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SEPARATION AGREEMENT

Dated: November 30, 2000

between

MORTIMER B. ZUCKERMAN

and

MARLA PRATHER

TABLE OF CONTENTS

	<u>Page</u>
1. Consideration	2
2. Separation.	2
3. No interference.....	2
4. Custody and Visitation.....	2
5. Financial Provisions for the Child.	11
6. Distributive Award to the Wife.....	21
7. Division of Property.....	24
8. Health Insurance for the Wife.....	39
9. Professional Fees.	39
10. Therapy	40
11. Other Property.....	40
12. Violation of Relocation Restriction.	41
13. Satisfaction of Claims.....	44
14. Estate Matters.....	44
15. Income Taxes	46
16. Voluntary Payments.....	47
17. Debts	47
18. Mutual Releases.....	47
19. Reconciliation and Matrimonial Decrees.....	48
20. Confidentiality.	49
21. Binding Arbitration.....	52
22. Counsel Fees in the Event of Default.	54
23. Limitation on Penalties.	55
24. Notice.....	55
25. Disclosure of Assets.....	56
26. General Provisions.....	58

Acknowledgments

Exhibit A

SEPARATION AGREEMENT

This Agreement made and entered into as of this 30th day of *November*, 2000, by and between MORTIMER B. ZUCKERMAN (hereinafter the "Husband"), residing at 950 Fifth Avenue, New York, New York 10021 and MARLA PRATHER (hereinafter the "Wife"), residing at 238 East 49th Street, New York, New York 10017.

WITNESSETH:

WHEREAS, the parties hereto entered into a Prenuptial Agreement dated September 25, 1996 (the "Prenuptial Agreement"), which both parties acknowledge is a valid agreement;

WHEREAS, the parties hereto were married on September 27, 1996 in Washington, D.C., and ever since their marriage have been, and still are, Husband and Wife;

WHEREAS, there is one child of the marriage: Abigail Zuckerman, born on July 7, 1997 (the "Child");

WHEREAS, the parties have agreed to separate;

WHEREAS, the parties desire that this Agreement, which is entered into after due and considered deliberation, shall be and constitute an agreement between them with respect to any income, assets or property, both real and personal, wherever situate, now owned by the parties, or either of them, or outstanding in their respective names, or which may hereafter be acquired by either of the parties, and with respect to all other rights and obligations arising out of their marital relationship;

WHEREAS, the parties intend that this Agreement shall supersede the Prenuptial Agreement, which shall hereafter be null and void; and

WHEREAS, both parties have been informed regarding the estate, income and financial responsibilities of each other and have been fully advised of all of their rights by independent counsel of their own selection.

NOW, THEREFORE, the parties hereby agree as follows:

1. Consideration. The consideration for this Agreement is the mutual promises and agreements herein contained.
2. Separation. From and after the date hereof, the Husband and the Wife may and shall at all times hereafter live separate and apart from the other and free from the marital control and authority of the other as if each were sole and unmarried and free from any control, restraint or interference, direct or indirect, by the other. Each may reside at such place or places as he or she may select, except as provided in Section 4(A) hereof.
3. No interference. Neither party shall molest, annoy, harass or interfere with the other, or compel or endeavor to compel the other to cohabit or dwell with him or her by any legal or other proceeding for the restoration of conjugal rights or otherwise. There shall be no direct or indirect interference with the personal life, habits or associations of the other.
4. Custody and Visitation.
 - A. The Husband and Wife shall have joint legal custody of the Child and shall have the joint authority to make all decisions relating to the care and upbringing of the Child. The parties shall confer with each other with respect to all matters relating to the Child's health, safety, welfare, education and upbringing, with a view toward arriving at a harmonious policy calculated to promote the Child's best interests and welfare. With respect to all important decisions including, without limitation, educational and non-emergency medical decisions for the Child, the parties will confer with each other and, if appropriate, the Child and a therapist or

other caring professional and shall make every effort to arrive at a mutual agreement. If the parties are unable to arrive at a mutual agreement with respect to any such decision, the parties will mutually select a third party to make such decision, which shall be final and binding on all persons interested in this Agreement. If the parties cannot mutually select such third-party decisionmaker within twenty (20) days from the date that such decision is to be made, each party shall select a third party and such selected individuals shall, within twenty (20) days from the date of their selection, select a third individual to serve alone as such third-party decisionmaker. The Husband and the Wife shall share equally all expenses incurred in connection with the selection and use of such third-party decisionmaker, including, without limitation, such decisionmaker's professional fees.

It is the intention of the parties to work together in every way for the benefit of the Child and to foster an environment of harmony, love and care where the Child is encouraged to maintain close and loving relationships with both parents. In order to effectuate such intention, until the Child reaches age twenty-one (21) or graduates from college, whichever is earlier, the Wife agrees not to move her primary residence to a location that is more than fifty (50) miles from the Whitney Museum of American Art, New York, New York without the prior written consent of the Husband (the "Relocation Restriction"). For all purposes of this Agreement, the term "primary residence" shall mean the residence from which the Child attends school or, if the Child is away at boarding school, college or any other undergraduate institution, the residence that the Child primarily returns to during vacation periods.

B. The Wife's residence shall be the Child's primary physical residence. It is understood and agreed upon by the parties that the Husband shall have flexible, liberal visitation with the Child outside of the home of the Wife as the parties shall agree. Both

the Husband and the Wife deem it to be in the Child's best interest to spend as much time as possible with both of her parents and both parties shall encourage the Child to spend time with the other party. To that end, the parties agree to work together to determine an appropriate, generous visitation schedule.

C. Each party has the right to request a reevaluation of the visitation schedule at the beginning of each school year. Any such reevaluation shall be conducted with the assistance and advice of a marital counselor or other independent party.

D. 1. If the parties shall be unable to agree upon a visitation schedule, the Husband shall be entitled to at least the visitation set forth below:

(a) Every other weekend from 5:00 p.m. on Friday to Monday morning, at which time the Husband shall take the Child to school (or return her to the Wife or her child care provider by 10:00 a.m. or to day camp or another scheduled activity if school is not in session). If a weekend visit shall occur during a Monday holiday weekend such as Columbus Day or President's Day, visitation shall instead end on Tuesday morning.

Notwithstanding the foregoing, if the parties so agree, the Child may be returned to the Wife or her child care provider directly after dinner on Sunday evening (or Monday evening of a holiday weekend, as the case may be), provided, however, that if the Child is returned to the Wife or her child care provider on a Sunday evening (or Monday evening, as the case may be), the Husband shall be entitled to spend an additional weekday evening with the Child at another time upon five (5) days' notice to the Wife. It is understood and agreed upon by the parties that whenever the Husband is obligated hereunder to return the Child to the Wife or her child care provider "directly after dinner," the Husband agrees to use his best efforts to schedule his dinners with the

Child at a time that will enable him to return the Child to the Wife at least one (1) hour before the Child's bedtime.

(b) Two (2) weekday evenings (minimum three (3) hours duration, including dinner) per week to be agreed upon by the parties. Except as provided herein with respect to overnight visits, a weekday evening visit shall end directly after dinner, at which time the Husband shall return the Child to the Wife or her child care provider. Until the Child reaches age six (6), such weekday evening visits shall include one (1) overnight visit each week. After the Child reaches age six (6), such overnight visits shall increase to two (2) per week in each week prior to a weekend when the Wife has the Child. An overnight visit shall be defined as the time period from 5:00 p.m. until directly after dinner the following evening, at which time the Husband shall return the Child to the Wife or her child care provider. During the daytime portion of an overnight visit, the Husband shall be responsible for taking the Child to and picking her up from school (or day camp or another scheduled activity if school is not in session). Notwithstanding the foregoing, the Husband acknowledges that his schedule from time to time may not permit him to be present for a previously scheduled dinner or overnight visit with the Child. In that event, the Wife agrees to use her best efforts to rearrange her schedule and the Child's schedule to enable the Husband to have such dinner or overnight visit with the Child on another day that week. If the Wife cannot reasonably rearrange such schedules, the Husband agrees to waive his rights to such dinner or overnight visit for that week.

(c) (i) One-half (1/2) of all school vacations (other than summer vacation).

(ii) One-half (1/2) of the academic summer vacation period, provided that if the Child attends a summer sleepaway program, structured day

camp, summer school or sports program, or travels with individuals other than a parent or works during the summer, the Husband shall be entitled to approximately one-half (1/2) of the remaining summer vacation period.

(iii) Notwithstanding the foregoing, until the Child reaches age ten (10), the Husband and Wife agree that neither of them shall take the Child on vacation for more than one (1) week at a time without obtaining the prior consent of the other party, which shall not be unreasonably withheld. The Husband and Wife also agree that the length of a vacation with the Child may be expanded to ten (10) days after the Child reaches age ten (10) and to two (2) weeks after the Child reaches age fourteen (14).

(d) All major Jewish holidays (i.e., Rosh Hashanah, Yom Kippur, the first two nights of Passover and two nights of Chanukah).

(e) The Husband's birthday, Father's Day and one-half (1/2) of the Child's birthday.

2. In clarification of the parties' intentions regarding the minimum visitation schedule set forth in Paragraph 1 of this Subdivision D, the parties agree as follows:

(a) The Child will spend the Thursday through Sunday of Thanksgiving holidays with each of the Husband and the Wife in alternate years.

(b) With respect to weekend visits, at the beginning of each calendar year, the parties agree to use their best efforts to arrange their weekend visitation schedule so that each party will spend an approximately equal number of Monday holiday weekends (such as Columbus Day or President's Day) with the Child in that calendar year.

(c) As to summer vacation, at any time when neither the Husband nor the Wife is vacationing with the Child outside of the area encompassed by the Relocation Restriction, the Husband and the Wife shall follow the visitation schedule applicable during the academic year.

(d) (i) With respect to vacations to be taken with the Child by either the Husband or the Wife outside of the area encompassed by the Relocation Restriction, during each odd numbered year, commencing with 2001, the Wife shall have the first choice of which vacation periods the Child shall be with her and she shall notify the Husband in writing no later than January 15th of each such year for the first six (6) months of such year and no later than June 15th of each such year for the second six (6) months of such year. In even numbered years, commencing with 2002, the Husband shall have the right to choose first which vacation periods the Child shall be with him. The Husband shall notify the Wife of such choice for the first six (6) months of such year in writing no later than January 15th of each such year and for the second six (6) months of such year no later than June 15th of each such year. In any year in which a party fails to give the notice above required as to the choice of vacation periods, the other party shall have the right to make the first choice and shall send appropriate notice no later than January 30th of such year with respect to the first six (6) months of such year and June 30th of such year with respect to the second six (6) months of such year.

(ii) The parties agree to work together to arrive at an equitable division of the remaining holidays and vacation periods in the year 2000.

3. (a) The parties agree that the Husband shall not exercise his visitation rights with the Child on the day before Christmas (including Christmas Eve), Christmas day, Easter, the Wife's birthday, Mother's Day and three (3) additional days to

be selected by the Wife. The Wife shall give the Husband written notice of which three (3) additional days she wishes to spend with the Child no later than ninety (90) days after the beginning of each calendar year.

(b) The parties agree that the Husband shall not exercise his visitation rights with the Child during such times as the Child shall be on vacation with the Wife.

(c) The parties agree that the Husband and the Wife shall both use their best efforts to share equally the responsibility of taking the Child to and from school (or day camp or another scheduled activity if school is not in session). To that end, the parties agree that they shall work together to arrange a reasonable schedule that provides appropriate coverage for the Child. Notwithstanding the foregoing, the parties acknowledge that their schedules from time to time may not permit one of them personally to be present to accompany the Child to or from school (or day camp or another scheduled activity if school is not in session) at a previously scheduled time. In that event, the other party, if he or she is available, may accompany the Child to or from school (or day camp or another scheduled activity if school is not in session) in the place of the originally scheduled party. If the other party is unavailable, the originally scheduled party shall arrange for the Child's caregiver to take his or her place. Each party agrees to notify the other party of any day on which he or she will be unable to accompany the Child no later than 8:00 p.m. the night before such day and the other party shall respond with his or her availability no later than 10:00 p.m. the night before such day.

(d) The failure of the Husband to exercise his visitation rights shall not constitute a waiver thereof.

E. Each party shall at all times encourage the Child to honor, respect and love the other parent and neither shall say or do anything which may estrange the Child from the other party or injure the opinion of the Child as to the Husband or Wife, or which may hamper the free and natural development of the Child's love for the other party. The Child shall continue to be known by her name as set forth in the Recitals of this Agreement and by no other name during her minority. The Child shall be enrolled at all schools, including college, camp and other institutions under her present name.

F. 1. The Child is to be raised in the Conservative Jewish tradition and is not to receive any formal training in any other religious faith. It is expected that, at a minimum, the Child will receive formal Jewish training sufficient to allow her to become a Bat Mitzvah at the appropriate age, with such training to be determined by the Husband and the Wife. If the Husband and the Wife cannot agree upon the nature and extent of such training, such decision shall be referred to the head rabbi of either Temple Emanu-El, New York, New York, or Park Avenue Synagogue, New York, New York, and the decision of such rabbi shall be final and binding on both parties.

2. (a) Except as provided in Subparagraph (b) of this Paragraph 2, the Child shall not attend any religious services other than Jewish services. In addition, the Child shall not receive religious instruction in any faith other than Judaism (except as part of an academic course) unless such instruction has been approved in advance by the Husband.

(b) Notwithstanding the foregoing provisions of this Paragraph 2, the Child may attend occasional religious services for major Christian holidays

(e.g., Midnight Mass at Christmas and Easter Mass) so long as such attendance has been approved in advance by the Husband.

G. Except in the event of illness or accident affecting the Child, neither party shall enter the home of the other without his or her consent. In the event that the Child is ill and confined to the home of either party for more than two (2) days, the other party shall be notified immediately and shall have the right, on reasonable notice, to reasonable visitation with the Child in such home during the period of confinement.

H. Each of the parties agrees to keep the other fully informed of the whereabouts of the Child while she is with such party, including while on vacation. The parties agree that if either of them has knowledge of any illness or other circumstance affecting the welfare of the Child, such party will promptly notify the other party of such circumstances.

I. Each party shall furnish to the other party complete and full information from any physician, dentist, consultant or specialist attending the Child for any reason whatsoever, and copies of any reports given by any of them to either of the parties. Each party shall also furnish to the other party complete and full information regarding any events at the Child's school, with the intention that each party shall have an opportunity to participate in such events to the extent that such party deems advisable.

J. When the Child is with one of the parties, the other party shall have the right to correspond and communicate freely with the Child, by mail, Internet (if available) or telephone. To this end, each party agrees to provide the other with his or her address (including e-mail address) or telephone number at all times, both at home and at any other place where he or she may be staying with the Child at such party's residences, on vacation

or otherwise for any period and agrees within reason to make the Child available for such communication with the absent parent.

5. Financial Provisions for the Child.

A. Support Payments. The Husband shall pay to the Wife the sum of Eighty Thousand Dollars (\$80,000) per year for the support and maintenance of the Child from the earlier of (i) January 1, 2001 and (ii) the date the Townhouse, as hereinafter defined, is ready for occupancy, until the Emancipation of the Child. Child support hereunder shall be paid in equal quarterly installments on or about the first day of January, April, July and October of each year, provided, however, that if the Townhouse is ready for occupancy prior to January 1, 2001, the first such payment shall be made upon the date the Townhouse is ready for occupancy and shall be prorated from such date through the end of the calendar quarter in which such date occurs.

B. Educational Expenses. The parties shall consult with each other and must each consent to the choice of the Child's educational institutions and courses to be pursued, such consent not to be unreasonably withheld or delayed. The Husband shall be obligated to pay the Educational Expenses, as hereinafter defined, of the Child until the Emancipation of the Child. The term "Educational Expenses," as used herein, shall mean fees and expenses incurred on behalf of the Child at a private nursery school, private elementary school, private secondary or preparatory school, college or other undergraduate institution attended by the Child, specifically including:

1. Tuition and other fees, dues and charges; room and board; school uniforms; books and supplies; required insurance;

2. Reasonable cost of trips for interviews at schools and expenses involved in connection with entrance applications and examinations;
3. Expenses for transportation between any boarding school, college or other undergraduate institution and the Child's place of residence with a parent;
4. Tutoring and related expenses;
5. Expenses incurred in connection with extra-curricular and after-school activities and lessons including, without limitation, musical, sports and religious lessons; and
6. Summer experiences including sleepaway summer camp, sports camp, teen tours, travel and the like, including the costs of travel to and from any such summer experience.
7. The parties shall mutually select the activities to be pursued by the Child under Paragraphs 4, 5 and 6 of this Subdivision, but neither party shall unreasonably withhold or delay consent to any such program.

C. Medical Coverage. The Husband agrees to maintain medical insurance for the benefit of the Child until her Emancipation. In addition thereto, the Husband shall pay all uninsured medical expenses incurred by or on behalf of the Child, including medical, surgical (including plastic surgery if medically necessary), orthodontic, psychiatric, hospital, nursing and dental expenses and the cost of prescription medicine, eyeglasses, contact lenses and surgical appliances for the Child until her Emancipation. The Husband shall have the right of prior approval for all uninsured medical expenses of the Child (except for emergency medical expenses), but his approval shall not be unreasonably withheld or delayed. The parties shall cooperate with each other in processing all medical insurance claims. If the Wife shall

make medical expense payments on behalf of the Child, the Husband shall promptly reimburse her upon receipt of proof of such payments, provided the Husband's consent for any uninsured medical expenses has been obtained, as provided herein.

D. Child Care and Household Help.

1. The Husband agrees to pay the expenses of one (1) full-time child care provider until such time as the Wife determines in her reasonable judgment that the Child no longer requires child care, but in no event shall the Husband be responsible for child care expenses beyond the Child's reaching age eighteen (18) or while the Child is away at boarding school.

2. The Husband agrees to pay the expenses of one (1) full-time housekeeper with cooking responsibilities until the Child reaches age eighteen (18), provided, however, that if the Wife remarries, as hereinafter defined, the Husband shall no longer be obligated to pay the expenses of such housekeeper.

3. The Husband agrees to pay the expenses of making a driver available for the Child's use for no more than ten (10) hours per week, provided, however, that in no event shall the Husband be obligated to make such driver available beyond the Child's reaching age eighteen (18) or while the Child is away at boarding school, camp or the Vacation Residence, as hereinafter defined. The Husband shall select such driver and shall set such driver's salary and bonus.

4. With respect to the child care provider and housekeeper to be provided for the Child under Paragraphs 1 and 2 of this Subdivision D, the Wife's selection of such individuals and her decision as to their salaries and bonuses shall be subject to the Husband's consent, which shall not be unreasonably withheld or delayed.

5. The parties acknowledge that the parties currently employ a full-time child care provider at a salary of Sixty-Five Thousand Dollars (\$65,000) per year and a full-time housekeeper at a salary of Sixty Thousand Dollars (\$60,000) per year and the Husband consents to the continuation of such expenses hereafter. The parties agree that such continuation of expenses satisfies the Husband's current obligation under Paragraphs 1 and 2 of this Subdivision.

E. Emancipation. The "Emancipation" of the Child shall be deemed to have occurred on the earliest of the following events with respect to the Child:

1. Reaching the age of twenty-one (21) years, provided that if the Child upon reaching such age is attending a college, university or similar undergraduate institution, such Emancipation event shall be postponed until the Child (i) completes four (4) academic years of college education, (ii) abandons her education or (iii) reaches age twenty-five (25), whichever occurs first. Notwithstanding the foregoing, if the Child temporarily abandons her education but then resumes it prior to the occurrence of any other Emancipation event, the Emancipation event caused by the Child's abandonment of her education shall be deemed terminated and nullified upon the resumption by the Child of her education and the period, if any, from such a termination until the earliest of any other Emancipation event shall, for all purposes under this Paragraph, be deemed a period prior to the occurrence of an Emancipation event;

2. Engaging in full-time employment upon and after the Child's reaching age eighteen (18), except that (i) engaging by the Child in partial employment shall not be deemed an Emancipation event, and (ii) engaging by the Child in full-time employment during vacation and summer periods shall not be deemed an Emancipation event.

Such an Emancipation event shall be deemed terminated and nullified upon cessation by the Child for any reason from full-time employment, and the period, if any, from such a termination until the earliest of any other Emancipation event shall, for all purposes under this Paragraph, be deemed a period prior to the occurrence of an Emancipation event;

3. Marriage;

4. Departure from the homes of both parties (other than to attend a boarding school, college, undergraduate or graduate educational institution) and establishment of another permanent residence. Notwithstanding the foregoing, if the Child abandons such other permanent residence and resumes living with either party prior to the occurrence of any other Emancipation event, the Emancipation event caused by the Child's departure from the homes of both parties shall be deemed terminated and nullified upon the return by the Child to live in the home of either party and the period, if any, from such a termination until the earliest of any other Emancipation event shall, for all purposes under this Paragraph, be deemed a period prior to the occurrence of an Emancipation event; or

5. Death.

F. Inheritance Provisions. The Husband agrees to provide by his Will, by beneficiary designation or otherwise, including by one or more trusts created during his lifetime, that an aggregate of no less than twenty-five percent (25%) of his Adjusted Gross Estate, as hereinafter defined (the "Child's Amount"), shall pass during his lifetime or as a result of his death to or for the benefit of the Child, outright or in trust, in such amounts or proportions and subject to such terms and conditions, as the Husband shall determine in his sole discretion. Notwithstanding the foregoing, if the Husband transfers all or part of the Child's Amount to the Child in trust (rather than outright), his Will or the applicable trust agreement shall (i) direct that

at a minimum, the Trustees shall use the income and principal of the trust to provide for the health, education, maintenance and support of the Child, and (ii) designate the Wife to serve as a co-Trustee of such trust. The parties do not intend, while both parties are living, that the Child shall be able to enforce the provisions of this Subdivision as a third party beneficiary and, thus, the parties shall have the right, in their mutual and absolute discretion, to revoke or modify this Subdivision in any way by an amendment hereto executed in accordance with the provisions of Section 26(H) of this Agreement. Upon the death of either party, the provisions of this Subdivision as then in effect, if at all, shall become irrevocable and the Child shall have the right as a third party beneficiary to enforce such provisions. For purposes of this Subdivision, the term "Adjusted Gross Estate" shall mean the Husband's gross estate, reduced by the expenses of his last illness, debts (other than any obligations of the Husband's estate pursuant to the terms of this Agreement), administration expenses and funeral expenses, all as finally determined in the federal estate tax proceeding relating to the Husband's estate. The parties confirm that in determining the Child's Amount, the Husband's gross estate shall not be reduced by any obligations of the Husband's estate to the Child or the Wife pursuant to the terms of this Agreement. The parties further confirm that if a trust is used in whole or in part to satisfy the Child's Amount, the income and principal of such trust shall not be used to satisfy the Husband's obligation to make the financial provisions for the Child provided in Subdivisions A through D of this Section, which shall remain the Husband's obligation and shall be binding upon his estate. Any disposition to or for the benefit of the Child shall be subject to its proportionate share of estate, succession and inheritance taxes.

G. Tax Consequences. No payment under this Section 5 for the benefit of the Child shall be deductible by the Husband for income tax purposes or includible in the income of the Wife.

H. Dependency Exemption. The Husband (or, if he shall not be eligible or if he is unable to realize any benefit, the Wife) shall have the right to claim the Child as his (or her) dependent on his (or her) income tax returns. The Wife (or the Husband), at the Husband's (or the Wife's) request, shall promptly sign and deliver to the Husband (or to the Wife) any forms required by the Internal Revenue Service in order for the Husband (or the Wife) to take the dependency exemption.

I. Binding Effect. The parties acknowledge that, in the event of the death of the Husband before the Emancipation of the Child, the financial provisions for the Child under this Section 5 shall be a charge against and an obligation of the Husband's estate.

J. Compliance With Child Support Standards Act.

1. The parties have been advised of the provisions of the Child Support Standards Act (Chapter 567 of the 1989 Laws of the State of New York, as presently codified inter alia in Section 240 of the Domestic Relations Law, and as may be amended from time to time) (hereinafter sometimes referred to as "Guidelines"). Each of the parties acknowledges that his or her attorney has fully explained the provisions of such Act and that he or she fully understands the possible applicability of its provisions to issues of custody and child support which are otherwise determined by the provisions of this Agreement.

2. To the extent permitted by law, each of the parties waives any rights he or she may have pursuant to such Act, as it presently exists or may be amended in the future, and instead agrees to be bound by the terms and conditions of this Agreement. The

parties intend that this Subdivision J be deemed to be a waiver as contemplated by Section 240(1-b)(h) of the Domestic Relations Law.

3. In accordance therewith, the parties have also been advised that the "basic child support obligation" provided in Domestic Relations Law Section 240(1-b) and Family Court Act Section 413(1)(b) would presumptively result in the correct amount of child support to be awarded unless a court were to find such amount to be unjust or inappropriate and that a court must award child support in the numerical sum of the "basic child support obligation" that is computed from the application of a formula set forth therein unless such award would be unjust or inappropriate.

4. The parties agree that a court would find the application of the Guidelines to be unjust and inappropriate in light of the Husband's income, the Child's prior lifestyle and the Husband's agreement to pay directly to providers for most of the Child's ongoing living expenses.

5. To the extent that the support in this Agreement deviates from any calculation of the "basic child support obligation" as defined in the Guidelines, the parties waive the application of the Guidelines, mindful as the parties are that New York statutes require this Agreement to specify the amount of such "basic child support obligation" pursuant to the Guidelines, as well as the reason or reasons why this Agreement does not provide for payment of that amount. The parties understand that such provision may not be waived by either party or counsel and understand that this Subdivision J is inserted into this Agreement for that reason.

6. The Guidelines further provide that nothing contained in Domestic Relations Law Section 240(1-b)(h) and Family Court Act Section 413(1)(h) shall be

construed to alter the rights of the parties to enter into validly executed agreements or stipulations which deviate from the "basic child support obligation" provided such agreements or stipulations comply with the provisions of Domestic Relations Law Section 240(1-b)(h) and Family Court Act Section 413(1)(b)(h). The purpose of this Subdivision J is solely to comply with the foregoing provisions of the Guidelines.

7. Any computations contained in this Subdivision J are not material provisions of this Agreement and neither party is relying upon them or upon any amounts set forth in this Subdivision in entering into this Agreement.

8. The presumptive figure of child support set forth in this Subdivision J does not contain "attributed" or "imputed income", nor does it contain any calculation based upon combined "parental income" in excess of \$80,000.00 because only a court of competent jurisdiction can determine whether or not to attribute or impute income or to apply the applicable child support percentage, as defined by statute, to combined parental income in excess of \$80,000.00. The parties recognize that, pursuant to the May 9, 1995 decision of the New York Court of Appeals in the case of Cassano v. Cassano, a Court may apply the "child support percentage" to the amount of the parties' combined income in excess of \$80,000.00 after carefully considering the parties' respective circumstances and finding no reason why there should be a departure from applying the prescribed "child support percentage" to the entire amount of the parties' combined income.

9. The applicable "child support percentage" as set forth in the Guidelines is seventeen percent (17%) for the parties' Child to whom the formula set forth in the Guidelines applies.

10. The Husband represents that his gross income for Guidelines purposes is in excess of Five Million Dollars (\$5,000,000) per year, which has been the case for each of 1997, 1998 and 1999. The parties have not considered the Husband's earning capacity or imputed income, as only a court can do that.

11. The Wife represents that her gross income for Guidelines purposes was approximately Seventy-Five Thousand Dollars (\$75,000) in 1997, Fifty Thousand Dollars (\$50,000) in 1998 and Forty-Five Thousand Dollars (\$45,000) in 1999. The Wife also represents that her gross income for Guidelines purposes will be approximately Fifty-Thousand Dollars (\$50,000) in 2000. The parties have not considered the Wife's earning capacity or imputed income, as only a court can do that.

12. Based upon the basic calculation to be made under the Guidelines, and applying the child support percentage to the full amount of the Husband's annual income, the applicable child support due from the Husband to the Wife for the Child could be 17% of more than \$5,000,000 which could be the "basic child support obligation", as defined by statute.

13. As set forth above, the parties believe that the figures set forth herein have little or no applicability to the terms of this Agreement for various reasons, including but not limited to:

(a) The Husband will be paying directly to the providers for most of the Child's major expenses.

(b) The payments that the Wife is to receive hereunder as a property settlement and support will generate for the Wife sufficient income to pay for the Child's other reasonable needs and expenses.

(c) The parties' combined parental income for the last year in which a tax return was filed exceeded \$80,000.00 and it is unclear as to whether or not such excess is to be included in the calculation and the parties do not desire to incur the expenses each would bear in resolving such issue; and

(d) The parties agree that even if a calculation could be made as envisioned in the Guidelines, such a result would be unjust or inappropriate.

14. Notwithstanding anything contained in this Subdivision or in any other clause, Paragraph or Section of this Agreement or of any statute presently in existence or which may be enacted in the future, the parties expressly waive the right to assert any right to recover the difference between what would be the precise "basic child support obligation" under the Guidelines and the child support arrangement set forth in this Agreement, regardless of whether the Husband or the Wife would benefit from asserting such right. No overpayment or underpayment of child support resulting from a deviation from the obligation under the Guidelines shall be recoverable nor shall any alleged under- or over-payment form the basis for any claim or cause of action by either party, or third party claiming through or on behalf of either party, against the other.

6. Distributive Award to the Wife.

A. Distributive Amount.

1. Subject to the provisions of Section 9(A) hereof, the Husband hereby agrees to pay to the Wife by personal check the sum of One Million Dollars (\$1,000,000) (the "Distributive Amount") on the later of January 2, 2001 or the entry of a final divorce decree between the parties.

2. The transfer of the Distributive Amount shall be free of all taxes to the Wife and shall not be deductible by the Husband.

B. Maintenance Payments.

1. Subject to the provisions of Section 12 and Section 20 of this Agreement (which supersede this Paragraph if the Wife violates the Relocation Restriction or the confidentiality requirements, as the case may be), the Husband shall pay to the Wife as maintenance and support the sum of Four Hundred Fifty Thousand Dollars (\$450,000) per year, payable in equal quarterly installments, on or about the first day of January, April, July and October of each year, until the earlier to occur of (i) the nineteenth (19th) anniversary of the Start Date, as hereinafter defined, and (ii) the death of the Wife, provided, however, that in the event of the remarriage of the Wife, as hereinafter defined, the maintenance payments under this Paragraph 1 shall thereafter be reduced to Three Hundred Fifty Thousand Dollars (\$350,000) per year. The first maintenance payment shall be made on the Start Date and shall be prorated from the Start Date through the end of the calendar quarter in which the Start Date occurs.

2. Commencing with the nineteenth (19th) anniversary of the Start Date, the Husband shall pay to the Wife (if she is then living) as maintenance the sum of Two Hundred Fifty Thousand Dollars (\$250,000) per year, payable in equal quarterly installments, until the death of the Wife. The first such maintenance payment shall be made on the nineteenth (19th) anniversary of the Start Date and shall be prorated from such anniversary of the Start Date through the end of the calendar quarter in which such anniversary of the Start Date occurs.

3. The term "Start Date" as used in this Agreement shall mean the date that is the earlier of (i) January 1, 2001 and (ii) the date upon which the Townhouse, as hereinafter defined, is ready for occupancy.

4. The maintenance payments hereunder shall be included in the Wife's taxable income and shall be deductible by the Husband for federal, state and local income tax purposes. If the applicable federal tax laws shall change so that all or part of the maintenance payments hereunder shall not be taxable to the Wife and deductible by the Husband, the parties agree to adjust the maintenance payments so that the net after-tax effect to the Wife would be the same as if such payments were taxable to the Wife and deductible by the Husband for federal, state and local income tax purposes.

5. Upon the happening of any event which shall result in the cessation or reduction of any payment to the Wife hereunder, the cessation or reduction shall be effective as of the date thereof.

6. The term "remarriage" of the Wife as used in this Agreement shall mean the entry by the Wife into a marriage contract or marriage ceremony (whether voidable or not) or the entrance by the Wife into a non-temporary, non-casual relationship for an aggregate period of nine (9) substantially consecutive months with an unrelated person over age eighteen (18) with whom the Wife shall be or shall have been residing together in any residence or residences for such aggregate period, notwithstanding the absence of a formal marriage contract or ceremony.

7. In the event of the Husband's death prior to the Wife's death, the obligation to pay maintenance to the Wife under this Subdivision B shall be a charge against and payable by the Husband's estate.

8. In no event shall there be any liability to make any payment of maintenance under this Subdivision B for any period after the death of the Wife nor shall there be any liability to make any payment (in cash or property) as a substitute for such payments after the death of the Wife (except that the Husband or his estate shall remain liable for arrears, if any). The parties acknowledge that the maintenance arrangements, both as to amount and as to duration, as set forth in this Subdivision B are in full and final settlement of all claims for maintenance or support which the Wife and the Husband may have against each other and that they meet the reasonable needs of the Wife and the Husband as justice requires, in accordance with Section 236, Part B of the Domestic Relations Law of the State of New York. The parties acknowledge that they are each in good health and, except as herein provided, fully capable of being self-supporting. The Husband specifically waives, releases and renounces any right to receive alimony, maintenance or support of any kind from the Wife.

7. Division of Property.

A. Residences. The following provisions shall apply with respect to all residences used by the parties during their marriage other than the Townhouse, as hereinafter defined, and the Temporary Residence, as hereinafter defined:

The Wife hereby assigns to the Husband all of her right, title and interest (if any) in and to all residences used by the parties during their marriage. All items of tangible personal property (other than the Wife's personal effects) located in any such residence shall, from and after the date hereof, be the sole and exclusive property of the Husband, and the Wife hereby assigns, transfers and conveys to the Husband all of her right, title and interest in and to all such items of tangible personal property. The Husband agrees that the Wife shall retain her personal effects.

B. Purchase of Townhouse.

1. (a) The Husband has entered into an agreement to purchase a townhouse located at 17 East 75th Street, New York, New York for the sum of Ten Million Five Hundred Thousand Dollars (\$10,500,000) (the "Townhouse"). A true copy of the contract of sale (the "Contract of Sale") with respect to the Townhouse is attached hereto as Exhibit A. The Contract of Sale shall not be amended and no conditions to the purchaser's obligation to accept title or to the seller's obligations shall be waived or modified without the Wife's prior approval.

(b) Title to the Townhouse shall be taken in the Wife's sole name at the closing of the purchase of the Townhouse. To that end, the Husband shall direct the seller to issue the deed to the Townhouse to the Wife. The Wife shall not be required to assume any obligations under the Contract of Sale.

(c) The Husband agrees to pay the costs of renovating and furnishing the Townhouse as well as closing costs, including, without limitation, mansion taxes, recording charges, department searches, survey and title insurance, provided, however, that the Husband's obligation for the aggregate expenditure for the costs of renovating and furnishing the Townhouse shall not exceed Five Hundred Thousand Dollars (\$500,000). Such furnishings shall belong to the Wife.

(d) Subject to the provisions of Paragraph 2 of this Subdivision B (which supersedes this Subparagraph in the event that the Husband finances a portion of the Townhouse in accordance with the provisions of Paragraph 2 of this Subdivision), the Husband shall be responsible for and shall reimburse the Wife for fifty percent (50%) of all amounts due for homeowner's insurance, assessments and real estate taxes with respect to the

Townhouse. The Husband shall reimburse the Wife for such costs within ten (10) days of his receipt of bills or receipts showing the cost incurred. All such payments by the Husband with respect to real estate taxes shall be included in the Wife's taxable income as alimony and shall be deductible by the Husband for federal, state and local income tax purposes as the payment of alimony. The Wife shall be entitled to deduct one hundred percent (100%) of all real estate taxes and other assessments for federal, state and local income tax purposes to the extent permitted under the applicable tax laws and the Husband shall not be entitled to deduct any portion of such real estate taxes or assessments on his tax returns. All amounts paid by the Husband to the Wife equal to his contribution towards homeowner's insurance will be neither deductible to the Husband nor includible in the income of the Wife.

(e) The Wife shall be solely responsible for all other expenses in connection with the maintenance and upkeep of the Townhouse, including, without limitation, repairs, capital improvements, as hereinafter defined (subject, however, to a partial reimbursement from the Husband in accordance with the provisions of Paragraph 7 of this Subdivision), telephone and cable service, gas and electricity.

(f) Subject to the provisions of Section 12 of this Agreement (which supersedes this Subparagraph if the Wife violates the Relocation Restriction), the parties confirm that the Wife shall have the right to reside in the Townhouse for her lifetime.

(g) Except as otherwise provided herein, the Wife agrees not to transfer the Townhouse for less than adequate and full consideration (e.g., by gift or bargain sale). In addition, the Wife shall not lease the Townhouse to a third party without the Husband's prior consent, which shall not be unreasonably withheld. Any such lease shall be (i) limited to one (1) year in duration, (ii) subject to the Husband's option to purchase the

Townhouse as provided in this Agreement and (iii) terminable upon the Husband's exercise of such option.

2. (a) The parties shall, at the Husband's option, finance the Husband's obligation to purchase the Townhouse by cooperating with each other in obtaining a mortgage loan (the "Loan") in the Wife's sole name secured by a first mortgage on the Townhouse (the "Mortgage"). If the Husband does not exercise his option to procure the Loan and Mortgage upon the purchase of the Townhouse, the Husband reserves the right to obtain a Loan and Mortgage at a later date. In the event that the Husband procures the Loan and Mortgage, then the Loan and Mortgage documents shall provide that the Wife is fully exculpated of and from any liability thereunder and the lender shall look only to the Townhouse and the guarantor of the Loan, if any, subject to the lender's usual "carve-outs" for certain actions on the part of the borrower. The Wife agrees to execute and deliver any and all documents necessary to obtain the Mortgage that are customarily required by an institutional lender in New York City for similar property and consistent with the provisions of this Section. The Husband agrees to guarantee the Loan if so requested by the lending institution extending the Mortgage and shall have no rights against the Wife based thereon.

(b) The principal amount of the Mortgage shall not exceed the sum of Seven Million Five Hundred Thousand Dollars (\$7,500,000).

(c) The Husband agrees to pay all costs associated with the Mortgage including, but not limited to, the mortgage recording tax, title insurance for the mortgagee, all charges of the lender (including, but not limited to, appraisal fees, lender's attorneys' fees and expenses), recording fees for the Mortgage, attorneys' fees and environmental reports as well as costs and other actual expenses incurred by the Wife in connection with the

Loan and Mortgage and the closing of title of the Townhouse. The Husband further agrees to indemnify and defend the Wife and hold the Wife free and harmless from and against any and all loss, liability, damage or expense with respect to the Loan and the Mortgage, including any and all loss, damage or liability arising from any default or non-performance by the Husband under the Mortgage, and to pay all attorneys' fees, costs and actual expenses resulting from or made necessary by the existence of the Loan and the Mortgage and the enforcement of the Husband's obligations therewith and thereunder.

(d) The Husband agrees to pay to the Wife amounts equal to (i) the monthly interest and principal payments required to be paid by her on account of the Mortgage and (ii) one-half (1/2) of any assessments and the monthly real estate tax and homeowner's insurance escrow amount required by the Mortgage, such payments to be made by the Husband to the Wife at least seven (7) business days prior to the date on which the Wife's payments of the Mortgage are due and payable without penalty or surcharge. The Husband agrees to make such payments to the Wife until the Mortgage is satisfied. In the event that the Husband fails to make timely payments to the Wife as provided in this Subparagraph (d), the Husband shall be liable for any interest, surcharge and penalties attributable to any late payment by the Wife and agrees to indemnify, defend and hold the Wife harmless of and from any such interest, surcharge and penalties, and to reimburse her therefor.

(e) The Wife shall be prohibited from obtaining a mortgage on the Townhouse or otherwise encumbering the Townhouse other than as provided in this Paragraph 2.

3. All amounts paid by the Husband to the Wife under Paragraph 2 of this Subdivision for interest and principal payments on the Mortgage will be

neither deductible to the Husband nor includible in the income of the Wife. The Wife shall be entitled to deduct one hundred percent (100%) of all interest payments on the Mortgage for federal, state and local income tax purposes to the extent permitted under the applicable tax laws and the Husband shall not be entitled to deduct any portion of such interest payments on his tax returns.

4. Subject to the provisions of Section 12 of this Agreement (which supersedes this Paragraph if the Wife violates the Relocation Restriction), if the Wife owns the Townhouse at her death, the following provisions shall apply:

(a) If the Husband survives the Wife, the Husband shall have the option to purchase the Townhouse from the Wife's estate for an amount equal to (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths (4/7) of the excess, if any, of (x) the fair market value of the Townhouse as of the date of the Wife's death over (y) Ten Million Five Hundred Thousand Dollars (\$10,500,000). The Wife's estate shall pay all closing costs incurred by it as seller in connection with such sale (including, but not limited to, transfer taxes, attorneys' fees and other miscellaneous closing costs). Such closing costs shall be based upon the amount actually received by the Wife's estate under the provisions of this Paragraph 4(a) and shall not include brokerage commissions, since the parties acknowledge that a broker would not be necessary for this transaction. If the Husband purchases the Townhouse, he shall assume the Mortgage, if any, and shall pay (i) all costs incurred by a purchaser in connection with such purchase (including, but not limited to, title insurance, recording charges, transfer taxes, attorneys' fees and other miscellaneous closing costs) and (ii) three-sevenths (3/7) of all federal, state and local income taxes, if any, payable by the Wife's estate by reason of such sale. In the event that the Townhouse is taxable in the Wife's gross estate for federal or state estate tax

purposes at a value in excess of the amount payable by the Husband under this Subparagraph to the Wife's estate, the Husband shall reimburse the Wife's estate for any estate taxes attributable to such excess at the average marginal rate. All of the contents of the Townhouse, including, but not limited to, furniture and furnishings and the Wife's personal effects (the "Contents"), shall remain the property of the Wife's estate.

(b) For purposes of this Paragraph 4, the fair market value of the Townhouse as of the Wife's death shall be determined as follows: the Executor of the Wife's Estate and the Husband shall each select a qualified MAI appraiser within twenty (20) days after the Wife's death. Such two appraisers shall select a third qualified MAI appraiser (the "Appraiser") within thirty (30) days after the Wife's death. The Appraiser shall determine the fair market value of the Townhouse as of the Wife's death. The value stated in the Appraiser's written appraisal, which shall be delivered within ninety (90) days after the Wife's death, shall be considered the fair market value of the Townhouse as of the Wife's death for purposes hereof.

(c) (i) If the Husband chooses to exercise his option to purchase the Townhouse, he shall do so by a written instrument delivered to the Executor of the Wife's estate within sixty (60) days after his receipt of the appraisal stating the fair market value of the Townhouse as of the Wife's death. Notwithstanding the foregoing sentence, such option must be exercised in all events within nine (9) months after the Wife's death.

(ii) If the Husband chooses to exercise his option to purchase the Townhouse, the purchase price for the Townhouse shall be paid by the Husband to the Wife's estate, in cash, without interest, within one hundred twenty (120) days after the receipt by the Executor of the Wife's estate of the written instrument indicating the

Husband's desire to exercise his purchase option, provided, however, that such payment must be made in all events within nine (9) months after the Wife's death.

(d) If the Husband does not exercise his option to purchase the Townhouse, the parties agree that the Townhouse shall be sold by the Wife's estate as soon as practicable after the Husband notifies the Executor of the Wife's estate that he does not wish to purchase the Townhouse or otherwise fails to exercise his option pursuant to Subparagraph (b) of this Paragraph. The Contents shall belong to the Wife's estate. Upon the sale of the Townhouse, the Wife's estate shall receive an amount equal to (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths (4/7) of the excess, if any, of (x) the Net Sales Proceeds, as hereinafter defined, of the Townhouse over (y) Ten Million Five Hundred Thousand Dollars (\$10,500,000). The Husband shall receive the balance of the proceeds of sale of the Townhouse, if any, after his payment of three-sevenths (3/7) of all federal, state and local income taxes, if any, payable by the Wife's estate by reason of such sale. In addition, the Husband shall be responsible for satisfying the Mortgage. For purposes of this Agreement, the term "Net Sales Proceeds" shall mean the gross proceeds of sale of the Townhouse less the expenses of sale thereof (including, but not limited to, brokerage commissions, transfer taxes, attorneys' fees and other miscellaneous closing costs) but before satisfying any debt, mortgage or other encumbrances affecting the Townhouse and not including income tax on capital gain. The expenses of sale of the Townhouse shall be paid by the seller out of the proceeds of sale of the Townhouse. To the extent that the net proceeds of sale of the Townhouse are insufficient to fund the Wife's estate with (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths (4/7) of the excess, if any, of (x) the Net Sales Proceeds of the Townhouse over (y) Ten Million Five

Hundred Thousand Dollars (\$10,500,000), the Husband shall pay to the Wife's estate an amount equal to any such insufficiency, in full satisfaction of the Wife's rights under this Subparagraph.

5. Subject to the provisions of Section 12 of this Agreement (which supersedes this Paragraph if the Wife violates the Relocation Restriction), if the Wife wishes to sell the Townhouse during her lifetime, the following provisions shall apply:

(a) If the Husband is then living, the Wife shall notify the Husband of her intention to sell the Townhouse within ten (10) days of her decision to sell and before communicating with any real estate broker with respect to such intended sale. The Husband shall then have the option to purchase the Townhouse from the Wife for an amount equal to (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths ($4/7$) of the excess, if any, of (x) the Final Determination of Value, as hereinafter defined, over (y) Ten Million Five Hundred Thousand Dollars (\$10,500,000). The Wife shall pay all closing costs incurred by her as seller in connection with such sale (including, but not limited to, transfer taxes, attorneys' fees and other miscellaneous closing costs). Such closing costs shall be based upon the amount actually received by the Wife under the provisions of this Paragraph 5(a) and shall not include brokerage commissions, since the parties acknowledge that a broker would not be necessary for this transaction. If the Husband purchases the Townhouse, he shall assume the Mortgage, if any, and shall pay (i) all costs incurred by a purchaser in connection with such purchase (including, but not limited to, title insurance, recording charges, transfer taxes, attorneys' fees and other miscellaneous closing costs) and (ii) three-sevenths ($3/7$) of all federal, state and local income taxes payable by reason of such sale. The Wife shall retain the Contents.

(b) (i) If the Husband chooses to exercise his option to purchase the Townhouse, he shall do so by a written instrument delivered to the Wife

within sixty (60) days after his receipt of the Final Determination of Value of the Townhouse. Notwithstanding the foregoing sentence, such option must be exercised in all events within nine (9) months after the Wife's decision to sell the Townhouse.

(ii) If the Husband chooses to exercise his option to purchase the Townhouse, the purchase price for the Townhouse shall be paid by the Husband to the Wife, in cash, without interest, within one hundred twenty (120) days after the receipt by the Wife of the written instrument indicating the Husband's desire to exercise his purchase option.

(iii) For purposes of this Paragraph 5, the phrase "Final Determination of Value" shall mean the fair market value of the Townhouse, determined as follows: The Wife and the Husband shall each select a qualified MAI appraiser within twenty (20) days of the date that the Wife gives the Husband notice of her intention to sell the Townhouse. Such two appraisers will select a third qualified MAI appraiser (the "Appraiser") within thirty (30) days of the date that the Wife gives the Husband notice of her intention to sell the Townhouse. The Appraiser shall determine the fair market value of the Townhouse as of the date the Wife decides to sell the Townhouse. The value stated in the Appraiser's written appraisal, which shall be delivered within ninety (90) days after the Wife gives the Husband notice of her decision to sell the Townhouse, shall be considered the Final Determination of Value of the Townhouse.

(c) If the Husband does not exercise his option to purchase the Townhouse, the Wife may sell the Townhouse as soon as practicable after the Husband notifies the Wife that he does not wish to purchase the Townhouse or otherwise fails to

exercise his option pursuant to Subparagraph (b) of this Paragraph, and the following provisions shall apply:

- (i) The Husband shall be responsible for satisfying the Mortgage.
- (ii) The Wife shall retain the Contents.
- (iii) The Wife shall receive an amount equal to (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths ($4/7$) of the excess, if any, of (x) the Net Sales Proceeds of the Townhouse over (y) Ten Million Five Hundred Thousand Dollars (\$10,500,000).
- (iv) The Husband shall receive the balance of the proceeds of sale of the Townhouse, if any, after his payment of three-sevenths ($3/7$) of all federal, state and local income taxes payable by reason of such sale.
- (v) The expenses of sale of the Townhouse shall be paid by the seller out of the proceeds of sale of the Townhouse. To the extent that the proceeds of sale of the Townhouse are insufficient to pay to the Wife (i) Six Million Dollars (\$6,000,000) plus (ii) four-sevenths ($4/7$) of the excess, if any, of (x) the Net Sales Proceeds of the Townhouse over (y) Ten Million Five Hundred Thousand Dollars (\$10,500,000), the Husband shall pay to the Wife an amount equal to any such insufficiency, in full satisfaction of the Wife's rights under this Paragraph 5.
- (vi) If the Wife sells the Townhouse as permitted hereunder, the Husband shall have no further obligations under this Agreement with respect to assisting the Wife in obtaining a substitute residence.

6. The rights and obligations of the Husband under this Subdivision B shall inure to the benefit of and be binding upon his estate in the event that he dies prior to the termination of such obligations. All options to purchase the Townhouse granted to the Husband hereunder are personal to the Husband and shall not be exercised by the Husband's estate or any person acting on his behalf. In addition, if the Mortgage is outstanding at the time of the Husband's death, the Executor of his estate shall pay off the Mortgage and all costs associated therewith within ninety (90) days after the issuance of Letters Testamentary in the Husband's estate.

7. (a) Notwithstanding anything herein to the contrary, in addition to all other payments to be received by the Wife during her lifetime or by her estate upon the sale of the Townhouse as provided herein, the Husband shall pay to the Wife or her estate, as the case may be, an amount equal to fifty percent (50%) of all costs incurred by the Wife with respect to capital improvements made to the Townhouse, provided that the Husband consented to such capital improvement (which consent may not be unreasonably withheld) before it was made. The Husband shall make such payments within ten (10) days of his receipt of bills or receipts showing the cost incurred for such capital improvements.

(b) For all purposes of this Agreement, the term "capital improvements" shall include any and all items of work, labor, materials and construction undertaken in the Townhouse which are of a structural nature or involve the replacement or improvement of any mechanical, electrical or other system (including, but not limited to, the heating plant, air conditioning system and security system), the roof, exterior walls including the surfacing thereof or any other item which, in accordance with good accounting principles, would be treated as a capital expenditure and not as an item to be expensed in the year incurred.

8. (a) The Husband shall provide the Wife with a temporary rental residence (the "Temporary Residence") until the Townhouse is ready for occupancy. While the Wife is residing with the Child in such Temporary Residence, the Husband shall remain responsible for all of their reasonable living costs, including, without limitation, food, clothing, household help, rent, insurance, utilities, reasonable entertainment and travel expenses.

(b) The Husband has entered into a lease (the "Lease") with respect to the premises located at 238 East 49th Street, New York, New York for a term of five (5) months, which shall be the Temporary Residence of the Wife for the exclusive personal use of the Wife and Child until the Townhouse is ready for occupancy. In the event that the Townhouse is not ready for occupancy when the Lease expires, the Husband shall use all reasonable efforts to extend the term of the Lease until such time as it is anticipated that the Townhouse will be ready for occupancy. In the event that the Husband is unable to extend the Lease, he shall provide the Wife with a substitute Temporary Residence, to be selected by mutual agreement of the parties, until such time as the Townhouse is ready for occupancy, and the Husband shall be responsible for all expenses with respect to such substitute residence as provided in Subparagraph (a) of this Paragraph 8.

9. The parties agree to enter into and to record with the title company upon the closing of the Townhouse a memorandum reasonably satisfactory to their attorneys in both form and substance which evidences and secures the Husband's right to purchase the Townhouse pursuant to Paragraphs 4 and 5 of this Subdivision B and Section 12(A) of this Agreement. The costs of preparing and recording such memorandum shall be borne by the Husband.

10. Notwithstanding anything herein to the contrary, in the event that the closing of the Townhouse does not occur within six (6) months after the date of this Agreement, the Husband shall pay to the Wife the sum of Six Million Five Hundred Thousand Dollars (\$6,500,000) to use toward the purchase, renovation and furnishing of a substitute residence, which shall be the sole and exclusive property of the Wife. The Husband shall have no further obligations under this Agreement with respect to obtaining a residence (other than the Vacation Residence, as hereinafter defined) for the Wife.

C. Purchase of Vacation Residence.

1. The Husband agrees to purchase, in his name, a Vacation Residence (the "Vacation Residence") located either in Bridgehampton, New York or the village of East Hampton, New York (or anywhere in between such villages) to be selected by the Wife, subject to the Husband's consent (which shall not be unreasonably withheld, delayed or conditioned), for the exclusive personal use of the Wife and the Child all year round, which residence shall have a contract purchase price of no more than One Million Five Hundred Thousand Dollars (\$1,500,000). The Husband agrees that the Vacation Residence must be purchased and ready for occupancy no later than May 15, 2002. The Husband shall pay the expenses of furnishing and renovating the Vacation Residence (which furnishings and renovations shall be selected and controlled by the Wife), as well as closing costs, including, without limitation, recording charges, department searches, survey and title insurance, provided, however, that the Husband's obligation for the aggregate expenditure for the costs of renovating and furnishing the Vacation Residence shall not exceed the sum of One Hundred Twenty-Five Thousand Dollars (\$125,000).

2. If the Vacation Residence has not been purchased or if it has been purchased but is not ready for occupancy before May 15, 2001, the Husband agrees to pay the expenses of a reasonable rental property for the exclusive personal use of the Wife and the Child for the period from May 28, 2001 (Memorial Day) through September 3, 2001 (Labor Day). The parties shall mutually agree upon the selection of such rental property, the cost of which shall not exceed One Hundred Fifty Thousand Dollars (\$150,000) for such period.

3. Subject to the provisions of Section 12 of this Agreement (which supersedes this Paragraph if the Wife violates the Relocation Restriction), upon the earliest to occur of (i) the Child's graduation from college, (ii) the Child's reaching age twenty-three (23) or (iii) the Husband's death (the "Transfer Date"), the Husband agrees to transfer and convey to the Wife all of his right, title and interest in and to the Vacation Residence and its contents, which shall be delivered to the Wife free of liens, encumbrances and any indebtedness. Any contents purchased by the Wife at her expense shall be and remain her sole property.

4. Until the Transfer Date, the Husband shall be responsible for the payment of, and shall pay before delinquency, all property taxes, homeowner's insurance (which shall designate the Wife as a named insured) and reasonable repairs on the Vacation Residence. In addition, until the Transfer Date, no capital improvements shall be made to the Vacation Residence without the Husband's prior consent. To the extent that the Husband consents to any such capital improvement, the Husband shall be responsible for the payment therefor. The Wife shall pay all other expenses incurred in connection with the Vacation Residence, including, without limitation, maintenance, utilities, gardening and all costs of normal operation, other than reasonable repairs.

8. Health Insurance for the Wife. Until the death or remarriage of the Wife, as hereinbefore defined, the Husband agrees to maintain medical insurance for the benefit of the Wife comparable to that which he currently provides for her, provided, however, that if the Wife is eligible to obtain medical coverage from her employer during any period prior to her remarriage, then the Husband shall not be obligated under this Section 8 to maintain medical coverage for her benefit during any such period of eligibility, although he shall reimburse the Wife for any out-of-pocket expenses required by her employer as the Wife's contribution to the cost of such coverage. Notwithstanding anything herein to the contrary, the Wife shall have sole responsibility for the payment of any deductible in connection with her medical coverage as well as all uninsured medical expenses incurred by her.

9. Professional Fees.

A. The Husband agrees to pay all reasonable legal fees (based upon customary hourly time charges only, as ^{confirmed} verified by actual time entries) incurred by the Wife in connection with (i) the negotiation of this matter, (ii) the preparation and execution of this Agreement and related documents and (iii) any uncontested divorce proceedings.

Notwithstanding the foregoing sentence, to the extent that such legal fees exceed One Hundred Thousand Dollars (\$100,000), the parties agree that the Distributive Amount payable to the Wife under Section 6(A)(1) hereof shall be reduced by the amount of such excess. The parties further agree that \$150,000 of such legal fees and disbursements incurred by the Wife through November 28, 2000 shall be paid upon the signing of this Agreement.

B. The Husband agrees to pay all reasonable accounting fees (based upon customary hourly time charges only) incurred by the Wife in connection with the review of any joint income tax returns to be filed by the parties.

10. Therapy. The Husband agrees to pay the reasonable fees of a psychiatrist or psychologist chosen by the Wife to provide her with counseling, provided, however, that in no event shall the Husband be obligated to pay for more than two (2) sessions per week with any such psychiatrist or psychologist for two (2) years following the execution of this Agreement. The Husband also agrees to pay the reasonable fees of any psychiatrist or psychologist or other counselor chosen by mutual agreement of the parties to provide them with joint counseling with respect to the Child or otherwise.

11. Other Property.

A. Except as otherwise provided in this Agreement, all property now in the name, possession or control of the Husband, including, without limitation, interests in partnerships, limited or general, corporations or other business ventures, bank accounts, brokerage accounts, jewelry and personal effects shall be the sole and exclusive property of the Husband, and all property now in the name, possession or control of the Wife, including, without limitation, interests in partnerships, limited or general, corporations or other business ventures, bank accounts, brokerage accounts, jewelry and personal effects shall be the sole and exclusive property of the Wife.

B. The Wife hereby waives any and all rights and claims whatsoever that she ever had or now has or might hereafter have in and to (i) the Husband's degrees or licenses and (ii) the Husband's career. The Husband hereby waives any and all rights and claims whatsoever that he ever had or now has or might hereafter have in and to (i) the Wife's degrees or licenses, and (ii) the Wife's career.

12. Violation of Relocation Restriction.

A. Notwithstanding anything in this Agreement to the contrary, if it is determined under the provisions of Section 21 of this Agreement that the Wife has breached this Agreement by relocating her primary residence in violation of the Relocation Restriction, the following provisions shall apply:

1. If the Wife owns the Townhouse upon the Relocation Date, as hereinafter defined, the following provisions shall apply:

(a) The Husband shall have the option to purchase the Townhouse from the Wife, for the sum of Three Million Five Hundred Seventeen Thousand Dollars (\$3,517,000). If the Husband chooses to exercise his option to purchase the Townhouse, he shall do so by a written instrument delivered to the Wife within ninety (90) days after the Relocation Date. The purchase price for the Townhouse shall be paid by the Husband to the Wife, in cash, without interest, upon the transfer of title, within one hundred twenty (120) days after the Relocation Date. If the Husband purchases the Townhouse, he shall assume the Mortgage, if any, and shall pay (i) all costs associated with such purchase (including, but not limited to, title insurance, recording charges, transfer taxes, attorneys' fees and closing costs) and (ii) all federal, state and local income taxes payable by both parties by reason of such sale.

(b) If the Husband does not exercise his option to purchase the Townhouse, the parties agree that the Wife shall sell the Townhouse as soon as practicable after the Husband notifies the Wife that he does not wish to purchase the Townhouse or otherwise fails to exercise his option pursuant to Subparagraph (a) of this Paragraph. The Mortgage shall be paid off with the proceeds of sale of the Townhouse and the Wife shall receive the sum of Three Million Five Hundred Seventeen Thousand Dollars (\$3,517,000) from the Net

Sales Proceeds of the Townhouse. The Husband shall receive the balance of the Net Sales Proceeds of the Townhouse, if any, after his payment of all federal, state and local income taxes payable by both parties by reason of such sale. To the extent that the Net Sales Proceeds of the Townhouse are insufficient to pay Three Million Five Hundred Seventeen Thousand Dollars (\$3,517,000) to the Wife, the Husband shall pay to the Wife an amount equal to any such insufficiency.

(c) The contents of the Townhouse shall remain the sole property of the Wife regardless of whether the Husband exercises his option to purchase the Townhouse.

2. If the Wife does not own the Townhouse upon the Relocation Date, the Wife shall pay to the Husband an amount equal to the net amount the Wife received upon the sale of the Townhouse, reduced by the sum of Three Million Five Hundred Seventeen Thousand Dollars (\$3,517,000). If the net amount received by the Wife upon her sale of the Townhouse is insufficient to enable the Wife to retain Three Million Five Hundred Seventeen Thousand Dollars (\$3,517,000), the Husband shall pay to the Wife an amount equal to such insufficiency. For purposes of this Paragraph 2, the "net amount" received by the Wife shall mean the amount equal to the gross proceeds of sale of the Townhouse less (i) the expenses of sale thereof paid by the Wife (including, but not limited to, brokerage commissions, transfer taxes, attorneys' fees and other miscellaneous closing costs), (ii) any payments made by the Wife in connection with the Mortgage and (iii) all federal, state and local income taxes paid by the Wife by reason of such sale.

3. The Husband shall no longer be obligated to transfer the Vacation Residence to the Wife under Section 7(C)(3) of this Agreement and he shall, after the

Relocation Date, have full right, title and interest in and to the Vacation Residence (and any proceeds of sale therefrom) free of all claims of the Wife of any kind. The Wife shall vacate the Vacation Residence and remove her personal effects therefrom within thirty (30) days following the Relocation Date. All items of tangible personal property (other than the Wife's personal effects and any other items of tangible personal property purchased by the Wife at her expense) located in the Vacation Residence shall, from and after the Relocation Date, be the sole and exclusive property of the Husband, and the Wife hereby assigns, transfers and conveys to the Husband all of her right, title and interest in and to all such items of tangible personal property. The Husband agrees that the Wife shall retain her personal effects and any items of tangible personal property purchased by the Wife at her expense.

4. The Husband shall no longer be obligated to make the maintenance payments to the Wife set forth in Section 6(B) of this Agreement and the following provisions with respect to the payment of maintenance to the Wife shall apply:

(a) If the Relocation Date occurs before the seventh (7th) anniversary of the Start Date, the Husband shall pay to the Wife as maintenance and support the sum of Four Hundred Fifty Thousand Dollars (\$450,000) per year, payable in equal quarterly installments, on or about the first day of January, April, July and October of each year, until the earliest to occur of (i) the seventh (7th) anniversary of the Start Date, (ii) the Wife's remarriage, as hereinbefore defined, and (iii) the death of the Wife.

(b) If the Relocation Date occurs after the seventh (7th) anniversary of the Start Date, the Husband's obligation to make all further maintenance payments to the Wife shall cease immediately upon the Relocation Date.

B. The term "Relocation Date" as used in this Agreement shall mean the date upon which it is determined in accordance with the provisions of Section 21 of this Agreement that the Wife has violated the Relocation Restriction. The Wife shall be deemed to have violated the Relocation Restriction at such time as she ceases to make her primary residence within the area that is fifty (50) miles from the Whitney Museum of Art, New York, New York.

13. Satisfaction of Claims. The parties accept the provisions of this Agreement in full and complete satisfaction of any and all claims which the Wife may have against the Husband, and which the Husband may have against the Wife (except an action for divorce) with respect to their property, including rights of equitable distribution which each may have under applicable present and future laws of the State of New York, the District of Columbia or any other Jurisdiction, rights to distribution of property, rights to payments of capital sums, rights to distributive shares, separate property, community property or quasi-community property under the law of any Jurisdiction, including the law of the State of New York or the District of Columbia, and notwithstanding any contrary provision of the law of any Jurisdiction, including, but not limited to, the State of New York or the District of Columbia. Each party accepts all the terms and conditions hereof as constituting fair and equitable distribution of the marital property of the parties which is subject to distribution under and pursuant to the laws of the State of New York or the District of Columbia as now in effect or as hereafter amended.

14. Estate Matters.

A. Except as otherwise provided herein, each party hereby waives, releases and relinquishes any and all Inheritance Rights, as hereinafter defined, that he or she may have in the other party's estate upon such other party's death. This waiver shall specifically

constitute a waiver by each party of his or her right of election to take against or to benefit in any way under any Last Will and Testament or Codicil of the other party executed prior to the date of this Agreement. The term "Inheritance Rights," as used in this Agreement, shall refer to all interests which a party may now have or hereafter be entitled to under the law of any Jurisdiction, as hereinafter defined, in or to the estate of the other party, including, without limitation, dower, curtesy, community property, exempt property, homestead property, right of election against any Will of the other party, including but not limited to, any right under Section 5-1.1 or 5-1.1-A of the Estates, Powers and Trusts Law of New York (the "EPTL") or any similar right that may exist under the law of New York or any other Jurisdiction, or against any testamentary substitute, right to allowance from the estate of the other, right of succession and right to inherit from the other party as a spouse or intestate distributee and the right to qualify or serve as executor, administrator or personal representative of the estate of the other party. Notwithstanding any provisions of this Section 14 to the contrary, the Wife shall have the right to serve as a co-Trustee of any trust for the benefit of the Child referred to in Section 5(F) of this Agreement.

B. It is the intention of the parties that their respective estates shall be administered and disposed of in all respects without regard to their marriage. However, nothing contained in this Section is intended to or shall constitute (i) a waiver of any rights or claims by either party that he or she may have against the other's estate for a breach of this Agreement or for arrears; or (ii) a waiver by either party of any testamentary provisions which the other may voluntarily make for him or her in a Will executed after the date of this Agreement.

C. The consideration for each party's waiver and release of his or her rights as spouse in the other party's estate shall be the other party's reciprocal waiver and release.

D. Each party, in the event of the death of the other party, whether such party dies testate or intestate, will, whenever requested by the deceased party's executor, administrator or other legal representative execute, acknowledge or deliver any instruments which, in the opinion of such executor, administrator or other legal representative are necessary to effectuate the waiver of his or her right of election against the Last Will and Testament of the other, dower, courtesy and other rights to take as distributee, heir or next-of-kin and the like referred to herein.

15. Income Taxes. The parties have heretofore filed joint federal, state and local income tax returns for the years of their marriage through the year 1998. The parties shall file joint income tax returns for 1999. The parties shall file joint income tax returns for the calendar year 2000, if the Husband so elects by notice to the Wife no later than March 15, 2001.

A. As to all such joint returns through and including the calendar year 2000, the Husband shall pay all taxes due with respect thereto (other than amounts deducted from the Wife's paychecks for 1999 and 2000) and he shall indemnify and hold the Wife harmless against any deficiency assessment, including penalties and interest, with respect to any such joint income tax returns. The Husband shall pay all expenses in connection with the preparation of such joint returns and in defending any audits or other proceedings involving such joint returns. Each party represents to the best of his or her knowledge that all Federal, State and local income taxes on all joint tax returns previously filed by the parties have been paid, that no interest or penalties are due and that no tax deficiency proceeding is pending or threatened with respect to same.

B. The Husband and Wife shall cooperate fully with each other in the event of any audit or examination of their joint tax returns by a taxing authority. The Husband

and Wife shall each, promptly and without charge, deliver to the party being examined or their designees, all papers, records, documents, authorizations and information as may be needed in connection with the audit or examination.

16. Voluntary Payments. Any payments voluntarily made by either party to the other at any time after the execution of this Agreement shall neither alter either party's legal obligations hereunder nor create any precedent for the future. Such excess payments shall not be construed as proof or indication of (a) the payor's ability to make increased payments, or (b) the other party's need therefor; and, accordingly, they shall not be used or referred to in any action or proceeding for evidentiary purposes or otherwise.

17. Debts. The Husband represents, warrants and covenants that he has not, as of the date hereof, nor will he hereafter, incur or contract any debt, charge, obligation or liability for which the Wife, her legal representatives or her property or estate is or may become liable. The Wife represents, warrants and covenants that she will not, after the Separation Date, incur or contract any debt, charge, obligation or liability for which the Husband, his legal representatives or his property or estate is or may become liable. Each party agrees to indemnify and hold the other party harmless from all loss, expenses (including reasonable attorneys' fees) and damages in connection with or arising out of a breach by such party of such party's foregoing representation, warranty and covenant to the other party.

18. Mutual Releases.

Except for the obligations, promises and agreements herein set forth and to be performed by the parties hereto, which are hereby expressly reserved, each of the parties hereby, for himself and herself and for his or her legal representatives, forever releases and discharges the other from any and all cause or causes of action, claims, debts, rights or demands

whatsoever, in law or equity, which either party ever had, or now has against the other, except any and all cause or causes of action for divorce, it being the intention of the parties that henceforth there shall exist between them no rights or obligations which are not specifically provided for in this Agreement.

19. Reconciliation and Matrimonial Decrees.

A. This Agreement shall not be invalidated or otherwise affected by a temporary reconciliation between the parties or a resumption of marital relations between them unless such reconciliation or such resumption shall be accompanied by a written statement signed and acknowledged by the parties with respect to such reconciliation and resumption, and in addition, setting forth that they are canceling this Agreement, and this Agreement shall not be invalidated or otherwise affected by a decree or judgment of separation or divorce made by a court in any action which may hereafter be instituted by either party against the other for a decree or judgment of separation of marriage or divorce, and the obligations and covenants of this Agreement shall survive any decree or judgment of separation or divorce, and shall not merge therein.

B. The provisions of this Agreement shall not be construed to preclude either of the parties hereto from maintaining a suit for absolute divorce against the other in any Jurisdiction upon any grounds recognized as lawful in such Jurisdiction. If any final decree of divorce shall be entered in any action, the provisions of this Agreement shall be incorporated by reference in and made a part of such decree, and shall survive and not merge therein.

C. Both parties agree that no judgment, order or decree in any action for divorce or separation, whether brought in the State of New York, or in any other state or

country having jurisdiction of the parties hereto, shall make any provisions for alimony, support or maintenance or affect the property rights of either party inconsistent with the provisions of this Agreement, but if any provision shall be made in any judgment, order or decree which is inconsistent with the provisions of the Agreement, or imposes a different or greater obligation on either of the parties hereto than provided in this Agreement, the provisions of this Agreement shall take precedence and shall be the sole obligation of both parties hereto.

20. Confidentiality.

A. Each party agrees that the terms and provisions of this Agreement and all personal aspects of their relationship and their personal and business matters shall be kept confidential and, except as required in connection with the implementation of this Agreement, including obtaining a divorce between the parties or any proceeding to enforce the terms hereof, or to defend against any action brought with respect to this Agreement, shall not be knowingly and intentionally disclosed, orally or in writing, to any person or entity other than the Child or a party's attorney, accountant, therapist, clergy, medical doctor, spouse, sibling or parent (who shall each be directed to keep the terms of this Agreement confidential) or to comply with any federal or state laws or regulations or to respond to compulsory legal process in any proceeding in which a party is required by subpoena or otherwise to disclose such information, or in connection with any suit, action or proceeding between or involving the parties; provided that each party agrees, at the request of the other party, to ask the court to seal the record. Nothing in this Agreement shall preclude the disclosure of any information to a third party (who shall be directed to keep such information confidential) when the disclosure of such information is necessary for the well-being of the Child.

B. Each party further covenants and agrees that he or she shall not, in any public manner or forum (or in any manner or forum that is likely to become public), knowingly and intentionally make disparaging remarks about the personal, private, family or intimate life of the other party (including without limitation the other's family or future spouses) nor about the business affairs, business conduct, business associates, assets or investments of the other party. Each party undertakes to use his or her best efforts to insure that no third parties shall act in a manner inconsistent with the parties' obligations under this Section.

C. Without limiting the generality of Subdivisions A and B of this Section, neither party shall, without obtaining the other's written consent in advance, knowingly and intentionally publish, or cause to be published, any diary, memoir, letter, story, photograph, interview, article, third party report, investigative report, investigative photograph, essay, account, or description or depiction of any kind whatsoever, whether fictionalized or not, concerning the personal relationship with and marriage to the other or any other aspect of the other party's personal, business or financial affairs, or knowingly and intentionally assist or provide information to others in connection with the publication or dissemination of any such material or excerpts thereof. As used in the preceding sentence, the terms "publish" and "publication" shall be deemed to include the presentation or reproduction of written, oral or visual material in any communication medium, including without limitation, books, magazines, newspapers, the Internet, theatrical productions of any kind, movies, television, or radio, in any language and in any jurisdiction.

D. The separation of the parties was announced publicly by the Husband on August 2, 2000. No other public statement shall be made by either party with respect to their separation.

E. Any violation of the terms of this Section shall constitute a material breach of this Agreement. In the event either party breaches any of the foregoing covenants, the following terms shall apply:

1. The non-breaching party shall have the right to seek the granting of a temporary or permanent injunction against the alleged breaching party (or against any agent acting on his or her behalf) by any court of competent jurisdiction prohibiting him or her (or his or her agent) from violating the terms of this Section. In any proceeding for an injunction, each party agrees that his or her ability to answer in damages shall not be a bar or interposed as a defense to the granting of a temporary or permanent injunction. The parties further agree that neither will have an adequate remedy at law in the event of any breach by the other hereunder and he or she will suffer irreparable damage and injury in the event of any such breach.

2. The non-breaching party shall retain his or her rights under law and, in addition, each party agrees to indemnify the other party against and to reimburse the other party for any and all reasonable attorneys' fees, costs and other actual expenses resulting from any breach, or in defending against any alleged breach, as provided in Section 22 of this Agreement, but subject to the limitation set forth in Section 23 of this Agreement.

3. (a) If the Wife is the breaching party and such breach occurs before the seventh (7th) anniversary of the Start Date, the maintenance provisions in Section 6(B) of this Agreement shall be null and void and the Husband shall instead pay to the Wife as maintenance and support the sum of Four Hundred Fifty Thousand Dollars (\$450,000) per year, payable in equal quarterly installments, on or about the first day of January, April, July and October of each year, until the earliest to occur of (i) the seventh (7th) anniversary of the

Start Date, (ii) the Wife's remarriage, as hereinbefore defined, and (iii) the death of the Wife. If such breach occurs after the seventh (7th) anniversary of the Start Date, the Husband's obligation to make all further maintenance payments to the Wife shall cease immediately upon the determination (pursuant to Section 21 of this Agreement) that such breach occurred.

(b) In the event that a party breaches any of the foregoing provisions of this Section, the other party shall be entitled to receive the sum of One Million Dollars (\$1,000,000) from the breaching party.

(c) Notwithstanding anything in this Section to the contrary, with respect to the Wife's breach of the provisions of this Section, the penalty that the Wife would otherwise be required to pay to the Husband under this Paragraph shall be offset by any future maintenance payments that would otherwise be payable to the Wife in the absence of such breach, taking into account the Wife's marital status and life expectancy on the date such breach is determined to have occurred. By way of example, if the Wife were to breach the provisions of this Section nine (9) years after the Start Date, the One Million Dollar (\$1,000,000) penalty hereunder would be offset entirely because the maintenance payments remaining in the absence of such breach would total more than One Million Dollars (\$1,000,000).

Notwithstanding anything herein to the contrary, such offset shall only apply once.

(d) The penalty provisions set forth in this Paragraph shall only become operative upon the formal determination that a material breach has occurred in accordance with the provisions of Section 21 of this Agreement.

21. Binding Arbitration.

A. To the extent that a dispute arises between the parties with respect to whether (i) the Wife has violated the Relocation Restriction under Section 12 of this

Agreement or (ii) the confidentiality restrictions under Section 20 of this Agreement have been violated, the parties agree to submit such dispute to arbitration with the Designated Arbitrator, as hereinafter defined, within thirty (30) days from the date the party alleging a violation of the Relocation Restriction or the confidentiality restrictions, as the case may be, gives written notice to the other party that such violation has occurred. Unless otherwise agreed to in writing by the parties, such Designated Arbitrator shall conduct hearings in the City, County and State of New York, in lieu of any court proceeding. Such arbitration shall be binding on both parties.

B. The Designated Arbitrator shall be authorized to set the rules of the arbitration proceeding. The parties agree that the Designated Arbitrator shall also be authorized to reduce the penalties for a breach of confidentiality imposed under Section 20(E)(3) of this Agreement if such Designated Arbitrator decides in his or her absolute discretion that such breach did not result in harm to the non-breaching party. Such Designated Arbitrator shall also decide the timing of any penalty payments imposed upon the breaching party.

C. The Designated Arbitrator shall conduct such hearings as he or she deems necessary in his or her absolute discretion and shall render a decision within ninety (90) days after the initiation of the claim. The parties agree to abide by the Designated Arbitrator's award without the necessity of obtaining an order confirming such award from any court. The prevailing party shall recover from the other party reimbursement for the prevailing party's reasonable attorneys' fees and other expenses (including but not limited to the Designated Arbitrator's fee and other costs of the arbitration proceedings), the reasonableness of such attorneys' fees and other expenses to be determined by the Designated Arbitrator as part of his or her award.

D. The parties agree that within ninety (90) days of the execution of this Agreement, the parties shall mutually select an individual to serve as the Designated Arbitrator and two individuals to serve as alternate Designated Arbitrators (in the order so stipulated by the parties) in the event that the initial Designated Arbitrator is unable or then unwilling to serve. If the parties cannot agree upon such selection within such ninety (90) day period, or thereafter, as the case may be, the parties shall apply when it becomes necessary to have a Designated Arbitrator to the Chief Judge of the District Court of the Southern District of New York or the presiding judge of the New York Supreme Court for New York County and such person shall select such Designated Arbitrator and alternate Designated Arbitrators in his or her absolute discretion, provided, however, that the Designated Arbitrator must be a disinterested person with no present or past personal or business relationship with either of the parties or any of his or her business entities, business associates or employees.

22. Counsel Fees in the Event of Default.

In the event that either party defaults with respect to any obligation under this Agreement and such default is not remedied within thirty (30) days after written notice specifying the default is sent to the defaulting party and such defaulting party's counsel in the manner provided in Section 24 of this Agreement, the defaulting party agrees to indemnify the other party against and to reimburse the other party for any and all expenses, costs and reasonable attorneys' fees resulting from or made necessary by any suit or other proceeding brought to enforce any of the terms, covenants or conditions of this Agreement to be performed or complied with by the other, provided that such suit or other proceeding results in a judgment, decree, determination or order of settlement in favor of the other. In the event such suit or other proceeding does not result in a judgment or order in favor of the party bringing such suit or other

proceeding, the party who brought the action shall reimburse the other party for any and all expenses, costs and reasonable attorneys' fees of the other party resulting from or made necessary by such suit or other proceeding. For purposes of this Agreement, it is understood and agreed that if either party institutes a suit or other proceeding against the other to enforce any term, covenant or condition of the Agreement, and after the institution of such action or proceeding, but before judgment is or can be entered, such breaching party shall comply with such term, covenant or condition of the Agreement, then and in that event, the suit or other proceeding shall be deemed to have resulted in a judgment, decree or order in favor of the non-breaching party.

23. Limitation on Penalties.

Except as provided in Section 12 of this Agreement (which provides for additional penalties that are not covered by the limitation on penalties set forth in this Section 23), the aggregate amount that the Wife shall be required to pay the Husband under this Agreement, after applying the offset provided in Section 20(E)(3)(c) of this Agreement, shall not exceed the sum of Two Million Dollars (\$2,000,000).

24. Notice.

All notices or other communications by either party required under this Agreement shall be in writing and sent to the other party either by (i) delivery by hand of such notice to the other party and his or her counsel, the receipt of which shall be acknowledged in writing by such other party and his or her counsel, or (ii) depositing an envelope containing such notice in a post office box of the United States Postal Service by certified mail, return receipt requested, addressed to the other party and his or her counsel at the addresses set forth below unless such party and/or his or her counsel shall give notice of change of address by like certified

mail; and notice shall be deemed to have been sent for all purposes under this Agreement when received by both the other party and his or her counsel.

A. All notices to the Wife shall be sent to her as follows:

238 East 49th Street
New York, New York

and

Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, New York 10038
Attn: Anita S. Rosenbloom, Esq.

B. All notices to the Husband shall be sent to him as follows:

950 Fifth Avenue
New York, New York 10021

and

Schulte Roth & Zabel LLP
900 Third Avenue
New York, New York 10022
Attn: William D. Zabel, Esq.

25. Disclosure of Assets.

A. The parties confirm that (i) to the extent they have each deemed it advisable and appropriate, they have exchanged and received all relevant financial information, (ii) the parties offered to respond fully, directly and through their attorneys, to all questions each party's respective attorneys might have concerning such financial disclosure; (iii) the parties regard such disclosure as full and complete, both in form and substance, and (iv) upon advice of each party's independent counsel, each party is fully aware of and understands all of the rights which he or she is surrendering or releasing pursuant to this Agreement. Each party agrees that to the extent that any assets, income or liabilities have not been disclosed for any reason to either

of them, disclosing such additional assets or liabilities would not be relevant in their determination to enter into this Agreement, and shall be no bar to the enforcement of this Agreement or any provision hereof because their knowledge of the assets and liabilities which have been disclosed is sufficient basis for this Agreement.

B. Each party represents that he or she has afforded the other party and his or her respective counsel full and complete access to all information concerning that party's expenses, income, assets, liabilities and assets transferred. Each party acknowledges that he or she and his or her respective counsel has been afforded access to the expenses, income, assets, property, liabilities, and assets transferred of the other party. Each party also is aware of his or her right (a) to request the other party's deposition, (b) to request discovery and inspection of the other party's financial records and documents, business and personal, and (c) to have accountants, appraisers or others investigate, appraise or evaluate the other party's income, business, property, and financial records and documents. Each party waives these rights and has instructed his or her attorney not to take any further steps, themselves, or through others, in connection with depositions, discovery, inspection, investigation, appraisal or evaluation of the other party's expenses, income, property, liabilities or assets transferred, and represents that each is fully satisfied with the financial disclosure made by the other party in connection with this Agreement.

C. Each party specifically acknowledges his or her right to require from the other party a current fully executed, sworn official form Statement of Net Worth (as set forth in Rule 202.16 of the Rules of the Court Administrator, New York Rules of Court), which discloses current expenses, income, assets, liabilities and assets transferred and each of them acknowledges that they are cognizant of the significance of this current Statement of Net Worth.

Each party hereby knowingly, and after full consultation with counsel, waives his or her right to obtain, review and analyze such current Statement of Net Worth.

26. General Provisions.

A. This Agreement and all the obligations and covenants hereunder shall bind the parties hereto, their heirs, executors, administrators, legal representatives and assigns, and shall inure to the benefit of their respective heirs, executors, administrators, legal representatives and assigns.

B. Each of the parties hereto shall at any time, and from time to time, hereafter execute and deliver any and all further instruments and assurances and perform any act that the other party may reasonably request for the purpose of giving full force and effect to the provisions of this Agreement.

C. For purposes of this Agreement, the term "Jurisdiction" shall mean the United States or any state, subdivision or territory thereof including, without limitation, the State of New York and the District of Columbia, and any foreign country or any state, subdivision or territory thereof.

D. The parties acknowledge that this Agreement is fair and equitable, and that they are entering into it freely and voluntarily and not as a result of any duress or undue influence. The Wife acknowledges that she has been represented by Anita S. Rosenbloom, Esq. of the law firm of Stroock & Stroock & Lavan LLP and the Husband acknowledges that he has been represented by William D. Zabel, Esq. and Susan Blackman Tilson, Esq. of the law firm of Schulte Roth & Zabel LLP. The parties acknowledge that they have ascertained and weighed all of the facts and circumstances likely to influence their judgments herein; that they have been duly apprised of their respective legal rights, that all the provisions hereof, as well as all

questions pertaining thereto, have been fully and satisfactorily explained to them; that they have given due consideration to such provisions and questions; and that they have read the Agreement prior to signing and they clearly understand and assent to all the provisions hereof.

E. In the event that any term, provision, Paragraph, Subdivision or Section of this Agreement is declared illegal, void or unenforceable, it shall not affect or impair the other terms, provisions, Paragraphs, Subdivisions or Sections of this Agreement. The doctrine of severability shall be applied. The parties do not intend, by this statement, to imply the illegality, voidness or unenforceability of any term, provision, Paragraph, Subdivision or Section of this Agreement.

F. The parties affirm that this Agreement sets forth the entire understanding of the parties and supersedes all other agreements, written or oral, between the parties executed or made prior to the signing of this Agreement.

G. Each party acknowledges and confirms that should any ambiguities exist in this Agreement, the same shall not automatically be construed against a party merely because that party's legal counsel drafted the provision in issue.

H. Neither this Agreement nor any provisions hereof shall be amended, waived or modified or deemed amended, waived or modified except by an agreement, in writing, identifying each particular provision amended, waived or modified, and duly subscribed and acknowledged by both parties with the same formality as this Agreement. No oral representation shall constitute an amendment, waiver or modification even if substantially and detrimentally relied upon. Any waiver by either party of any provision of this Agreement or any right or option hereunder shall not prevent or stop such party from thereafter enforcing such provision, right or option, and the failure of either party to insist in any one or more instances

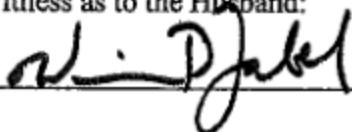
upon the strict performance of any of the terms or provisions of this Agreement by the other party shall not be construed as a waiver or relinquishment for the future of any such term or provision, but the same shall continue in full force and effect. Neither party shall make any application in any forum which seeks as all or part of the relief a modification, in whole or in part, of any of the terms of this Agreement, or to set aside, in whole or in part, any of the terms of this Agreement. To the extent that any law permits a party to make an application for a modification of this Agreement, or to make an application to set aside this Agreement, each party expressly waives such right.

I. Each party shall take all steps necessary if the other party so requests to enable them to obtain a religious divorce. The Husband shall pay the cost of obtaining such religious divorce.

J. This Agreement and all of the rights and obligations of the parties hereunder shall be construed according to the internal laws of the State of New York as an agreement made and to be performed within such state, without regard to conflict of law principles.

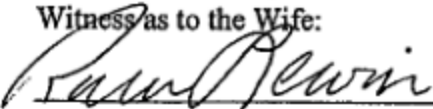
IN WITNESS WHEREOF, the parties have hereunto set their respective hands and seals the day and year first above written.

Witness as to the Husband:



 [L.S.]
MORTIMER B. ZUCKERMAN

Witness as to the Wife:



 [L.S.]
MARLA PRATHER

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this *1st* day of *December*, 2000, before me, the undersigned, a Notary Public in and for the State of New York, personally appeared MORTIMER B. ZUCKERMAN, 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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
ALICE LYNN WITKOWSKI
NOTARY PUBLIC, State of New York
No. 31-4525272 - New York County
Commission Expires Oct. 31, ~~1998~~ *2002*

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this *30th* day of *November*, 2000, before me, the undersigned, a Notary Public in and for the State of New York, personally appeared MARLA PRATHER, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

DEBORAH OLSEN
Notary Public, State of New York
No. 020L6038859
Qualified in Richmond County
Commission Expires April 10, 2002

EXHIBIT A

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