PREMARITAL AGREEMENT

 THIS AGREEMENT, made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 , by and between John Doe (hereinafter referred to as “John”) and Jane Smith (hereinafter referred to as “Jane”), both residents of the State of Iowa.

WITNESSETH:

WHEREAS, John and Jane desire to enter into a marriage contract;

WHEREAS, in contemplation of entering into a marriage contract, the parties desire to settle and adjust all property rights relative to existing or after-acquired property and including appreciation and income thereon, both during the term of Marriage and upon the legal separation, divorce or dissolution of Marriage (collectively, “Divorce”) or death of either party during the Marriage;

WHEREAS, each party has fully and fairly advised the other of the nature, extent and probable value of his or her property; and

WHEREAS, each party has been represented or had an option to be represented by legal counsel with respect to this Agreement and has been advised or had an option to be advised of the nature and extent of the rights he or she would have and enjoy with respect to each other’s property and income but for the execution of the Agreement.

NOW, THEREFORE, in consideration of the premises, of the terms, covenants and conditions hereinafter set forth on the part of the respective parties to be performed, and of the solemnization of the contemplated Marriage between the parties, the parties do hereby agree as follows:

**ARTICLE 1. EFFECTIVE DATE**

This Agreement shall become effective only on the solemnization of the contemplated marriage between John and Jane (the “Marriage”). If the Marriage takes place, each of the parties shall have, hold and possess only the property rights created and agreed upon herein with respect to any existing property and any after-acquired property. If for any reason the Marriage does not take place, this Agreement shall be null and void in all respects for all purposes.

**ARTICLE 2. DISCLOSURES AND ACKNOWLEDGEMENTS**

**2(a) John’s Property Disclosures.**

1. Disclosures relating to John’s assets, liabilities and income are set forth as Exhibit A. John represents that all the statements contained in said Exhibit A are true and correct to the best of his knowledge and belief. John has offered to provide Jane additional information, disclosure and documentation pertaining to his income, property, and financial obligations.
2. Jane voluntarily and expressly waives her right to any additional information, disclosure and documentation pertaining to the income, property, and financial obligations of John. Jane expressly acknowledges that she has, or reasonably could have had, full and complete knowledge of the property owned by John, as well as complete knowledge of all his financial obligations and income.

**2(b) Jane’s Property Disclosures.**

1. Disclosures relating to Jane’s assets, liabilities and income are set forth as Exhibit A. Jane represents that all the statements contained in said Exhibit A are true and correct to the best of her knowledge and belief. Jane has offered to provide John additional information, disclosure and documentation pertaining to her income, property, and financial obligations.
2. John voluntarily and expressly waives his right to any additional information, disclosure and documentation pertaining to the income, property, and financial obligations of Jane. John expressly acknowledges that he has, or reasonably could have had, full and complete knowledge of the property owned by Jane, as well as complete knowledge of all her financial obligations and income.

**ARTICLE 3. JOHN’S SEPARATE PROPERTY**

The following items shall constitute John’s Separate Property:

1. Any interests, direct or indirect in any property set forth in Exhibit A (except as specifically designated “Joint Property” therein) and any other property he currently owns;
2. Any interests in any property subsequently acquired by John as a result of his time, talent, labor or personal efforts, specifically including wage and self-employment income as well as income from active or passive investment, whether earned or unearned, and windfall gains;
3. Any interest in property subsequently gifted to or inherited by John or otherwise acquired by John by gift, devise, decent, inheritance or bequest, including beneficial interest in trusts established, in whole or in part, for his benefit;
4. All mutations, changes, and increases in kind or in value of such Separate Property, including any changes resulting from the time, talent, labor, or personal efforts of either or both parties and changes form the payment of debt secured thereby;
5. All income, revenues and distributions from such Separate Property and the acquisitions or reinvestment thereof;
6. All proceeds from the disposition of distribution of such Separate Property; and
7. All other property legally or beneficially owned by John except as specifically designated “Joint Property” pursuant to Article 5 or “Martial Property” pursuant to Article 6.

**ARTICLE 5. JANE’S SEPARATE PROPERTY**

The following items shall constitute Jane’s Separate Property:

1. Any interests, direct or indirect in any property set forth in Exhibit A (except as specifically designated “Joint Property” therein) and any other property she currently owns;
2. Any interests in any property subsequently acquired by Jane as a result of his time, talent, labor or personal efforts, specifically including wage and self-employment income as well as income from active or passive investment, whether earned or unearned, and windfall gains;
3. Any interest in property subsequently gifted to or inherited by Jane or otherwise acquired by Jane by gift, devise, decent, inheritance or bequest, including beneficial interest in trusts established, in whole or in part, for her benefit;
4. All mutations, changes, and increases in kind or in value of such Separate Property, including any changes resulting from the time, talent, labor, or personal efforts of either or both parties and changes form the payment of debt secured thereby;
5. All income, revenues and distributions from such Separate Property and the acquisitions or reinvestment thereof;
6. All proceeds from the disposition of distribution of such Separate Property; and
7. All other property legally or beneficially owned by John except as specifically designated “Joint Property” pursuant to Article 5 or “Martial Property” pursuant to Article 6.

**ARTICLE 5. JOINT PROPERTY**

1. For purpose of this Agreement “Joint Property” is limited to property titled in the name of John and Jane as (a) Joint Tenants With Rights of Survivorship, (b) Tenants in Common, or (c) Tenants by the Entirely.
2. Except as may be set forth in the Exhibits hereto, no property of either party is Joint Property as of the date of execution of this Agreement.
3. During the Marriage, John or Jane may transmute and convey a Separate Property interest or Martial Property into “Joint Property” by:
	1. Titling such property in the name of John and Jane as:
		1. Joint Tenants With Rights of Survivorship;
		2. Tenants in Common;
		3. Tenants by the Entirety; or
		4. Titling such property in any other matter such that:
			1. During the lifetime of both John and Jane, each has an undivided interest in such property, and
			2. On the death of either John or Jane, title to 100% of such property would automatically pass to the survivor.
4. Either party’s revocable designation of the other as a death beneficiary of a Separate Property asset (whether by testamentary instrument or beneficiary designation) shall not constitute a conversion.

**ARTICLE 6. MARTIAL PROPERTY**

Except as designated in writing by the transferring party subsequent to the solemnization of the Marriage, no property legally or beneficially owned by either party shall constitute “Martial Property” for purposes of this Agreement.

**ARTICLE 7. RIGHTS AND RESPONSIBILITIES DURING MARRIAGE**

During The Marriage, John and Jane shall share equally the reasonable living expenses which are appropriate to maintain them in their present standard of living. Notwithstanding the preceding sentence, neither party shall be liable for any medical expenses of the other.

**ARTICLE 8. DEBTS AND OBLIGATIONS OF THE PARTIES**

1. Neither party shall be liable for the debts or obligations of the other, now existing or hereafter incurred, nor shall any creditor of either party have a right to attach, execute or levy upon the interest of either party hereunder.
2. If the parties incur join indebtedness, neither party shall have a right of reimbursement from the other for any payments made with respect to such joint obligation during the Marriage, except by the parties’ written agreement.
3. Upon Divorce, any joint indebtedness secured by property shall be charged against the recipient of such property and such recipient shall cause the release of the other party from such indebtedness.
4. Upon the death of the First-To-Die of the parties during the Marriage,
	1. Any joint indebtedness secured by property passing to the survivor spouse shall become the sole obligation of the surviving spouse and the surviving spouse shall cause the release of the First-To-Die’s estate, heirs and beneficiaries from such obligation, and
	2. The surviving spouse shall be entitled to a complete contribution from the estate or the beneficiaries of the First-To-Die (as determined b the relevant testamentary instrument of the First-To-Die and applicable state law) for the whole of any joint indebtedness secured by property passing to any heir or beneficiary of the First-To-Die other than the surviving spouse.

**ARTICLE 9. DIVISION OF PROPERTY UPON DIVORCE.**

**9(a) Intent of Parties.**

It is the intention of John and Jane that, upon Divorce, the parties’ respective Separate Property shall remain his or her Separate Property and shall be released from any and all further obligations to the other including any claim of alimony or separate maintenance or property settlement.

**9(b) Divorce.**

In accordance with the foregoing, upon Divorce:

1. Each party shall retain his or her Separate Property;
2. The Joint Property shall be divided and distributed 50% to John and 50% to Jane;
3. The Marital Property shall be divided as shall be determined under the laws of the applicable jurisdiction or jurisdictions whose laws control the division of such Martial Property; provided, however, the value of John’s Separate Property and of Jane’s Separate Property shall be completely disregarded for purposes of such division.

**ARTICLE 10. WAIVER OF ALIMONY OR MAINTENANCE UPON DIVORCE**

The parties agree and acknowledge that, while a court may acquire jurisdiction to adjudicate rights upon Divorce, they desire to regulate their own rights by this Agreement. Accordingly, the parties have provided for the division of property upon Divorce pursuant to the proceeding Article, and by this article hereby waive and release all claims and rights to obtain alimony, spousal support, or maintenance from the other to the fullest extent possible under applicable law.

**ARTICLE 11. DIVISION OF PROPERTY UPON DEATH OF SPOUSE**

**11(a) Intent.**

It is the intention of John and Jane that the Separate Property of the other shall pass to that spouse’s beneficiaries in accordance with that spouse’s testamentary instruments, or to the extent such Separate Property passes pursuant to the laws of intestacy, to the deceased party’s heirs as determined by applicable state law as if the Marriage had not taken place.

**11(b) Primary Martial Residence.**

During the Marriage, John and Jane agree that if either of them becomes permanently incapacitated and is no longer able to reside in the primary martial residence (the “Residence”) due to medical or similar needs, the other of them shall be permitted to continue to reside in the Residence for one year for the date of incapacity or change in residence or as otherwise agreed upon. The spouse residing in the Residence shall have the option to purchase the interest of the incapacitated party in the Residence for fair market value during the one-year period.

**11(c) Death During the Marriage**

John and Jane agree that, upon the death of the First-To-Die of them during the Marriage,

1. Notwithstanding the remaining provisions of this section, the Residence shall pass as follows:
	1. If the Residence was Joint Property,
		1. The surviving spouse shall have the option to purchase the First-To-Die’s one-half interest in the Residence for fair market value with any such purchase occurring within one year of the death of the First-To-Die unless otherwise agreed upon by the surviving spouse and the executor or other legal representative of the First-To-Die (the “Option Period”)
		2. During the Option Period,
			1. If the surviving spouse resided in the Residence at the death of the First-To-Die, the surviving spouse may continue to reside in the Residence until the expiration of the Option Period;
			2. The estate of the First-To-Die will continue to be responsible for the Fifty Percent (50%) of the mortgage, real estate taxes and home insurance: and
			3. All other housing expenses are the responsibility of the surviving spouse while the surviving spouse resides in the Residence.
		3. If the surviving spouse shall have the option to purchase the First-To-Die’s one-half interest in the Residence, then the Residence shall cease to be Joint Property and each party shall be treated as owning an undivided one-half interest in the Residence as their Separate Property with the First-To-Die’s interest passing pursuant to the reaming provisions of this section.
	2. If the Residence was Separate Property of the First-To-Die,
		1. The surviving spouse shall have the option to purchase the interest of the First-To-Die in the Residence for fair market value with any such purchase must occur within one year of the death of the First-To-Die unless otherwise agreed upon by surviving spouse and the executor or other legal representative of the First-To-Die (the “Optional Period”);
		2. During the Option Period,
			1. If the surviving spouse resided in the Residence at the death of the First-To-Die, the surviving spouse may continue to reside in the Residence until the expiration of the Option Period;
			2. The estate of the First-To-Die will continue to be responsible for the Fifty Percent (50%) of the mortgage, real estate taxes and home insurance; and
			3. All other housing expenses are the responsibility of the surviving spouse while the surviving spouse resides in the Residence.
		3. If the surviving spouse does not exercise the option to purchase the First-To-Die’s interest in the Residence, the First-To-Die’s interest shall pass pursuant to the remaining provisions of this section.
2. The Separate Property of the First-To-Die shall pass as determined by the Last Will and Testament and other testamentary instruments (including revocable trusts and beneficiary designations) or, to the extent not so determined, to those individuals who would take pursuant to the laws of intestacy under applicable state law as if the Marriage had not taken place and the First-To-Die had died without a surviving spouse;
3. The Surviving spouse:
	1. Shall make no claim to any part of the Separate Property of the First-To-Die or contest or challenge the intended disposition of such Separate Property, whether by Will, Revocable Trust, beneficiary designation or other testamentary provision, if the result of such action would cause the surviving spouse to acquire an interest of any type of the Separate Property of the First-To-Die;
	2. Shall no elect any right of dower, curtesy, statutory share or elective shar otherwise available to surviving spouses under applicable state law with respect to the Separate Property of the First-To-Die; and
	3. Shall immediately transfer any Separate Property of the First-To-Die acquired under the laws governing the descent and distribution of intestate property to the persons who would have been entitled to receive the property has the surviving spouse not survived the First-To-Die.
4. The Joint Property shall pass 100% to the surviving spouse; and
5. The surviving spouse shall have such rights in the Martial Property as shall be determined under applicable state law; provided, however, the value of the First-To-Die’s Separate Property shall be completely disregarded for purposes if determining any dower, curtesy, statutory share elective share which the surviving spouse might otherwise have.

For the purposes of this Agreement, the term “beneficiaries” includes legates, devisees or distributes under any testamentary instrument (including last will and testament, revocable trust or beneficiary designation).

**ARTICLE 12. PROVISIONS RELATING TO SEPARATE PROPERTY**

**12(a) Intent.**

To effectuate the property allocations and dispositions set forth in this Agreement, and for the avoidance of doubt, the parties agree to the following additional provisions with respect to the John’s and Jane’s respective Separate Property.

1. Control and Conveyances.
	1. Except as otherwise provided in this Agreement, John’s Separate Property shall be and remain John’s Separate Property, subject entirely to his individual control and use, with full right at times to enjoy, manage, convey, mortgage, grant, alienate and dispose of the same by deed, will or otherwise, upon his sole signature, the same as if he were unmarried. Jane shall not acquire by force of the Marriage for herself, or for her heirs, assigns or creditors, any interest in said property or estate, or right to the control thereof, or any interest in the income, rents, increase, profits or dividends arising from John’s Separate Property; or right to the control thereof, or any interest in the income, rents, profits or dividends arising from John’s Separate Property.
	2. Notwithstanding the provisions of this Agreement which obviate the necessity of the other party joining in the execution of instruments of conveyance, trust deeds and mortgages, it is agreed that after the solemnization of the contemplated marriage between the parties, upon the request of John, of his heirs, executors, administrators, assigns, trustees, legatees or devisees, or any of them, Jane shall join willingly with her (or with them) in the execution of and properly acknowledge or singly execute and properly acknowledge, as may be desired or required, any document concerning John’s Separate Property to further evidence the release of her rights therein, whether real or apparent.
2. Release and Waiver.

Except as other wise provided in the Agreement, Jane expressly renounces, surrenders and waives all and every right, claim and estate, actual, inchoate or contingent, and of every kind of character, which he might, would or have, hold or acquire with respect to John’s Separate Property upon Divorce or the death of John.

This release and waiver by Jane included a release to all rights with respect to case value and death benefits of life insurance and annuities, and all rights under federal and state law relating to pension, profit sharing, individual retirement accounts and retirement benefits owned by John, except to the extent such assets are designated as other than Separate Property hereunder.

1. Taxes.

Jane shall have no responsibility for the payment of income taxes related to John’s Separate Property, and John shall pay such taxes from his Separate Property and indemnify Jane for all such liability.

**12(b) Jane’s Separate Property**

1. Control and Conveyances.
	1. Except as otherwise provided in this Agreement, Jane’s Separate Property shall be and remain Jane’s Separate Property, subject entirely to her individual control and use, with full right at times to enjoy, manage, convey, mortgage, grant, alienate and dispose of the same by deed, will or otherwise, upon his sole signature, the same as if she were unmarried. John shall not acquire by force of the Marriage for himself, or for his heirs, assigns or creditors, any interest in said property or estate, or right to the control thereof, or any interest in the income, rents, increase, profits or dividends arising from Jane’s Separate Property; or right to the control thereof, or any interest in the income, rents, profits or dividends arising from Jane’s Separate Property.
	2. Notwithstanding the provisions of this Agreement which obviate the necessity of the other party joining in the execution of instruments of conveyance, trust deeds and mortgages, it is agreed that after the solemnization of the contemplated marriage between the parties, upon the request of Jane, of her heirs, executors, administrators, assigns, trustees, legatees or devisees, or any of them, John shall join willingly with him (or with them) in the execution of and properly acknowledge or singly execute and properly acknowledge, as may be desired or required, any document concerning Jane’s Separate Property to further evidence the release of her rights therein, whether real or apparent.
2. Release and Waiver.

Except as other wise provided in the Agreement, John expressly renounces, surrenders and waives all and every right, claim and estate, actual, inchoate or contingent, and of every kind of character, which he might, would or have, hold or acquire with respect to Jane’s Separate Property upon Divorce or the death of Jane.

This release and waiver by John included a release to all rights with respect to case value and death benefits of life insurance and annuities, and all rights under federal and state law relating to pension, profit sharing, individual retirement accounts and retirement benefits owned by Jane, except to the extent such assets are designated as other than Separate Property hereunder.

1. Taxes.

John shall have no responsibility for the payment of income taxes related to Jane’s Separate Property, and Jane shall pay such taxes from her Separate Property and indemnify John for all such liability.

**12(c) Release of Community Property Interests.**

If at any time during the Marriage, John and Jane would (as a result of a change in residence or otherwise and but for this agreement) acquire property interests commonly known as community property in the Separate Property of each other, each party agrees that their respective Separate Property interest shall be preserved and agree to make execute, acknowledge, and deliver any and all deeds to other instruments which shall be desirable or necessary to transfer or release any right, title, or interest in the other’s Separate Property thereby acquired or acquirable.

**ARTICLE 13. ACKNOWLEDGMENTS**

**13(a) By John.**

1. John acknowledges that he has read this Agreement prior to execution, that he finds it to be fair and equitable, that it is being entered in to voluntarily by him, and that it is not the result of any direct or undue influence.
2. **John acknowledges that by signing this Agreement he may be giving up substantial rights to : (A) alimony, support, or maintenance in the event of Divorce; and (B) Jane’s Separate Property and to the payments from Jane’s Separate Property in the event of the Divorce or in the event of Jane’s Death during the Marriage.**

**13(b) By Jane.**

1. Jane acknowledges that she has read this Agreement prior to execution, that she finds it to be fair and equitable, that it is being entered in to voluntarily by her, and that it is not the result of any direct or undue influence.
2. **Jane acknowledges that by signing this Agreement she may be giving up substantial rights to: (A) alimony, support, or maintenance in the event of Divorce; and (B) John’s Separate Property and to the payments from John’s Separate Property in the event of the Divorce or in the event of John’s Death during the Marriage.**

**ARTICLE 14. AMENDMENTS**

The Agreement may be amended, supplemented or terminated by the written agreement of the parties, prior to or subsequent to the solemnization of the Marriage, notwithstanding the provisions of applicable state law with respect to postnuptial agreements.

**ARTICLE 15. MISCELLANEOUS PROVISIONS**

1. Confidentiality. As additional consideration for the convents of each other under this Agreement, both parties agree that any and all information received by them in connection with negation and execution of this Agreement involving the financial assets, income or other financial information concerning each other will not be disclosed to any third person except under subpoena to which the other party shall have an opportunity to object. The obligations of the section by each party shall inure to such party’s agents, heirs and assigns and shall survive the dissolution of the Marriage and the death of the parties.
2. No Additional Disclosures. Each party voluntarily and expressly waives any right to disclosure of the other assets, liabilities and/or income, beyond those disclosures herein.
3. Severability. The parties agree that if any clause or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity of unenforceability of such clause or provision of this Agreement.
4. No Waiver. Failure of either party at any time to require the performance by the other party of any of the terms and conditions hereof shall in no way affect such party’s right thereafter to enforce the same no shall the waiver by either party of any breach of any of the terms and conditions hereof be held of construed to be a waiver of any succeeding break of such term and conditions hereof or as a waiver of any terms or conditions itself.
5. Enforcement, Fees and Costs. Each party shall be responsible for the payment of his or her legal fees in connection with the negotiation and execution of this agreement and in the post execution interpretation of this Agreement or in connection with Divorce. Notwithstanding the preceding sentence, if either party retains counsel for the purpose of enforcing or preventing the breach of any provision of this Agreement or for any other judicial remedy relating to it, the prevailing party shall be reimbursed by the losing party for all costs and expenses so incurred, including but not limited to reasonable attorney’s fees and costs.
6. Governing Law. The validity, execution, interpretation and enforcement of this Agreement shall in all respects be governed by the laws of the State of Iowa now in force.
7. Binding Effect. This Agreement shall bind and be enforceable against the parties hereto and their respective heirs, legal representative, assignees, legatees, and devisees.
8. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute on instrument which shall be deemed an original.

IN WITNESS WHEREOF, this Agreement is entered into the parties as of Effective Date.

John Doe

STATE OF IOWA

COUNTY OF

On this day of , 20 , before me, a Notary Public in and for said state, personally appeared John Doe, to me known to be the person named in and who executed the foregoing Agreement and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa

Jane Smith

STATE OF IOWA

COUNTY OF

On this day of , 20 , before me, a Notary Public in and for said state, personally appeared Jane Smith, to me known to be the person named in and who executed the foregoing Agreement and acknowledged that she executed the same as her voluntary act and deed.

Notary Public in and for the State of Iowa

ATTORNEY CERTIFICATE

I, Mark R. Hinshaw, do hereby state that I am the attorney for John Doe; that he has read this Agreement; that he has been fully advised as to the law and the consequences of signing of this Agreement and that to the best of my knowledge he understands the terms and provisions as set forth herein, and he made a knowing and intelligent waiver of the rights as herein set forth.

Mark R. Hinshaw

I, Jane Smith, respectfully acknowledges that I understand the advisability of retaining legal counsel but have chosen to be pro se and understand the facts, and with such knowledge, I acknowledge that I freely, voluntarily and knowingly enter into the Pre-Marital Agreement. I further acknowledge that at no time have I received legal advice from The Law Offices of Mark R. Hinshaw. P.L.C.

Jane Smith

**EXHIBIT A**

John’s Assets, Liabilities, and Income

Worth Disclosures

An estimate of John’s Net Worth as of , 20 is as follows:

 *Separate Property:*

 *Joint Property:*

 *Liabilities:*

 Credit Card:

 Estimated Net Worth:

Income Disclosures

John’s Income Tax Returns for 20 - 20 are attached.

**EXHIBIT A**

Jane’s Assets, Liabilities, and Income

Worth Disclosures

An estimate of Jane’s Net Worth as of , 20 is as follows:

 *Separate Property:*

 *Joint Property:*

 *Liabilities:*

 Credit Card:

 Estimated Net Worth:

Income Disclosures

Jane’s Income Tax Returns for 20 - 20 are attached.