STATE OF NORTH CAROLINA )

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COUNTY OF MECKLENBURG )

# POSTNUPTIAL AGREEMENT

THIS POSTNUPTIAL AGREEMENT (“Agreement”), is made this day of

 , 20 , between \*MAN\*, a resident and domiciliary of Mecklenburg County, North Carolina, hereinafter “Husband,” and \*WOMAN\*, a resident and domiciliary of Mecklenburg County, North Carolina, hereinafter “Wife”;

WHEREAS, the parties were married on \*DATE\*. There are **no** children born to the marriage at the present time; and

WHEREAS, the parties are living together harmoniously and anticipate continuing to do so, but nonetheless desire to provide for the disposition of all assets and all liabilities in the event of separation and/or divorce; and

NOW, THEREFORE, in consideration of the premises, and the mutual promises and undertakings herein contained, and for other good and valuable consideration, the parties agree as follows:

1. Disclosure of Financial Information; Voluntary Execution. Annexed hereto, marked Exhibit A and made a part of this Agreement, is a net worth statement of each party. The parties agree that the valuations contained in the net worth statements are accurate and acceptable to them. In signing this Agreement, each party has relied upon the net worth statement of the other as a full and accurate disclosure of the party’s property interests.

Without limiting the foregoing, the parties further expressly stipulate, acknowledge and agree (i) that this agreement is executed voluntarily, and (ii) that this agreement was not unconscionable when it was executed. Each party specifically waives the right to any further disclosure of financial information of any kind from the other party.

1. Separate Property. Each party agrees that the property described hereafter shall remain the separate property of the other party in the event of a separation and/or divorce, unless otherwise agreed by them as specifically set forth hereinafter, and shall not be subject to any claims and rights of one party against the other for equitable distribution under North Carolina General Statutes § 50-20 et seq., as the same may be amended from time to time:
	1. All property, whether real or personal, or of any type whatsoever, presently held by the other party in his/her separate name; and
	2. All property, whether real or personal, or of any type whatsoever, acquired at any time in the future by the other party in his/her separate name; and
	3. All property acquired at any time in the future by the other party by gift, devise, bequest or inheritance; and
	4. All interest, dividends, rents, profits or other income at any time acquired from the afore stated separate property, or at any time acquired from property purchased with separate property, or any property substituted or exchanged for separate property; and
	5. All active and passive appreciation in value of the afore stated separate property, whether attributable to market conditions or to the skills and efforts of the owner thereof or of either party; and
	6. Any recovery or claim for pain and suffering arising from a personal injury suffered by the other party; and

Each party has the sole and exclusive right at all times to manage and control his or her respective separate property the same as if each were unmarried. This right to manage and control includes the right to dispose of any or all of that party’s separate property by deed, will or otherwise on that party’s sole signature, without any involvement or control by the other party, and the other party hereby ratifies and consents to any such disposition. If the laws of a state, or a third party, requires the release of the spouse’s rights or interests, the other party agrees to execute whatever documents are necessary to give such release in the other’s separate property. Each party acknowledges that the right of the other party to retain, manage and control such separate property as granted above continues perpetually unless this Agreement is revoked as set forth in Paragraph 14 below. Each party specifically waives, relinquishes, renounces and gives up any claim that each party otherwise may have had or have made to the other’s separate property under the laws of this state.

1. Real Estate Acquired in the Future. The parties agree that they may in the future purchase real estate which will be titled in the names of both parties in either a tenancy by the entirety or some other form of joint ownership. Said real estate shall be Wife’s separate property (despite being titled in a form of joint ownership) in the event of a separation and/or divorce of the parties and the rights and obligations of the parties regarding said real estate shall be governed by the provisions of paragraph 2 above.
2. Residence and \*BUSINESS\* Assets. The parties reside in a house and lot located at \*ADDRESS\*, Charlotte, North Carolina. The parties agree that said real estate shall be **Husband/Wife’s** separate property in the event of a future separation

and/or divorce of the parties and the rights and obligations of the parties regarding said real estate shall be governed by the provisions of paragraph 2 above.

Additionally, Husband/Wife has an ownership interest in a corporation known as the

\*BUSINESS\*. The parties agree that said ownership interest and all rights associated with said ownership interest shall be Husband/Wife’s separate property in the event of a future separation and/or divorce of the parties and the rights and obligations of the parties regarding said ownership interest shall be governed by the provisions of paragraph 2 above.

1. Joint Personal Property. The parties agree that any personal property, which shall now or hereafter be held in the joint names of the parties shall not be considered separate property in the event of separation and/or divorce of the parties, but shall be deemed to be owned jointly by the parties and shall be divided equally between the parties if they become separated or divorced in the future. Provided, however, that the provisions of the foregoing sentence **do not apply** to any parcels of real estate held in joint names of the parties in any form of joint ownership. Said real estate shall be Wife’s separate property pursuant to paragraph 3 above.
2. Payments of Debts and Liabilities.
	1. Each party shall bear legal responsibilities for the following liabilities, without any obligation or liability on the part of the other therefore, except as hereinafter provided:
		1. All of his/her own debts and other obligations, secured or unsecured, existing at the time of the execution of this agreement; and
		2. All debts in his/her name acquired in the future.
		3. All debts, obligations, taxes, assessments and expenses at any time incurred, arising, existing or relating to the acquisition, holding, disposition, operation, management or administration of his/her own separate property.
		4. Notwithstanding any other provision of this section, either party may voluntarily contribute toward the payment of the separate liabilities of the other. However, voluntary payment shall not constitute an assumption of the said liabilities by the contributing party, nor shall such payment constitute an admission of liability therefore by the contributing party, nor shall such payment give the contributing party an interest in the

party on one or more occasions be deemed a waiver or an implied amendment of this Section.

* 1. All debts in the joint names of the parties shall be paid equally by the parties.
1. Fair and Equitable. Each of the Parties deems the aforesaid distribution of “joint property” and “separate property” to be fair and equitable in the event of the parties’ separation and/or divorce.
2. Necessary Documents; Indemnification. If either party desires to encumber, sell, or otherwise transfer or exercise a right of ownership in his or her separate property, the other party shall join, as necessary, in the deed of conveyance, deed of trust, mortgage or similar document needed to make the transfer or encumbrance or other act legally effective or to expedite the transaction. However, the party requesting the joinder shall hold the other party who joined in the deed, deed of trust, mortgage or other document harmless from any liability or expense of any kind and nature which may result from the execution of such deed, deed of trust, mortgage or other document. Furthermore, the party requesting the joinder shall, upon the request of the other party, execute an indemnity agreement or some other appropriate instrument to protect the other party under the circumstances.
3. Independent Counsel. Each of the parties understands and recognizes that he or she has the full and complete right to retain his or her own attorneys, accountants or other advisors (hereinafter together called “attorneys”) and to discuss any and all of the provisions of this Agreement or any other matter in any way related to this Agreement with his or her attorneys. The parties acknowledge (I) that Wife is represented by

 of Charlotte, North Carolina; (ii) that Husband is represented by

 of Charlotte, North Carolina; (iii) that both parties have been duly appraised of their respective legal rights, including their rights to equitable distribution, and (iv) that all of the provisions hereof as well as all questions pertinent hereto have been fully and satisfactorily explained to them.

1. Applicable Law. This Agreement shall be governed by and interpreted and construed in accordance with the law of the State of North Carolina. In addition, the parties hereto expressly understand and agree that the provisions in this agreement shall be applicable at all times even though the parties may reside in a jurisdiction other than North Carolina in the future.
2. Entire Agreement. This Agreement represents the entire agreement of

the parties with regard to the subject matter hereof. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by either party to the other with respect to the subject matter of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and

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representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and superseded hereby.

1. Execution and Effectiveness. To clarify certain aspects of this Agreement’s execution and effectiveness, the parties agree as follows:
	1. This Agreement shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal representatives, successors and assigns.
	2. Each of the parties acknowledges that this Agreement is voluntarily executed with full knowledge and information, and that no coercion or undue influence has been used by or against either party, by the other party or by any third parties in making this Agreement.
	3. No provision of this Agreement shall be interpreted for or against any party because that party or that party’s legal representative drafted this Agreement or drafted any particular provision hereof.
	4. In the event any of the provisions of this Agreement are deemed to be invalid or unenforceable, the same shall be severed from the remainder of this Agreement and shall not cause invalidity or unenforceability of the remainder of this Agreement. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
	5. Each party shall, upon the request of the other or the other’s personal representative, execute, acknowledge and deliver any instruments appropriate or necessary to effectuate the intent and provisions of this Agreement.
	6. Neither party has any reason to believe that the other did not understand fully the terms and effects of the Agreement or that the other did not freely and voluntarily execute the Agreement.
2. Waiver of Equitable Distribution. Pursuant to North Carolina G.S. §52B-4(3), each of the parties hereby specifically waive any claims or rights of equitable distribution of marital and/or divisible property arising out of North Carolina G.S. §50-20, et. seq., or otherwise, now and hereafter by law provided.
3. Revocation and/or Amendment. Only an express agreement in writing making clear and specific reference to this agreement, signed and notarized by both parties according to law, shall have the effect of revoking or amending this agreement.
4. Waiver. The failure of any of the parties to this Agreement to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature; nor shall it affect the party’s rights to claim strict performance of any other portion of this Agreement.
5. Specific Performance. Either party shall have the right to compel the performance of the provisions of this Agreement by suing for specific performance in the courts where jurisdiction of the parties and subject matter exists. Both parties acknowledge that neither party has a plain, speedy or adequate legal remedy to compel compliance with the provisions of this Agreement, that neither party should be required to repeatedly file suit for any breach of this Agreement, that this Agreement is fair and equitable to both parties, and that an order of specific performance enforceable by contempt is an appropriate remedy for a breach by either party. However, nothing herein shall prevent an injured party from recovering all monetary damages to which he or she may be entitled upon a showing that the other party has breached the provisions of this Agreement.
6. Attorney Fees. If either party breaches any of the terms of this Agreement, the breaching party shall be required to pay reasonable attorney fees for the party whose rights were violated as a result of said breach.

IN WITNESS WHEREOF, the Parties have set their hands and seals to this Agreement, in multiple originals, one of which is being retained by each of the Parties and each of which shall be deemed an original hereof, all as of the day and year first above written.

 (SEAL) “MAN”

 (SEAL) “WOMAN”

# STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

I, , a Notary Public for said County and State, do hereby certify that “MAN” personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein intended.

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**WITNESS** my hand and notarial seal this, the day of ,

NOTARY PUBLIC

My Commission Expires On:

# STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

I, , a Notary Public for said County and State, do hereby certify that “WOMAN” personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein intended.

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**WITNESS** my hand and notarial seal this, the day of ,

NOTARY PUBLIC

My Commission Expires On:

**EXHIBIT A**