

A HANDBOOK ON  
MARRIAGE

WITH

MARRIAGE CONTRACT

AND

MARRIAGE  
CERTIFICATE

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## Introduction

Family has a central place in Islam and the Muslim community. The Qur'an and the Sunnah are full of statements that support, enhance and boost the family strengthen ties among its members. The family is simply the corner block of the Islamic society.

The Islamic literature and Islamic Jurisprudence (Fiqh) assign huge spaces to family inner relations from the moment of inception to the stage of its dissolution. However, Muslims in North America need a handy, concise to the point and quick manual or handbook. This write-up attempts to fill part of this gap through offering the basic points for the initial stage of forming a family. Thus, this handbook focuses on preparation for marriage and marriage contract and ceremony. It is not a marriage counseling manual or how to conduct or behave in marriage. We hope that it is a substantial help for the initiation of marriage and the Shari'ah legalities involved in the marriage contract. It also includes a sample **MARRIAGE CONTRACT** and a sample **MARRIAGE CERTIFICATE**. We always suggest that **you must consult your local legal counsel** but we also suggest that it is very necessary for any Muslim couple all over North America to sign a marriage contract.

Furthermore, we also suggest that you must give a special attention to Section VIII of the sample contract and fill in as much special conditions as necessary to settle all controversial areas such as going out to study, work and pursue a career.

### 1. The Place of Marriage in Islam

Marriage is one of the great signs of God. Along with marriage come affection, love and mercy. It is also the essential bondage that relates people together. Allah, Subhanahu wa Ta'ala, says:

“And among His signs is that He created for you, of yourselves, spouses that you may dwell in tranquility with them, and He has set love and mercy between you; surely

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ  
مَنْ أَنْفُسِكُمْ زُوجًا  
لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ  
بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ

in that are indeed signs for those who reflect.” (30:21)

فِي ذَلِكَ لآيَاتٍ لِّقَوْمٍ  
يَتَفَكَّرُونَ  
(الروم 21)

He also says:

It is He Who has created human from water, and made him kindred of blood and marriage. Your Lord is All Powerful.” (25:54)

وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ  
بَشَرًا فَجَعَلَهُ نَسَبًا وَصِهْرًا  
وَكَانَ رَبُّكَ قَدِيرًا  
(الفرقان 54)

### Significance of Marriage

Marriage, as the Holy Qur’an stresses, is a strong bond, and a binding commitment to life itself, to society, and to the normal and healthy survival of the human race. It is a commitment that married spouses make to one another as well as to Almighty Allah. It is the kind of commitment in which they find mutual fulfillment and self-realization, love and peace, compassion and serenity, comfort and hope. Allah, Subhanahu wa Ta’ala, made all creatures in pairs:

“And of everything, We created pairs: that you may remember.” (51:49)

وَمِن كُلِّ شَيْءٍ خَلَقْنَا  
زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ  
(الذاريات 49)

Allah, Subhanahu wa Ta’ala, describes marriage and marital relationships between man and woman as one of His great bounties on mankind for which they should be grateful and they should demonstrate their appreciation of His bounty by being God-fearing:

“Mankind, fear your Lord, Who created you from a single soul, created of like nature its spouse, and from the pair of them scattered countless men and women; Reverence God, in Whose name ye plead with one another, and (reverence) the wombs (that bore you); surely God ever watches over

يَا أَيُّهَا النَّاسُ اتَّقُوا  
رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ  
نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا  
زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا  
كَثِيرًا وَنِسَاءً وَاتَّقُوا  
اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ  
وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ

you.”

(4:1)

عَلَيْكُمْ رَقِيبًا (النساء 1)

### **Encouragement of Marriage**

Marriage is the cornerstone of Islamic society; it is the backbone of the social life of Muslim communities living as minorities in America. For these and many other reasons Islam encourages marriage and frowns on celibacy. The Prophet Muhammad (pbuh) is reported by Ibn Mas'ud as saying:

“Young men! Those of you who can afford to get married should do so, [marriage] is the best check for [lustful] eyes and an best [effective to maintain] chastity.”

(Transmitted by Bukhari and Muslim)

"يا معشر الشباب، من استطاع منكم الباءة فليتزوج فإنه أغض للبصر وأحصن للفرج" (رواه البخاري ومسلم)

Anas reported that the Prophet (pbuh) said:

“He, whom Allah granted a good wife, has been helped to preserve half of his religion. He should then fear Allah in [preserving] the remaining half.” (Transmitted by Al-Tabarani and Al-Hakim; the latter said chain reporters are correct)

"مَنْ رَزَقَهُ اللهُ امْرَأَةً صَالِحَةً فَقَدْ أَعَانَهُ عَلَى شَطْرِ دِينِهِ فَلْيَتَّقِ اللهُ فِي الشُّطْرِ الْبَاقِي" (رواه الطبراني والحاكم وقال رجاله صحاح)

(رواه الطبراني والحاكم وقال رجاله صحاح)

### **Shari'ah Ruling on Marriage**

In Shari'ah, there are four cases of the ruling on marriage: obligatory, recommended, permissible, and forbidden.

Marriage is obligatory (فرض) when the person can meet its requirements, both physical and financial and when he/she needs it and he/she fears that he/she may commit unlawful sexual practices such as fornication, lewdness or girl/boys' body-watching and gazing. Marriage is considered strongly recommended (مستحب) in case of need and ability without fear of committing such sinful practices. Marriage becomes

forbidden if either party knows for certain that he/she cannot fulfill his/her biological, physical or financial obligations.

It may also be forbidden (حرام) in cases where the Shari'ah Law makes it unlawful, such as marriage between a man and the mother or daughter of his former wife, marriage between a woman and the father of son of her former husband and in the case of a man and a woman having been breast-fed by same woman, though they may have no blood relation. Marriage is also forbidden when a man absolutely cannot meet its financial requirements. There are several other cases of forbidding marriage between men and women with blood or breast feeding relations that can be reviewed in the literature. Finally, marriage is permissible (مباح) in all other cases.

While marriage may be, sometimes, merely permissible, abstention from marriage with the intention of celibacy is prohibited. Anas reported:

“Three people came to the Prophet’s (pbuh) residential quarters to inquire about his worship. When they were informed [by his wives], they kind of thought it was little. They said [to one another]: ‘How can you compare yourselves to the Prophet (pbuh) when God has forgiven him all his sins, past and future.’ One of them then said: ‘I shall pray all night, every night for the rest of my life.’ The second man said: ‘I shall fast all day, every day all my life.’ The third said: ‘As for me, I shall remain celibate and never get married.’ When the Prophet (pbuh) arrived, he [turned to the three men and] said: ‘Are you the ones who said so and so? By Allah, I am the most God-fearing among you, yet I pray at night and sleep; I also fast [on some days] but do not fast [on others]; and I certainly do not turn

”جَاءَ ثَلَاثَةٌ رَهْطٍ إِلَى بُيُوتِ  
النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ  
يَسْأَلُونَ عَنْ عِبَادَةِ النَّبِيِّ  
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَلَمَّا  
أَخْبَرُوا كَانَهُمْ تَقَالُوهَا  
فَقَالُوا: وَأَيْنَ نَحْنُ مِنْ  
النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ،  
وَقَدْ غَفَرَ اللَّهُ لَهُ مَا تَقَدَّمَ  
مِنْ ذَنْبِهِ وَمَا تَأَخَّرَ. قَالَ  
أَحَدُهُمْ: أَمَّا أَنَا فَأَنِّي  
أَصَلِّي اللَّيْلَ أَبَدًا، وَقَالَ  
الْآخَرُ: أَنَا أَصُومُ الدَّهْرَ  
وَلَا أَفْطِرُ، وَقَالَ الْآخَرُ:  
أَمَّا أَنَا فَأَعْتَزِلُ النِّسَاءَ  
فَلَا أَتَزَوَّجُ أَبَدًا. فَجَاءَ  
رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ  
وَسَلَّمَ فَقَالَ: أَنْتُمْ الَّذِينَ  
قُلْتُمْ كَذَا وَكَذَا؟... أَمَّا  
وَاللَّهِ إِنِّي لِأَخْشَاكُمْ لِلَّهِ  
وَأَتَقَاكُمْ لَهُ، وَلَكِنِّي أَصُومُ  
وَأَفْطِرُ، وَأَصَلِّي وَأَرْقُدُ،



my back on marriage. Whoever turns away of my way of life is not a follower of mine.”

(Transmitted by Bukhari and Muslim)

وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ  
عَنْ سُنَّتِي فَلَيْسَ مِنِّي"  
(رواه البخاري ومسلم)

## **Role of Parents**

With marriage occupying such an important place in the life of Islamic society and community, parents are required to help their children get married. Abdullah ibn ‘Umar reported that his father ‘Umar tried hard to get his daughter Hafsa remarried after she became a widow. He offered her in marriage to ‘Uthman but ‘Uthman showed no interest, then he offered her to Abu Bakr, but he also declined. Both knew the Prophet (pbuh) was interested in marrying her (the story is reported in full by Bukhari and Nasa’i).

We will notice later that the involvement of family accompany the process of marriage from its first step of selection of spouse to concluding the contract to helping in marriage counseling and in carrying the burden of raising the children. The family financial support also remains vivid in the background and it is called to the front when needed.

Furthermore, it is well-known in Shari’ah that spending on marriage, when obligatory or recommended, is given higher priority over spending on pilgrimage although the latter is one of the basic five pillars of Islam. Additionally, financial help may be given from Zakah fund in case of marriage but Zakah can’t be given to help a person go for Hajj.

## **2. Selection of the Spouse**

The most important factor to be considered in the selection of a spouse is piety, i.e. the moral and religious attitude and standards of behavior. The Messenger of God says:

“A woman is normally sought as a wife for one of four reasons: her wealth, her noble lineage, her beauty, or her religious character. Be blessed by choosing the God-fearing woman, or else you will be a loser.”

"تُنكَحُ الْمَرْأَةُ لِأَرْبَعٍ:  
لِمَالِهَا وَلِحَسَبِهَا  
وَلِجَمَالِهَا وَلِدِينِهَا،  
فَإِظْفَرِي بِذَاتِ الدِّينِ تَرِبَتْ  
يَدَاكَ"

(Transmitted by Bukhari and Muslim)

(رواه البخاري ومسلم)

A God-fearing and understanding wife makes life enjoyable and striving pleasant. Abdullah ibn ‘Amr reported the Prophet (pbuh) as saying:

“This life on earth is for joy and the best type of its joy is [to have] a good wife.” (Transmitted by Muslim)

"الدُّنْيَا مَتَاعٌ وَخَيْرُ  
مَتَاعِهَا الْمَرْأَةُ  
الصَّالِحَةُ" (رواه مسلم)

The second factor in spouse selection is her ability to be affectionate to her husband and give birth to children. Ma’qil ibn Yassar reported the Prophet (pbuh) as saying:

“Marry the affectionate woman who (can) give birth to children so that on the Day of Resurrection I will be delighted by your multitude compared with other nations.” (Transmitted by Nasa’i and Abu Dawud)

"تَزَوَّجُوا الْوَدُودَ الْوَالِدَةَ  
فَإِنِّي مُكَائِرٌ بِكُمْ الْيَوْمَ  
يَوْمَ الْقِيَامَةِ" (رواه النسائي وأبو داود)

Compatibility in personality, social attitudes, age, and cultural and economic standards may be a factor that deserves not to be disregarded. The Prophet (pbuh) refused to marry Fatimah to Abu Bakr and then to Umar because she was “still very young” but when Ali, who was also young, asked to marry her, the Prophet (pbuh) married her to him.

Beauty and physical compatibility is yet another factor in selecting the spouse. The Prophet (pbuh) put it this way:

“The best of women is one who is pleasing to look at, who carries out your instructions, when you ask her with the solemnity of an oath she responds favorably, and in your absence, she protects your trust in herself and in your property.” (Transmitted by Nasa’i with an authenticated chain of narrators)

"خَيْرُ النِّسَاءِ مَنْ إِذَا  
نَظَرْتَ إِلَيْهَا سَرَّتْكَ وَإِذَا  
أَمَرْتَهَا أَطَاعَتْكَ وَإِذَا  
أَقْسَمْتَ عَلَيْهَا أَبْرَّتْكَ  
وَإِذَا غَبْتْ عَنْهَا حَفِظَتْكَ  
بِنَفْسِهَا وَمَالِكَ" (رواه  
النسائي بسند صحيح)

It is strongly recommended that prior to the marriage contract both parties have an opportunity to see each other. The Prophet (pbuh) is reported

by al-Mughirah to have said to one of his companions who was going to get married:

“Look at her, for that helps to foster permanent love between you.”

(Transmitted by Nasa’o and Tirmith)

"أَنْظُرْ إِلَيْهَا فَإِنَّ ذَلِكَ  
أَحْرَى أَنْ يُؤَدَمَ بَيْنَكُمَا"  
(رواه النسائي والترمذي)

All intimate practices such as dating and trial marriage, etc. before marriage are strictly prohibited because they annihilate and contradict the very meaning of marriage.

It is also prohibited to propose to a woman who has received a proposal from another man as long as this proposal is still pending and is not rejected. Abu Hurairah reported that the Prophet (pbuh) said:

“A man must not propose to a woman when his [Muslim] brother has already proposed to her until the first man quits.” (Transmitted by Bukhari and Muslim)

"وَلَا يَخْطُبُ عَلَى خُطْبَةِ  
أَخِيهِ حَتَّى يَذَرَ"  
(رواه البخاري ومسلم)

### 3. Women/Men Forbidden to Marry

Marriage is defined in Shari’ah as a civil bondage between a man and a woman that makes intimacy and mutual joy and satisfaction permissible. It is forbidden between certain men and women in respect to the sacredness of their relations, be they blood relations, or marriage relations or breast-feeding relations. Marriage relations may concern an existing marriage or a previous marriage that has broken down for any reason. This is of course in addition to the basic point that a married woman may not marry any man because she is already bound in marriage.

#### Marriage Between Blood Relatives

Marital relation is not allowed between a man and any of the following blood relatives: his mother (including grandmothers), daughter (including granddaughters), sister (full, paternal and maternal), aunt (including grandaunts, both paternal and maternal), and niece (daughter of a sister or brother, including grandnieces).

By exact reciprocity, a woman is forbidden to marry any of the following blood relatives: Her father (including grandfathers), son (including grandsons), brother (full, paternal and maternal), uncle (including granduncles, both paternal and maternal), and nephew (son of a sister or brother, including grandnephews).

### **Marriage Between Marital Relatives**

Marriage is forbidden between a man and the mother of his wife or the mother of his ex-wife regardless of whether his marriage to her daughter still exists or has been dissolved by divorce or death. It makes no difference whether there was consummation between the man and the daughter or not as long as a marriage was contracted. Grandmothers (paternal and maternal) of the wife or ex-wife are considered as her mother in regard to this prohibition. In other words, once a marriage contract takes place between a man and a woman, her mother and grandmothers become forbidden to him in marriage exactly like his own mother and grandmothers.

A man is also forbidden to marry the daughter of his wife or former wife from a previous or a later marriage once the marriage with the mother has been consummated. If a marriage between a man and a woman has been contracted but dissolved before consummation, the man may marry that woman's daughter.

Also here by exact reciprocity, a former wife of a man is forbidden for marriage to the father (including grandfathers of either side) of her ex-husband whether their marriage was consummated or not and whether she was divorced or widowed. Also, an ex-wife of a man is prohibited for marriage to the son (including grandsons) of her ex-husband whether the consummation had taken place or not, and whether she was divorced or widowed.

It is also forbidden for a man to marry a sister of his present wife, i.e. to have them both together in marriage. The same prohibition applies to parental and maternal aunts of a current wife. But after divorcing his wife or after her death, a man may marry her sister or aunt. Also a woman may marry a brother or uncle of her former husband.

### **Marriage Between Breast-Nursing Relatives**

Breast feeding of a baby during his/her first two years of age, for at least one full feeding (full feeding means that the baby takes the nipple of the breast and gets milk from it until the baby is full and quits the nipple out

of his/her own desire without any forced interruptions),<sup>1</sup> makes the feeding mother like the baby's natural mother in regard to prohibition of marriage and also makes all her relatives the same as blood relatives with respect to the prohibition of marriage.<sup>2</sup> Also when a woman breast feed a baby, the woman's husband becomes a breast-feeding father of the baby and is treated like a blood father in regard to the prohibition of marriage. The same prohibition also applies to marriage relations. In other words, breast-feeding mother and daughter of a current or former wife are prohibited for the husband and a breast-feeding father and son of an ex-husband are prohibited for a woman.

All the above prohibitions are mentioned in the Qur'an and the authentic Sayings of the Prophet (pbuh), here are the texts:

“And marry not women whom your fathers married, unless it be a thing of the past; surely it is indecent and hateful; an evil way” (4:22)

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ  
مِّنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ  
إِنَّهُ كَانَ فَاحِشَةً وَمَقْتًا وَسَاءَ  
سَبِيلًا  
(النساء : 22)

“Forbidden to you (for marriage) are: your mothers, your daughters, your sisters, your paternal aunts, maternal aunts, your brother's daughters, your sister's daughters, your [foster] mothers who breast-fed you , your [foster] sisters from breast-feeding, your wives' mothers, your step-daughters who are in your care born of your wives with whom ye have lain—no prohibition if ye have not gone in, and (those who have been) wives of your sons who are of your loins; and that you should take together

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ  
وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ  
وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ  
الْأَخِ وَبَنَاتُ الْأَخْتِ  
وَأُمَّهَاتُكُمْ اللَّاتِي أَرْضَعْنَكُمْ  
وَأَخَوَاتُكُمْ مِّنَ الرَّضَاعَةِ  
وَأُمَّهَاتُ نِسَائِكُمْ وَرَبَائِبُكُمْ  
الَّتِي فِي حُجُورِكُمْ مِّن  
نِّسَائِكُمُ اللَّاتِي دَخَلْتُمْ بِهِنَّ  
فَإِنْ لَّمْ تَكُونُوا دَخَلْتُمْ  
بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ  
وَخَالَاتُ أَبْنَائِكُمُ الَّذِينَ مِنْ  
أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ

<sup>1</sup> Some schools of jurisprudence require a minimum of three time breast-feeding (Dawud) and some others consider feeding five times as minimum (Shafi'i) in order to produce the effect of prohibition of marriage. Others, however, consider one drop of a woman's breast milk as all that is required for marriage prohibition purposes (Hanafi)

<sup>2</sup> Thus, foster children are not considered children in regard to the prohibition of marriage unless they are breast-fed.

two sisters in wedlock, unless it be a thing of the past; God is All Forgiving, most Merciful.” (4:23)

الْأَخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ إِنَّ  
اللَّهَ كَانَ غَفُورًا رَحِيمًا  
(النساء : 23)

Abu Hurairah reported:

“The Prophet (pbuh) prohibited that a married man should marry the parental aunt of his wife or her maternal aunt. Another version of this Saying: the Prophet (pbuh) has forbidden for a man to be married to a woman and to her paternal aunt or to a woman and her maternal, together.”

(Transmitted by Bukhari, Muslim, Abu Dawud, Tirmithi, Nasa’i and Imam Malik)

"نَهَى رَسُولُ اللَّهِ، صَلَّى اللَّهُ  
عَلَيْهِ وَسَلَّمَ، أَنْ تُنكَحَ  
الْمَرْأَةُ عَلَى عَمَّتِهَا  
وَالْمَرْأَةُ عَلَى  
خَالَتِهَا. وَفِي  
رِوَايَةٍ نَهَى رَسُولُ اللَّهِ، صَلَّى  
اللَّهُ عَلَيْهِ وَسَلَّمَ، أَنْ يَجْمَعَ  
الرَّجُلُ بَيْنَ الْمَرْأَةِ  
وَعَمَّتِهَا وَبَيْنَ الْمَرْأَةِ  
وَخَالَتِهَا"

(رواه البخاري ومسلم وأبو داود  
والترمذي والنسائي ومالك)

Abdullah ibn Abbas reported that the Prophet (pbuh) said:

“Nursing relations are the same as lineage relations with regard to prohibition of marriage.” (Transmitted by Bukhari, Muslim, and Nasa’i)

"وَيَحْرُمُ مِنَ الرِّضَاعَةِ مَا  
يَحْرُمُ مِنَ النَّسَبِ" (رواه  
البخاري ومسلم والنسائي)

Similar Sayings are related by Ali (Muslim, Nasa’, Abu Dawud, and Malik), Umm Salamah (Muslim), and Umm Habibah (Bukhari, Muslim, Nasa’i and Abu Dawud).

### **Marriage Between Divorcees**

A man is prohibited from remarrying a woman that has divorced three times. If he divorced her once or twice, he can remarry her, but after the third divorce, it is prohibited for him to remarry her again unless she has been in the interval married to another man who then has divorced her. This marriage to the other man must have been consummated.

Allah, Subhanahu wa Ta’ala, says:

“And if he divorced her [the third

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ

time] she shall not be lawful to him after that, until she has married another husband. If he divorces her, then there is no blame on both of them to reunite [in marriage] if they think that they can keep within the limits set by God. These are the limits of God which He makes clear to those who understand.” (2:230)

مِن بَعْدُ حَتَّى تَنْكِحَ زَوْجًا  
غَيْرَهُ فَإِن طَلَّقَهَا فَلَا  
جُنَاحَ عَلَيْهِمَا أَن  
يَتَرَاجَعَا إِن ظَنَّا أَن  
يُقِيمَا حُدُودَ اللَّهِ وَتِلْكَ  
حُدُودُ اللَّهِ يُبَيِّنُهَا لِقَوْمٍ  
يَعْلَمُونَ (البقرة : 230)

### Marriage during the ‘Iddah

The ‘Iddah is a waiting period to assure clearance of womb from any pregnancy and to respect and honor marriage. This waiting period applies to a divorced or widowed woman.<sup>3</sup> It is obligatory as decreed in the Qur’an [65:1]. The length of the ‘Iddah is also mentioned in the Qur’an as three menstrual periods [2:228], three month for post menopause women [65:4] or delivery for pregnant women [65:4]. ‘Iddah is four months and ten days in case of husband’s death [2:234].

It is not permitted to propose to a woman who is still during her ‘Iddah [2:235]. Marriage must not be contracted during the ‘Iddah of a woman and any marriage contract made during the ‘Iddah is considered null and void.

Allah, Subhanahu wa Ta’ala, says:

“But do not make mutual secretive promises [of marriage] except that you speak to them in terms honorable. And do not resolve to make a marriage contract till the term prescribed comes to its end”  
(2:235)

وَلَكِن لَّا تُوَاعِدُوهُنَّ سِرًّا  
إِلَّا أَن تَقُولُوا قَوْلًا  
مَّعْرُوفًا وَلَا تَعْزِمُوا عُقْدَةَ  
النِّكَاحِ حَتَّى يَبْلُغَ  
الْكِتَابُ أَجَلَهُ  
(البقرة : 235)

<sup>3</sup> It may apply to a man in rare cases: when a wife is divorced her ex-husband has to wait until the expiry of her ‘Iddah before he can marry a sister of her, also if a man is married to four wives and divorces one of them he has to wait until the expiry of her ‘Iddah before he can marry another fourth wife.

## Marriage to a Non-Muslim

Marriage between Muslim men and pagan or unbeliever women is prohibited. Also prohibited is the marriage of Muslim women and unbeliever, pagan, Jewish, or Christian men.

Under the Islamic laws, Muslim Men are allowed to marry Jewish or Christian women. However, this marriage must not violate other tenets of the Islamic law such as custody and guardianship of children, children's faith and property and inheritance laws. If there is any reasonably justified fear that such marriage to women from these other two monotheistic religions may violate the Islamic law, especially in regard to the faith and guardianship of children, this marriage may become prohibited for these reasons.

Allah, Subhanahu wa taa'ala, says in the Quran:

“And do not marry unbelieving women [idolatresses] until they believe. And indeed a believing slave woman is better than an idolatress even though she may please you. And do not give [your daughters] in marriage to unbelievers unless they believe. A believing slave is better than a [free] idolater even though he may please you. Unbelievers invites [you] to the Fire, but God calls [you], by His Grace, to paradise and to forgiveness. And He makes His signs clear to mankind, so that they may remember.” (2:221)

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ  
حَتَّى يُؤْمِنَ وَلَا أُمَّةً مُّؤْمِنَةً  
خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ  
أَعْجَبَتْكُمْ وَلَا تَنْكِحُوا  
الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا  
وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ  
مُّشْرِكٍ وَلَوْ أَعْجَبَكُمْ  
أُولَئِكَ يَدْعُونَ إِلَى  
النَّارِ وَاللَّهُ يَدْعُو إِلَى  
الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ  
وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ  
لَعَلَّهُمْ يَتَذَكَّرُونَ

(البقرة : 221)

Needless to say that a married woman may not marry another man while still in marital bond with her husband. But it is useful to mention that it is prohibited for a man to even make an offer to a married woman that he will marry her after getting a divorce from her husband. Additionally, a marriage contract may not be concluded while a formerly married woman is still during her 'Iddah.



## 4. Marriage Contract

Marriage in Islam is much more than a relation between a man and a woman; it is an affair of their two families and of the Muslim community or neighborhood as well.

The marriage contract is a binding, final and permanent (not temporary) agreement between two parties, a man and a woman. It is the most serious and significant and effect-pregnant contract a person may undertake in his/her life. Yet, the Shari'ah defines it as a civil contract in a sense that it carries no religious implications, effects or content. Because of its importance, the Shari'ah gives this contract a special attention and provides for its minute details and conditions. The main components of a marriage contract are the following:

1. **Consent of the parties**
2. **The Wali**
3. **Announcement**
4. **Sadaq**
5. **Special conditions**
6. **Shari'ah required conditions for Muslim marriage under non-Islamic laws**
7. **Effect of a Valid Marriage Contract**

### 1. Consent of the two parties

Looking into any classical book on Fiqh we'll notice that the marriage contract has four essential components: a man, a woman, an offer and an acceptance. These four things can be put together to mean **consent of the two parties** of the contract is in fact the indispensable block of marriage. Consent must be given from persons who are legally qualified to contract and with the use of exact and unequivocal terms of marriage. It is always preferred that consent is given in writing through a formal marriage certificate like the one attached at the end of this manual.

**1.a. Aptitude** to give consent to a marriage contract is the same civil aptitude as defined in Shari'ah that is the age of puberty along with sanity. Persons who are under age of puberty or insane can still be married if they are physically fit for marriage but the consent to marriage must be given by their respective legal guardians. A marriage contracted by a guardian can be revoked by the party to the marriage (wife or husband) upon removal of in-aptitude by either reaching the age of puberty or cure from insanity. Of course, such revocation will only be effective from its date and can't have a reversed effect back to the date of the marriage contract. However, when a marriage contract is performed by a guardian of an under-age person, consummation can't take place until after puberty of

the minor because a person under puberty is not fit for marriage. The rule of aptitude and guardianship apply equally to males and females.

**1.b. Offer to marry:** the marriage offer can be advanced by either party. It must be explicit, definite, final and unequivocal. This means it must use the word of marriage زواج or نكاح and usually takes the form ‘marry me’ or ‘take me as your husband/wife’ or ‘marry me your daughter .....(name)’ or ‘I marry your son ..... my daughter.....’ Not explicit or not definite words, such as ‘take me to your home’ or ‘I may marry you’ do not create a marriage contract.

**1.c. Acceptance to marry:** the acceptance of marriage offer must be given by the other party within reasonable time span soon after the offer depending on the case. Marriage can be contracted in presence of the two parties or by correspondence. Acceptance must also be explicit, definite, final, unequivocal and must exactly match the offer without any minute variation or discrepancy.

## 2. The Wali

A Wali is the closest Muslim male kin of the bride. It is the man who would be her guardian if she were a minor. Normally the Wali is her father but in case he does not exist then her brother, son, parental grandfather, parental uncle, etc. may stand as a Wali. But for a bride who has no Muslim male kin, the Wali is the Muslim ruler or the Muslim judge, and if these do not exist, the Wali should be a prominent and trustworthy Muslim leader in the community.

The Majority of the Hinafi school’s scholars recommends the assignment of the Wali to conclude the contract with the approval of the bride, it is a matter of honor and respect to her and it highlights the involvement of her family in her marriage. At the same time, they argue that a woman is not required to have a Wali for concluding her marriage as she is fully qualified to make her own contract. The basic rationale for this Hanifites argument comes from Verses 2:230 that is mentioned above and from Verses 2:232 and 33:50. All three verses relate contracting marriage to the bride herself without any reference to a Wali.

They also cite a Saying reported by Abdullah ibn Abbas that the Prophet (pbuh) said:

“A woman [who has no husband] has more right (power) on her own [marriage] than her Wali.”

(Transmitted by Muslim)

"الْأَيِّمُ أَحَقُّ بِنَفْسِهَا مِنْ  
وَلِيِّهَا"

(رواه مسلم)

On the other hand, the other three schools of Islamic jurisprudence argue that a marriage contract can only be concluded by the Wali and a woman can't make her own

marriage contract of that of any other woman. Essentially their argument is derived from a few Sayings of the Prophet Muhammad (pbuh) such as:

“No marriage is valid without a Wali.”

(Transmitted by Tirmithi and Abu Dawud through an authentic chain. Tirmithi added: ‘There are similar Saying reported by ‘A’isha, Abu Hurairah, ‘Imran ibn Hussain, and Anas)

"لَا نِكَاحَ إِلَّا بِوَالِيٍّ"

(رواه الترمذي وأبو داود بسند صحيح  
وقال الترمذي: وفي الباب عن عائشة  
وأبي هريرة وعمران بن حصين وأنس)

Also, Abu Hurairah reported the Prophet (pbuh) to have said:

“A woman may not act for another in concluding a marriage contract, and a woman may not conclude her own marriage contract.”

(Transmitted by Ibn Majah and Daraqutni)

"لَا تُزَوِّجُ الْمَرْأَةَ الْمَرْأَةَ  
وَلَا تُزَوِّجُ الْمَرْأَةَ نَفْسَهَا"

(رواه ابن ماجه  
والدارقطني)

The Wali must be Muslim since Allah, Subhanahu wa Ta’ala, says:

“And never will God grant to the Unbelievers a way (of authority) over the believers.” (4:141)

وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى  
الْمُؤْمِنِينَ سَبِيلًا

(النساء 141)

### **The Bride’s Agreement**

Whenever marriage contract of an adult woman is done by a Wali, the contract is not valid without a clear consent and mandate from the bride to her Wali to do so. This implies that a contract can’t be complete without her specific agreement that must be in the following form “to marry her to this specific man for a specific Sadaq.” Lack of her full and clear consent renders the contract revocable by her desire unless she willingly accepts to go to consummation because that act represents a physical consent. A virgin bride, who is assumed to be shy, may give an implicit agreement by remaining silent in response to the question given by her father whether she accepts to be married to the intended man. But when the Wali is not her close kin her consent and authorization must be in an explicit way. Also, the explicit consent is necessary if the women is a widow or divorced.

### **3. The Announcement of Marriage**

The announcement of marriage is significant to make it clearly different from illicit relation between a man and a woman. The Prophet (pbuh) is reported by ‘A’isha to have said:

“Announce this marriage and make it in mosques, and play with tambourines in its celebration.”  
(Transmitted by Tirmithi)

"أَعْلِنُوا هَذَا النِّكَاحَ وَاجْعَلُوهُ فِي  
الْمَسَاجِدِ وَاضْرِبُوا عَلَيْهِ بِالذُّفُوفِ"  
(رواه الترمذي)

The announcement of marriage is an essential component of the contract. However a marriage that is done without announcement can be remedied by announcing it before consummation. Lack of minimum announcement renders the marriage contract revocable with no cure by a court order.

At least two Muslim male witnesses or one Muslim male and two Muslim female witnesses are required as a minimum announcement. All witnesses must be adult with good characters and reputation.

Furthermore, The Prophet (pbuh) disallowed secretive marriage. Abu Hurairah reported:

“The Prophet (pbuh) prohibited marriage in secrecy”  
(transmitted by al Tabarani in al Awsat)

"نَهَى رَسُولُ اللَّهِ، صَلَّى اللَّهُ عَلَيْهِ  
وَسَلَّمَ، عَنِ نِكَاحِ السِّرِّ"  
(رواه الطبراني في الأوسط)

#### 4. The Sadaq

Sadaq, also called Mahr, is a required marriage gift given by the groom to the bride. It is obligatory and makes a component of the marriage contract. It also represents the groom commitment to take care of all the family expenses including those for her personal needs. Allah, Subhanahu wa Ta'ala, says in the Quran:

“And give women (on marriage) their dowry as a pure gift.” (4:4)

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً  
(النساء : 4)

Sadaq may be in money or in kind, but it should be specified in its kind and quantity in the marriage contract itself. However, sadaq may be paid in full at the time of the contract (or before); part of it may be postponed to a definite or indefinite date in the future, or it may be postponed in total. What is indefinitely deferred becomes due upon divorce or death, whichever occurs first. The value of sadaq could be anything from one dollar up. It is worth mentioning that the Sadaq of the Prophet (pbuh) in most of his marriages was four hundred Dirhams, which is an amount that is twice as much as the Nisab of Zakah.<sup>4</sup>

<sup>4</sup> There is sufficient evidence to assume that one Dirham was sufficient to feed a family of four at least one main meal that includes meat and wheat. One dirham was also a day pay for unskilled labor. This means that Mahr doesn't have to be a negligible amount!

While an obligatory ingredient of the Marriage contract, failure to determine a Mahr does not void the contract. It rather calls for a remedy that is either by agreeing, after the contract on a Mahr or determine it by a judge or arbitrator on the basis of the Sadaq of her peers.

## **5. Special conditions**

All conditions that contradict the objective of a contract are not valid. An example is a condition in marriage that there must be no consummation or no living together. Also invalid conditions that contradict the Shari'ah implications of the marriage contract such as a condition that she does not inherit from him or a condition that he is not required to provide for her expenses and the expenses of their household.

However, all other conditions that benefit either party without compromising the objective of marriage or its Shari'ah implications are permissible, valid and binding. Such conditions may include matters like "she may work outside home and pursue her own career," "he provides for an in-house babysitter," or "she will continue her university study" or "she has the right to divorce him and yet charge him for the financial aftermath of divorce," or "they will reside in the neighborhood of her family," etc. 'Uqbah ibn Nafi' reported that the Prophet (pbuh) said:

"Surely, the conditions most worthy to be fulfilled are those with which you made intimacy with women permissible"

(transmitted by Bukhari and Muslim)

"أَحَقُّ الشُّرُوطِ أَنْ تُوفُّوا  
بِهِ مَا اسْتَخَلَّتُمْ بِهِ  
الْفُرُوجَ"

(رواه البخاري ومسلم)

## **6. Shari'ah requirements for Muslim marriage under non-Islamic laws**

Muslims in North America, like all other Muslims who live under family, property and inheritance laws that are not derived from the Shari'ah, need to compensate for what they miss. Otherwise in the case of dispute or objection of an heir or conflict between the law of the land and the Shari'ah courts will obviously uphold the laws of the land and the Islamic commitment become lost. Fortunately, in all state of the US and provinces of Canada the laws allow couples who are getting married to create and sign contracts before marriage (pre-nuptial), marriage contracts and after marriage contracts (post-nuptial). These contracts can virtually accommodate all the Shari'ah requirements in the legalities of marriage. It is for this reason that we suggest that all Muslim couples who intend to get married should consult their legal advisors and sign either a pre-nuptial or a marriage contract and we also suggest for all already married couples who have not created such a documents including Muslim couples who got married in a country that has Islamic family law but live in North America to create and sign a post-nuptial agreement to govern the legal matters of their marriage. This is why we have prepared a form that contains all the

Shari'ah aspects of the legality of marriage that is attached to this manual. One can also check the pre-nuptial and the post-nuptial suggested forms on the website [www.kahf.net](http://www.kahf.net).

### **Main points that must be in an Islamic marriage contract**

An Islamic marriage contract for Muslims in North America must contain the following points in order to fulfill the requirement of the Shari'ah:

2. Declaration of faith and intention that the marriage should be ruled and governed by the Shari'ah (Islamic law) of family, property, inheritance and other relevant sections of the Shari'ah,
3. Declaration and absolute resolve that children should be raised as Muslims and recognition of the parents' responsibility to educate their children and teach them the basic tenets of Islam and inculcate in them the love of God, His Messengers especially the last one of them the Prophet Muhammad (pbuh), his family and his companions and followers,
4. Establishing the principle of separation of properties and income between husband and wife unless in those items that they put in both names as joint, community or any similar arrangement and declaration of the proportion of distribution of ownership of such properties that are in both names,
5. Determination of the amount of Mahr, its date and mode of payment.
6. Acceptance of the husband to take charge of all family, household and personal expenses of his wife and that the wife is not responsible for spending on the household, the family and even her own personal expenses regardless of her wealth and income,
7. Establishing the principle that the wife is not responsible for servicing the house, the family and her husband and that whatever service she puts in is absolutely voluntary for which she deserves thanks and appreciation,
8. expressing commitment of both husband and wife to the Islamic inheritance laws and distribution of estate even though certain state laws may give either of them a larger portion of the estate than the Islamic law,
9. Arrangement for custody and guardianship of minor children in the case of death of one or two parents,
10. Dispute solving in accordance with Shari'ah including Islamic arbitration, divorce, Khul' and arbitrator's ordered dissolution of marriage,
11. Any special conditions the bride or the groom wants to include.

### **7. Effect of a Valid Marriage Contract**

Once a marriage contract is duly executed between the bride and the groom and signed, the following effects become immediate:

- a) Permissibility of enjoying each other that includes gazing at any and all parts of the body, touching, courting, having romance, caressing each other and having sex within the limits known in the Fiqh literature (for instance, no intercourse during menstrual period, etc.). There is a dominant custom in many Muslim countries that intercourse, although permissible, may not be done until after the “Zifaf or ‘Urs” (consummation or wedding). The objective of this custom is to give time to the couple to know each other very well before and prepare themselves for intimacy and romance practicing any sex.
- b) Inheritance between the husband and wife: This is the second important and immediate effect of the contract. Should any one of the couple die, the surviving spouse inherit from the deceased’s estate, it doesn’t matter whether death happens before or after consummation.
- c) Confirmation of fatherhood to any children born to a duly contracted marriage. Fatherhood cannot be denied without accusing the wife of adultery and actually breaking the Marriage through the process of “Mula’annah” [swearing under oath, in presence of a Judge or Arbitrator four times that he is right in accusing her and a fifth time that the Curse of God be on him if he is lying, etc.]. The Mula’annah breaks marriage in a final way that leaves no room at all for any future returning together under any circumstances and conditions.
- d) The marriage contract creates eternal prohibition of marriage between the husband and the wife’s mother, also between the wife the husband’s father and son. Furthermore, when consummation follows the contract any daughter of the wife from another marriage become prohibited to be married with the husband or former husband of her mother.
- e) Finally, As a result of the marriage contract, kindness in courting each other becomes an obligation on either one of them.

## 5. Marriage Procedure and Ceremony

The two families and the Muslim community are always involved in the marriage ceremony. The principal requirements of this ceremony are simple: a publicized agreement in the presence of witnesses. However, to engage the two families and the community, a simple reception is encouraged.

**The steps of the procedure** are normally as follows:

1. Witnesses and guests take their seats, men and women in separate halls.
2. The officiator of the contract (who may be an Imam or any other learned Muslim and must be state-licensed or registered if required by law) check with the bride that she actually assigned the Wali to perform the marriage contract on her behalf and that she agrees to all the content of the contract, especially the special conditions if any.
3. The Wali of the bride and the groom sit facing each other, close to the witnesses so that they can be seen and heard by the witnesses.<sup>5</sup>
4. A learned man delivers a short ceremonial speech about the significance of marriage. (A model of which is attached at the end of this booklet.)
5. Then the Wali of the bride (or the bride herself) addresses the groom saying:<sup>6</sup>

"بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ ، الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ  
وَالصَّلَاةُ وَالسَّلَامُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ  
أَجْمَعِينَ.

رَوَّجْتُكَ وَأَنْكَحْتُكَ مُوَكَّلَتِي . . . . (يذكر الاسم الكامل)  
عَلَى شِرْعَةِ اللَّهِ وَسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَحَسَبِ  
العَقْدِ المَوْقَعِ فِيمَا بَيْنَكَ وَبَيْنَ مُوَكَّلَتِي . . . .  
. وَعَلَى الصَّدَاقِ المُسَمَّى بَيْنَنَا (يمكن ذكر مقداره وما  
إذا كان معجلاً أو مؤجلاً)<sup>7</sup>

“In the Name of Allah, The Merciful, The Mercy-giving; Praise be to Allah, the Lord of the Worlds; and prayer and peace be upon the Prophet Muhammad, his family and all his companions.

I marry you my daughter (sister, niece, etc.), \_\_\_\_\_, (mention name in full) whom I represent, in accordance with the Islamic Shari’ah and the tradition of

<sup>5</sup> Holding right hands together is not part of the ceremony but a local custom in some Muslim countries.

<sup>6</sup> It is customary in many Muslim countries that the man and his family search for the woman and ask her family for marriage but when it comes to the formal ceremonial offer the Wali of the bride makes it and the groom or his representative gives the acceptance. But it needs not be the case; offer can also be made by the groom or his representative and acceptance by the bride or her Wali.

<sup>7</sup> We recommend repeating the same Arabic words even by persons who don’t know Arabic because such words have always been used by the Prophet (pbuh) and his companions, even some scholars make the Arabic pronouncement of the word *أنكحك* or *زوجتك* necessary in the marriage contract, although obviously the majority rightly argues that marriage can be contracted in any language.



the Messenger of Allah (peace and prayer be upon him) and in accordance with the contract signed between you and her and for the ِSadaq agreed upon between us. (Details of the ِِِSadaq and method of payment may be mentioned)

6. The groom answers:

"بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ ، الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ  
وَالصَّلَاةُ وَالسَّلَامُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ  
أَجْمَعِينَ.

قَبِلْتُ زَوْاجَ مُوَكَّلَتِكَ . . . . (يذكر الاسم الكامل) عَلَى  
شِرْعَةِ اللَّهِ وَسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَحَسَبِ  
العَقْدِ الْمُوقَّعِ فِيمَا بَيْنَنَا وَعَلَى الصَّدَاقِ الْمُسَمَّى  
بَيْنَنَا (يمكن ذكر مقداره وما إذا كان معجلاً أو مؤجلاً) "

"In the Name of Allah, The Merciful, The Mercy-giving; Praise be to Allah, the Lord of the Worlds; and prayer and peace be upon the Prophet Muhammad, his family and all his companions.

I accept marrying your daughter (sister, niece, the woman you represent) . . . . .  
, (name in full) in accordance with the Islamic Shari'ah and the tradition of the Messenger of Allah (peace and prayer be upon him) and according to the contract signed between us and for the Sadaq agreed upon between us. (Details of the Sadaq and method of payment may be mentioned).

7. This offer and acceptance should be declared in the presence of the witnesses; loud enough for them to hear; Allah is the Best of Witnesses. By this, the marriage is concluded and the bride and the groom become husband and wife.
8. To make the marriage public it is recommended by the Prophet (pbuh) to have a Walimah. The Walimah is a party in which food is served. Anas reported that:

"The Prophet (pbuh) saw a trace of yellow (coloring)<sup>8</sup> on Abd al-Rahman ibn 'Awf and asked: 'hhmmmm! What is this?' He answered: 'I got married.' The Prophet (pbuh) said: 'May Allah make it a blessing for you. Make a

"أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ  
وَسَلَّمَ رَأَى عَلَى عَبْدِ الرَّحْمَنِ  
بَنِ عَوْفٍ أَثَرَ صُفْرَةٍ فَقَالَ:  
مُهَيْمٍ؟ مَا هَذَا؟ قَالَ:  
تَزَوَّجْتُ. قَالَ: بَارَكَ اللَّهُ لَكَ،

<sup>8</sup> The remains of scent that they used to wear on joyful occasions.

Walimah, even with only one sheep.”  
(Transmitted by Bukhari, Muslim, Tirmithi,  
Nasa’i, Abu Dawud, and Malik)

أُولِيمٌ وَلَوْ بِشَاةٍ" (رواه  
البخاري ومسلم والترمذي  
والنسائي وأبو داود ومالك)

9. Although a reception party is recommended on the occasion of marriage, public announcement of marriage is itself a tradition (Sunnah) of the Prophet (pbuh). ‘A’isha reported the Prophet (pbuh) (pbuh) (pbuh) to have said:

“Announce this marriage and make it in mosques, and play with tambourines in its celebration.”  
(Transmitted by Tirmithi)

"أَعْلِنُوا هَذَا النِّكَاحَ وَأَجْعَلُوهُ  
فِي الْمَسَاجِدِ وَأُضْرِبُوا عَلَيْهِ  
بِالدُّفُوفِ"  
(رواه الترمذي)

10. Since marriage is an extremely joyful event for the whole Muslim neighborhood, playing some kind of music and having some decent singing is allowed, even recommended. ‘A’isha also reported:

“We accompanied a woman to her wedding with a man of al-Ansar (Madinah residents who accepted Islam and helped the Prophet (pbuh). The Prophet (pbuh) said: ‘A’isha, won’t you have some entertainment? Al-Ansar enjoy entertainment.”  
(Transmitted by Bukhari)

"زَفَفْنَا امْرَأَةً إِلَى رَجُلٍ  
مِنَ الْأَنْصَارِ فَقَالَ رَسُولُ اللَّهِ  
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: يَا  
عَائِشَةُ، أَمَا يَكُونُ مَعَكُمْ  
لَهُوٌ؟ فَإِنَّ الْأَنْصَارَ يُعْجِبُهُمُ  
الْلَهُوُ"  
(رواه البخاري)

Also, Muhammad ibn Hatib reported the Prophet (pbuh) to have said:

“The distinction between (what it) lawful and (what is) prohibited: the tambourine and the sound (of singing).”  
(Transmitted by Tirmithi and Nasa’)

"فَرَقَ مَا بَيْنَ الْحَلَالِ  
وَالْحَرَامِ الدَّفُّ وَالصَّوْتُ"  
(رواه الترمذي والنسائي)

However, this celebration party must not violate any of the Islamic manners. For instance, if men and women attend the party in the same hall, they should not be mixed in their seating. Women should be wearing their Islamic dress. Songs must be devoid of wantonness, drollery, and all obscene words or meanings and the feast or party must not overburden the groom financially.

11. Additionally, marriage is an occasion of presenting the new family with gifts by relatives and friends. Abu Harairah reported the Prophet (pbuh) to have said:

“Exchange gifts, indeed a present goes away with the heat of (flame or discomfort of) chest”

(Transmitted by Tirmithi)

"تَهَادُوا فَإِنَّ الْهَدِيَّةَ تُذْهِبُ  
وَحَرَ الصَّدْرِ"

(رواه الترمذي)

12. Congratulations are offered to the bride by the women around her and by her relative and friends; also the groom is congratulated by other men. The best of congratulations is the reported by Abu Hurairah to have been said by the Messenger of Allah (pbuh) to people who got married.

“May Allah make it a blessing for you and a blessing to you and bring you together with all that is good.”

(Transmitted by Tirmithi, Abu Dawud, and Hakim; the latter said: correct and was agreed with by Thahabi)

"بَارَكَ اللَّهُ لَكَ وَبَارَكَ عَلَيْكَ  
وَجَمَعَ بَيْنَكُمَا بِخَيْرٍ"

(رواه الترمذي وأبو داود  
والحاكم وصححه ووافقه الذهبي)

## 6. Marriage Contract and Wedding (Zifaf or ‘Urs)

In many Muslim countries, there is a custom of keeping a time distance between the marriage contract (very often called ‘Aqd Nikah) and the wedding (Zifaf or ‘Urs). This custom has its roots in the tradition of the Prophet (pbuh) and in the Qur’an. The Prophet (pbuh) made a time span of a few weeks and sometimes months in some of his marriages. And the Qur’an refers to such a span between the marriage contract and consummation in Verses 2:237 and 33:49. Both verses talk about aftermath of divorce before consummation in regard to what is due to the woman out of the Sadaq and that she is not required to observe the ‘Iddah that is normally required after divorce.

This period between the contract and wedding is not a necessary component of the marriage procedure. That means it is not necessary to observe. However, many people in the Muslim countries and Muslim communities in North America prefer to have a few month between the ‘Aqd Nikah and the Zifaf or ‘Urs. This time is usually used to prepare and furnish the new house of the couple, to get to know each other very closely and to develop intimacy between. If they find that it is difficult for them to live together breaking the marriage at this stage is a lot simpler than at a later stage. But breaking the marriage contract, even before wedding, requires a divorce by the husband, or a Judge decision to order a Khul’ or divorce whichever is relevant

depending the circumstances as given in detail in Article VII of the Marriage Contract sample attached as Appendix I of this booklet.

## 7. Rights and Obligations of Husband and Wife

The rights and duties of husband and wife may be classified into three categories: mutual rights, rights of the wife on her husband, and rights of the husband on his wife.

### Mutual Rights

1. Kindness and tenderness toward each other
2. Sexual intercourse and sexual enjoyment of each other (using the rectum for sex is prohibited)
3. Inheritance rights as detailed in Shari'ah
4. Prohibition of marriage between in-laws as explained earlier in this handbook
5. Confirmation of fatherhood of the husband to children born by his wife

### Rights of the Wife

1. Sadaq

Mahr or sadaq is the right of the wife against her husband. It must be paid in accordance with the agreement in the marriage contract. If the contract did not have a clause about the mahr then the wife has the right to a mahr in an amount which is equal to that of her peers i.e., other women equivalent to her in social status.

2. Living and Household Expense

Providing for all living needs of housing, clothing, foods, etc. is the responsibility of the husband. He is required to provide his wife (and children) with all their needs.<sup>9</sup> Household spending should be in accordance with the financial capacity (as indicated in both wealth and income together) of the husband. Allah, Subhanahu wa Ta'ala says:

“Lodge them in your own homes, according to your means. And do not harass them so as to restrict them. And if they carry life [in their wombs] then spend upon them until they deliver their burden. And if they breast-feed for you give them their

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ  
وُجْدِكُمْ وَلَا تَضَارُّوهُنَّ لِيُضَيِّقُوا  
عَلَيْهِنَّ وَإِنْ كُنَّ أَوْلَاتٍ حَمَلٍ  
فَأَنْفِقُوا  
عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ

<sup>9</sup> However, he is not required to provide any of the expenses of her children from previous marriages unless that was part of the conditions of marriage like what the mother of believers, Umm Salamah, asked when the Prophet (pbuh) married her.

recompense, and consult together in justice and reason. But if you cannot bear each other, another woman shall breast-feed for him.

“The man of plenty must expend according to his means, and the man whose provision is restricted, let him expend according to what God has given him. Allah charges no soul beyond what He has given him. God will bring ease after hardship.”

(65: 6,7)

أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ  
وَأْتَمِرُوا بَيْنَكُمْ بِمَعْرُوفٍ وَإِن  
تَعَاسَرْتُمْ فَسْتَزْضِعْ لَهُ أُخْرَى.

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن  
قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا  
آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا  
مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ  
يُسْرًا

(الطلاق : 6-7)

### 3. Kindness and Good Treatment

It is an additional right of the wife against her husband. Allah says:

“...and treat them with kindness.”

(4:19)

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ

(النساء : 19)

‘A’isha and Ibn Abbas reported the Prophet (pbuh) to have said:

“The best among you is that who is best to his family and I am the best of you to my family.”  
(Transmitted by Ibn Majah and Ibn Habban)

"خَيْرُكُمْ خَيْرُكُمْ لِأَهْلِهِ  
وَأَنَا خَيْرُكُمْ لِأَهْلِي"  
(رواه ابن ماجة وابن حبان)

Another version of this saying reads:

“The best among you is that who is best to women”

"خَيْرُكُمْ خَيْرُكُمْ لِلنِّسَاءِ"

### 4. Protection

The husband should provide protection to his wife against any aggressor on her chastity and should defend her against any humiliation or defamation.<sup>10</sup>

## Rights of the Husband

### 1. Providing Sexual Satisfaction

The wife should always be ready to offer her husband the sexual enjoyment when and as it pleases him. Abu Hurairah reported the Messenger of Allah (pbuh) to have said:

<sup>10</sup> See *Fiqh al-Sunnah*, Syed Sabiq, Dar al-Kitab al Arabi, Beirut, 2<sup>nd</sup> ed. 1973, Vol. 2, p. 161-162

“If a man calls on his wife to his bed and she did not come so that he slept feeling angry with her the angels keep cursing her till morning.”

(Transmitted by Bukhari, Muslim, Nasa’I, and Abu Dawud)

"إِذَا دَعَا الرَّجُلُ امْرَأَتَهُ إِلَى فِرَاسِهِ فَلَمْ تَأْتِهِ فَبَاتَ عَلَيْهَا غَضَبَانَ لَعْنَتَهَا الْمَلَائِكَةُ حَتَّى تَصْبِحَ"

(رواه البخاري ومسلم والنسائي وأبو داود)

## 2. Obedience

Obedience in the general affairs of the family is the duty of all its members to the head of the family who is the husband or the father. This obedience is always within normal and reasonable limits and in matters of the management of the family that are lawful according to the Shari’ah.

The Prophet (pbuh) mentioned that it is a duty of a woman to obey her husband in several authentic sayings (see: *al-Tarhib Wa al Tarheeb* by al-Munthiri, Vol. 3, p. 51-59). Obedience is especially referred to in going out without his consent or receiving anyone whom he does not like to be received at his home.

## 8. Marriage Ceremonial Khutbah<sup>11</sup>

May Praise and Glory be always to Almighty Allah, the Sustainer of the Worlds from Whom we ask help and pardon. We seek refuge in Allah from the evils within ourselves and from our evil actions. He whom Allah guides no one can lead astray and he whom He leads astray has no one to guide him. I testify that there is no deity but Allah. I testify that Muhammad is His servant and messenger.

Almighty Allah created humanity, male and female, each on need of the other, and established the institution of marriage as a means of uniting the souls in blessed bonds of love, affection and mercy, leading to their pleasure and happiness in a way advantageous to mankind. In His Holy Book, our Lord says:

“And It is He Who has created from water a human, and made him kindred of blood and of marriage. Your Lord is All Powerful.”

(25:54)

وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ بَشَرًا  
فَجَعَلَهُ نَسَبًا وَصِهْرًا  
وَكَانَ رَبُّكَ قَدِيرًا

(الفرقان: 54)

And He reminds us of one of His great favors, saying:

<sup>11</sup> Khutbah (discourse) is not an essential part of marriage, it is only recommended as the Prophet (pbuh) did it. The marriage is legal and complete without any Khutbah. What is given in this section is just an example.

“And among His signs is that He created for you, of yourselves, spouses that you may dwell in joy with them, and He has set between you love and mercy; surely in that are signs for those who reflect.”

(30:21)

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً  
 إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ  
 (الروم: 21)

And peace and blessings be upon His great and beloved Prophet (pbuh) and last messenger, Muhammad, who emphatically urged Muslims to marry. He said:

“Young men! Those of you who can afford to get married should do so, [marriage] is the best check for [lustful] eyes and an best [effective to maintain] chastity.”

(Transmitted by Bukhari and Muslim)

"يَا مَعْشَرَ الشَّبَابِ، مَنْ اسْتَطَاعَ مِنْكُمْ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضٌ لِلْبَصْرِ وَأَحْضٌ لِلْفَرْجِ"  
 (رواه البخاري ومسلم)

Brothers and Sister (or ladies and gentlemen) و at this precious and auspicious moment, we are celebrating the unity in the bond of marriage in obedience to, the and under the guidance, of our Creator Allah, Subhanahu wa Ta'ala and in obedience to the practices and teaching of the beloved Prophet (pbuh), our Brother \_\_\_\_\_ and Sister \_\_\_\_\_<sup>12</sup> who have decided to live together as husband and wife, sheltered with the blessing of Almighty Allah and His Divine Benevolence. May Allah fill their life with joy, love and affection and may He continuously grant them peace, mercy, health and prosperity. May they always live together in an atmosphere of tranquility and never-diminishing love and tender regard for each other.

And now, ladies and gentlemen, we are about to listen to the Wali of the bride and the bridegroom creating this contractual and solemn bond. We are all witnesses to this blissful event. So let us, ourselves, seek the pleasure and forgiveness of our Lord, Almighty Allah. May He absolve our sins and may He guide us in the right path and make us worthy of being witnesses to this blessed and cheerful marriage.

As Allah, Subhanahu wa Ta'ala says:

“Our Lord! Make out of our wives and offspring the joy of our eyes.”  
 (25: 74)

رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا  
 وَذُرِّيَّاتِنَا قُرَّةَ أَعْيُنٍ  
 (الفرقان: 74)

And:

<sup>12</sup> Here he may mention some good qualities of the bride and the groom and their families.

“Our Lord! Give us the good in this World and good in the Hereafter and protect us from the torment of the Fire.”  
(2: 201)

رَبَّنَا آتِنَا فِي الدُّنْيَا حَسَنَةً  
وَفِي الْآخِرَةِ حَسَنَةً وَقِنَا عَذَابَ  
النَّارِ  
(البقرة : 201)

The discourse may also contain other verses from the Qur'an and traditions from the Sunnah and examples from the life of the Sahabah (Companions of the Prophet, pbuh) and Salaf salihien (our righteous Ancestors) and other things appealing to the audience. It is also advisable to remind both the bride and bridegroom of their duties and their responsibilities towards each other and towards the children who may be given to them as gifts from Almighty Allah.

After the marriage Khutbahh, the officiator of the marriage, the two witnesses, the groom, and the Wali of the bride should proceed to conclude the marriage contract according to the following steps:

1. The officiator should hear the consent of the bride to procession of her Wali in marrying her to the groom. If the Wali is an appointed, trustworthy Muslim in the community, the officiator of marriage should hear the consent of the bride to the appointment of her Wali.
2. The officiator should make sure that all the conditions of the marriage, especially the Sadaq, are clearly and identically understood by the groom, the bride, and the bride's Wali both in writing and verbally.
3. Be sure that a marriage license is obtained from the County Clerk.
4. Filling all necessary information on the marriage contract forms and on the marriage certificate.
5. Follow the procedure explained on Section 5 of this handbook.



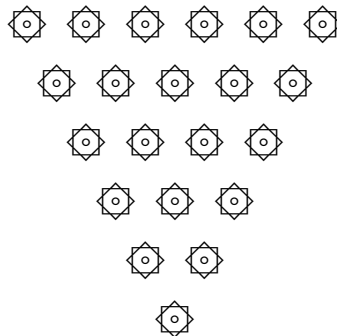
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**9. Appendix I:**  
**Samples of Marriage Contract and related agreements**

**DISCLAIMER**

**This form is provided to enhance the Shari'ah awareness of Muslim brides and grooms who are getting married about the Islamic Shari'ah issues related to their marriage contract and relations, and to help them formulate their thoughts about the proper contractual relationship with regard to their marriage and respective rights and properties AS PRESCRIBED IN THE Qur'an and the Sunnah and Islamic Jurisprudence.**

**THIS IS NOT A LEGAL DOCUMENT AND IT IS NOT PRESENTED AS A LEGAL INSTRUMENT. THE WRITER OF THIS FORM, ISNA AND ANY OTHER ORGANIZATION THAT MAY PUBLISH THIS FORM OR RECOMMEND IT FROM SHARI'AH POINT OF VIEW, THE OFFICER OF ISLAMIC CENTER (MOSQUE) WHO PERFORMS THE MARRIAGE AND OFFICIATES ITS CERTIFICATE IN ACCORDANCE WITH SHARI'AH, THE ISLAMIC CENTER WHERE IT IS OFFICIATED, THE APPOINTED MANDATORY ARBITRATOR AND ANY OTHER ARBITRATOR, ALL HEREBY REPRESENT THAT THEY DO NOT PROVIDE LEGAL ADVICE, INSTRUMENT, OR DOCUMENT; AND THEY DISCLAIM ANY LEGAL RESPONSIBILITY OR LIABILITY TO ANY DAMAGE THAT MAY RESULT FROM THE USE OR ABUSE OF THIS FORM; and they all always advise all Muslim brides and grooms to seek legal counseling from professionals in their own state/province before using this form and any other form of Marriage, Prenuptial or Post-Nuptial Agreement.**

بسم الله الرحمن الرحيم

IN THE NAME OF GOD MOST MERCIFUL MOST COMPASSIONATE

# ISLAMIC MARRIAGE CONTRACT

OF

MISS. \_\_\_\_\_ AND MR. \_\_\_\_\_,

WIFE AND HUSBAND

DATED \_\_\_/\_\_\_/20\_\_

## ISLAMIC MARRIAGE CONTRACT

*Between*  
**MISS.** \_\_\_\_\_ **AND MR.** \_\_\_\_\_

THIS MARRIAGE CONTRACT is made on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("wife"), a resident of the state of \_\_\_\_\_ and \_\_\_\_\_ ("Husband"), a resident of the state of \_\_\_\_\_

-----

On this day of \_\_\_\_\_, I, \_\_\_\_\_, have officiated this ISLAMIC MARRIAGE CONTRACT of the following couple in accordance with the Islamic Shari'ah (law), in the city of \_\_\_\_\_, the state of \_\_\_\_\_.

**Bride groom:**

I, \_\_\_\_\_, solemnly propose to marry you **Miss** \_\_\_\_\_, and take you as my wife in accordance with the Islamic Shari'ah and the Sunnah (Tradition) of the Prophet Muhammad, pbuh, and as detailed in the terms and conditions of THIS ISLAMIC MARRIAGE CONTRACT. I have given you as a paid part of the Mahr the amount of \_\_\_\_\_, and I agree to pay in the future the deferred part of the Mahr the amount of \_\_\_\_\_.

**Bride:**

I, \_\_\_\_\_, accept your solemn proposal to marry me and take me as your wife in accordance with the Islamic Shari'ah and the Sunnah (Tradition) of the Prophet Muhammad, pbuh, and as detailed in the terms and conditions of THIS ISLAMIC MARRIAGE CONTRACT. I received a paid part of the Mahr the amount of \_\_\_\_\_ and I accept the deferred part of the Mahr the amount of \_\_\_\_\_ that you will pay me in the future.

**Bride's Wali (Optional):**

I, \_\_\_\_\_, the Wali of the Bride being her \_\_\_\_\_ approve and accept the solemn proposal of Mr. \_\_\_\_\_ to marry my \_\_\_\_\_ in accordance with the Islamic Shari'ah and the Sunnah (Tradition) of the Prophet Muhammad, pbuh, and as detailed in the terms and conditions of THIS ISLAMIC MARRIAGE CONTRACT. I approve as the paid part of the Mahr the amount of \_\_\_\_\_ and the deferred part of the Mahr the amount of \_\_\_\_\_.

**Declarations:**

- 1) We make this declaration before the present witnesses, praying to Almighty Allah to be our Witness. Allah is the Best of all witnesses.
- 2) We also declare here that while our marriage is performed according to the Islamic Law, the rest of this contract makes an inseparable part of our marriage contract.
- 3) We declare that we wish our children be raised as Muslims under any and all circumstances, incidences and events and whether we, or either one of us, are alive or dead.

## **PREAMBLE**

God (Allah) created women and men to be intimate with each other through the bond of marriage. The religion of Islam gives a great deal of importance to family, as a union of a man and a woman that makes the unit block to create a virtuous society and to raise righteous children. Marriage is the Sunnah (tradition) practiced by the Prophet Muhammad and Messengers of God before him, may peace and prayers be on them all. God (Allah) says In the Qur'an [30:21]: "And among His signs is this, that He created for you mates (wives/husbands) from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your (hearts); verily in that are signs for those who reflect." Islam places love, mercy, affection, selflessness and keenness to make one's spouse the happiest ever at the foundation of the union between a woman and a man.

Yet the beauty of the Islamic law rests in its ability to combine faith with civics, spirit with material and ideals with the practical. With all its warmth and affection marriage is defined in Shari'ah as a civil contract between two parties, a woman and a man. According to Shari'ah, a marriage contract is a contract on intimacy between the wife and the husband; it requires co-living and kind and mannered treatment on the part of each one of them. Like other civil contracts prescribed by, or compatible with Shari'ah, marriage has its legalities besides being a blessed relationship of mutual love, mercy and support. This is why there is a need for a marriage contract whenever a Muslim man and a woman enter in this dignified and affection/warmth-based intimacy contract. In most Muslim countries all legalities related to this contract is taken care of within the family laws that lay down the terms of reference of a brief marriage contract. Whenever there are no Islamic family laws, a need arises for a detailed marriage contract like this.

## **RECITALS**

1. Wife and Husband are signing this contract as their MARRIAGE CONTRACT AND AGREEMENT.
2. Both Wife and Husband wish to adhere as married persons to the Islamic faith. She and he desire their marriage and marital relations to always be practiced, ruled, regulated, governed and dominated by the Islamic ethics and the Islamic Law known as Shari'ah, and both desire to raise any children born of their marriage as Muslims.
3. Both wife and husband wish to adhere to the implications and requirement of the Islamic law with regards to their properties, whether earned before or during marriage, their relations with any children born to this marriage or the children of either of them born before this marriage, inheritance and estate distribution, dissolution of marriage and any effect therefrom, custody of minor children, and every and all matters, disputes, issues, related to their marital relations before signing the marriage contract, during marriage and after its dissolution by death or divorce.

4. Wife and Husband each owns separate property, which separate property was acquired before this marriage contract by each independently of and without the help or assistance of the other.
5. Wife and Husband each desire to keep certain items of her or his separate property presently owned, property each may later acquire by inheritance or gift, any property which each may later acquire in her or his separate name, any and all appreciation, other proceeds from the aforesaid property and income and profit from her/his effort and/or employment, free from any claim of the other by virtue of their marriage under specified situations except as provided in this contract.
6. Both Wife and Husband have made a full disclosure to the other of all relevant financial information of her or his financial worth and income as attached to this Contract.
7. Wife and Husband have each retained independent legal representation and each hereby declares and acknowledges that she/he is fully informed and made fully aware of her or his rights and liabilities under this Contract and under applicable law.
8. Wife and Husband each acknowledge that this Contract is fair and equitable towards her or him in spite of the differences between the rights and liabilities as recognized in this agreement and the rights and liabilities stated in the laws of the State of \_\_\_\_\_ where we live and wife and husband each desires, seeks and accepts to be bound by this Contract and waives any rights given by laws above or beyond what is stated in this Contract.
9. The couple have obtained a marriage license from the State of \_\_\_\_\_, County of \_\_\_\_\_, dated \_\_\_\_\_.

**NOW THEREFORE**, for and in consideration of their marriage to each other, the vows expressed therein and the benefits conferred and detriments suffered in this Contract, Wife and Husband agree as follows:

The Preamble and Recitals are part of this contract, and:

#### **ARTICLE I: ADHERENCE TO SHARI'AH**

We, Miss \_\_\_\_\_ and Mr. \_\_\_\_\_, the signatories of this our **Islamic Marriage Contract** hereby agree, announce and declare that our marriage contract, certificate and marital relations, including any dispute and dissolution, God forbid, should and must always be practiced, ruled, regulated, governed and dominated by the Islamic Values, tenets and principles as manifested in the Islamic Law known as Shari'ah.

#### **ARTICLE II: MAHR**

1. **Mahr** or **Sadaq** is a contractual gift from the husband to his beloved wife. Shari'ah requires that every marriage contract must have a Mahr as one of its

components. We therefore hereby agree, announce and acknowledge that the Mahr, or Sadaq, of our marriage, as agreed upon between us is the amount of [.....] US Dollars (US\$-----) The Mahr is owed by the husband to the wife upon signing this Islamic Marriage Contract.

2. Of this Mahr, the amount of [.....] is paid in cash on the day of this contract; and the remainder amount of [.....] is postponed.
3. This remainder or unpaid part of the Mahr in the amount of [.....] is hereby acknowledged by both as a debt on the Husband [.....] to the Wife [.....]. In accordance with Shari'ah, We agree that this remainder of the Mahr shall become due and must be paid upon the death of either of us or at divorce, God forbid. However, the husband may opt and decide to pay it at any time, in such a case the wife shall accept such payment and release the husband from this debt.

### **ARTICLE III: HOUSEHOLD MAINTENANCE**

1. Shari'ah also requires that the husband alone be responsible for all the household expenses and the personal expenses of his wife. He will have to spend in accordance with his income, wealth and other resources, as Allah does not ordain a person to do except what is in a person's capacity and ability [the Qur'an 2: 233 and 286]. The husband \_\_\_\_\_ knows, acknowledges, understands, accepts and agrees to undertake this responsibility and we, the husband and the wife hereby **agree** and declare that the husband \_\_\_\_\_ shall provides for all household expenses and maintenance including but not limited to the personal expresses of his wife and children, that he will fulfill this commitment and undertake this charge to the best of his ability and within the limits of his income, wealth, resources and assets regardless of whether his wife works or not, earns income or not, and/or has expendable assets or not.
2. However, if by her own will and desire and without pressure from her husband the wife \_\_\_\_\_ decides to pay for any of the household and personal needs and expenses of herself, the children, the household and even her husband, this is considered a voluntary contribution from her, rewarded in the Hereafter, God willing, and appreciated by her husband in this worldly life. In such a case, she has no right at the time she spends or at any future time to claim, seek and/or ask for any material or monetary compensation or reimbursement for such voluntary payments and expenses whether from her husband, his agent, his guardian or personal representative, or from his estate.

She always has the full and complete right to abstain and discontinue such voluntary spending or to require that every thing she spends shall be considered debts on the husband, payable in any determined or undetermined future date. If her husband agrees to this indebtedness she may spend and hold records of her debts on her husband. Such debts shall be paid from his estate if he dies not pay them earlier.

## ARTICLE IV: INHERITANCE

1. Wife and husband each one alone and together agree, announce, declare and accept that the distribution of the estate of the deceased spouse must be done exactly and only in accordance with the Shari'ah system of inheritance as given in details in the Last Will and Testament, the Schedule of Mawarith posted on the website pages of either ISNA (Islamic Society of North America, Inc. of Indiana) currently at [www.isna.net](http://www.isna.net) or Monzer Kahf, presently at [www.kahf.net](http://www.kahf.net).
2. The Husband hereby waives and releases any share in all joint and community properties and in the personal property of his deceased wife he may otherwise be entitled to by laws of the state in which his wife dies, or where the estate property or any part therefrom may then be located, in favor of the distribution in accordance with the Islamic inheritance system as mentioned in section 1 regardless of whether the Islamic distribution allows him bigger or smaller share.
3. The Wife hereby waives and releases any share in the joint and community property and in the personal property of her deceased husband she may otherwise be entitled to by laws of the state in which her husband dies, or where the estate property or any part therefrom may then be located, in favor of the distribution in accordance with the Islamic inheritance system as mentioned in section 1 regardless of whether the Islamic distribution allows her bigger or smaller share.
4. Should any disputes then arise with regard to estate distribution, it must be resolved in accordance with the clauses of the Schedule of Mawarith by ISNA Fiqh Council of North America. We hereby agree that a written determination of ISNA Fiqh Council of North America as for the distribution of the estate must be considered final and binding to all concerned persons and we ask any court of competent jurisdiction to uphold such determination.
5. Specifically and especially, we hereby agree. Announce, declare, and accept that:
  - a. The share of the wife in the estate of her husband, should he die before her must always be equal to one half of the share of the husband in the estate of his wife, should she die before him; and,
  - b. As one half of any and all joint and community properties belongs to the deceased spouse, we agree, consent and ordain that one half of any and all joint and community properties existing at the time of death of either one of us must be treated with regard to inheritance as if the deceased spouse separately owned it. Hence, it must be distributed to the deceased's heirs as defined and determined in the Islamic law as depicted by the Schedule of Mawarith, including the surviving spouse, as being inherited in accordance with Shari'ah.
  - c. Accordingly, each one of us hereby consents, agrees and accepts that no part of This half of community and/or joint properties may pass on to the surviving spouse except for the part of estate that upon distribution in accordance with section 1 falls within the surviving spouse's Shari'ah-



determined share in the estate of the deceased; or if it is in implementation of a written consent from all other heirs who are entitled to any shares in the deceased's estate.

## **ARTICLE V: CUSTODY AND GUARDIANSHIP OF MINOR CHILDREN**

Wife and husband hereby acknowledge and consent that, since Shari'ah considers care provision, custody and guardianship as the absolute right of minors, rather than of adults, we agree that in case of divorce, God forbid, and/or death of either one of us or of both of us, the following Shari'ah principles should be applied to the care provision, custody and guardianship of our children:

1. **Under no circumstances guardianship/custody of any of our minor children may be given to non-Muslims** regardless of their relation to the minors and their love, care and affection for them. Hence, whenever, a potential custodian/guardian is or becomes non-Muslim, custody/guardianship goes to the next one.
2. We also specifically express our absolute and uncompromised desire and determination **that our children must be raised as Muslims and must know that their parents were Muslims too**. They must be taught the Islamic values and system of ethics and educated and raised to believe in the Oneness of God, the Day of Judgment and the Prophethood of His Messenger Muhammad, pbuh, and to practice prayers and other Islamic forms of worship and to appreciate the Islamic values and practice their implications.
3. **The guardian/custodian/care provider of our minor children must be their mother** provided that all the following four conditions are satisfied: 1)- she is then Muslim, 2)- she remains unmarried and lives either alone or with a close relative (not outside the following: her parents, grandparents, uncles/aunts, sisters/brothers, children) or she is married to a brother of the children's father, 3)- she is then physically, mentally and legally fit and competent to provide the minor children with adequate care, proper up-bringing, and especially Islamic education, and, 4)- she is then willing to take the responsibility as a guardian/custodian/care provider.
4. Should the children's mother not exist or any of these conditions be unsatisfied or laps at any time, custody/guardianship/care provision goes to the children maternal grandmother provided all the following four conditions are satisfied: 1)- she is then Muslim, 2)- she is then single or married to the children grandfather, 3)- she is then physically, mentally and legally fit to provide the children with proper care, adequate up-bringing, and especially Islamic education, and, 4)- she is then willing to take the responsibility as a guardian/custodian/care provider.
5. Should the maternal grandmother not exist or should any of the above conditions be unsatisfied or laps after custody is granted, guardianship/custody/care provision goes to the paternal grandmother under the same conditions.
6. The next in line for custody/guardianship/care provision is any of the children adult sisters, then maternal aunts, then paternal aunts, in this order, subject to

- the conditions 1-4 of section V-3 (except the sentence 'or married to a brother of the children's father'),
7. **When there is no female to take charge of the custody/guardianship/care provision of our minor children, then custody/guardianship/care provision goes to the children's father**, then any adult brother, then paternal grandfather.
  8. **If none of the above is possible, the Arbitrator named in Article VII of this contract shall select a Muslim custodian/guardian/care provider.** The Arbitrator must give priority, in sequence, to mother, then maternal grandmother, then paternal grandmother, then adult sister, then maternal aunt then paternal aunt even with lack of satisfaction of the marriage condition.
  9. Except for the father, any guardian/custodian/care provider of minor children is entitled to child support for her/himself and for the minor children in her/his custody. **Child support is a duty and responsibility of the children's father.** If the children's father doesn't exist or he is incapable, it is then payable from the wealth/income of the minor children themselves, then from the children's parental grandfather, then adult brothers. The amount of such child support shall be determined by the Arbitrator named in Article VII on the basis of the standard of living of the minor children and their custodian/care provider before divorce or death and the financial ability of the payer of the child and custodian support.
  10. **Mother, father and grandparents, from both sides, sisters and brothers have Visitation rights with minor children regardless under whose custody/guardianship they live.** The Arbitrator named in Article VII shall determine the frequency and duration of visits. The Arbitrator shall also decide on the rare cases of denied visitation on the ground of protecting the minor children from any potential physical or psychological harm that may be caused by such visits.
  11. Custody/guardianship of mother, grandmothers, father and parental grandfather covers provision of care, raising, upbringing and educating the minors; it also covers the management of minor children's properties. In the case of other guardians/custodians, the management of the minor's property shall be held in the hands of the minor's father if available and legally fit. Then it goes to paternal grandfather, then to a property custodian/guardian to be appointed by the Arbitrator with preference to adult sisters and brothers.
  12. If mother, father or a grandmother is the custodian/guardian, Custody/guardianship continues until the minor completes 18 years of age, as long as the four conditions mentioned above are satisfied (except that the condition of marriage does not apply to the father), regardless of the minor's sex. However, other custodians/guardians shall surrender the minor on request to one of the parents or grandparents, at the same sequence mentioned in Sections 3-7 of this Article, upon completing 12 years of age provided the conditions of custody as mentioned in this article are satisfied.
  13. Dead or alive, **we do not permit our minor children to be available for adoption by any person, Muslim or non-Muslim, nor to be placed under the fostering of non-Muslims**

14. All other cases and all details related to custody/guardianship/care provision shall be referred to the Arbitrator whose decision shall be final and uncontestable.

## **ARTICLE VI: SEPARATION OF PROPERTIES**

1. **Full Disclosure of Separate Property and Income.** Wife and Husband each covenant and represent to the other that she or he has disclosed to the other the nature, extent and value of her or his various assets, interests, sources of income and income for the past three (3) years. By execution of this Contract, Wife and Husband each acknowledge receipt of the other's financial information and confirms that she or he has reviewed such information, fully understood the nature and approximate value of said assets and has conducted whatever investigation and made whatever inquiries deemed necessary concerning such information.
2. **Independent Legal Advice.** Wife and Husband each acknowledge that she and he is fully aware of the legal effects of this Contract as compared with the current applicable laws concerning her or his legal rights in the event of divorce or separation from, or the testate or intestate death of, the other, absent the effects of this Contract. Wife and husband each also acknowledge that she and he have either obtained adequate independent legal advice or willfully waiver her or his right to such an advice with regard to the differences between the implication of this contract and current laws.
3. **Release of Assets Presently Owned by the Other.** All of the property now belonging to or acquired by each of the Wife and Husband hereto prior to marriage, together with all income therefrom, appreciation therein, and other property purchased with the proceeds thereof or income therefrom, including but not limited to any and all retirement and pension plans and accounts, deferred compensation arrangements, and similar plans, accounts, and arrangements (said retirement plans and the like hereinafter collectively referred to as the "Retirement Benefits"), and any insurance or the proceeds thereof (all of said property, including Retirement Benefits, being hereinafter collectively referred to as the "Presently Owned Property") shall be the sole and separate property of such party.
4. **Release by Each of Assets of the Other Acquired by Gift or Inheritance During Marriage.** If either party acquires additional property during marriage by gift, devise, inheritance, or trust distribution, then each party agrees that property received during marriage in this manner, together with appreciation therein, income therefrom, and assets purchased with the income thereof or proceeds therefrom (hereinafter collectively referred to as the "Inherited Property") shall be the sole and separate property of the recipient.
5. **Release by Each Party of Other Assets Acquired During Marriage.** Wife and Husband hereby waive, release and relinquish all right, title, estate and interest, statutory or otherwise, in any and all assets acquired by the other in

such other party's separate name during marriage, including but not limited to any and all assets which are acquired by the other with income from employment, business ventures and assets or any other source, earned by the other in that party's separate name during marriage, from sources other than assets owned by the other at the time of the marriage or assets which are inherited or given to the other, or the proceeds from the sale or disposition of such assets together with the income thereof or proceeds therefrom.

6. **Limited Release of Rights upon Death of Other.** Except as provided in this Contract, Wife and Husband do hereby **waive, release and relinquish** any right, title, estate, and interest, statutory or otherwise, including but not limited to year's support allowance, spousal elective share to take against will, intestate share. However, Wife and Husband **do not waive, release and relinquish** the right to homestead, exempt property, the right or preference to act as personal representative of the testate or intestate estate of the other, which either may acquire under present or future law as the spouse, widow or widower, heir-at-law, next-of-kin in any property or asset subject to this Contract of the other spouse at the other spouse's death.
7. **Properties and assets is Both Our Names:** Wife and Husband hereby agree and decide that one half of every and all properties and assets we together or either one of us voluntarily record in both our names or is owned by us together must be treated as being owned by one of us while the other one half is owned by the other. This half/half division of community and joint property must be considered as owned separately and independently by each one of us especially for the purpose of distribution and division of assets at the death of either one of us or at divorce regardless of who paid to acquire such properties or whose savings, assets or income were used to nourish and maintain them or whether one of us paid more or less than the other. Any excess above the one half paid by one of us is hereby declared and considered as a gift to the other spouse given in accordance with Shari'ah. Debts on such properties that are in both our names are also shared the same way half/half. Whether such property is real estates, bank accounts, investments, business, interests in any corporation or property, insurance policies, personal properties, etc.
8. **Voluntary Transfers Permitted.** The purpose of this Contract is to limit certain rights of each party in the assets of his or her spouse in the event of death, separation or divorce, but this Contract shall not be construed as placing any limitation on the rights of either party to make voluntary inter vivos and testamentary transfers of his or her assets to his or her spouse<sup>13</sup> or voluntarily to name the other as Executrix or Executor under his or her will. However, the parties acknowledge that no representations or promises of any kind whatsoever have been made by either of them to the other with respect to any such transfers, conveyances or fiduciary relationships. Also, each understands that the other may write a Will or rewrite or revise his or her present or any

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<sup>13</sup> This statement is intended to benefit from any potential tax, legal and procedural advantages, provided the beneficiary spouse realizes that, according to Shari'ah, no testamentary benefit can be given to the other spouse and that she/he shall personally distribute such benefit to the proper heirs according to the schedule of al Mawarith. If the couple is not sure that the surviving spouse will make such distribution this sentence must be removed from the Contract.

future Will prior to or in contemplation of or subsequently to the marriage, and each agrees that said Will, and any Codicil thereto, shall not be deemed revoked by marriage and/or the subsequent birth of children of said marriage. It is further agreed that the subsequent designation of either party as a legatee, devisee, or beneficiary of the other, either under Will or otherwise, shall not be construed as an amendment of this Contract, as a waiver or relinquishment of any rights hereunder, or as creating any obligation from one party to the other aside from the obligations herein contained.

## ARTICLE VII: DISPUTE AND DIVORCE

1. Since the Shari'ah is not the law of the land in our country \_\_\_\_\_ or in our state of \_\_\_\_\_, **we hereby agree, announce, declare and accept that any disputes, differences or disagreements, including divorce, divorce settlement, alimony, inheritance, custody and guardianship of our minor children and any and all other matters whatsoever, that may arise in the future between us must be solved and settled in accordance with the guidance of the Qur'an and the Sunnah (Tradition) of the Prophet Muhammad**, peace and prayers be upon him, and under the light of Shari'ah as being derived therefrom, first between ourselves alone, then with help of families and friends, and finally by arbitration as stated in this article.
2. We hereby agree, announce, declare and nominate that **our appointed and agreed-upon Arbitrator** in any such disputes is the Fiqh Committee or Council of The Islamic Center Nearest to our residence at the time when needed. If this appointed Arbitrator was not available our successor appointed and agreed upon Arbitrator shall be the Fiqh Committee or Council of any other Islamic Center we together choose. If we do not then agree on any given Islamic Center, Our mandatory appointed and agreed upon Arbitrator shall be the Fiqh committee of the Islamic Center of \_\_\_\_\_ at \_\_\_\_\_ Street, the City of \_\_\_\_\_, the State of \_\_\_\_\_ or of its successor. If the said Islamic Center or its successor does not exist or it doesn't have a Fiqh Committee or Council, We agree and accept that the Islamic Society of North America, Inc. of Indiana or its successor be declared and accepted as our appointed agreed-upon and mandatory Arbitrator. This provision shall be considered as a binding agreement to submit to arbitration in accordance with the Uniform Arbitration Act, T.C.A. §29-5-301 *et seq*
3. **The determinations and/or decisions of the Arbitrator shall be final and binding to both and each party**, wife and husband and all other persons of concern to our marital relationship and we hereby ask and request any court of justice in the United States and anywhere else in the world to accept, honor and uphold the determinations and decisions of the Arbitrator in full as final and binding to all.
4. **Talaq and Khul'**: Wife and husband agree between themselves that while Shari'ah stipulates that Talaq is a right, on hand, of the husband, Shari'ah also

provides Khul' as a right of the wife. Both of them are most undesired and hated by God, the Lord of the Worlds. Additionally, the wife has the right to force Talaq on her husband, through the Arbitrator, in cases of any personal or financial abuse of the wife, ill treatment, violation of the wife's rights, person or integrity or violation of the Shari'ah principles of marriage and family values or lack of fulfillment of any of the conditions stipulated in this Contract. Also the husband has the right to seek a Talaq with loss of privileges from the Arbitrator on the basis of wife's ill-treatment. Shari'ah gives the husband two chances to reverse his Talaq action. If these two chances are exhausted, the third Talaq becomes final. Since Talaq absolves the marriage contract and ends marriage and marital relationships, it results in financial cost to the husband, in addition to all other social and personal consequences. Upon pronouncing the Talaq, the husband does not only bring an end to his marriage, but also puts himself under legal obligation to pay the following: 1) the deferred part of the Mahr; 2) end of marriage support for three month if there is no pregnancy or until giving birth in case of pregnancy; 3) minor and mother support if she is the care provider to minor children; and, 4) any compensation agreed upon in this Contract under Article VIII.

Wife can, through the Arbitrator, force a Talaq on her husband with or without damage paid her in any of the cases mentioned in this Section.

Khul' is a right of the wife who wants to end the marriage and is willing to financially compensate her husband up to a maximum amount that is equal to the total of both parts of the Mahr.

Wife and husband hereby agree that in case of dissolving the marriage contract through on-hand Talaq or forced Talaq the Arbitrator has the right to impose and enforce on the husband an additional compensation for any damage afflicted on the wife. They also agree that such damage shall be payable in addition to all and any of the four items mentioned above. Such damage may include living maintenance up to 'life-time' or 'until rehabilitation to work and actually having a job' if the wife was a full time housewife and has no means or persons to support her sustenance expenses.<sup>14</sup> In such a case the support for the first three month shall be incorporated and the decision on maintenance expenses and its revision from time to time are the sole right of the Arbitrator. They also agree that the Arbitrator shall determine the amount of compensation due to the husband in case of Khul' within a maximum that is equal to the amount of the Mahr.

- 5. Right to Property Settlement in the Event of Separation or Divorce.** Wife and Husband each agree with the other that this Contract and the mutual releases given by each to the other with respect to the assets listed in Sections 3, 4, and 5 of Article VI shall apply and shall constitute the division of said property and the settlement of their rights therein in the event that either party institutes against the other a divorce proceeding, a proceeding for permanent

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<sup>14</sup> Since a wife is not obligated to serve her house, husband and children, the Arbitrator may decide to consider her voluntary work as a full time housewife as a kind of employment that may qualify her to entitlement of end-of-service compensation. Additionally, this condition may be stipulated in Article VIII.

or temporary separation, or a proceeding for separate maintenance and support. Each party agrees with the other that in such event, she or he will not seek, in any such proceeding, to enforce or claim any rights in the assets listed in said Sections 3, 4, and 5 of Article VI or seek to divide or settle rights in said assets in any manner other than that provided herein. Both parties further agree with each other that each will not assert or claim any other rights in or to the assets listed in Sections 3, 4, and 5 of Article VI, whether owned prior to marriage or acquired during marriage, even in case such properties may have been mixed together or used by both parties or by the non-owner party, whether now or hereafter given by applicable law, which are inconsistent with the terms of this Contract.

Husband and wife further agree to waive any right to such assets and properties even if the laws then applicable grant such rights. In the event of a separation or divorce, and in the case of death of one of them both parties agree that all assets jointly owned by the parties with one another or recorded on both our names as community property shall be divided between them in equal shares.

- 6. Alimony.** Although the parties contemplate a long and lasting marriage, terminated only by the death of one of the parties, they also recognize the possibility of divorce. If the marriage is terminated, regardless of which party is at fault or initiates such action and regardless of jurisdiction, venue, or location of such action, the parties hereby specifically agree that this Contract, to the extent allowed by applicable law at the time of such divorce, shall serve as a bar or estoppel of the Wife or Husband to receive any alimony, whether pendente lite or permanent, from the other spouse; provided, however, that in the event of divorce the Husband agrees to pay all his obligations as mentioned in Section VII-4 above in cash to the Wife upon receipt of her written waiver and release of all other alimony rights or claims.

#### **ARTICLE VIII: SPECIAL CONDITIONS**

Wife and husband each one alone and together agree, announce, declare and accept that the following conditions, although optional from the Shari'ah point of view, are agreed upon, consented and accepted by both of them; they are binding on each and both of them, as the Prophet, pbuh, emphasized that conditions in marriage are most worthy of fulfillment than all conditions. Consequently, we, husband and \_\_\_\_\_, wife hereby agree on the following special conditions:

- a. The wife has full right to pursue her education to whatever level she likes and the expenses of her education are considered an intrinsic ingredient of the household expenses. She also has full right to take a job and a career of her liking with no interference of the husband in any part of her income whether from employment or from a business she may practice. Of course, they will help and support each other promote her/his economic, financial, educational and spiritual standing.
- b. \_\_\_\_\_

- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_

(You may add here any conditions, please see footnote for a sample)<sup>15</sup>

## ARTICLE IX: MISCELLENIOUS

1. **Informed Consent.** Wife and Husband each declares that she or he fully understands the terms and provisions of this Contract, that she or he has been fully informed of her or his legal rights and liabilities, that she or he believes that the provisions of this Contract are fair, just and reasonable, that she or he signs this Contract freely and voluntarily and with full awareness of its legal implications, and that she enters into this Contract freely, knowledgeably and in good faith and not under duress or undue influence from the other.
  
2. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_, which laws, the parties understand, both by statute and common law, uphold the validity of Marriage contracts.
  
3. **Community or Marital Property States.** Should one or more of the parties hereto ever become domiciled in a community or marital property jurisdiction or their domiciliary jurisdiction adopts such property rules, it is each party's intention that neither community property, quasi-community property, marital nor quasi-marital property rules shall apply to them or the assets of either of them, except for assets they willfully and voluntarily register and record in both their names.

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<sup>15</sup> Here are a few examples of these conditions, you may choose from or add other conditions or delete the whole article :

1. Wife shall have the right to divorce her husband only in the following events:
  - a) If the husband marries another woman, whether legally or not, or lives with another woman as husband and wife,
  - b) If the husband leaves home for more than a year with no news or living expenses from him to his wife and children,
  - c) If the husband decides to take his wife and children to another country without her consent.
 This divorce shall be performed by the wife on her own discretion without any need for arbitrators and all its resulting consequences and responsibilities, including but not limited to the delayed part of Mahr, end of marriage support, living expenses of minors and their mother, damage and housewife maintenance expenses, etc. must be born by the husband.
2. Wife has a right to continue her education and to work in her profession or in any other Shari'ah-permitted business and her husband hereby agrees to permit her to go to work and to abstain from any and all actions and claims that may prevent her from going to study or work or to access her study or work places.
3. If the husband divorces his wife, she is entitled to an additional end of marriage compensation for healing and recuperating in the amount of one month of his income for each year or part of year of marriage. By income we mean the average gross, before taxes and any deductions, income of the past twelve month before divorce. This compensation is in addition to all other entitlements of the wife in case of divorce as mentioned in other Sections of this contract. (for Shari'ah justification of this compensation refer to fn. 3).
4. You can also add any other conditions such as not to change residency of certain area, right for paid visits to family if the family lives in a distant place, taking her to Hajj at his expenses, etc.



4. **Entire Understanding.** This Marriage Contract contains the entire understanding of the parties, and there are no representations, covenants, warranties, promises and undertakings, oral or otherwise, other than those expressly set forth herein. This Contract is intended to cover all assets now owned by each party and all assets which the parties may hereafter acquire, jointly and individually. Further, this Contract is intended to cover all separate and marital property of the parties as those terms are defined in Section \_\_\_\_\_ of the state of \_\_\_\_\_ Code Annotated.
5. **Binding Contract and Termination.** This Marriage Contract shall be effective from the date and hour we sign it, and shall inure to the benefit of, and shall be binding upon, the parties hereto, their heirs, personal representatives and assigns. The parties may, by written contract only, modify this Marriage Contract at any time. The Marriage termination can only happens by death of either party or as stipulated in this contract.
6. **Enforcement of Contract.** In the event either party seeks to enforce the terms of the Contract in a jurisdiction that fails or refuses to recognize its validity, such judicial determination shall not prevent the other party from seeking to enforce the Contract in another jurisdiction.
7. **Severability.** In the event any provision of this Marriage Contract shall be held invalid, unenforceable or void for any reason, the remaining provisions of this Contract shall not be affected, said provisions being severable.
8. **Assignment.** This Contract is personal to each of the parties hereto, and neither party may assign nor delegate any of her or his rights or obligations hereunder.
9. **Special Provision.** Notwithstanding any provision herein to the contrary, both parties agree to the following special provision:

**A Marriage Certificate is issued at the time of signing this contract to denote the signing and implementation of this Marriage Contract.**

IN WITNESS WHEREOF, we \_\_\_\_\_ and \_\_\_\_\_ the parties hereto put our hands to execute this marriage Contract in the presence of the Witnesses and a Marriage official,

**SIGNATURES**

**WIFE**

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Date \_\_\_\_\_

**HUSBAND**

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Date \_\_\_\_\_

**Bride's Wali (Optional)**

Signature \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

**WITNESSES**

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

City of \_\_\_\_\_ State of \_\_\_\_\_ Date \_\_\_\_\_

Signature of Marriage Official: \_\_\_\_\_

Name of Marriage Official: \_\_\_\_\_

DO NOT COPY

**ANNEX I**  
**To the Marriage Contract**  
**LIST OF ASSETS AND INCOMES OF WIFE**

DO NOT COPY

DO NOT COPY

**ANNEX II**  
To the Marriage contract  
**LIST OF ASSETS AND INCOMES OF HUSBAND**

DO NOT COPY

**ANNEX III**  
**To the Marriage Contract**  
**WAIVER OR RELEASE OF RIGHT OF ELECTION**

(A waiver signed by the husband must accompany the wife's Last will and another waiver signed by the wife must accompany the husband's Last Will)

I, \_\_\_\_\_, am the husband/wife of \_\_\_\_\_. We are of the Muslim faith and we believe in the Shari'ah, the Law of Islam.

We have had our last will and testament prepared in accordance with Shari'ah, and the distribution provisions of our last will and testament is in accordance with the Shari'ah's Schedule of Mawarith.

I have been advised by legal counsel that pursuant to the laws of the State of \_\_\_\_\_ and other states or jurisdictions that upon my wife's/husband's death, the law of the state or jurisdictions in which she/he shall die domiciled that I may be entitled to an elective share or augmented share of my wife's/husband's estate or an amount which is pursuant to the intestate laws of the State of \_\_\_\_\_ or another state or jurisdiction which may not be in accordance with the distribution provisions of the Schedule of Mawarith as set forth in my wife's/husband's last will and testament. I realize that the entitlement of the intestate laws of the State of \_\_\_\_\_, other states and jurisdictions may be higher than the entitlement of the Shari'ah's Schedule of Mawarith

I have made a fair and reasonable disclosure to my wife/husband as to the assets, properties and financial obligations of what I own jointly and individually.

A copy of the list of assets, properties and financial obligations is attached to and made part of this waiver and release form. I have had an opportunity to seek independent legal advice from my legal advisor and/or counsel with Islamic scholars, and I agree to receive a share of my wife's/husband's estate in accordance with the Laws of Islam as contained in her last will and testament, and not in accordance with the laws of the State of \_\_\_\_\_ or any other state or jurisdiction.

For mutual promises, for good consideration made by my wife/husband and based on my faith in Islam and the Islamic Shari'ah, I knowingly and voluntarily waive my respective rights to elect to take any action against the last will and testament of my wife/husband and/or to take a surviving spouse's share under the intestate laws of the State of \_\_\_\_\_ or any other state or jurisdiction. I acknowledge that I have received a copy of this waiver form, and a copy of my wife's/husband's waiver or release of right of election form, and a copy of my wife's/husband's list of assets, property and financial obligations.

I declare and announce that this waiver/release of right shall be legally binding on me and cannot be revoked and/or modified except by a written consent from all the heirs of my wife/husband after her/his death. I further agree that the due heirs of my wife/husband, as shall be determined in accordance with the Schedule of Mawarith, shall have full right to enforce this Waiver on me through any court of justice anywhere in the world. I also understand that any and/or all of the heirs shall have the right, individually and collectively,

to waiver their right to the distribution of the estate of wife/husband in my favor or in favor of any other heir, their own children or any other person.

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

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Witness 1 \_\_\_\_\_

Witness 2 \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_ personally appeared \_\_\_\_\_ and \_\_\_\_\_ and

\_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_.

(This area for official notarial seal)

Title of document _____	No. of Pages _____
Date of document _____	Other signatures not acknowledged _____

**ANNEX IV**  
**To the Marriage Contract**  
**CONTRACT FOR DISTRIBUTION IN ACCORDANCE WITH THE**  
**ISLAMIC LAW OF JOINT AND SIMILAR PROPERTIES UPON**  
**THE INCIDENCE OF DEATH OF ANY PARTY**

This contract is concluded between \_\_\_\_\_ and \_\_\_\_\_, husband and wife.<sup>16</sup>

We, the undersigned, understand and agree that for mutual promises, for good consideration made between us, and in accordance with our belief in the Islamic Shari'ah, that upon our respective death we shall make the required distribution of our assets which are in joint ownership, co-ownership, community ownership, tenancy-in-common and any similar legal arrangement of owning together in accordance with the schedule of Mawarith.

If we own real property wherever located and if the real property is in joint ownership, co-ownership, community ownership, tenancy-in-common and/or any similar arrangement, only for the purpose of distribution to heirs mentioned in the Schedule of Mawarith and upon the death of either one or both of us, it is presumed that the interests of each one of us in such property(ies) are equal in a such a way that each one of us owns an undivided 50% share or unit of the real property, unless we designate ownership differently in the deed, title or any other document that substantiates our ownership to the real property. We agree and understand that the share or unit of ownership that the deceased party owned will not be retained by the surviving spouse, co-owner, joint owner or tenant-in-common, but will be distributed to the heirs of the deceased in accordance with the Schedule of Mawarith.

In the event of the death of one of us, the surviving spouse or joint tenant shall distribute the 50% share of the deceased spouse in the real property to his or her heirs pursuant to the Schedule of Mawarith.

In the event there is personal property, including bank and investment accounts, stocks, interests in businesses and any and all other properties wherever located and if these properties are in joint ownership, co-ownership, community ownership, tenancy-in-common and/or any similar arrangement, the same principles and rules, as mentioned in the preceding Sections above, should be applied in the event of the death of one of us.

We agree that this agreement shall be legally binding to each one of us and can only be revoked and/or modified by the undersigned parties in writing. We further agree that the due heirs of the deceased party, as shall be determined in accordance with the Schedule of Mawarith, shall have full right to enforce this agreement on the surviving party in any court of justice anywhere in the world. We also understand that any and all of the heirs shall have the right, individually and collectively, to waiver and disclaim their rights to the distribution of these properties, real or personal or both, in favor of the surviving spouse, any other heir, their own children or any other person.

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<sup>16</sup> If joint property is between other persons such as partners, parents and children or any others, the phrase 'husband and wife' should be changed accordingly.



Each party had entered into this contract after exercising his/her full right to independent legal advice and counseling and/or advice of an Islamic scholar before signing this within agreement. We have been advised by our own legal counsel that pursuant to the laws of the State of \_\_\_\_\_ and other states or jurisdictions that upon our death, the law of the state or jurisdictions in which we shall die domiciled that our surviving spouse may be entitled to full control and ownership of such properties. We knowingly and voluntarily waive our respective rights to elect to retain full ownership of such properties or to take any action against this agreement.

This agreement shall be legally binding on the heirs at law of the parties to this agreement, and shall be enforceable in the courts of any jurisdiction.

We further acknowledge that we have reviewed this agreement, have sought the advice of legal counsel and/or Islamic counsel, and that we have each received a copy of this agreement.

Dated: \_\_\_\_\_  
Wife: \_\_\_\_\_  
Signature: \_\_\_\_\_

Dated: \_\_\_\_\_  
Husband: \_\_\_\_\_  
Signature: \_\_\_\_\_

Witness 1 \_\_\_\_\_

Witness 2 \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_ and \_\_\_\_\_ and

\_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and

acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_.

(This area for official notarial seal)

Title of document _____
Date of document _____ No. of Pages _____
Other signatures not acknowledged _____

**Appendix II**  
**Marriage certificate**

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# Marriage certificate

In the Name of Allah the Beneficent the Merciful

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

“And among His signs is that He created for you, of yourselves, spouses that you may dwell in tranquility with them, and He has set love and mercy between you”

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً

## Islamic Marriage Certificate/Contract

On this day of \_\_\_\_\_, 20\_\_ corresponding to \_\_\_\_\_, 14\_\_ I, \_\_\_\_\_, have officiated this marriage certificate of the following couple in accordance with the Islamic Shari’ah (law), in the city of \_\_\_\_\_, the state of \_\_\_\_\_.

### Bride groom:

I, \_\_\_\_\_, solemnly propose to marry Miss \_\_\_\_\_, and take her as my wife in accordance with the Guidance of the Qur’an (the Book of God) the Sunnah (Tradition) of the Prophet Muhammad, pbuh. I have given her as paid part of the Mahr (Sadaq) the amount of \_\_\_\_\_, and I agree to pay the deferred part of the Mahr, the amount of \_\_\_\_\_ in the future.

### Bride:

I, \_\_\_\_\_, accept your solemn proposal to take me as your wife in accordance with the Qur’an and the Sunnah of the Prophet Muhammad, pbuh. I accept a paid part of the Mahr the amount of \_\_\_\_\_ and a deferred part of the Mahr the amount of \_\_\_\_\_.

### Bride’s Wali (Optional):

I, \_\_\_\_\_, the Wali of the Bride being her \_\_\_\_\_ accept the solemn proposal of Mr. \_\_\_\_\_ to marry my \_\_\_\_\_ in accordance with the Qur’an and the Sunnah of the Prophet Muhammad, pbuh. I accept a paid part of the Mahr the amount of \_\_\_\_\_ and a deferred part of the Mahr the amount of \_\_\_\_\_.

### Declarations:

- 1) We make this declaration before the present witnesses, praying to Almighty Allah to be our Witness. Allah is the Best of all witnesses.
- 2) We also declare here that while our marriage is performed according to the Islamic Law, the attached Marriage Contract/Prenuptial Agreement dated \_\_\_\_\_, 20\_\_ makes an inseparable and integral part of this our marriage contract.
- 3) We declare that we wish our children be raised as Muslims under any and all circumstances, events and incidences.

**NAME**

**ADDRESS**

**SINATURE**

**GROOM**

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**BRIDE**

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**WALI**

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**WITNESS**

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**WITNESS**

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City of \_\_\_\_\_ State of \_\_\_\_\_

Date \_\_\_\_\_

Signature of Marriage Official: \_\_\_\_\_