

Child support shall continue until each child arrives at age 21 or earlier becomes emancipated or dies.

23. Exemption for Tax Purposes. The parties agree that the two (2) exemptions for the children shall be utilized by the Husband each year.

#### IV. Spousal Maintenance.

24. Spousal Maintenance. Taking into account the provisions of this Agreement, each party, having due regard for the Domestic Relations Law, Section 236(b)(6) and the Internal Revenue Code, agrees as to spousal maintenance as follows:

A. The Husband acknowledges that he is self-supporting.

B. The Wife acknowledges that she is capable of becoming self-supporting within a reasonable time from the date of this Agreement.

C. The temporary spousal maintenance state guidelines provide that the Husband pay the Wife the sum of \$ \_\_\_\_\_ per week.

D. Nevertheless, the parties agree that the Husband shall pay, and the Wife accepts as Temporary Spousal Maintenance, the sum of \$ \_\_\_\_\_ per week for a period of \_\_\_\_\_ months commencing \_\_\_\_\_ and continuing to \_\_\_\_\_. The Wife accepts this sum as fair and reasonable and makes no other claim for temporary or permanent spousal maintenance, subject to the further terms and conditions.

E. An automobile: The Husband commits to pay a sum not to exceed \$ \_\_\_\_\_ per month commencing \_\_\_\_\_ for an automobile as selected and acquired by the Wife. As part of this automobile payment, the Wife agrees to surrender the \_\_\_\_\_ on \_\_\_\_\_ to the Husband. This auto payment agreement shall be considered equitable distribution and not additional maintenance.

F. Car insurance for the Wife: The Husband agrees to pay the car insurance for the wife's replacement care for a period of one year from \_\_\_\_\_ to \_\_\_\_\_; the insurance to be at rates comparable to those maintained by the parties on their automobiles to date.

G. Tax return 20\_\_ filed 20\_\_: The parties agree to file a joint state and federal income tax return for this tax period, and the Husband and Wife agree to share equally refunds, if any.



H. Health Insurance: The Husband agrees to maintain the Wife as a covered person on the present health insurance accessed by the parties for one year from to .

Each therefore accepts this provisions in full and final settlement and satisfaction, and releases and discharges the other absolutely and forever for the rest of their lives, and from any and all claims and demands, past, present or future, for spousal support and maintenance. This release shall include, but not be limited to any rights the parties may now have or may hereafter acquire as spouse under the present and future laws of any jurisdiction.

**Health Insurance Pursuant to DRL § 177. The parties fully understand that upon the entrance of this divorce agreement, they may no longer be allowed to receive health coverage under their former spouse's health insurance plan. They may be entitled to purchase health insurance on their own through a COBRA option, if available; otherwise, they may be required to secure their own health insurance.**

V. Equitable Distribution and Marital Assets

25. Division of Marital Property

A. Personal Property and Effects. The parties agree that each shall own, free from any claim of the other, all items of personal property and effects presently in their respective possessions, the parties otherwise agreeing that all jointly owned furniture and similar personal property has heretofore been divided to their mutual satisfaction and is in their respective possessions as of this date.

The Wife agrees that she wants the major pieces of marital furnishings to remain at the home to provide a stable living environment for the children.

The Wife and Husband agree to divide the marital furnishings in equal shares. All items the parties cannot agree upon shall become the property of the children herein.

The Husband agrees that the Wife need not immediately remove her chosen furnishings, but may allow them to remain in the home to save her storage costs, but shall remove them within a reasonable time.

B. Automobiles.

C. Real Estate. Address. Mortgage. The Wife agrees to quitclaim title to the Husband for this house on or before . The Husband shall be responsible for this mortgage and hold the Wife harmless therefrom. The Husband shall be liable for all costs of preparing the quitclaim and filing it with the County Clerk's Office.

The Wife agrees to vacate the home on or before

D. Pension, 401(K), IRA, Insurance and Stocks.

The parties shall own and maintain their own accounts as follows:

E. Bank Accounts. The parties have heretofore divided their bank accounts, and neither makes a claim against the other therefore.

VI. Miscellaneous.

Canines. The Wife shall have the

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

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

State of New York )  
County of ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that s/he executed the same in her/his capacity and that by her/his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:

State of New York )  
County of ) ss .:

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\_\_\_\_\_  
Notary Public:  
My Commission Expires:

### HEALTH INSURANCE STIPULATION

DRL § 255 Statements: The parties sign and date the following statements as required by Domestic Relations Law § 255.

**I, \_\_\_\_\_, fully understand that upon the entrance of this divorce agreement, I may no longer be allowed to receive health coverage under my former spouse's health insurance plan. I may be entitled to purchase health insurance on my own through a COBRA option, if available, otherwise I may be required to secure my own health insurance.**

Section 24 of this Agreement contains the provisions relating to medical insurance.

Dated: \_\_\_\_\_

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