

Appendix: Suggested Tripartite Document

This document is to certify that on the [ordinal number] day of the month of [name of month], in the year [calendar year], in [location], [name of groom], the groom, and [name of bride], the bride, of their own free will and accord entered into the following agreement with respect to their intended marriage.

The groom made the following declaration to the bride under the *huppah* (wedding canopy):

“I will betroth and marry you according to the laws of Moses and the people of Israel, subject to the following conditions:³⁸

“If I return to live in our marital home with you present at least once every fifteen months until either you or I die, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) shall remain valid and binding;³⁹

“But if I am absent from our joint marital home for fifteen months continuously for whatever reason, even by duress, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) will have been null and void. Our conduct should be like unmarried people sharing a residence, and the blessings recited a nullity.⁴⁰ The ring I gave you should be a gift.⁴¹

“I recite this condition to our marriage not only during the wedding ceremony, but prior to our intimate relationship and *yihud* (seclusion). I take a public oath that I will never remove this condition from the marriage.⁴²

“I acknowledge that I have effected the above obligation by means of a *kinyan* (formal Jewish transaction) before a *beit din hashuv* (esteemed rabbinical court) as mandated by Jewish law. The above condition is made in accordance with the laws of the Torah, as derived from Numbers Chapter 32.⁴³ Even a sexual relationship between us shall not void this condition.⁴⁴ My wife shall be believed like one hundred witnesses to testify that I have never voided this condition.⁴⁵

³⁸ *Noda BiYehudah* EH 56.

³⁹ This duration was selected as 15 months, since it is so far longer than the norm for marital absence that its violation would indicate divorce is proper.

⁴⁰ *Hatam Sofer* EH 110 and 111.

⁴¹ *Noda BiYehudah* EH 56.

⁴² Responsa of Rabbi Akiva Eiger 93.

⁴³ Rama EH 38:3–4.

⁴⁴ *Beit Shmuel* EH 157:6.

⁴⁵ *Pithei Teshuvah* EH 157:8; Responsa *Beit Meir* 6.

“Under the *huppah* I recite the formula, ‘*Harei at mekudeshet li betaba‘at zo kedat Moshe veYisrael al pi hatena'im shekatavtnu ve'hatamtu*’ (‘Behold you are betrothed to me with this ring according to the practices of Moses and Israel, subject to the conditions that we have written and signed’).⁴⁶

“Should a Jewish divorce be requested of me for whatever reason, by any Orthodox rabbinical court (*beit din*) selected by my wife, even if at the time of our separation I explicitly reject the particular rabbinical court (*beit din*) she selects, I also appoint anyone who will see my signature on this form or a copy of this form to act as scribe (*sofer*) to acquire pen, ink and feather for me and write a *Get* (a Jewish Document of Divorce), one or more, to divorce with it my wife, and he should write the *Get lishmi*, especially for me, *velishmah*, especially for her, *uleshem gerushin*, and for the purpose of divorce. I herewith command any two witnesses who see my signature on this form or a copy of this form to act as witnesses to the bill of divorce (*Get*) to sign as witnesses on the *Get* that the above-mentioned scribe will write. They should sign *lishmi*, especially for me, *velishmah*, and especially for her, *uleshem gerushin*, and for the purpose of divorce, to divorce with it my above-mentioned wife. I herewith command anyone who sees my signature on this form or a copy of this form to act as my agent to take the *Get*, after it is written and signed, and be my messenger to give it into the hands of my wife whenever he so wishes. His hand should be like my hand, his giving like my giving, his mouth like my mouth, and I give him authority to appoint another messenger in his place, and that messenger another messenger, one messenger after another, even to one hundred messengers, of his own free will, even to appoint someone not in his presence, until the *Get*, the document of divorce, reaches her hands, and as soon as the *Get* reaches her hands from his hands or from his messenger’s hands, or from his messenger’s messenger’s hands, even to one hundred messengers, she shall be divorced by it from me and be allowed to any man. My permission is given to the rabbi in charge to make such changes in the writings of the names as he sees fit. I undertake with all seriousness, even with an oath of the Torah, that I will not nullify the effectiveness of the *Get*, the Jewish Document of Divorce, to divorce my wife or the power of the above-mentioned messenger to deliver it to my wife. And I nullify any kind of a statement that I may have made which could hurt the effectiveness of the *Get* to divorce my wife or the effectiveness of the above-mentioned messenger to deliver it to my wife. Even if my wife and I should continue to reside together after the providing of this authorization to divorce her, and even if we have a sexual relationship after I have authorized the writing, signing and delivery of a *Get*, such a sexual relationship should not be construed as implicitly or explicitly nullifying this authorization to write, sign and deliver a *Get*.⁴⁷ My wife shall be believed like one hundred witnesses to testify that I have not nullified my authorization to appoint the

⁴⁶ *Noda BiYehudah* EH 56.

⁴⁷ Rabbi Yosef Eliyahu Henkin, *Perushei Ivra* 110–117. The section on sexuality prior to divorce not voiding the authorization can be found in Rabbi Yitzhak Isaac Herzog, *Hechal Yitzhak* 2:41.

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scribe to write the *Get* on my behalf, or the witnesses to sign the *Get* on my behalf or any messenger to deliver it to the hand of my wife.⁴⁸

“Furthermore I recognize that my wife has agreed to marry me only with the understanding that should she wish to be divorced that I would give a *Get* within fifteen months of her requesting such a bill of divorce. I recognize that should I decline to give such a *Get* for whatever reason (even a reason based on my duress), I have violated the agreement that is the predicate for our marriage, and I consent for our marriage to be labeled a nullity based on the decree of our community that all marriages ought to end with a *Get* given within fifteen months. We both belong to a community where the majority of the great rabbis and the *batei din* of that community have authorized the use of annulment in cases like this, and I accept the communal decree on this matter as binding upon me.⁴⁹ The *beit din* selected by my wife shall be irrevocably authorized to annul this marriage when they feel such is proper and the above conditions are met.⁵⁰

“Furthermore, should this agreement be deemed ineffective as a matter of *halakhah* (Jewish law) at any time, we would not have married at all.

“I hereby grant jurisdiction to any Orthodox *beit din* selected by my wife to enforce any and all parts of this document and do not consent to jurisdiction in any *beit din* that my wife does not wish to select. As a matter of Jewish law, I accept (through the Jewish law mechanism of *kim li*) whatever minority opinions determined by the *beit din* selected by my wife are needed to effectuate my statements.⁵¹

“I announce now that no witness, including any future testimony I might provide, shall be believed to nullify this document or any provision herein.”⁵²

Signature of Groom: _____

The bride replied to the groom:

“I accept this proposal of marriage subject to the condition that we are both in residence together in our marital home at least once every fifteen months until either you or I die, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) shall remain valid and binding;

⁴⁸ The general text of a *kitvu utenu* similar to this one is used by the Beth Din of America, which originated in the *kitvu utenu* form given to this author by Rabbi Nathan (Nota) Greenblatt.

⁴⁹ Maharam Alshakar 48.

⁵⁰ *Mishpetei Uziel* EH 44–45.

⁵¹ This paragraph is designed to strengthen the validity of the document generally.

⁵² See *Seder HaGet* in *Shulhan Arukh*, following EH 118.

“But if either one of us is absent from our joint marital home for fifteen months continuously for whatever reason, even by duress, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) will have been null and void, and I impose this as a condition of my acceptance of this marriage proposal. Our conduct should be like unmarried people sharing a residence.⁵³

“I acknowledge that I have accepted the above obligation by means of a *kinyan* (formal Jewish transaction) before a *beit din hashuv* (esteemed rabbinical court) as mandated by Jewish law. The above condition is accepted in accordance with the laws of the Torah, as derived from Numbers Chapter 32. Even a sexual relationship between us shall not void the acceptance of this condition.⁵⁴

“I further declare that I would not have accepted a marriage proposal from a man if he were ever to revoke his authorization to give me a *get*, or if as a matter of *halakhah* (Jewish law) as determined by an authorized *beit din* the communal *takkanah* (decree) were to be considered invalid.”⁵⁵

Signature of Bride: _____

Signature of Groom accepting bride’s conditional acceptance: _____⁵⁶

We the undersigned duly constituted *beit din* witnessed the oral statements and signatures of the groom and bride.

Rabbi _____

Kiddushin Witness⁵⁷ 1 _____

Kiddushin Witness 2 _____

Yihud Witness⁵⁸ 1 _____

Yihud Witness 2 _____

⁵³ EH 38:1, Hatam Sofer EH 110–111.

⁵⁴ Rav Herzog, *supra* n. 18.

⁵⁵ Maharam Alshakar 48.

⁵⁶ Reciprocal conditions need mutual acceptance.

⁵⁷ Since the document makes mention of *kiddushin*. These witnesses should sign after *kiddushin*, but must be present at the reading and signing of this document; otherwise, two other witnesses must sign then.

⁵⁸ Since the document makes mention of *yihud*, these witnesses should sign after *yihud*.