

**AWQAF OF
THE MUSLIM COMMUNITY IN THE WESTERN COUNTRIES:
A PRELIMINARY THOUGHTS ON RECONCILING THE
SHARI'AH PRINCIPLES WITH THE LAWS OF THE LAND**

Monzer Kahf

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Two of the financial issues of concern to the public welfare of the Muslim communities in the Western countries deserve our discrete attention and effort to seek solutions that are compatible with both Shari'ah and the legal and socio-economic environment we live in: The preservation and protection of community's public properties and the financing of the public community's Islamic activities. This paper attempt to some spoken thoughts about their solutions. It consists of four sections that respectively deals with Muslim communities in the Western countries, Properties and Revenues of the Muslim Communities, Preservation and Protection of the Muslim Communities Public Properties and Financing activities carried out on these properties and other community Islamic activities. Two appendices are added to sample out the basic features of needed documents.

MUSLIM COMMUNITIES IN THE WESTERN COUNTRIES

Due mainly to immigration and family size the number of Muslims has increased in traditionally non-Muslim countries (Western Europe, North America and Australia. In the United States, the number of Muslims was estimated in 2000 by the Mosque Study Project at 6-7 millions¹. While the US statistics does not provided information about religion the Canadian statistics gives full details of the religious mosaic of its

¹ The Mosque Study Project 2000 is sponsored by four organizations: Council on American-Islamic Relations (CAIR), Islamic Society of North America, Ministry of Imam W. Deen Mohammed), and Islamic Circle of North America. The Center for Applied Research in the Apostolate (CARA) at Georgetown University, Wash. D.C., did the data entry and provided the data analysis and a preliminary report of the findings. The Mosque Study Project is part of a larger study of American congregations called Faith Communities Today. It is coordinated by Hartford Seminary's Hartford Institute for Religious Research. It covers forty different denominations and religious groups, representing 93 percent of all religion adherents in the United States.

population.² Muslims in Canada are given in the census of 2001 as 580 thousand = 2% of all Canadians, a jump of more than 300 thousand from the 1991 census. The main reason for this increase is immigration and family size. It seems that except for conversion, especially among the Afro American there should be no reason to believe that the pattern of Muslim immigration to the USA is any different than that to Canada, a point that support the estimation of the Mosque project.³

I could not find official statistics about the number of Muslims and the Muslim immigration in the European Union countries or about the religious distribution of their population but by surfing the Internet I was able collect a few pieces of information that give a fair picture. From an Internet publication by Jean-Marie Le Breton on the Proceedings of a Seminar on Muslims in France and Britain, 1998 we collect that *"It is estimated that there are between 3 and 5 million Muslims in France and between 1 and 2 million in Britain."*

A Jewish source in a September 2002 estimates the number of Muslims in the European Union Countries at 12-20 millions. It maintains that "immigration has accounted for more than 70% of the general population growth over the past five years" and most of this migration was Muslim. It adds that Islam has become the second largest religion in Great Britain and the

² The estimate of 6-7 million seems conservatively consistent with the US census 2000. The latter reported 15 million racially non-specified Americans and 17 million Americans above the age of 5 (out of 262 m total population above 5) who speak at home languages other than English and Spanish Keeping in mind that Turks, Iranian and most Arab Muslims report themselves as white while African-American and second generation Muslims speak only English.

³ Except for Spanish American and African American there seems to be no reason to believe that the minority population structure is much different in the USA from that in Canada. Accordingly, if Muslims make 2/5 of Asian religions in Canada they should be about the same percentage in the USA. The total number of Asians and non-specified ethnicities in the USA is 28 m (11%) of total population, Muslims, not including African Americans, may be up to 2/5 of this number! This makes 6 -7 m perhaps a conservative estimation.

number of Muslims in France is probably 6 million and may be up to 8, that is percentage wise more than the African American in the United States.⁴

In Australia published statistics does not help much in providing the number of Muslims but looking at the countries of birth of migrants indicates that the number of Muslims stands at present at about 0.05% of the Australians 18+ million. This represents a huge increase from virtually zero percent some 40 years ago.

PROPERTIES AND REVENUES OF THE MUSLIM COMMUNITIES

It is obvious that such large communities would require a large number of public community properties especially real estates to exercise the rituals of worship and provide social and religious community services. They also need a flow of community public income to spend on such activities and to maintain the real estates properties. Over the last half of a century there was no serious effort to count and regulate the Muslim public properties and flow of income from within or from without the community itself. The recently completed Mosque Project that is referred to in footnote No. 1 was probably the first of its kind to survey the number of mosques in the Muslim communities in the West.

The findings of the project indicate that in the year 2000 there are 1209 mosques in the USA, the majority of them (87%) were established in the last three decades of the century. 81% of all mosques in the United States are either purchased or built by the community and the majority of all mosques are located in the inner cities and their suburbs. 21% of the mosques have also facilities for full time schools.

⁴ The World Jewish Congrass at:
http://www.wjc.org.il/publications/policy_dispatches/pub_dis83.htm

With regard to the financing of mosque activities the Mosque Study Project's findings indicate that 85% of the mosques in the United States have manageable and healthy budget and finance and only 3% suffer from serious financial shortage while 12% experience some financial difficulties. Most of the mosques in the latter two categories are located in poor areas in inner cities. At the same time the study reported that only 35% of all mosques have annual revenues in excess of US\$ 60,000. This means that 65% of the mosques cannot even afford hiring a qualified full time director or activities coordinator and yet pay the regular utility bills! The study does not dig deeper into the financing sources of the mosques but from my personal experience with mosques and the Muslim communities in North America I can tell that the major source of income for financing current budgetary expenses are regular membership donations and collections on Friday while most of the infrastructure was financed by lump sum donations from rich members and from overseas. Almost all mosques in the United States do not count on regular permanent stream of revenues.

The protection and preservation of these public Muslim properties and the maintenance of a stream or flow of activities that comes out of these properties is no doubt a serious matter for the very survival of the Muslim communities in the Western countries and for any effort they expend in the direction of long term planning.

I have no doubt that the picture of the mosques and Islamic centers in other Western countries is not much different from that on the United State, and if there are any differences they must be in the direction of having less financial prosperity!

**PRESERVATION AND PROTECTION OF THE MUSLIM COMMUNITIES
PUBLIC PROPERTIES**

The main item in the public communities' properties of Muslim in Western countries is made up of real estates (lands and buildings) devoted for religious, educational and other Islamic charitable purposes. The present legal status of these real estates is that they are owned by their respective organizations. While it is true that most democratic Constitutions provide for respect and equal treatment of all religions,⁵ the Islamic characterization of such real estates falls beyond the existing limits provided for in the non-profit-organizations legal systems and the tax exempt status of non-profit organizations.

With not a single exception, all Islamic centers are incorporated under the non-profit systems. These legal systems are likely to slightly vary from one country to another, but their common and significant feature is to grant the religious organizations a corporate status which allows them to own properties and be treated as legal entities similar in several respects to natural persons. Consequently, all public properties of the Muslim community are registered as properties of these Islamic non-profit corporations or quasi corporations.

Accordingly, non-profit corporations have full and unequivocal rights to dispose of their properties, whether they are in the form of real estates or in the form of mobile assets. This is a principle inherited from the system of corporation in the Western legal traditions. Keeping in mind that some Islamic organizations may have made it more difficult in their own articles of incorporation and by-laws to sell a mosque or an Islamic center or to engage such a

⁵ Western style democracy is in fact no guarantee of equal treatment of all religions because it is based on majority vote more than basic human rights. For instance the constitution in Several Western countries including Canada and France provide for government financial support to institutions of certain religions or denomination that are not provided to others.

property as collateral in a mortgage contract, the basic problem of an authority on real estate that exceeds the limits imposed in the Shari'ah remains in all Islamic organizations in the Western countries because after fulfilling certain conditions that are imposed in the by-laws and articles of incorporation **the decision-making body of the Islamic non-profit corporation has the legal power to eliminate a mosque or any other public property of the Muslim community by selling it and using the proceeds for current expenses and debts.** This is in one hand.

On the other hand, outsiders and any third party, Muslim or otherwise, can sue the Islamic organization for any possible or potential liability and force it to liquidate its assets, especially, its real estates to discharge of its liability.

Waqf, in the Islamic Shari'ah, is not like that. Its Nazer/Mutawalli (manager) has no power to liquidate it. The rules and conditions of substitution of a waqf property make it rather impossible to eliminate a perpetual waqf. Further, perpetual waqf does not fall under liabilities that may necessitate its liquidation.

The conclusion is that if we want to provide protection and preservation for the public properties of the Muslim communities, Islamic centers, schools and the like, it is not sufficient to amend the articles of incorporation, limiting the power of the decision-making bodies of our Islamic non-profit organizations or stiffening the membership conditions of the organization itself as well as its governing bodies. What is needed is a lot more than that. **We need a system that inspires the Islamic principles of Awqaf to provide a complete and unequivocal legal protection to the public real estate properties of the Muslim communities.**

The fact is that the Islamic system of Awqaf does not only protect the real estate properties of the Muslim communities but it also protects the mobile assets and other properties including income-generating properties.

Suggested Solution

The first best and the ultimate solution of this problem is to seek new laws that protect the public properties of the Muslim community. Such laws should be designed in accordance with the principles of waqf as described in the Islamic Shari'ah. We need to work towards this goal. We can co-opt in this effort all charitable organizations, religious and otherwise and cooperate with all other non-profit organizations to achieve this kind of improvement in the Western legal system of non-profit properties for **the common objective of protecting them from their own decision-making bodies as well as from outsiders**. Non-profit organizations are not similar to business corporations and must not be treated similarly. The profit motive in business corporations normally act as a protector/deterrant of their management, such a motive does not exist in the non-profit organizations and the law must provide an alternative protector/deterrant! Even for Islamic public properties alone, there is a need to design and propose laws that protect them against their own management as well as outside claimants. A precedent in this regards has already started in the acts of Halal food that are rolling from one state to the other in the US. I believe that an Awqaf act is more important than a Halal food act everywhere in the Muslim communities in the Western countries.

In the meanwhile, we need to design suitable legal document on the basis of permanent irrevocable trusts in which any liability is charged to the Managing organization and its principals rather than to the Trust property. The basic features of such document are given in appendix I.

FINANCING ACTIVITIES OF THE MUSLIM COMMUNITY IN THE WESTERN COUNTRIES

The present status of financing the Islamic activities is truly miserable and shameful. It basically depends on begging the members of the community by the officers of the Muslim organizations and running boxes between the lines on Friday prayers. May Allah forgive us for the humiliation we usually cause to our elected and volunteer officers!

Since there are no government that spend on the mosques and other public properties of the Muslim communities in the West, we have to depend on private donations.⁶ Although they afford a lot of improvement in their mobilization methods and approaches, donations do not provide a stream of income that is stable and sufficient to sustain the necessary Islamic activities. Innovative ideas are needed and our Islamic history tells us that most community activity in the Muslim society have been financed by the Awqaf.

We need to revivicate the concept of the investment Awqaf properties whose returns are devoted to sustain and promote the community activities of Muslims including the physical maintenance of their public properties; and we need to encourage individual Muslims in our communities to create such kind of Awqaf. The Islamic heritage of Awqaf indicates that this institution was able the sustain and finance such sectors of the cultural and social activities to the extent that the Awqaf made the main source of support for education, health services, scientific research, public utilities and social welfare services in addition to financing the maitenance of Mosques and salaries of their employees.⁷ The cration of

⁶ Motivated by a desire to control the Islamic activities, as inherited from its colonial days in North Africa, France provides a budgetary grant to the Mosque of Paris, the largest in France.

⁷ Monzer Kahf, Al Waqf Al Islamic, its historical growth, development and management, Dar al Fikr, Damascus 2000.

investment Awqaf has been the normal practice of the Muslim society not only of the rich but also of the middle class and governments. This practice continued until the beginning of the 20th century when governments started a deliberate process of mass liquidation and take over of the Awqaf properties especially in Turkey and the Arab countries.

We need to spend effort to revitalize the process of creating Awqaf in the Muslim communities in the West for the purpose of generating a permanent and stable flow of revenue that can support the needs of the community activities and enhance its religious and social programs. The process of creating new Awqaf should be made available to every Muslim family in our communities not only to the rich few.

For this purpose we need to design formulas and patterns, within the existing system of charitable trusts, that encourage individual Muslims in the Western countries to create investment properties whose income is devoted to support the Islamic community activities. Preliminary thoughts on such forms of Trust are provided in appendix II. These forms are formulated on the assumption that there are a few very rich Muslims in our communities while there are many who only own their residences. Here again one of our objectives must be to enact laws in the Western countries that encourage and protect the revenue-generating Awqaf properties of the Muslim community.

The fact that we live under a secular constitutions must not be a limitation for seeking the enactment of such laws that may relate only to the Muslim community. We have several examples in the world where secular countries provide laws that apply to religious segments of their population. It can rightly be argued that such laws make part of the social needs of the religious communities. The real impetus is a **dual lack**

of a will and lack of modus operandi for such kind of lobbying activities.

DO NOT COPY

Appendix I

Trust form that helps protect the public properties of Muslim communities in the West against the authority of management of Islamic organization and against third party/outsideers

THE PERMANENT ... (NAME OF MUSLIM beneficiary org.), Inc. ... **RELIGIOUS**
TRUST OF
THE ... (NAME OF FOUNDING ORG.)..., INC.⁸

Dated ___/___/20__

⁸ To protect the public community property from liability toward third party, there must be three legal entities. The founding organization is the organization that purchases and owns the property. It places it in Trust with a second legal entity, a Trustee, for the beneficiary organization, the third entity, that is the organization that runs and operates the Islamic activities using the property in Trust for its benefit. Once the property is put in Trust the founding organization must die or dissolve, so that an owner cannot be sued because it does not exist any more. It is highly recommended that there should be three different organizations independent from each other. (This is one of the best kept secrets of lawyers!)

**THE PERMANENT ... (NAME OF MUSLIM beneficiary org.), Inc. ... RELIGIOUS
TRUST OF
THE ... (NAME OF FOUNDING ORG.)..., INC.**

Dated ___/___/20__

Article I: The Trust and The Trust Founder

We, the undersigned, ... (name of founding organization), Inc., ... , a religious charitable organization incorporated in the state of _____, as represented by the president, the secretary and the treasurer, and after the decision of the Board of Directors of the Corporation no. _____, dated ..., with full power and authority vested in the Board by the Articles of Incorporation of the Organization, announce and declare that the ... (name of the founding organization) ... hereby establishes a religious Trust (Waqf) for the sake of God, the Almighty, and to serve the Muslim community in _____ as represented by ... (name of the beneficiary organization) ... and its successors in accordance with the Islamic teaching and the conditions of this instrument. This religious Trust (Waqf) consists of the assets herein described. This Trust (Waqf) is permanent and continuous for which we only seek acceptance and contentment of God, the Lord of the Worlds. This Trust (Waqf) is established in accordance with the teaching and regulations of the Islamic Shari'ah (Law) and it is to be governed always and at all times by the spirit, rules and teachings of the Islamic Shari'ah. No one has any right to change or alter any thing in this instrument, As God said: "If any one changes the bequest after hearing it, the guilt shall be on those who make the change. For Allah hears and knows all things" [The Qur'an, 2:181]. This instrument is to be considered as one unit consisting of five articles, seven pages and an appendix.

On this we fix our signatures, as legal and authorized representatives of the ... (name of the founding organization) ..., on each and every page and on the last page along with witnesses and public notary. We also attach a copy of the decision of the Board of Directors and make it an intrinsic part of the instrument.

This religious Trust (Waqf) is permanent and irrevocable. It must be preserved until the Day when God resurrects all men and women.

The Assets entrusted are ... (full legal description and listing of all real estates properties, attached buildings and other fixed asset attachments such as mosques and Islamic centers, schools, etc.)

This Trust is to be called: The Permanent ... *(name of the beneficiary Islamic organization)* **... Religious Trust of the ...** *(name of the founding Islamic organization)*

**Article II: Use of the Trust's Assets and Income
and Limitation of Powers of Founders, Trustees and
Beneficiaries**

1. The use of the Trust's assets shall be restricted to the religious Islamic purposes and within the limits ordained by the Islamic Shari'ah. No part of these assets can be used for any activity, what so ever, that may violate the Islamic moral, social, religious and spiritual norms, regulations and guidance.

More specifically, the assets of this Trust are to be used solely for Islamic prayers, meetings of the muslim community and members, boards and committees of the beneficiary organization, teaching Islamic religious and othe subjects, lecturing and all other community services and activities as may be decided at the sole discretion of the Beneficiary Islamic Organozation.

If the Trust includes investment assets, they must be invested in accordance with the Islamic Shari'ah. No investment in interest earning assets or stocks and enterprises that produce items or conducts activities prohibited in the Islamic Shari'ah. Only the net revenues and/or incomes of such asset may be used by the Beneficiary Islamic Organization for its operational expenses.

2. All capital gains, appreciation and revaluation accruing to the Trust's assets shall be added to the principal of the Trust and become inseparable part thereof, whether such gains accrue to the properties named in this instrument or to any other properties for which any part of existing properties is substituted.

3. All and any additions, improvements, attachments, etc. to the assets and properties of this Trust shall constitute an intrinsic and inseparable part of this Trust and shall be covered by this instrument as if it were specifically mentioned in Article I.

4. The ... *(name of the beneficiary organization)*... shall have full, unequivocal and unchallenged rights to use any and all the assets of the Trust for any and all of its activities and at the discretion of its appropriate decision making body in accordance to its articles of incorporation and By-Laws. All its activities conducted on the properties of this Trust must always be within the limits and conditions of this instrument and the Islamic Shari'ah.

5. The founders, trustees, managers, and beneficiaries have neither power nor authority of disposing of the assets of this Trust or any and all of its capital gains under any and all circumstances.

However the *(name of the beneficiary org.)* ... may replace the assets, wholly or partially, for other assets, at the discretion of its appropriate decision making body.

Once such a decision is delivered in writing to the Trustee, the Trustee must take necessary action to sell the assets. In such cases, new assets must provide at least equal services or revenues to the same Muslim community of _____ Or any other nearby Muslim community as decided by the Beneficiary Islamic Organization. These assets must be purchased for the full amount of the proceeds of the sale of the old assets and must be recorded in the name of thrTrust under the same conditions stipulated in this instrument,

The proceeds from the sale of assets must be placed in an Islamically accepted mutual fund or escrow account within the USA territories until the purchase of replacement assets is effected and their price becomes due for payment. Such temporary arrangement must be limited to no more than three month.

6. The properties of this Trust cannot be mortgaged, used as collateral, given as a gift, forsaken, or disposed of in any manner by any of its founder, managers, trustees, beneficiaries or other persons. These properties do not enter under the ownership of the founders, trustees, managers, or beneficiaries. Any contract, commitment or obligation made to the contrary of this clause is null, void and invalid.

Article III: The Trust Management

1. The founder of the Trust, ... *(name of the founding Islamic Org.)* ..., hereby appoints ... *(name of Trustee organization)* as the Trust's manager and Trustee for as long as it exist. The Trustee/manager is required to take good care of the property. This includes being in full charge and responsibility of maintenance, insurance, taxes and any and all other normal and customary expenses necessary to keep the assets usable for what they are made for, and free of obligations and liabilities to any outsider or any third party. If the trustee resigns or exists no more a successor Trustee shall be appointed by the beneficiary organization.
2. The Trustee/manager is not authorized to sell the properties of the Trust, borrow on them, give them as a gift or in a last will to any party, use them as collateral, put a lien or cause a lien to be put on them or expose them to

any kind of liability or debt to any third party. The Trustee may choose to surrender its right to Trusteeship/management in writing to another Islamic tax exempt organization of similar objectives that serves the same Muslim community or a nearby Muslim community.

3. Since the Waqf in Shari'ah does not take liability to any third party that may require liquidation of any of its assets any such liability and/or responsibility that may otherwise be charged to the Trust, shall fall on the Trustee/manager and the Trust shall be kept free of any liability to any third party at all times.
4. The manager/Trustee shall deserve neither compensation nor salary for management.

Article IV: Amendment

The founder, severally and/or jointly, within the limits of Shari'ah, have full rights to amend, change and/or modify any article of this instrument except revoking the Trust or removing any asset from it.

Article V: Separability, Succession and Arbitration

1. We direct and ordain that if any part of this instrument is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.
2. If ... (*name of beneficiary org.*) ... ceases to exist the Islamic organization that replaces it shall succeed it wherever it is mentioned in this instrument. If there shall be no successor, any Islamic organization in the state of _____ that is certified by the ... (*name of a national organization such as Islamic Society of North America -ISNA- in the US*) ... or by ... (*name of a national Waqf org. such as the North American Islamic Trust - NAIT in the US*) ... shall replace is as a beneficiary of the use of the Trust properties and of its revenues. The successor of such an organization shall replace it if it is dissolved exists no more.
3. Should any disagreement, conflict or dispute arises with regard to this Trust, interpretation of the texts and articles of this instrument, use of its premises and activities undertaken therein, its beneficiaries and/or its management/Trusteeship, or any other matter that relates to it in any way or manner, a committee of three respectively representing the the beneficiary organization, A national umbrella organization such as ISNA in the US or a national

Waqf organization such as NAIT in the US and the Trustee shall be called to solve such dispute. Its decision shall be final and binding to all parties and in all courts.

4. Since this Trust and its instrument are of public benefit and interest to all members of the Muslim community in ... (name of county, city or area) ..., any member of the Muslim community in the same is in a position to supervise and control the faithful and proper implementation of the texts and spirit of this instrument.
5. Any member of the Muslim community in ... (name of city, area or county) ... , or any of the two National organizations named in Section V 3 of this instrument severally and/or jointly have the right to give a written complaint, with description of the violation, and ask for the committee mentioned in Section V4 above to be formed to consider the complaint provided that the cost of tourist-class air tickets and other transportation and accomodation cost for members of the committee coming from outside 25 likometer radius of the property of the Trust shall be born by the complainer(s) and deposited with the Trustee in a cashier check with a certified letter at least one week before the convening of the committee.

This instrument is made in five original copies: one copy for each of Founder, beneficiary and Trustee and one copy for each of the two national organizations mentioned in Section V3.

Date

Trust Founder	Trust Beneficiary	Trustee/Manager
Name.....	Name.....	Name.....
.....
Address	Address	Address
.....
.....
Represented by:	Represented by:	Represented by:
Name	Name	Name
Position.....	Position.....	Position.....
Name.....	Name.....	Name.....
Position.....	Position.....	Position.....
Name	Name	Name
Position.....	Position.....	Position.....

Signatures	Signatures	Signatures
.....
.....
.....

Witness	Witness	Witness
Name.....	Name.....	Name.....
.....
Address	Address	Address
.....
.....
.....
Signature	Signature	Signature
.....

Notary Public
Name
Commosion expires on
Address
.....
.....
Signature and Seal

Appendix II

Trust form that helps encourage the establishment of revenue-generating Awqaf properties for the Muslim communities in the West. This form is intended for application on residences of the founders, the most common property of middle-class Muslims, but it serves for any real estate property

**THE PERMANENT ... (name of donor) ... CHARITABLE
TRUST OF THE ... (name of beneficiary Islamic organization) ...**

DO NOT COPY

**THE PERMANENT ... (name of donor) ... CHARITABLE
TRUST OF THE ... (name of beneficiary Islamic organization) ...**

**Article I: The Trust and The Trust Founders and
Beneficiary**

We, the undersigned, _____ and _____,
husband and wife, residing in _____,
with full legal and mental capacity and full freedom
announce and declare, and will and desire that we
establish a Trust (Waqf) for the sake of God, the
Almighty. This Trust (Waqf) consists of the assets
herein described. This Trust (Waqf) is permanent for
which we only seek acceptance from God, the Lord of the
Worlds. It is established in accordance with the
teaching and regulations of Islamic Shari'ah (Law) and
it is to be governed always and at all times by the
spirit, rules and teaching of the Islamic Shari'ah. No
one has any right to change or alter any thing in this
instrument, As God said: "If any one changes the
bequest after hearing it, the guilt shall be on those
who make the change. For Allah hears and knows all
things" [The Qur'an, 2:181]. This instrument is to be
considered as one unit consisting of six articles and
seven pages. On this we fix our signatures on each and
every page and on the last page along with witnesses
and public notary.

This Trust (Waqf) is permanent and irrevocable. It
must be preserved until the Day when God resurrects all
men and women.

This Trust (Waqf) is established for the sole
objective of providing revenues, income and/or usufruct
to help, support and finance the activities of ... (name
of the beneficiary Islamic organization) ...

**The Assets entrusted are ... (full legal description and
listing of all real estates properties, attached buildings and other
fixed asset attachments**

**This Trust is to be called THE PERMANENT ... (name
of donor) ... CHARITABLE TRUST OF THE ... (name of beneficiary
Islamic organization) ...**

**Article II: Use of the Trust's Revenues and Limitation
of Power of Founders, Trustees and Beneficiaries**

1. The Trust's revenues are defined as the total of all
rents and rental payments, any ordinary profits, and

all returns that arise to the Trust in terms of rights and incomes in any form and kind. Revenues do not include capital gains, appreciation of its assets and land at any time, or the capital gains resulting from any revaluation, replacement or substitution of the asset or assets of the Trust at any time, form, kind or source.

2. All capital gains, appreciation and revaluation accruing to the Trust's properties and assets shall be added to the principal of the Trust and become inseparable part thereof, whether it accrues to the properties specified in this instrument or to any other properties for which they are substituted.
3. After fulfillment of the conditions of article III, the Beneficiary Islamic Organization named in Article I shall become the sole beneficiary of the Trust. It shall have full, unequivocal and unchallenged rights to use the revenues of the Trust for any and all of its activities at the discretion of its appropriate decision making body in accordance to its own articles of incorporation and By-laws.
4. The founders, Trustees, managers, and beneficiaries shall have neither power nor authority of disposing of any and all the assets of this Trust or any and all of its capital gains under any and all circumstances by any means of sale, gift, concession, use as collateral or any and all forms of transfer of ownership to any other owner.
5. However after the revenues of the assets of the Trust become due to Beneficiary Organization the Trustee on written request from the Beneficiary Organization may replace these assets, wholly or partially, for other income/usufruct generating assets. In such a case, new assets must be purchased for the full amount of the proceeds of the sale of the old assets. The proceeds of sale must be placed in an Islamically accepted mutual fund or escrow account within the USA territories until the purchase is effected and the price becomes due for payment. Such temporary arrangement must be limited to three month only.
6. Additionally, the founders and their beneficiary children have the right to replace/substitute the property of the Trust for another property of at least equal value provided that the whole new property becomes an asset of this Trust in addition to other conditions mentioned in this instrument.

7. The properties of this Trust cannot be mortgaged, put as collateral, forsaken, or disposed of in any manner by any of its founders and their children, manager/Trustee, beneficiaries or other persons. These properties do not enter under the ownership of the Trustees, managers, or beneficiaries. Any commitment, obligation or contract made to the contrary of this clause is null, void and invalid.

Article III: Conditional Benefits of Founders and Their Children

1. The Founders, severally and/or jointly have full and uncontested rights to the usufruct of this property, they may use it as a residence and/or a source of income during their lifetime or the life of the surviving either one of them.
2. After the expiry of both Founders, their unmarried children, together or any one of them alone, have same and equal rights like those enjoyed by their parents until one year after their youngest child graduates from university with a bachelor's degree and begins a full time job; if the youngest child is female, until one year after she gets married.
3. Any poor child or children of the founders are entitled, severally and/or jointly, to the usufruct of the properties of this Trust, for use as residence or for income. This right does not prejudice the right of unmarried children and it must be claimed before the revenues of the Trust are turned to the Beneficiary Organization. For a proof of poverty, it is sufficient that one, non-beneficiary child of the founders certifies it to the Beneficiary Organization.
4. Grandchildren are not included in the benefits of this Trust, except as part of the household of their beneficiary parents.
5. During the periods required to satisfy Sections 1, 2 and 3 of this Article III, the beneficiaries are required to take full charge and responsibility of maintenance, insurance, taxes and any and all other normal and customary expenses necessary to keep the property usable and free of obligations to any outsider or any third party. In case they do not take such charge and responsibility, The Beneficiary organization may pay for what is needed and come back on the occupant/beneficiary of the property for reimbursement of the paid amount in full, in

addition to 10% as a compensation for its administrative expenses. If these amounts are not reimbursed within 60 days of a served notice the Beneficiary Organization has the right to evict the occupant/beneficiary and take the Trust properties under its possession and to its benefit.

Article IV: The Trust Management

1. The founders of the Trust (and the surviving one of them), severally and/or jointly, shall be the Trust's manager and Trustee during their lifetime. They shall take good care of the property. However they cannot sell or bequest the properties of the Trust; they cannot give them as a gift or in a last will to any party, or use them as collateral, or put a lien or cause a lien to be put on them. They cannot expose them to any liability toward any third party. But they may at any time choose to surrender their right to the usufruct and/or the Trusteeship/management in writing to the Beneficiary Organization without affecting any of the rights and privileges of their unmarried and poor children.
2. After the death of the surviving founder, the management/Trusteeship shall be given to the Beneficiary Organization without any prejudice to the rights of unmarried and poor children as mentioned in article III.
3. After the expiry of the rights of the founders and their children as mentioned in Article III of this instrument the Beneficiary organization may decide to replace the Trust properties for stocks and mutual funds' units. In such case it must select the best of such investments from the point of view of compliance with the spirit and rules of Shari'ah. There must be no investment in shares prohibited according to the Islamic Shari'ah nor in mutual and investment funds in which interest-based banks, insurance and other financial companies, entertainment, hotels and armament industries make more than 10% of the portfolio.
4. The manager/Trustee shall deserve neither compensation nor salary for management.
5. Since the Trust must not be suit for any liability to any third party, any such liability and/or responsibility that may otherwise be charged to the Trust, shall be automatically transferred to the

manager/Trustee and the Trust shall remain free of any liability to any third party at all times

Article V: Amendment

The founders, severally and/or jointly, within the limits of Shari'ah, have full rights to amend, change and/or modify any article of this instrument except revoking the Trust.

Article VI: Separability, Succession and Arbitration

1. We direct and ordain that if any part of this instrument is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.
2. If the Beneficiary organization ceases to exist the Islamic organization that replaces it shall succeed it wherever it is mentioned in this instrument. If there shall be no successor, any Islamic organization in ... (city or county) ... that is certified by the ... (name of national umbrella org. like ISNA in the US) ... or by ... (name of national Waqf Org like NAIT in the US) ... shall replace the Beneficiary organization or its successor.
3. Should any disagreement, conflict or dispute arises with regard to this Trust, interpretation of its texts and articles, distribution of its revenues, its beneficiaries and/or its management or Trusteeship or any other matter that relates to it in any way or manner, the Executive Board of the Beneficiary Organization shall appoint a committee of three, one of them must be the Director of Imam of the Beneficiary Organization to solve such disputes. Its decision shall be final and binding to all parties and in all courts.
4. Since this Trust and its instrument are of public benefit and interest to all members of the Muslim community in ... (name of county, city or area) ..., any member of the Muslim community in the same is in a position to supervise and control the faithful and proper implementation of the texts and spirit of this instrument.
5. Any member of the Muslim community in ... (name of city, area or county) ... , or any of the two National organizations named in Section VI2 of this instrument severally and/or jointly have the right

to give a written complaint, with description of the violation, and ask for the committee mentioned in Section VI3 above to be formed to consider the complaint provided that the cost of tourist-class air tickets and other transportation and accomodation cost for members of the committee coming from outside 25 likometer radius of the property of the Trust shall be born by the complainer(s) and deposited with the Trustee in a cashier check with a certified letter at least one week before the convening of the committee.

This instrument is made in ____ original copies: one copy for each of Beneficiary Organization, the national umbrella organization, the national Waqf organization, each of the founders and their children _____, _____ and _____.

Date

Trust Founders	Witness	Witness
Names: _____ and _____	Name _____	Name _____
Address _____ _____	Address _____ _____	Address _____ _____
Signatures _____ _____	Signature _____ _____	Signature _____ _____

Notary Public
Name _____ Commission expires at _____
Address _____ _____
Signature and Seal