WHAT YOU HAVE TO DO TO RENDER THE WILL VALID AND LEGAL

1) The testator (i.e. the one who makes a will) and two witnesses must sign each page of the Will.
2) The witnesses must not be under 14 years of age. They must be 14 or over.
3) The witnesses may not be beneficiaries or spouses of beneficiaries. For the purpose of signing Wills, 'beneficiaries' include the executors, administrators and guardians.
4) All signatories must be present throughout the signing process. No signatory may leave the room until all signatories have signed each page.
5) The date of signature should be inserted on the last page by the testator.
6) Any deletion, addition or alteration must be identified by the signatures (full signatures) of the testator and witnesses as described in No. 4, above.

IF YOUR MARRIAGE IS REGISTERED IN COMMUNITY OF PROPERTY

If by some misfortune you have registered your marriage in community of property, the Islamic Will will not be valid in terms of non-Muslim law. However, if for some reason you have cancelled or cancel your community of property contract, you can renew the registration of your marriage, if you so desire. When doing so, first enter into an Ante Nuptial Contract. Such a contract will enable you to make an Islamic Will which will be valid even in terms of the law of the country.

Since it is compulsory according to the Shariah to distribute the deceased's estate in accordance with the Law of the Shariah, Muslims should make out an Islamic Will even if their marriages have already been registered in community of property. Although in this case the Islamic Will will not be valid in terms of kuffar law, nevertheless the testator should advise and instruct his Islamic heirs to fear Allah Ta'ala and to act in accordance with the Islamic laws of inheritance in the distribution of the estate. After the non-Muslim law has taken its course, the Islamic heirs must arrange a proper re-distribution of the deceased's estate to conform with the Command of Allah Ta'ala.

WASIYYAT

According to the Shariah, Wasiyyat is permissible for a non-heir. Wasiyyat in favour of an inheritor is not permissible. Clause No.5 (iii) of the Islamic Will makes mention of Wasiyyat. If the testator makes no wasiyyat, section (iii) of clause No.5 should be deleted by striking a line across it. All signatories should identify the deletion with their full signatures.
If the testator wishes to make wasiyyat, the nature and description of the wasiyyat should be set out on a separate sheet of paper. On top of the sheet of the Wasiyyat paper, write: **SCHEDULE A – WASIYYAT.**

When making out the Wasiyyat, bear in mind the following:
a) A wasiyyat cannot be made for any Islamic heir as such Islamic heirs inherit automatically in the estate of the deceased.
b) A wasiyyat is valid in only one third of the balance of the estate after payment of funeral expenses and debts.
c) The Wasiyyat paper, viz., Schedule A, must also be signed by the testator and the witnesses

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If you require further clarification or information, do not hesitate to write to:
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