

# 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.

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# POST NUPTIAL AGREEMENT

OF

MRS. \_\_\_\_\_ AND MR. \_\_\_\_\_,

WIFE AND HUSBAND

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

IN THE NAME OF ALLAH MOST MERCIFUL MOST COMPASSIONATE

## POST NUPTIAL AGREEMENT

*Between*

[.....] AND [.....], HUSBAND AND WIFE

### 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. We, Wife and Husband were married on \_\_\_\_\_ day of \_\_\_\_\_, the Year \_\_\_\_\_. Both Wife and husband wish always to adhere to the Islamic faith. She and he together have tried in the past and desire for the future that their marriage

and marital relations 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 their children as Muslims. We specifically 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.

2. 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 their marriage or the children of either of them born before this marriage, inheritance and estate distribution, dissolution of marriage and any effect thereafter, custody of minor children, and every and all matters, disputes, issues, related to their marital relations during marriage and after its dissolution by death or divorce.
3. Wife and husband each owns separate property, which separate property was acquired before or during their marriage by each independently of and without the help or assistance of the other.
4. Wife and husband each desires 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, and any and all appreciation, income and 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.
5. 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 Agreement.
6. 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 Agreement and under applicable law.
7. Wife and Husband each acknowledges that this Agreement 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 Agreement and waivers any rights given by laws above or beyond what is stated in this agreement.

**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 Agreement, Wife and husband agree as follows:

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

Page 4 of 21      SIGNAURES \_\_\_\_\_

## ARTICLE I: ADHERENCE TO SHARI'AH

We, [.....] and [.....], husband and wife, hereby agree, announce and declare that our marriage contract, certificate and marital relations since their beginning, when our Islamic marriage was performed on the \_\_\_\_ day of \_\_\_\_\_, the year \_\_\_\_ and from then on are, 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 husband to his beloved wife. Shari'ah requires that every marriage contract must have a Mahr as one of its components. We therefore hereby announce and acknowledge that the Mahr, or Sadaq, of our marriage, as agreed upon between us on the day when the marriage was performed is the amount of [.....] US Dollars (US\$-----). The Mahr is owed by the husband to the wife upon signing the marriage contract.
2. Of this Mahr, the amount of [.....] was already paid in cash on the day of our marriage; and the remainder amount of [.....] is postponed.
3. This remainder or unpaid part of the Mahr in the amount of [.....] is hereby recognized by both of us 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 wife and the husband hereby agree and declare that the husband \_\_\_\_\_ did, does and shall continue to provide for all household expenses and maintenance including but not limited to the personal expenses 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 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.

Consequently, I \_\_\_\_\_, the wife, hereby acknowledge that whatever I spent in the past until the day when this agreement is signed by me on the household, the children and on my husband is a pure voluntary gift from me to my husband and children and I hereby voluntarily and without any pressure from my husband or from any other person, waiver and forsake any right to seek, claim or ask for compensation, reimbursement or refund for such paid expenses/payments in the future.<sup>1</sup>

We also agree that the Wife always has 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.

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<sup>1</sup> In place of this paragraph you may make a list of all expenses and payments the wife made in the past or just determine their total sum and the husband acknowledges such payments as a debt on him. However, should the husband die before paying off this debt to his wife, the husband acknowledgement does not give the surviving wife a claim on the estate against creditors or against other heirs unless the wife obtains a court-accepted evidence of the debt or all other heirs consent to it.

## 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 IV-1 regardless of whether the Islamic distribution allows him a 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 die, 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 IV-1 regardless of whether the Islamic distribution allows her a 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 IV-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 minor 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 upbringing, 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 agreement 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 a 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 financially unable, 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, 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 or 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, binding and uncontestable.

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

1. **Full Disclosure of Separate Property and Income.** Wife and husband each covenants and represents 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 Agreement, Wife and husband each acknowledges receipt of the other's financial information and confirms that she or he has reviewed such information, fully understands 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 acknowledges that she and he is fully aware of the legal effects of this Agreement 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 Agreement. Wife and husband each also acknowledges 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 agreement 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 Agreement, Wife and husband do hereby **wave, 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 Agreement 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 Agreement 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 Agreement 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>2</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 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 Agreement, 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 all and any 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**

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<sup>2</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 agreement.

**(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 then 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 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 Agreement. 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 agreement 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 the 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>3</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 hereby agrees with the other that this Agreement 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 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

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<sup>3</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.

parties or by the non-owner party, whether now or hereafter given by applicable law, which are inconsistent with the terms of this Agreement.

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 Agreement, 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 Talaq 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:

- 1- 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 the business she practices. Of course, they will help and support each other promote her/his economic, financial, educational and spiritual standing.
- 2- \_\_\_\_\_
- 3- \_\_\_\_\_
- 4- \_\_\_\_\_
- 5- \_\_\_\_\_

(You may add here any conditions, please see footnote for a sample)<sup>4</sup>

## ARTICLE IX: MISCELLANEOUS

1. **Informed Consent.** Wife and husband each declares that she or he fully understands the terms and provisions of this Agreement, 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 Agreement are fair, just and reasonable, that she or he signs this Agreement freely and voluntarily and with full awareness of its legal implications, and that she or he enters into this Agreement freely, knowledgeably and in good faith and not under duress or undue influence from the other.
2. **Governing Law.** This Agreement 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 ante-nuptial agreements.
3. **Community or Marital Property States.** Should one or more of the parties hereto ever becomes 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>4</sup> Here are a few examples of these conditions, you can choose from them 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 study up to the level she likes 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 place.
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 residence 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 Agreement 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 Agreement 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 Agreement 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 Agreement and Termination.** This Agreement shall be effective upon signing it by the Husband and wife in the presence of a Notary Public, 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 agreement only, modify or terminate this Agreement at any time during their marriage.
6. **Enforcement of Agreement.** In the event either party seeks to enforce the terms of the Agreement in a jurisdiction that fails or refuses to recognize its validity, such judicial determination shall not prevent either party from seeking to enforce the Agreement in another jurisdiction.
7. **Severability.** In the event any provision of this Agreement shall be held invalid, unenforceable or void for any reason, the remaining provisions of this Agreement shall not be affected, said provisions being severable.
8. **Assignment.** This Agreement is personal to each of the parties hereto, and neither party may assign nor delegate any of her or his rights or obligations hereunder.

IN WITNESS WHEREOF, we \_\_\_\_\_ and the parties hereto put our hands to execute this Postnuptial Agreement in two original copies in the presence of the Witnesses and a notary public,

**SIGNATURES**

WIFE \_\_\_\_\_  
Date \_\_\_\_\_

HUSBAND \_\_\_\_\_  
Date \_\_\_\_\_

**WITNESSES**

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

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

On \_\_\_\_\_ before me, \_\_\_\_\_ personally  
appeared \_\_\_\_\_, 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 or the entity upon behalf of which the persons acted, 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 _____

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**ANNEX I**  
**LIST OF ASSETS AND INCOMES OF WIFE THAT BELONG TO HER ALONE**

DO NOT COPY

**ANNEX II**  
**LIST OF ASSETS AND INCOMES OF HUSBAND THAT BELONG TO HIM ALONE**

DO NOT COPY