

LAST WILL & TESTAMENT

I, _____
ID No. _____
Presently residing at _____

Unmarried Married to _____
 In Community Of Property, according to Islamic Law, Ante-Nuptial Contract,

being of sound mind and memory, do hereby revoke, cancel and annul all previous wills, codicils and testamentary writings made or executed by myself and declare this to be my last will and testament.

PREAMBLE

I bear witness that there is no deity but Allah, the One, the Merciful, the Almighty, Creator of the heavens and the earth and all therein, God of all the Prophets, mercy and peace be upon them all. He is One God and He has no partner. And I bear witness that Prophet Muhammad is His Servant and His Messenger and the last of all the Prophets, mercy and peace be upon him.

This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they strive to be true Muslims, that they submit to their Creator - may He be exalted - and worship Him as He alone is to be worshipped, fear Him as He alone is to be feared, and love Him and His Prophet Muhammad with a complete love that is rivalled by nothing besides them. Let them obey Him and hold fast to His *Shari'ah*. Let them spread and firmly establish His religion of Islam, and let them die only in a state of complete submission to His Will.

I remind them that no man and no woman dies before his/her time. So do not preoccupy yourselves with my death, but instead make proper preparations for your own. Maintain good relations and do not break ties with each other.

Finally, I ask all my relatives, friends, and all others to forgive me, pray in whatever way is easy and dedicate the reward to me. I ask them to honour this document which I have made, and not try to obstruct it or change it in any way.

ARTICLE 1: FUNERAL AND BURIAL RIGHTS

I ordain that no autopsy or embalming be done on my body unless required by law and that without unjustified delay my body be washed, wrapped with cloth free of any ornaments and other articles, prayed for, then buried, which should all be done by Muslims in complete accordance with Islamic tenets.

ARTICLE 2: NOMINATION OF EXECUTOR(S)

I hereby nominate and appoint the following person(s) to be the Executor(s) and Administrator(s) of my estate:

In the event of any of my said Executor(s) or Administrator(s) predeceasing me, or dying during his/her term of office or declining to act or vacate office for any reason whatsoever, then the remaining or surviving Executor(s) or Administrator(s) shall be authorised to act alone. In the event of none of my said Executor(s) and Administrator(s) being able to act then I nominate _____

_____ to so act. I hereby give and grant to my Executor(s) and Administrator(s) such power and authority as is required or allowed in law and especially that of the Power of Assumption.

AS WITNESSES:

1. _____ TESTATOR/ TESTATRIX

2. _____

Your Partner Bank

ARTICLE 3: SECURITY

My Executor(s) and Administrator(s) and any assumed or succeeding Executor(s) and Administrator(s) shall not be required to file or provide any security to the Master of the High Court for the administration of my estate in terms of the Administration of Estates Act (No. 66 of 1965), as amended, or any other law, for the proper performance of their functions.

ARTICLE 4: DISCHARGE OF DEBTS AND OBLIGATIONS

4.1 I hereby direct that the Executor(s) and Administrator(s) of my estate proceed with the distribution of my estate in the following order of priority as commanded by Islamic Law of Succession.

- (a) Payment of my funeral (burial and shrouding) expenses.
- (b) Payment of all my debts including expenses of administering my estate.
- (c) Payment of my religious liabilities and obligations which are set out in Article 4.2.
- (d) Payment of the *Wasiyya* (Islamic Bequest) which is set out in Article 5. Provided that in the event that the legacy is a pro rata share of the estate then, in such instance, there shall be no order of priority, inter se, between the legatees and my Islamic heirs.
- (e) Distribution of the residue of my Estate to my Islamic heirs in accordance with the Islamic Law of Succession.

4.2 My said Executor(s) and Administrator(s) shall endeavour to ascertain what amount, if any, is due by me in respect of my religious liabilities and obligations in accordance with the tenets of Islamic faith as at the date of my death; such as:

- (a) Unperformed *Salaah* (Prayers);
- (b) Unpaid *Zakaat* (Alms);
- (c) Unkept *Saum* (Fast);
- (d) Unaccomplished *Haj* (Pilgrimage);
- (e) Undischarged *Qurbani* (Animal Sacrifice);
- (f) *Sadaqatul-Fitr* (Charity);
- (g) *Sajdah Tilawat* (Prostration);
- (h) Outstanding *Kaffarah* (Expiation) for unfulfilled Vows and Oaths.

And accordingly I hereby direct and make *Wasiyya* (Islamic Bequest) that such amounts shall be paid to such persons or institutions as my Executor(s) and Administrator(s) in their absolute discretion, shall determine to be entitled thereto according to the laws of Islam. The total amount payable under this clause shall not, however, exceed one-third of the net value of my estate after the payment of all my outstanding debts, including funeral (burial and shrouding) expenses. If, however, it does exceed one-third, I request my adult beneficiaries to discharge these outstanding obligations of mine proportionately amongst themselves. However, this request in no way should be construed as binding on the said beneficiaries.

For the purposes of giving effect to this article, my Executor(s) shall file with the Master of the High Court a certificate executed by an authorised official of the

- Jami'atul Ulama KwaZulu-Natal Jami'atul Ulama Gauteng Jami'atul Ulama (formerly Transvaal) Sunni Jami'atul Ulama of SA Muslim Judicial Council

Or any other recognised Ulama Body or their successors ie. _____

The said certificate shall set out the outstanding religious liability and the amount due thereon.

ARTICLE 5: LEGACIES (*WASIYYA*)

I hereby bequeath as free and absolute legacies (*Wasiyya*) to the person(s) or institution(s) named below, the following

Name of Legatee(s):	Amount or Description of Legacy:
_____	_____
_____	_____
_____	_____

In the event of any of the above-mentioned legatees predeceasing me then, and unless the context indicates otherwise, such legacy shall lapse and shall form part of the residue of my estate.

AS WITNESSES:

1. _____ TESTATOR/ TESTATRIX
2. _____

Provided that the Legatee(s) named in this clause is/are not person(s) who qualify as legal heirs according to the Islamic Law of Succession at the time of my death in terms of Article 6 hereof. Provided further that the total value of such legacies does not exceed one-third of the net value of my estate determined as at the date of my death after the discharge of my debts. In the event that the total value of such legacies including my religious obligations in terms of Article 4.2 above, so exceeds one-third of the net value of my estate, the amount thereof will reduce proportionately.

ARTICLE 6: DISTRIBUTION OF THE RESIDUE OF MY ESTATE

I hereby bequeath the entire net residue of my estate and effects of whatsoever nature or kind wheresoever the same may be situated whether moveable or immovable, corporeal or incorporeal whether in possession, reversion, remainder or expectancy to my lawful heirs and heiresses to be determined at the time of my death in accordance with and possessions specified by the Islamic Law of Succession.

For the purposes of giving effect to this clause, my Executor(s) shall file with the Master of the High Court a certificate executed by an authorised official of the body selected in 4.2 above.

The said certificate shall set out the full names (if provided) of my lawful heirs and heiresses at the time of my death, and their respective shares in accordance with the rules of the Islamic Law of Succession.

In the event of non-existence of any eligible prescribed Islamic Heirs at the time of my death, the remainder of my estate shall be distributed to an Islamic organisation, namely, _____

_____ as a contribution for establishing Mosques, Madressas, Islamic Schools or other activities of an Islamic nature.

Should the Organisation named above no longer exist, the Executor(s)/Administrator(s) shall pay the bequest to such other Organisation serving a similar cause. I further direct that the receipt of the duly authorised office bearers of such organisation shall be a good and sufficient discharge to my Executor(s)/Administrator(s).

ARTICLE 7: MINOR BENEFICIARIES

The share of income or capital which may be payable to minors upon my death in terms of this Will shall not be paid into the Guardians Fund, but shall be held in trust by my Administrator(s) who shall have the right to invest such income or capital in such investments as they may in their sole discretion decide and shall further have the right to apply the whole or portion of the income or capital for the maintenance, education or other benefit of the minor beneficiary, provided that such investment is not in conflict with Islamic Law.

The share of income or capital of such minors shall be paid to such beneficiary upon the latter attaining the age of twenty five (25) provided that my Administrator(s) shall be entitled to pay a portion or the whole of such share to such beneficiary at any time before that, if they are of the opinion that such a minor has attained a degree of mental maturity which would enable such a minor to manage his or her own affairs without any detriment. My Administrator(s) shall keep full and proper accounting records relating to the trust and shall have annual financial statements prepared from the date of my death until the termination of the trust of such beneficiaries.

ARTICLE 8: MARRIED BENEFICIARIES

In the event of any of my heirs under this Will being married In Community of Property, or if their matrimonial regime is subject to the Accrual System in terms of the Matrimonial Property Act of 1984, then I direct that his or her inheritance and income in terms of this Will shall be excluded from the joint estate arising from such Community of Property or from such Accrual System and shall accordingly be the separate, sole and absolute property of such heir who shall have the full power to dispose or deal with such inheritance without the assistance of the other spouse.

AS WITNESSES:

1. _____

2. _____

TESTATOR/ TESTATRIX

ARTICLE 9: POWER OF MY EXECUTOR(S) AND ADMINISTRATOR(S)

For the purpose of the winding up of my estate and for the benefit of my heirs and beneficiaries, I hereby confer, inter alia, the following powers upon my Executor(s) and Administrator(s):

- (a) To sell, lease or alienate any assets of whatsoever nature whether moveable or immovable, whether by public auction or by private treaty, in their sole discretion for the benefit of the beneficiaries.
- (b) To make interim payments for the maintenance and support of any beneficiary “on account” until the winding up of my estate is completed and the estate is properly distributed.

ARTICLE 10: ARBITRATION

Should any dispute arise of any nature whatsoever in connection with my estate, such dispute shall be referred to mediation or arbitration. I hereby nominate the body selected in 4.2 above.

Or any other competent Ulama Body or person/s ie. _____ or their successors or appointees to act as a mediator(s) or arbitrator(s).The decision of the arbitrator(s) shall be final and binding upon all the parties. The arbitration committee may dispense with the procedures prescribed by the Arbitration Act 1965 (No. 42 of 1965).

ARTICLE 11: ALTERATIONS/ADDITIONS TO THE WILL

I hereby reserve to myself the right at all times to make such alterations and/or additions to this Last Will as I think fit, by a separate act or at the foot hereof, desiring that all such alterations or additions so made under my own signature and duly witnessed, may be held valid and effectual as if incorporated herein.

Thus done and executed at _____ this _____ day of _____ 20 _____ corresponding with the Islamic date _____ 14 _____ in the presence of the subscribing witnesses, who signed in each other’s presence, all being present at the same time, believing the said Testator/Testatrix at the time of signing to be of sound mind and memory.

AS WITNESSES:

1. _____
Signature of Testator/ Testatrix

Name in print _____

ID No. _____

2. _____
Legal name of Testator/ Testatrix

Name in print _____

ID No. _____
Muslim name, if different