

STOCKHOLDER'S AGREEMENT

AGREEMENT, made this 1st day of May 1998, among **JAMES H. ALSTON, JR.** ("Alston, Jr."), residing at 126 Sussex Road, New Rochelle, New York 10804, **EMMA BRISBANE** ("Brisbane"), residing at 701 Pelham Road, New Rochelle, New York, (both of whom shall hereinafter be referred to collectively as "Stockholders"), and **McCALL'S BRONXWOOD FUNERAL HOME, INC.** ("McCall's"), a New York corporation, having its principal place of business at 4035 Bronxwood Avenue, Bronx, New York.

WITNESSETH:

WHEREAS, James H. Alston, Sr. and Emma Brisbane were the sole stockholders of all the issued and outstanding shares of McCall's and wherein Alston, Sr. owned sixty-six and two-thirds (66-2/3) shares of the outstanding stock of McCall's and whereas Brisbane owns sixty-six and two-thirds (66-2/3) shares of the outstanding stock of McCall's, each thereby owning fifty (50%) percent of the outstanding shares of stock of McCall's; and

WHEREAS, James H. Alston, Sr. died on March 11, 1995, and

WHEREAS, by letter dated September 22, 1995, McCall's Bronxwood Funeral Home, Inc. elected to purchase the shares of James H. Alston, Sr. pursuant to paragraph 8 of the shareholder's agreement, dated December 31, 1993, and

WHEREAS, James H. Alston, Jr. represents that he is the sole beneficiary, holder and owner of all the rights and interest in the shares of stock of McCall's Bronxwood Funeral Home, Inc. held by the Estate of James H. Alston, and

WHEREAS, James H. Alston, Jr. is desirous of transferring the shares of the corporation from the estate to himself, individually, and in acquiring an interest in McCall's Bronxwood Funeral Home, Inc. and

WHEREAS, Emma Brisbane, the sole surviving shareholder of McCall's Bronxwood Funeral Home, Inc. is desirous of permitting James H. Alston, Jr. as representative of the estate of James

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H. Alston, to transfer **one hundred percent (100%)** of the shares of stocks owned by the Estate of James H. Alston of McCall's Bronxwood Funeral Home, Inc. to James H. Alston, Jr., individually, and the transfer of same is being made simultaneously with the execution of this agreement, and

WHEREAS, McCall's Bronxwood Funeral Home, Inc., for valued consideration, receipt of which is hereby acknowledged, withdraws its election to purchase the shares of James H. Alston, Sr. pursuant to paragraph 8 of the shareholder's agreement, dated December 31, 1993, as set forth in their letter of September 22, 1995, and

WHEREAS, the parties hereto deem it to be in their mutual best interests to enter into an agreement providing, among other things, for the manner in which the shares of stock of McCall's now owned by Emma Brisbane and The Estate of James H. Alston, then or hereafter issued, shall be held and disposed of, in order to prevent adverse interests from acquiring control of McCall's and providing further for the management of McCall's and the rights and duties of its stockholders in and to McCall's and to each other;

NOW, THEREFORE, McCall's, Brisbane and Alston, Jr., as the duly appointed representative of the Estate of James H. Alston, and individually agree jointly and severally as follows:

1. **DEFINITIONS**

As used in this Agreement:

- (a) "Liquid Assets" shall mean the sum of cash, readily marketable securities and such portions of receivables as are payable on demand or within two (2) years, minus reserves and unearned income.
- (b) "Surplus" shall mean Liquid Assets over and above general operating expenses of McCall's for a period of three (3) months' expenses. A month's operating expense shall be determined by

taking the average of the three (3) months' general operating expenses immediately preceding the date of the notice of offer to sell by The Selling Stockholder, as defined in Paragraph 7(a) below.

2. VOTING

The Stockholders agree that they shall vote their shares of stock at all times, so as to elect Brisbane and Alston, Jr. as Directors of McCall's, and will vote at all meetings of the stockholders so as to carry out the terms and provisions of this Agreement.

3. OFFICERS

The parties agree that as the directors of McCall's they shall vote to elect the following persons as officers of McCall's:

President/Treasurer: Emma Brisbane
Vice President/Secretary: James H. Alston, Jr.

4. STOCK

There shall be no increase in, or sale of, any unissued shares of stock of any class of McCall's, including treasury stock, without the prior consent in writing, of Brisbane and Alston, Jr..

5. FINANCIAL TRANSACTIONS

The Stockholders agree that they shall cause the funds of McCall's to be maintained in the financial institution selected by the Board of Directors.

All checks, demands for money, notes, negotiable instruments, contracts and all other documents involving monies in excess of TWENTY THOUSAND (\$20,000.00) DOLLARS shall be signed by the President/Treasurer and the Vice-President/Secretary. No checks, demands for money, notes, negotiable instruments, contracts or other documents shall be valid or binding upon McCall's unless signed as stated herein.

6. **RESTRICTIONS ON TRANSFERABILITY OF STOCK**

(a) Neither Alston, Jr. nor Brisbane shall assign, transfer, pledge, mortgage, hypothecate or encumber all or any of his or her shares of stock of McCall's which he or she now owns or may hereafter acquire without the prior written consent of the other stockholder, except as herein may be provided.

(b) Neither Alston, Jr. nor Brisbane shall be entitled to sell or otherwise alienate less than all of his or her stock in McCall's, except as herein may be provided.

7. **DISPOSITION OF SHARES DURING LIFETIME**

(a) If Alston, Jr. or Brisbane desires to sell his or her shares of stock (hereinafter referred to as "The Selling Stockholder"), he or she shall be obliged to give notice of such intention to McCall's and to the other stockholder, which notice shall contain an offer to sell all of his or her shares of stock to McCall's, and McCall's shall have the right within thirty (30) days after receipt of such notice to make an election to purchase, and The Selling Stockholder shall sell all shares of McCall's owned by him or her at the purchase price determined pursuant to the terms set forth in this Agreement.

(i) The election to purchase the shares shall be in writing and shall state that McCall's has elected to exercise its right to purchase the shares of McCall's owned by The Selling Stockholder. Such election shall specify a date, time and place for the delivery and transfer of said shares of stock, which shall be within forty-five (45) days after the notice of election to purchase has been given. The time of transfer shall be during business hours on any weekday, not a legal holiday, and the place of transfer shall be in the State of New York.

(ii) At the closing, The Selling Stockholder shall deliver to McCall's the shares of stock duly endorsed for transfer, with federal and state transfer stamps (if any) affixed thereto, together with

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The Selling Stockholder's resignation as an officer, and/or director of McCall's.

(b) If McCall's does not have a sufficient Surplus to enable it to make the initial payment of twenty-five (25%) percent of the value of the shares of The Selling Stockholder, then the other stockholder shall have an option, for a period of ten (10) days, after the expiration of the thirty (30) day period referred to in paragraph "7(a)" above, in the event McCall's does not make an election, to purchase the shares of The Selling Stockholder, or alternatively, after the expiration of the forty-five (45) day period referred to above, in the event McCall's fails to consummate its election to purchase the shares of stock of The Selling Stockholder, at the purchase price pursuant to the terms set forth in this Agreement.

In the event the other stockholder does not elect to purchase the shares of The Selling Stockholder, The Selling Stockholder may then sell to any other person on such terms and conditions as he or she may wish, but The Selling Stockholder shall make a reasonable effort to sell such stock to a person(s) acceptable to the remaining stockholder.

(i) The election by the other stockholder to purchase the shares of The Selling Stockholder shall be in writing and shall state that the stockholder has elected to exercise his or her right to purchase the shares of McCall's owned by The Selling Stockholder, and shall state the date, time and place for the delivery and transfer of stock which shall be within forty-five (45) days after the notice of election has been given. The time of transfer shall be during business hours on any weekday, not a legal holiday and the place of transfer shall be in the State of New York.

(ii) At closing, The Selling Stockholder shall deliver to the purchasing stockholder, the shares of stock duly endorsed for transfer, with federal and state transfer stamps affixed thereto, together with his or her resignation as an officer and/or director of McCall's.

(iii) In the event neither McCall's nor the other stockholder elects to purchase the stock

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of The Selling Stockholder, and if The Selling Stockholder shall offer the stock to a third person at a lesser price, then McCall's and/or the other stockholder shall then have the right of first refusal to purchase said stock on the same terms and conditions as offered to any third person.

8. STOCK PURCHASE UPON DEATH

(a) Either stockholder shall be permitted to dispose of their shares in the corporation, in their will or trust, provided the legatee/beneficiary of said shares is a relative of decedent by blood or marriage, or trustee of said relative. In the event of the death of either stockholder, the personal representative(s) of the deceased stockholder shall immediately, upon issuance and receipt of Letters Testamentary or Letters of Administration, deliver to McCall's and to the remaining stockholder, a copy of such Letters.

(b) In the event the above mentioned legatee/trustee/beneficiary wishes to sell or transfer their shares of stocks, then said sale or transfer shall be in accordance with Paragraph 7 above.

9. PURCHASE PRICE

The purchase price of the shares of the common stock of McCall's shall be determined by calculating the arithmetic average of the Net Income of McCall's for the five (5) fiscal years immediately preceding the date of death of a stockholder or the date The Selling Stockholder gives notice of the intention to sell all of his or her shares of stock to McCall's, and multiplying the quotient thereby obtained by four (4). The calculation of Net Income shall be before the draw and/or salary received by the stockholders during the five fiscal years (see Exhibit A). One half of the value of the shares of common stock of McCall's calculated pursuant to this formula shall be assigned to the total stock holdings of each stockholder.

10. TERMS OF PAYMENT

(A) (i) In the event McCall's fails to maintain a surplus of \$290,000.00 then, McCall's shall set aside annually out of its Net Income fifty thousand (\$50,000.00) dollars to amortize the indebtedness which may arise upon the purchase of shares of The Selling Stockholder or from the estate of the deceased stockholder pursuant to Paragraphs "7" and "8". Said funds shall be known as a "Sinking Fund", and shall be considered corporate surplus for purposes of enabling McCall's to purchase the shares of Alston, Jr. and/or Brisbane.

(ii) In addition to the Sinking Fund set forth in Paragraph (A)(i) above, during the term of this Agreement, McCall's shall maintain at all times a Surplus in an amount equal to not less than \$290,000.00, which amount shall be increased from time to time through investment income and/or direct contributions from earnings. It shall be the objective to increase and/or maintain said Surplus to or at an amount equal to not less than twenty-five (25%) percent of the average value of the stock holdings of Brisbane and Alston, Jr. as set forth in this Agreement. Said Surplus together with the proceeds accumulated in the Sinking Fund and the proceeds of any insurance policies maintained by McCall's on the deceased stockholder's life shall be utilized by McCall's to make the payment as described in subparagraph (B)(i) and (ii) below. It is understood and agreed by the Shareholders that this Surplus and the Sinking Fund are being maintained for the purpose of the initial funding of McCall's purchase of all the shares of The Selling Stockholder or from the estate of a deceased stockholder, pursuant to Paragraphs "7" and "8".

(iii) In the event the Surplus referred to herein together with the proceeds from the Sinking Fund and the proceeds from insurance on the life of the deceased stockholder (collectively referred to herein as the "Combined Proceeds") represent less than twenty-five (25%) percent of the value

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of Alston, Jr.'s or Brisbane's total stock holdings of McCall's at the time of death, or disposition during lifetime (in which event insurance proceeds shall not be included), then the annual draw and/or salary or any remaining portions thereof due The Selling Stockholder or due or which would have been due the deceased stockholder had he or she lived shall be added to the Combined Proceeds to bring the value up to twenty-five (25%) percent. After said addition if the Combined Proceeds are still less than twenty-five (25%) percent an amount sufficient to increase the Combined Proceeds to twenty-five (25%) of the value shall be added to the Promissory Notes set forth herein in accordance with the same terms and conditions.

(iv) During the calendar year in which a stockholder dies the annual draw and/or salary to be received by the remaining stockholder shall not exceed the annual draw and/or salary received by him or her during the calendar year immediately preceding the year of death by more than four (4%) percent.

(B) The payment, in the event of a purchase by McCall's or the remaining stockholder as set forth in paragraphs "7" and "8", shall be as follows:

(i) The Combined Proceeds or Twenty-five (25%) per cent of the value of the shares to be purchased (which ever is more) shall be paid in cash or certified check on date of closing.

(ii) The balance (seventy-five (75%) per cent) shall be paid by McCall's or the Purchasing Stockholder as follows:

a) By executing a Mortgage Note which Note shall be secured by a first Mortgage on the property owned by McCall's and located at 4035 Bronxwood Avenue, Bronx, New York. The Mortgage Note shall be payable in ninety (90) equal monthly installments amortized over a period of seven and one half (7 1/2) years at the "Prime" interest rate in effect on the date of death or date of The Selling Stockholder's offer to sell. Said Mortgage Note shall be for an amount which represents the

appraised value of the subject premises 4035 Bronxwood Avenue, Bronx, New York on the date of death, or the date of The Selling Stockholder's offer to sell and shall provide that McCall's or the purchasing stockholder will be permitted to prepay the Mortgage without penalty.

b) By McCall's or the purchasing stockholder executing dated Promissory Notes to the benefit of The Selling Stockholder or the deceased stockholder's estate. Said Promissory Notes shall also be payable in ninety (90) equal monthly installments amortized over a period of seven and one half (7 1/2) years, and at an interest rate which shall be based on the "Prime" interest rate on the date of death or the date of The Selling Stockholder's offer to sell. The Promissory Notes shall provide that McCall's or the purchasing stockholder will be permitted to prepay the Notes without penalty. Said Promissory Notes shall be guaranteed by the remaining stockholder of McCall's at the time of said transfer.

C. The purchase price of the shares of the common stock of McCall's calculated pursuant to Paragraph 9 assumes annual Net Income of not less than five hundred thousand (\$500,000) dollars. In the event annual Net Income falls below four hundred thousand (\$400,000) dollars for any fiscal year during payment of installments pursuant to Paragraphs (10)(B)(ii)(a)&(b) (hereinafter referred to as the Reduced Fiscal Year) then the installments payable during the calendar year immediately following shall be reduced by the same proportion as the Net Income of the Reduced Fiscal Year varies from five hundred thousand (\$500,000) dollars. The remaining balance that would have been paid during the immediately following fiscal year if not for the reduction will be added to in the form of new Promissory Notes which shall be executed by the remaining stockholder or his or her successors in interest, for the number of months necessary to accommodate payment in equal monthly installments reflecting the same proportional ratio of reduction to installments paid during the Reduced Calendar Year

as the Net Income of the Reduced Fiscal Year is to five hundred thousand (\$500,000) dollars. For example, if Net Income for the second fiscal year is three hundred and fifty thousand (\$350,000), and combined monthly installments of the Mortgage Note and Promissory Notes are twelve thousand five hundred (\$12,500) the new monthly installments payable during the immediately following calendar year would be calculated by constructing the following ratio (X = new monthly installment):

$$\$350,000 : \$500,000 = X : \$12,500$$

$$\$500,000 \times X = \$350,000 \times \$12,500$$

$$X = \$8,750.00$$

The difference between \$8,750 and \$12,500, ie...\$3,750 would be multiplied by 12 (Fiscal Year) or multiples thereof and the result divided by \$8,750, resulting in 5.14 new monthly Promissory Notes being executed.

In the event of any reduction in the payout of monthly installments hereunder the affected party shall have the right to audit the books and records of McCall's upon 24 hours prior notice provided that said audit is performed during regular business hours on regular business days, excluding Sundays, and further provided that said audit is conducted in such a manner so as not to unreasonably conflict with the normal operation of McCall's business.

D. In the event McCall's and/or the purchasing stockholder as set forth in paragraphs "7" and "8" herein, transfers or sells its interest in McCall's while the obligation to pay the indebtedness described herein still exists, the entire unpaid balance shall become due and payable in full, and the Note and Mortgage as set forth herein shall so provide.

No additional shares of stock shall be issued by McCall's, until the purchase price has been paid in full, unless The Selling Stockholder or the legal representative(s) of the deceased stockholder

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consents thereto in writing.

All legal fees, filing fees, mortgage taxes or other costs attendant to the mortgage shall be borne by McCall's.

11. *ESCROW*

(a) Upon the closing of any sale of shares hereunder, The Selling Stockholder, or the estate of the deceased stockholder, or his or her legal representative, shall pay over a sum equal to ten (10%) per cent of the purchase price by surrendering a sufficient number of the Promissory Notes, consecutively dated and commencing with the first Promissory Note which will become due and payable after closing, properly and fully endorsed by the payee(s) so that they are in "bearer" form, to be held in escrow for a period of three (3) years by the escrow agent, who shall be McCall's attorney. Said escrow agent shall have the authority to redeem any Notes so held at their maturity and shall deposit the funds so received in an interest bearing escrow account to be held coterminously with the Notes. Said escrow proceeds and unredeemed Notes shall be available for the repayment to McCall's or the purchasing stockholder of any part of the purchase price in the event at any time during the said three (3) year period, income tax liabilities or deficiencies in excess of amounts reflected on McCall's tax returns and financial statements upon which the purchase price was based, applicable to the years in which The Selling Stockholder or the deceased stockholder was a stockholder, was assessed or at any time during the first year of such three (3) years period

undisclosed liabilities applicable to the years in which The Selling Stockholder or the deceased stockholder was a stockholder are assessed. The Selling Stockholder's or deceased stockholder's liability herein shall be for his or her proportionate part of such liability after taking into account the tax effect of such liability.

At the end of the three (3) year period, or when a final determination has been made concerning any tax

liability which has been assessed during said three (3) year period, for a period in which The Selling Stockholder or the deceased stockholder was a stockholder, whichever event shall occur later, the remainder of the escrow fund and/or Promissory Notes plus accrued interest shall be paid over to The Selling Stockholder, or the estate of the deceased stockholder, or his or her legal representative(s).

(b) McCall's and/or the purchasing stockholder, as the case may be, shall immediately, upon receipt thereof, deliver the shares of stock so purchased and the resignations as an officer and director of McCall's received from The Selling Stockholder or from the estate of the deceased stockholder to said escrow agent, who shall hold the shares of stock and resignations in escrow until the purchase price for the shares of stock has been paid as provided under Paragraph "10", and upon the completion of said payment and a release to do so given in writing by The Selling Stockholder or the estate of a deceased stockholder, deliver said shares of stock and resignations to McCall's and/or the purchasing stockholder, as appropriate.

(c) In the event that the purchaser fails to perform in accordance with the terms of this Agreement and such default continues for a period of thirty (30) days after written notice to the purchaser, The Selling Stockholder or the estate of the deceased stockholder or legal representative of his or her estate, in addition to the legal and equitable remedies available to him or her, shall be entitled to the return of the stock certificates and resignations held by the escrow agent, as security.

12. RESTRICTIVE COVENANT

Brisbane and Alston, Jr. hereby agree that at no time during the term of this Agreement or for a period not exceeding five (5) years immediately following the termination of his or her status as a stockholder hereunder, will he or she, for himself or herself, or on behalf of any person or corporation other than McCall's, engage or become a Funeral Director within a one (1) mile radius of McCall's. Neither stockholder shall directly or indirectly solicit or attempt to solicit business or patronage of any person or corporation within such territory for the purpose of rendering funeral services and such other business or service now engaged in by McCall's or for a period of five (5) years following the termination of his or her status as a stockholder, work in the above described field for any person or corporation other than McCall's, or render any services now handled or rendered by him or her through McCall's or any products or services incidental to the business of McCall's. This shall in no way apply to or restrict the ownership, operation and control by Brisbane of McCall's Funeral Home at Prospect Avenue, Bronx, New York.

13. DURATION

This Agreement shall automatically terminate upon the happening of any of the following events:

- (i) The unconditional assignment by McCall's for the benefit of creditors.
- (ii) The filing of a Petition by McCall's agreed to in writing by the Stockholders, or an adjudication of bankruptcy against McCall's.
- (iii) The appointment of a Receiver for McCall's which is not vacated within thirty (30) days.

14. LEGEND

The Certificates for any shares of stock issued and delivered to the Stockholders herein, or which shall be issued or acquired at any time hereafter, shall be subject to the terms of this Agreement and shall have written, stamped or imprinted upon, the following statement:

"The shares of stock represented by this Certificate are subject to and transferable only in compliance with an Agreement dated **May 1, 1998**, a copy of which is set forth at length in the Minute Book of McCall's."

All Certificates of Stock of McCall's hereafter issued shall bear the same statement.

15. NOTICE

Any notice required to be given under the terms of this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, to the last known residence or principal business office address of the person to whom such notice is required to be given.

16. ACTS REQUIRED TO EFFECTUATE THIS AGREEMENT

The parties hereto specifically agree that they will, as parties hereto and as stockholders, officers and directors of McCall's, duly perform any and all acts and duly execute any and all agreements, proxies, documents, resolutions and any other instruments which may be required of each of them, or which may be necessary for the purposes of fulfilling, effectuating or implementing any of the provisions of this Agreement.

17. WAIVER

No delay or omission to exercise any remedy or right accruing upon any default shall be construed as a waiver of any such right or remedy or any acquiescence in such default, nor shall it affect any subsequent default of the same or of a different nature.

18. UNENFORCEABLE PROVISIONS

If any provision of this Agreement is determined to be legally invalid or unenforceable, then such determination shall have no effect whatsoever on any other provision of this Agreement and all such other provisions shall remain in full force and effect and fully enforceable.

The provisions of this Agreement shall inure to and bind the heirs, executors, administrators and assigns of the parties hereto, except the provisions of Paragraph 11, "Restrictive Covenant" which shall in no way bind the heirs, executors or administrators of the parties hereto.

19. ENTIRE AGREEMENT

This instrument constitutes the entire Agreement between the parties; there are no terms, obligations, covenants or conditions other than those contained herein. This Agreement may not be extended, terminated, amended, altered, modified or changed in any way, except by a signed written consent by the parties hereto.

20. ARBITRATION

In the event that there is any dispute among the parties hereto with regard to the terms of this Agreement or the applicability thereof, then the same shall be submitted to arbitration in the City of New York pursuant to the rules then obtaining of the American Arbitration Association. The determination of the arbitration shall be final and binding, and may be enforced in the Courts of the State of New York, to which jurisdiction the parties hereto agree to submit. Service upon any person in any action to enforce the determination of the arbitration shall be deemed sufficient if sent by certified mail, return receipt requested, to the appropriate address of the person as set forth above and such person agrees that such service shall be sufficient to confer full in personam jurisdiction.

21. *TRANSFERS OF SHARES*

Upon the death of a stockholder, the person(s) who shall acquire title to such shares of McCall's owned by the deceased stockholder upon his or her death either by or pursuant to the Last Will and Testament of the deceased stockholder, or by operation of law, shall be deemed to be a party to and subject to this Agreement, and each and all of such shares shall be held or owned subject to the restrictions and provisions of this Agreement, with the same force and effect as if the person(s) acquiring the shares were originally the party to this Agreement.

22. *WARRANTIES*

(a) James H. Alston, Jr. personally and as representative of the Estate of James H. Alston, warrants and represents that there are no State, Federal or Estate taxes due on the Estate of James H. Alston, nor are there any other liens or interest against the shares of stock of McCall's Bronxwood Funeral Home, Inc., held by the Estate of James H. Alston, Sr.

(b) James H. Alston, Jr. personally and as representative of the Estate of James H. Alston, Jr. agrees to hold McCall's Bronxwood Funeral Home, Inc. and Emma Brisbane, her successors and or assigns harmless and shall defend against all claims and/or that presently exist against the shares of stock of McCall's Bronxwood Funeral Home, Inc., held by the Estate of James H. Alston, Jr. and shall indemnify McCall's Bronxwood Funeral Home, Inc. and Emma Brisbane against any and all such claims, including the costs of accounting and attorneys fees.

(c) That all claims and liens against the shares of stock of McCall's Bronxwood Funeral Home, Inc., held by the Estate of James H. Alston, Sr. shall become a lien against the shares issued to James H. Alston, Jr. pursuant to the terms of this agreement. Upon receiving notice of any such liens and/claims, McCall's Bronxwood Funeral Home, Inc. shall withhold fifty percent (50%) of any distribution, and bonus due James H. Alston, Jr. pending presentment of satisfaction of liens and/or claims. In the event said satisfaction is not tendered within thirty days of the receipt of notice, then the corporation shall satisfy said liens/claims from the monies withheld until payment is made in full.

23. MISCELLANEOUS

That James H. Alston, Jr. and Emma Brisbane hereby agree that McCall's Bronxwood Funeral Home, Inc. shall transfer and donate without cost, the vacant lot adjacent to the funeral home located at 4035 Bronxwood Avenue, Lot 73, Block 4852, Bronx, New York to the EMMA C. BRISBANE FOUNDATION, Bronx, New York. The Emma C. Brisbane Foundation shall take all the necessary steps to have said lot subdivided, at its sole cost and expenses.

24. CONSTRUCTION

This Agreement is made in and shall be governed by, and construed in accordance with the laws of the State of New York.

25. PRIOR AGREEMENTS

This agreement supersedes any and all prior Shareholders' Agreements and amendments made thereto heretofore made to which the parties hereto were parties alone or with others.

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IN WITNESS WHEREOF, Brisbane and Alston, Jr. have subscribed their names and
McCall's has caused this Agreement to be signed by its authorized officer, and the corporate seal has been
affixed as of the date first above written.

McCALL'S BRONXWOOD FUNERAL HOME,
INC.

By Emma Brisbane
President

James H. Alston, Jr.
JAMES H. ALSTON, JR., Stockholder

Emma Brisbane
EMMA BRISBANE, Stockholder

ORIGINAL

EXHIBIT A TO AGREEMENT DATED MAY 1, 1998

If the average net earnings of McCall's Bronxwood Funeral Home for the past five (5) years equaled \$555,474.00

$$\$555,474.00 \text{ (net)} \times 4 = \$2,221,896.00$$

Based on the formula agreed upon if average annual net earnings equal \$555,474.00 the present value of McCall's is \$2,221,896.00 Million Dollars.

SAID VALUE SHALL BE DISTRIBUTED AS FOLLOWS:

- 1) EMMA BRISBANE - fifty (50%) percent: \$1,110,948.00
- 2) JAMES H. ALSTON, JR. - fifty (50%) percent: \$1,110,948.00

EXAMPLE OF BUY OUT:

$$\$1,110,948.00 \times 25\% = \$277,737.00$$

$$\$277,737.00 \text{ (minus) present Surplus of } \$260,000.00 =$$

\$17,737.00 (Balance)

$$75\% \text{ of } \$1,110,948.00 = \$833,211.00$$

(The balance between the Surplus on hand the twenty-five (25%) percent, to-wit: \$277,737.00 (minus) \$260,000.00 = \$17,737.00).

The amount of \$17,737.00 shall be added to the amount of \$833,211.00 for a total of \$850,948.00. The amount of \$850,948.00 shall be paid as follows:

- a) \$460,000.00 shall be secured by a mortgage against the premises owned by McCall's pursuant to the terms of the Agreement. The balance of \$390,948.00 shall be paid in a form of Promissory Notes pursuant to the terms of the Agreement.

EXHIBIT "A"