

At the *Matrimonial/IAS* Part \_\_\_\_\_  
of New York State Supreme Court at  
the Courthouse, \_\_\_\_\_  
County, on \_\_\_\_\_.

Present:

Hon. \_\_\_\_\_ *Justice/Referee*  
-----X

Index No.:  
Calendar No.:

Plaintiff,  
-against-

**FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW**

Defendant.  
-----X

The issues of this action having  *been submitted to* **OR**  *been heard* before me  
as one of the *Justices/Referees* of this Court at Part \_\_\_\_\_ hereof, held in and for the County  
of \_\_\_\_\_ on \_\_\_\_\_, and having considered the allegations and proofs  
of the respective parties, and due deliberation having been had thereon.

NOW, after  *reading and considering the papers submitted*  *hearing the testimony*,  
I do hereby make the following findings of essential facts which I deem established by the evidence  
and reach the following conclusions of law.

**FINDINGS OF FACT**

**FIRST:** Plaintiff and Defendant were both eighteen (18) years of age or over when this  
action was commenced.

**SECOND:**

A)  The  *Plaintiff*  *Defendant* has resided in New York State for a continuous period of at least two  
years immediately preceding the commencement of this divorce action.

-----**OR**-----

B)  The  *Plaintiff*  *Defendant* resided in New York State on the date of commencement of this

divorce action and for a continuous period of one year immediately preceding the commencement of this divorce action **AND:**

a.  the parties were married in New York State.

**or**

b.  the parties have resided as married persons in New York State.

===== **OR** =====

C)  The cause of action occurred in New York State and  *Plaintiff*  
 *Defendant* resided in New York

State for a continuous period of at least one year immediately preceding the commencement of this divorce action.

===== **OR** =====

D)  The cause of action occurred in New York State and both parties were residents at the time of commencement of this divorce action.

**11** **THIRD:** The Plaintiff and the Defendant were married on the date of \_\_\_\_\_ in the City, Town or Village of \_\_\_\_\_, County of \_\_\_\_\_, State or Country of \_\_\_\_\_; in a  *civil* **OR**  *religious* ceremony.

**12** **FOURTH:** That no decree, judgment or order of divorce, annulment or dissolution of marriage has been granted to either party against the other in any Court of competent jurisdiction of this state or any other state, territory or country, and that there is no other action pending for divorce by either party against the other in any Court.

**13** **FIFTH:** That this action was commenced by filing the  *Summons With Notice* **OR**  *Summons and Verified Complaint* with the County Clerk on \_\_\_\_\_. Defendant was served  *personally* **OR**  *pursuant to Court order dated* \_\_\_\_\_ with the above stated pleadings and the Notice of Automatic Orders. Defendant  *defaulted in appearance* **OR**  *appeared and waived his / her right to answer* **OR**  *filed an answer / amended answer withdrawing any previous pleading, and neither admitting nor denying the allegations in plaintiff's complaint, and consenting to entry of judgment.*

**14** **SIXTH:**  That Defendant is not in the military service of the United States of America, the State of New York, or any other state. **OR**  Defendant is a member of the military service of the \_\_\_\_\_ and  has appeared by affidavit and does not oppose the action **OR**  is in default.

**15**                **SEVENTH:**    There are no children of the marriage   **OR**    There *is/are* \_\_\_\_\_ child(ren) of the marriage. Their name(s), social security number(s), address(es) and date(s) of birth are:

| <u>Name &amp; Social Security Number</u> | <u>Date of Birth</u> | <u>Address</u> |
|--|----------------------|----------------|
| _____                                    | _____                | _____          |
| _____                                    | _____                | _____          |
| _____                                    | _____                | _____          |
| _____                                    | _____                | _____          |

**16**                **EIGHTH:** The grounds for divorce that are alleged in the Verified Complaint were proved as follows:

**Cruel and Inhuman Treatment (DRL §170(1)):**

- At the following times Defendant committed the following act(s) which endangered the Plaintiff’s physical or mental well being and rendered it unsafe or improper for Plaintiff to continue to reside with Defendant.

(State the facts that demonstrate cruel and inhuman conduct giving dates, places and specific acts. Conduct may include physical, verbal, sexual or emotional behavior).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(Attach an additional sheet, if necessary).**

**Abandonment (DRL 170(2)):**

- That commencing on or about \_\_\_\_\_, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant left the marital residence of the parties located at \_\_\_\_\_, and did not return. Such absence was without cause or justification, and was without Plaintiff’s consent.
- That commencing on or about \_\_\_\_\_, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant refused to have sexual relations with the Plaintiff despite Plaintiff’s repeated requests to resume such relations. Defendant does not suffer from any disability which would prevent *her / him* from engaging in such sexual relations with Plaintiff. The refusal to engage in sexual relations was without good cause or justification and occurred at the marital residence located at \_\_\_\_\_.

That commencing on or about \_\_\_\_\_, and continuing for a period of more than one (1) year immediately prior to commencement of this action, the Defendant willfully and without cause or justification abandoned the Plaintiff, who had been a faithful and dutiful spouse, by depriving Plaintiff of access to the marital residence located at \_\_\_\_\_. This deprivation was without the consent of the Plaintiff and continued for a period of greater than one year.

**Confinement to Prison (DRL §170(3)):**

That after the marriage of Plaintiff and Defendant, Defendant was confined in prison for a period of three or more consecutive years, to wit: that Defendant is/was confined in \_\_\_\_\_ prison on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and remained confined until the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; **OR**  remains confined to this date.

*Name of correctional facility*  
*Month*                      *Year*                      *Month*                      *Year*

**Adultery (DRL §170(4)):**

That on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ the Defendant voluntarily committed of an act of sexual or deviate sexual intercourse with a person other than the Plaintiff after the marriage of Plaintiff and Defendant.

*Month*                      *Year*                      *Location*

**Living Separate and Apart Pursuant to a Separation Decree or Judgment of Separation (DRL §170(5)):**

- (a) That the \_\_\_\_\_ Court, \_\_\_\_\_ County, \_\_\_\_\_ (Country or State) rendered a decree or judgment of separation on \_\_\_\_\_, under Index Number \_\_\_\_\_; and
- (b) that the parties have lived separate and apart for a period of one year or longer after the granting of such decree; and
- (c) that the Plaintiff has substantially complied with all the terms and conditions of such decree or judgment.

**Living Separate and Apart Pursuant to a Separation Agreement (DRL §170(6)):**

- (a) That the Plaintiff and Defendant entered into a written agreement of separation, which they subscribed and acknowledged on \_\_\_\_\_, in the form required to entitle a deed to be recorded; and
- (b) that the *agreement / memorandum of said agreement* was filed \_\_\_\_\_ in the Office of the Clerk of the County of \_\_\_\_\_, wherein *Plaintiff / Defendant* resided; and
- (c) that the parties have lived separate and apart for a period of one year or longer after the execution of said agreement; and
- (d) that the Plaintiff has substantially complied with all terms and conditions of such agreement.

**Irretrievable Breakdown in Relationship for at Least Six Months (DRL §170(7)):**

That the relationship between Plaintiff and Defendant has broken down irretrievably for a period of at least six months as stated in  the Plaintiff's Affidavit or  a sworn statement of Defendant.



**B) No maintenance was awarded because:**

- i)  Neither party seeks maintenance **OR**
  - ii)  the Guideline Award of Maintenance under the Maintenance Guidelines Law, if applicable, was zero; **OR**
  - iii)  The Court has denied the request for maintenance
- (Skip the rest of Paragraph TENTH and Go on to Paragraph ELEVENTH)**  
**OR**
- 
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**C) Court Determination Where the Action for Divorce was Commenced Before January 25, 2016**

The court has determined that  Plaintiff will pay maintenance to  Plaintiff in the  
 Defendant  Defendant in the

sum of \$ \_\_\_\_\_, for a period of \_\_\_\_\_;

per week  
 bi-weekly  
 per month  
 semi-monthly

commencing on \_\_\_\_\_, and expiring on \_\_\_\_\_. In making such award, the court has considered the factors contained in DRL § 236(B)(6)(a) as it existed before January 25, 2016, which are incorporated herein by reference. The court has set forth the reasons for its decision in a writing.

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**D) Court Determination Where the Action for Divorce was Commenced on or after January 25, 2016**

1. Fill in the the following information:

(i)- The adjusted gross income of the Plaintiff is \$ \_\_\_\_\_ and the adjusted gross income of the Defendant is \_\_\_\_\_ per year (copy your answers from Form UD-8(1) Annual Income Worksheet Lines 1A and 1B)

(ii) The date of your marriage \_\_\_\_\_; The date your divorce action was commenced \_\_\_\_\_;  
The number of years you were married to the date your divorce action was commenced : \_\_\_\_\_

(iii) The range that maintenance would be payable according to the Advisory Schedule for Duration of Award in Appendix E \_\_\_\_\_ (copy your answers from Line 4a of Maintenance Guidelines Worksheet (form UD-8(2))).

**2. Check which boxes below apply:**

Child Support will not be paid for children of the marriage; **OR**  Child Support will be paid for children of the marriage (Note: see page 7 of the Instructions for the definition of "children of the Marriage.")

Maintenance Payor is the custodial parent; **OR**  Maintenance Payee is the custodial parent (copy your answers from Lines 2A and 2B of the Maintenance Guidelines Worksheet.

**3. Based on the foregoing, the court has determined that:**

(i)  Plaintiff  Defendant

is the Maintenance Payor (“Maintenance Payor”) under the “Maintenance Guidelines Law” pursuant to DRL § 236(B)(6) who will pay maintenance to  Plaintiff  Defendant (The “Maintenance Payee”) in the sum of \$ \_\_\_\_\_  per week  bi-weekly  per month  semi-monthly (the “Award”) for a period of \_\_\_\_\_; commencing on \_\_\_\_\_, and expiring on \_\_\_\_\_.

(ii) The guideline amount of maintenance that would be payable under the Maintenance Guidelines on income of Maintenance Payor up to \$184,000 is \$ \_\_\_\_\_ per year (from Paragraph 3B of Maintenance Guidelines Worksheet).  The Award includes an annual award of \$ \_\_\_\_\_ on income of Maintenance Payor up to \$184,000 per year. In computing said Award, the court  applied the Maintenance Guidelines Law; OR  adjusted the guideline award of maintenance due under the Maintenance Guidelines Law because it is unjust and inappropriate based on one or more of the factors in DRL 236B(6)(e)(1), as follows, including the effect of a barrier to remarriage on said factors where appropriate:

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(iii) **If Income of Maintenance Payor exceeds \$184,000 per year:**

The Award includes an award of maintenance on \$ \_\_\_\_\_ of Maintenance Payor’s income in excess of \$184,000 per year based on one or more of the factors in DRL 236B(6)(e)(1), as follows, including the effect of a barrier to remarriage on said factors where appropriate:

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**OR**

The Award did not include any maintenance on income of Maintenance Payor in excess of \$184,000 per year based on one or more of the factors in DRL 236B(6)(e)(1), as follows, including the effect of a barrier to remarriage on said factors where appropriate: \_\_\_\_\_

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(iv)  Since the Maintenance Payor has defaulted, and/or the court was provided with insufficient evidence, the award of maintenance was based on the needs of the Maintenance Payee or the standard of living of the parties prior to the marriage, whichever is greater.

(v) The court determined that the Award should be paid until \_\_\_\_\_. In determining how long the Award should be paid, the court considered the factors in DRL § 236(B)(6)(e)(1), and based its decision on one or more of said factors as stated below, including the effect of a barrier to remarriage on said factors where appropriate,

\_\_\_\_\_

\_\_\_\_\_

In determining how long the Award should be paid, the court also  *considered*  *did not consider* the Advisory Schedule in DRL § 236(B)(6)(f)(1) pursuant to which the award would have been paid for \_\_\_\_\_ years.

In determining how long the Award should last, the court

- considered anticipated retirement assets, benefits, and retirement eligibility age of both parties* **OR**  
 *anticipated retirement assets, benefits, and retirement eligibility age of both parties was not ascertainable;*

**19** **ELEVENTH:** The minor children of the marriage now reside with  *Plaintiff* **OR**  *Defendant* **OR**  *third party*, namely \_\_\_\_\_. The  *Plaintiff* **OR**  *Defendant* is entitled to visitation away from the custodial residence. The  *Plaintiff* **OR**  *Defendant* **OR**  *Third Party, namely* \_\_\_\_\_ is entitled to custody. **OR**  No award of custody due to the minor child(ren) of the marriage not residing in New York State. **OR**  Other custody arrangement (specify) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Allegations of domestic violence and/or child abuse  were or  were not made in this case; Where such allegations were made, the Court  has found that they were supported by a preponderance of the evidence, and has set forth on the record or in writing how such findings, facts and circumstances were factored into the custody or visitation direction or  has found that they were not supported by a preponderance of the evidence.

**20** **TWELFTH:** Equitable Distribution and ancillary issues shall be  *in accordance with the settlement agreement* **OR**  *pursuant to the decision of the court* **OR**  *Equitable*

*Distribution is not an issue.*

**21** **THIRTEENTH:**  There *is/are* no unemancipated child(ren) of the marriage. **OR**

The award of child support is based upon the following:

(A) The unemancipated children of the marriage entitled to receive support are:

| <u>Name</u> | <u>Date of Birth</u> |
|-------------|----------------------|
| _____       | _____                |
| _____       | _____                |
| _____       | _____                |
| _____       | _____                |
| _____       | _____                |

(B) (1) By order of \_\_\_\_\_ Court, \_\_\_\_\_ County, *Index/Docket No.* \_\_\_\_\_ dated \_\_\_\_\_ the *Plaintiff/Defendant* was directed to pay the sum of \_\_\_\_\_ per \_\_\_\_\_ for child support. Said Order shall continue.

**OR**

(2) The adjusted gross income of the Plaintiff who is the  *custodial* **OR**  *non-custodial* parent is \_\_\_\_\_ per year, and the adjusted gross income of the Defendant who is the  *custodial* **OR**  *non-custodial* parent is \_\_\_\_\_ per year, and the combined parental annual income is \_\_\_\_\_. The gross incomes of the parties has been adjusted to deduct maintenance paid to, and to add maintenance received by, a party spouse. The applicable child support percentage is 17/25/29/31/35 %. The combined basic child support obligation attributable to both parents is \_\_\_\_\_ per year on combined income up to \$148,000 as adjusted for low income if applicable and \_\_\_\_\_ per year on income over \$148,000. The Plaintiff's pro rata share of the combined parental income is \_\_\_\_\_% and the Defendant's pro rata share of the combined parental income is \_\_\_\_\_. The non-custodial parent's pro rata share of the child support obligation on combined income up to \$148,000 is \_\_\_\_\_ per year or \_\_\_\_\_  *per week*  *bi-weekly*  *semi-monthly*  *per month*. The non-custodial parent's pro rata share of the child support obligation on combined income over \$148,000 is \_\_\_\_\_ per year or \_\_\_\_\_  *per week*  *bi-weekly*  *semi-monthly*  *per month*. The non-custodial parent's pro rata share of future health care expenses not covered by insurance is \_\_\_\_%. The non-custodial parent's pro rata share of reasonable child care expenses is \$\_\_\_\_\_ per year or \_\_\_\_\_  *per week*  *bi-weekly*  *semi-monthly*  *per month* or \_\_\_\_%. The non-custodial parent's share

of educational or extraordinary expenses for the children if any is \$\_\_\_\_\_ per year or \_\_\_\_\_%.

The cost of Health Insurance premiums for the children is \$\_\_\_\_\_ per year or \$\_\_\_\_\_  per week  bi-weekly  semi-monthly  per month. The party who maintains the health insurance for the children is the  non-custodial parent  custodial parent.

**CHECK a) or b) below:**

a)  The custodial parent's pro rata share of health insurance premiums for the children is \$\_\_\_\_\_ per year or \$\_\_\_\_\_  per week  bi-weekly  semi-monthly  per month which will be deducted from the child support obligation if the non-custodial parent provides the health insurance for the children;

**OR**

b)  The non-custodial parent's pro rata share of health insurance premiums for the children is \$\_\_\_\_\_ per year or \$\_\_\_\_\_  per week  bi-weekly  semi-monthly  per month. which is to be added to the basic child support obligation if the custodial parent provides the health insurance for the children.

**OR**

- (3) The parties entered into a stipulation/agreement on \_\_\_\_\_ wherein the  Plaintiff **OR**  Defendant agrees to pay \_\_\_\_\_  per week **OR**  bi-weekly **OR**  per month child support  directly **OR**  through the Support Collection Unit to  Plaintiff **OR**  Defendant **OR**  Third Party, namely \_\_\_\_\_ . The parties agree to  waive **OR**  apply the Child Support Standards Act to combined income over \$148,000. The parties have agreed that health care expenses not covered by insurance shall be paid by  Plaintiff **OR**  Defendant in the amount of \_\_\_\_\_% of the uncovered expenses. The parties have agreed that reasonable child care expenses shall be paid by  Plaintiff **OR**  Defendant to  Plaintiff **OR**  Defendant in the amount of \$ \_\_\_\_\_  per week **OR**  bi-weekly **OR**  semi-monthly **OR**  per month **OR**  \_\_\_\_\_% of said child care expenses. The parties have agreed that educational and extraordinary expenses and shall be paid by  Plaintiff **OR**  Defendant to  Plaintiff **OR**  Defendant in the amount of \$ \_\_\_\_\_  per week **OR**  bi-weekly **OR**  semi-monthly **OR**  per month **OR**  \_\_\_\_\_% of said expenses. Said agreement reciting in compliance with DRL §2401-b(h): The parties have been advised of the Child Support Standards Act. The basic child support obligation presumptively results in the correct amount of child support. The unrepresented party, if any, has received a copy of the Child Support Standards Chart promulgated by Commissioner of Social Services pursuant to Social Services Law Section 111-I. The presumptive amount of child support attributable to the non-custodial parent is \_\_\_\_\_  per week **OR**  bi-weekly **OR**  semi-monthly **OR**  per month. The amount of child support agreed to  conforms with the non-custodial parent's basic child support obligation **OR**  deviates from the non-custodial parent's basic child support obligation for the following reasons:

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If the amount of child support agreed to be paid deviates from the non-custodial parent's basic child support obligation, the court finds said amount to be just and appropriate for the following reasons:

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**22** **FOURTEENTH:** The Plaintiff's address is \_\_\_\_\_,  
and social security number is \_\_\_\_\_. The Defendant's address is \_\_\_\_\_  
\_\_\_\_\_, and social security number is \_\_\_\_\_.

- 23**
- There are no unemancipated children of the marriage. OR
  - There are no health plans available to the parties through their employment. OR
  - The parties are covered by the following group health plans through their employment:

| <u>Plaintiff</u>             | <u>Defendant</u>             |
|------------------------------|------------------------------|
| Group Health Plan: _____     | Group Health Plan: _____     |
| Address: _____               | Address: _____               |
| Identification Number: _____ | Identification Number: _____ |
| Plan Administrator: _____    | Plan Administrator: _____    |
| Type of Coverage: _____      | Type of Coverage: _____      |

*The parties have agreed or stipulated* OR  *the court has determined* that the  
 *Plaintiff* OR  *Defendant* shall be the legally responsible relative and that the unemancipated  
child(ren) shall be enrolled in *his / her* group health plan as specified above *until the age of 21 years*  
OR *until the child(ren) is / are sooner emancipated.*

**24** FIFTEENTH: The \_\_\_\_\_ Court entered the following order(s) under Index  
No(s). / Docket No(s): \_\_\_\_\_

\_\_\_\_\_  Not Applicable

**25** **SIXTEENTH:**  *Plaintiff* OR  *Defendant* may resume use of the prior surname:

\_\_\_\_\_.

**26** **SEVENTEENTH:** Compliance with DRL § 255 (1) and (2) has been satisfied as follows:

A)  The parties entered into a Stipulation of Settlement/Agreement dated \_\_\_\_\_

**AND:**

1.  the stipulation of settlement complies with the requirements of DRL § 255 (2).

**or**

2.  the parties entered into an addendum to the stipulation of settlement/agreement which complies with the requirements of DRL § 255 (2).

B)  There is no stipulation of settlement/agreement

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1.  each party has been provided notice as required by DRL § 255(1)

**or**

2.  the plaintiff has been notified pursuant to DRL § 255(1). Notice to the defendant cannot be effectuated due to the defendant's whereabouts being unknown. Since the cost of publication would present an undue burden, notice to the defendant is hereby dispensed with.

**EIGHTEENTH:** Where applicable, registry checks were completed pursuant to DRL §240 1 (a-1).

**27** **NINETEENTH:**

The Judgment of Divorce incorporates all ancillary issues, including the payment of counsel and experts' fees and expenses, which issues:

- were settled by written settlement/separation agreement
- were settled by oral settlement/ stipulation on the record
- were determined by the Court
- were determined by Family Court order (custody and visitation or child support and/or spousal support issues only)
- are not to be incorporated into the Judgment of Divorce, in that neither party to the divorce has contested any such issues based on the Affidavit of Plaintiff (which Defendant has not contested).

**28 TWENTIETH:** The Court or the Support Collection Unit (where a party is currently receiving child support services or an application has been made for such services) shall issue an income deduction order or an income execution simultaneously herewith unless either of the following boxes is checked;

an agreement providing for an alternative arrangement has been reached between the parties or  for the following reason(s) which the court finds to constitute good cause pursuant to DRL 240(2) (b):

[specify]: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### CONCLUSIONS OF LAW

**FIRST:** Residency as required by DRL § 230 has been satisfied.

**SECOND:** The requirements of DRL § 255 have been satisfied.

**THIRD:** The requirements of DRL § 240 1 (a) including the Records Checking Requirements in DRL § 240 1 (a-1) have been satisfied.

**FOURTH:** The requirements of DRL § 240 (1-b) have been satisfied.

**FIFTH:** The requirements of DRL § 236(B)(2)(b) have been satisfied.

**SIXTH:** The requirements of DRL § 236(B)(6) have been satisfied.

**SEVENTH:** If DRL §170 subd. (7) is the ground alleged, then all economic issues of equitable distribution of marital property, the payment or waiver of spousal support, the payment of child support, the payment of counsel and experts' fees and expenses as well as the custody and visitation with the minor children of the marriage have been resolved by the parties or determined by the court and incorporated into the judgment of divorce.

**29 EIGHTH:**  *Plaintiff* **OR**  *Defendant* is entitled to a judgment of divorce on the ground of DRL §170 subd. \_\_\_\_\_ and granting the incidental relief awarded.

**30** Dated: \_\_\_\_\_

\_\_\_\_\_  
*J.S.C./Referee*