**POSTNUPTIAL AGREEMENT**

THIS POSTNUPTIAL AGREEMENT (the "Agreement") MADE ON THIS \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_

**BETWEEN:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
**- AND -**
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BACKGROUND**

1. This Agreement is made between **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (collectively the "Parties" and individually a "Party") who are married to each other.
2. The Parties intend for this Agreement to become effective upon execution by both Parties.
3. The Parties wish to enter into this Agreement to provide for the status, ownership, and division of property between them, including future property owned or to be acquired by either or both of them.
4. The Parties further wish to affix their respective rights and liabilities that may result from this relationship.
5. The Parties desire that the distribution of any property that either or both of them may own will be governed by the terms of this Agreement and, insofar as the statutory or case law permits, intend that any statutes that may apply to them, either by virtue of Federal or State legislation, will not apply to them.
6. The Parties acknowledge that they have been provided with a reasonable period of time to review this Agreement.
7. The Parties also acknowledge that they have had the opportunity to retain their own lawyer and to receive independent legal advice regarding the terms of this Agreement.
8. The Parties have disclosed to their satisfaction all assets and liabilities that each may have and voluntarily and expressly waive any other rights to disclosure of the property or financial obligations of each other beyond the disclosure provided.
9. Each Party agrees and affirms THAT:
	1. The Parties did execute this Agreement voluntarily;
	2. This Agreement was not unconscionable when it was executed;
	3. Prior to execution of the Agreement, both Parties were provided a fair and reasonable disclosure of the property or financial obligations of the other Party;
	4. They have, or reasonably could have had, an adequate knowledge of the property or financial obligations of the other Party; and
	5. They entered into this Agreement freely and under no duress or undue influence on their decision by the other Party.
10. The Parties acknowledge that this Agreement will continue upon termination of marriage whether by death, divorce, or otherwise.

**NOW THEREFORE** in consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

**PROPERTY**

1. The Parties acknowledge that this Agreement will govern any determination of ownership of property that may occur in the event of the Parties separating, or upon the death of a Party.
2. All jointly acquired or jointly held property, however and whenever acquired, will remain the property of and be owned by both Parties and will be treated as shared property (the "Shared Property").
3. Except as otherwise provided in this Agreement, all property will be treated as property owned solely by either one of the Parties (the "Separate Property") except where:
	1. it is Shared Property; or
	2. there is proof of shared legal ownership.
4. Nothing in this Agreement will prevent or invalidate any gift, or transfer for value, from one Party to the other of present or future property.
5. Unless a Party can reasonably show that they solely own a piece of property, where either Party commingles jointly owned property with Separate Property, any commingled property will be presumed to be Shared Property.

**DEBTS**

1. The Parties acknowledge that this Agreement will govern any determination of responsibility of debts that may occur in the event of the Parties separating, or upon the death of a Party.
2. All jointly acquired or jointly held debts, however and whenever acquired, will remain the debts of and be owed by both Parties and will be treated as shared debts (the "Shared Debts").
3. Except as otherwise provided in this Agreement, all debts will be treated as debts owed solely by either one of the Parties (the "Separate Debts") except where:
	1. it is Shared Debt; or
	2. there is proof of shared legal responsibility.

**MATRIMONIAL PROPERTY RELEASE**

1. The Parties covenant and agree that they are aware of the equitable distribution laws of the State of Alabama, and that it is their intention that the equitable distribution laws will not apply to the status, ownership, interest and division of their property, either jointly or separately owned, nor to their future property, whether real or personal, and owned by either one or both of them, and the Parties further covenant and agree that it is their desire and intent by the terms of this Agreement to contract out of the equitable distribution laws of the State of Alabama, and to make a full and final settlement of all matters of property, both real and personal, previously and presently owned by either of the Parties or to be acquired by either of the Parties in the future.

**DOWER, CURTESY AND HOMESTEAD RELEASE**

1. Each Party releases all dower, curtesy and homestead rights under any statute of the State of Alabama, or any other jurisdiction whatsoever, that, but for this agreement, each would have in and to property in the name of the other, or in their names jointly or as tenants in common.

**SPOUSAL SUPPORT**

1. In the event of a separation the Parties agree that spousal support may be payable to one of the Parties on the basis of the Party's financial circumstances at the time of separation or otherwise. It is understood and accepted by each Party that spousal support will be determined according to the appropriate Federal or State laws.

**ESTATES AND TESTAMENTARY DISPOSITION**

1. Nothing in this Agreement will limit or affect any rights that each may acquire as spouse or surviving spouse in the property, assets or estate of the other spouse.
2. Nothing in this Agreement will invalidate or prevent either Party from naming the other as a beneficiary by will or other testamentary disposition.

**SEVERABILITY**

1. Should any portion of this Agreement be held by a court of law to be invalid, unenforceable, or void, such holding will not have the effect of invalidating or voiding the remainder of this Agreement, and the Parties agree that the portion so held to be invalid, unenforceable, or void, will be deemed amended, reduced in scope, or otherwise stricken only to the extent required for purposes of validity and enforcement in the jurisdiction of such holding.

**INTENTION OF THE PARTIES**

1. Notwithstanding that the Parties acknowledge and agree that their circumstances at the execution of this Agreement may change for many reasons, including but without limiting the generality of the foregoing, the passage of years, it is nonetheless their intention to be bound strictly by the terms of this Agreement at all times.

**DUTY OF GOOD FAITH**

1. This Agreement creates a fiduciary relationship between the Parties in which each Party agrees to act with the utmost of good faith and fair dealing toward the other in all aspects of this Agreement.

**FURTHER DOCUMENTATION**

1. The Parties agree to provide and execute such further documentation as may be reasonably required to give full force and effect to each term of this Agreement.

**TITLE/HEADINGS**

1. The headings of this Agreement form no part of it, and will be deemed to have been inserted for convenience only.

**ENUREMENT**

1. This Agreement will be binding upon and will enure to the benefit of the Parties, their respective heirs, executors, administrators, and assigns.

**GOVERNING LAW**

1. The laws of the State of Alabama will govern the interpretation of this Agreement, and the status, ownership, and division of property between the Parties wherever either or both of them may from time to time reside.

**TERMINATION OR AMENDMENT**

1. This Agreement may only be terminated or amended by the Parties in writing signed by both of them.

**ENTIRE AGREEMENT**

1. The Agreement constitutes the entire agreement and understanding between the Parties to this Agreement and supersedes all prior communications, contracts, or agreements between these Parties with respect to the subject matter addressed in this Agreement, whether oral or written.

**IN WITNESS WHEREOF** the Parties have hereunto set their hands and seals on the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_.

**SIGNED, SEALED AND DELIVERED**

In the presence of:

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_LawyerPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_LawyerPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_WitnessPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_WitnessPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_WitnessPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_WitnessPrinted Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

**THE STATE OF ALABAMA**

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

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the State of Alabama, Attorney, **DO HEREBY CERTIFY:**

**THAT** I was this day consulted in my professional capacity by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, named in the within instrument, being a Postnuptial Agreement, separate and apart from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as to his or her legal rights and liabilities under the terms and conditions of it, and that I acted solely for him or her, and explained fully to him or her the nature and effect of the said Postnuptial Agreement and he or she did execute it in my presence, and did acknowledge and declare that he or she was executing it of his or her own volition and without any fear, threats, compulsion or influence from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or any other person.

**DATED** at the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in The State of Alabama, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY
Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the person named in the annexed Agreement, hereby acknowledges the foregoing this \_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CERTIFICATE OF INDEPENDENT LEGAL ADVICE**

**THE STATE OF ALABAMA**

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

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in The State of Alabama, Attorney, **DO HEREBY CERTIFY:**

**THAT** I was this day consulted in my professional capacity by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, named in the within instrument, being a Postnuptial Agreement, separate and apart from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as to his or her legal rights and liabilities under the terms and conditions of it, and that I acted solely for him or her, and explained fully to him or her the nature and effect of the said Postnuptial Agreement and he or she did execute it in my presence, and did acknowledge and declare that he or she was executing it of his or her own volition and without any fear, threats, compulsion or influence from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or any other person.

**DATED** at the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in The State of Alabama, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY
Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the person named in the annexed Agreement, hereby acknowledges the foregoing this \_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_