

# Drafting Effective Prenuptial Agreements

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**Accord and Satisfaction** – Related terms: Settlement, compromise. A legal doctrine whereby parties resolve a dispute by agreeing to accept something different from what was originally claimed, thereby extinguishing the original claim. In prenup drafting, an accord and satisfaction clause may specify how future disputes over the agreement will be settled, often by arbitration or mediation. Example: The parties agree that any claim of duress will be resolved through a mutually-selected mediator, constituting an accord and satisfaction of such claims.

**Adverse Possession** – Related terms: Property rights, title. Though primarily a real-estate concept, knowledge of adverse possession is useful when drafting provisions about marital property that may include real estate acquired before marriage. A prenup might state that each party retains any title acquired through adverse possession prior to the marriage, preventing future disputes.

**Affidavit of Disclosure** – Related terms: Financial statement, sworn statement. A written, sworn declaration of each party's assets, liabilities, and income, often required before a prenup is executed to satisfy the "full and fair disclosure" requirement. Example: Both parties sign an affidavit of disclosure listing all bank accounts, retirement plans, and debts, ensuring enforceability.

**Alimony (Spousal Support)** – Related terms: Maintenance, support. Financial support paid by one spouse to the other after separation or divorce. Prenuptial agreements frequently address alimony, either waiving it, limiting its duration, or setting a formula. Challenge: Courts may refuse to enforce an alimony waiver if it would cause undue hardship or is unconscionable at the time of enforcement.

**Alternative Dispute Resolution (ADR)** – Related terms: Mediation, arbitration, negotiation. A spectrum of methods used to resolve disputes without litigation. In the context of prenups, ADR clauses specify that any disagreement over the agreement's interpretation will be resolved through mediation first, then binding arbitration if necessary.

**Amendment** – Related terms: Modification, revision. A formal change to an existing prenup, requiring the same formalities as the original agreement (e.G., Notarization, signatures). Example: The parties later amend the prenup to add a clause regarding cryptocurrency assets acquired after the original signing.

**Arbitration Clause** – Related terms: Binding arbitration, arbitrator. A provision that mandates disputes be resolved by an arbitrator rather than a court. Effective arbitration clauses specify the governing rules (e.G., AAA), seat of arbitration, and whether the award is final and binding. Challenge: Some jurisdictions limit enforceability of arbitration clauses that waive the right to a judicial forum for certain family law matters.

**Asset Protection Trust** – Related terms: Spendthrift trust, irrevocable trust. A trust designed to shield assets from creditors. Prenuptial agreements may reference an existing asset protection trust to clarify that assets

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held in the trust remain separate property. Example: "All interests in the XYZ Asset Protection Trust shall remain the separate property of Party A."

**Attorney-Client Privilege** – Related terms: Confidentiality, work product. The legal right that communications between a lawyer and client remain confidential. When drafting a prenup, parties often discuss sensitive financial information under this privilege, ensuring that disclosures made to counsel are not admissible in later litigation.

**Binding Effect** – Related terms: Enforceability, validity. The quality of a contract that makes it legally obligatory. A well-drafted prenup has binding effect if it meets statutory requirements, such as voluntary execution and full disclosure.

**Blended Family Considerations** – Related terms: Stepchildren, inheritance. Prenuptial provisions that address the rights of children from prior relationships, including support obligations and inheritance. Example: A clause may stipulate that the surviving spouse's share of the estate is limited to a fixed percentage, preserving a larger portion for the children of the first marriage.

**Brokerage Account** – Related terms: Investment account, securities. A financial account used to buy and sell securities. In a prenup, parties may list brokerage accounts as separate or marital property and outline how gains will be treated upon dissolution.

**Beneficiary Designation** – Related terms: Payable on death (POD), trust. The person or entity named to receive assets upon the account holder's death. Prenups often require that parties disclose and, if desired, coordinate beneficiary designations to reflect intended post-marital distribution.

**Best-Interest Standard** – Related terms: Fiduciary duty, prudence. A legal benchmark used by courts when reviewing the fairness of a prenup, especially regarding spousal support. If a provision does not meet the best-interest standard, a court may modify or invalidate it.

**Bill of Sale** – Related terms: Transfer of ownership, deed. A document evidencing the transfer of personal property. When a prenup includes the transfer of specific assets (e.g., A vehicle), a bill of sale may be attached as an exhibit to confirm the transaction.

**Binding Arbitration** – Related terms: Final award, enforceability. Arbitration whose decision is final and enforceable in court, with limited rights of appeal. A prenup's arbitration clause may specify that the arbitrator's award is binding on both parties.

**Bright-Line Rule** – Related terms: Clear standard, predictability. A rule that provides a straightforward, unambiguous result. In prenup drafting, bright-line provisions (e.g., "All assets acquired before marriage remain separate") reduce ambiguity and litigation risk.

**Business Valuation** – Related terms: Fair market value, appraisal. The process of determining the economic worth of a business. Prenups involving business owners often require a valuation at the time of execution and/or at the time of dissolution to calculate division or buy-out amounts.

**Buy-Out Clause** – Related terms: Termination payment, severance. A provision that allows one spouse to

purchase the other's interest in a business, property, or other asset upon divorce. Example: "Upon dissolution, Party B shall pay Party A an amount equal to 75 % of the fair market value of the family home, as determined by an independent appraiser."

Capital Gains – Related terms: Appreciation, tax liability. The profit realized from the sale of an asset. Prenuptial agreements may allocate responsibility for capital gains tax on assets sold during the marriage.

Certificate of Title – Related terms: Deed, registration. Official proof of ownership for real property or vehicles. When a prenup transfers ownership, a new certificate of title may be required to reflect the change.

Change of Circumstance – Related terms: Material alteration, unforeseen event. A significant life event (e.G., Birth of a child, severe illness) that may affect the fairness of a prenup. Many agreements include a clause allowing amendment upon a material change of circumstance, subject to mutual consent.

Clause – Related terms: Provision, paragraph. An individual section of a contract that addresses a specific issue. Effective prenup drafting organizes clauses logically—definitions, disclosures, property regime, support, dispute resolution, and amendment.

Collateral Damage – Related terms: Indirect loss, unintended consequence. In the context of prenups, collateral damage may refer to unintended financial consequences of a poorly drafted provision (e.G., A tax penalty triggered by an asset transfer clause). Careful drafting anticipates and mitigates such outcomes.

Common Law Marriage – Related terms: Cohabitation, statutory marriage. A marriage recognized by law based on the couple's conduct rather than a formal ceremony. Some jurisdictions treat common-law relationships as marriages for purposes of prenup enforcement, requiring careful jurisdictional analysis.

Compensatory Damages – Related terms: Restitution, monetary award. Damages intended to compensate a party for loss. While prenups generally focus on division of property, they may also address potential compensatory claims arising from breach of fiduciary duties.

Confidentiality Agreement – Related terms: Non-disclosure agreement (NDA), secrecy clause. A provision that obligates parties to keep the terms of the prenup and related financial information private. Example: "Both parties agree not to disclose any terms of this Agreement to third parties, except as required by law."

Constructive Trust – Related terms: Equitable remedy, fiduciary duty. An equitable remedy imposed by a court when one party holds legal title to property but equity dictates that the property belongs to another. Prenups may contain language to prevent a constructive trust claim by clarifying ownership intent.

Contingent Liability – Related terms: Future obligation, potential debt. A possible future debt that depends on an uncertain event (e.G., A lawsuit). Prenups often allocate responsibility for contingent liabilities, stating that each party remains liable for debts incurred before marriage.

Contractual Capacity – Related terms: Legal competence, mental capacity. The ability of a party to understand the nature and consequences of entering a contract. A prenup can be voided if a party lacked capacity (e.G., Due to intoxication or mental illness) at signing.

**Co-habitation Agreement** – Related terms: Domestic partnership agreement, premarital contract. Similar to a prenup but for couples who live together without marrying. Many drafting principles overlap, and a co-habitation agreement can be converted into a prenup if the couple later marries.

**Community Property** – Related terms: Marital property, joint ownership. A regime in which assets acquired during marriage are owned equally by both spouses. Prenups often include a community-property waiver, specifying that each party's assets remain separate.

**Compromise Settlement** – Related terms: Negotiated agreement, settlement. An agreement reached by parties that resolves a dispute without litigation. A prenup may incorporate a compromise settlement clause for any future disputes over the agreement's interpretation.

**Conflict of Interest** – Related terms: Impartiality, ethical breach. In prenup drafting, a conflict of interest arises if the same attorney represents both parties without informed consent, potentially invalidating the agreement.

**Constructive Notice** – Related terms: Implied knowledge, record. Legal concept that a party is deemed to have knowledge of a fact because it was publicly recorded. When a property transfer is recorded, the non-owning spouse receives constructive notice, affecting later claims.

**Contingency Clause** – Related terms: Condition precedent, trigger event. A provision that makes the agreement—or a part of it—effective only upon the occurrence of a specified event (e.g., Birth of a child). Example: "The alimony waiver shall become effective only if the parties have no children together."

**Court-Ordered Mediation** – Related terms: Judicial mediation, mandatory mediation. Some jurisdictions require parties to attempt mediation before a divorce proceeding. Prenups may anticipate this by including a self-initiated mediation clause that mirrors the court-ordered process.

**Covenant Not to Sue** – Related terms: Release, waiver. A promise by one party not to initiate legal action against the other. In a prenup, a covenant not to sue may cover claims for fraud, misrepresentation, or breach of fiduciary duty, enhancing finality.

**Creditor Protection** – Related terms: Debt shielding, insolvency. Strategies within a prenup to shield each party's separate assets from the other's creditors. Example: A clause may state that each party's pre-marital assets are exempt from the other's liability for post-marital debts.

**Critical Date** – Related terms: Effective date, signing date. The date on which the prenup becomes enforceable, often the wedding day. Some agreements include a "cooling-off" period; the critical date is after this period expires.

**Cross-Collateralization** – Related terms: Security interest, loan agreement. When multiple assets are pledged as security for the same debt. Prenuptial provisions may address cross-collateralization to prevent one spouse's assets from being seized to satisfy the other's obligations.

**Deed of Trust** – Related terms: Mortgage, security instrument. A document that transfers title to a trustee as security for a loan. In prenup drafting, parties may specify how any deed of trust executed during marriage

will be treated in a division of assets.

**Declaratory Judgment** – Related terms: Judicial determination, legal clarification. A court order that defines the rights of the parties without awarding damages. A prenup may provide that disputes over interpretation be submitted for a declaratory judgment after ADR attempts fail.

**Default Rule** – Related terms: Statutory provision, fallback. The legal rule that applies when parties do not contractually address an issue. Prenups aim to replace default rules (e.g., Equal division of property) with tailored provisions.

**Desertion** – Related terms: Abandonment, neglect. In some jurisdictions, desertion can affect alimony or property division. Prenup clauses may define “desertion” for the purpose of triggering support obligations.

**Discretionary Trust** – Related terms: Discretionary distribution, trustee power. A trust where the trustee has full discretion over distributions. Prenups may reference a discretionary trust to protect assets while allowing flexible benefit to the spouse.

**Doctrine of Unconscionability** – Related terms: Unfairness, inequity. A legal principle that can render a contract void if it is overly one-sided. Prenups must avoid unconscionable terms, such as extreme waivers of spousal support when one party has no income.

**Due Diligence** – Related terms: Investigation, verification. The process of verifying each party’s financial disclosures before signing. Effective due diligence includes reviewing tax returns, asset statements, and existing agreements.

**Earn-Out Provision** – Related terms: Contingent payment, performance metric. A clause that ties future payments to the performance of a business after divorce. Example: “If Party A’s business achieves \$5 million in revenue within two years of divorce, Party B shall receive 10% of the excess profit.”

**Economic Abuse** – Related terms: Financial control, coercion. A form of domestic abuse that may invalidate a prenup if the agreement was signed under coercion or manipulation. Courts scrutinize for signs of economic abuse when assessing voluntariness.

**Enforceability** – Related terms: Validity, binding effect. The degree to which a court will uphold a prenup. Enforceability hinges on factors such as full disclosure, fairness, absence of duress, and compliance with statutory formalities.

**Equitable Distribution** – Related terms: Equitable division, fairness. A legal principle used in many jurisdictions to divide marital property fairly, though not necessarily equally. Prenups often replace equitable distribution with a predetermined formula.

**Escrow Arrangement** – Related terms: Holdback, trustee. A mechanism where assets or funds are held by a neutral third party until conditions are met. Prenups may use escrow to secure a buy-out amount pending a divorce finalization.

**Exacting Standard** – Related terms: Strict scrutiny, high benchmark. Some jurisdictions apply an “exacting”

standard to evaluate prenups, requiring a higher level of fairness and disclosure than the ordinary standard.

**Exculpatory Clause** – Related terms: Release, indemnity. A provision that releases a party from liability for certain acts. In prenups, an exculpatory clause might waive claims for negligence in managing joint investments, but such waivers may be limited by public policy.

**Execution Date** – Related terms: Signing date, effective date. The date on which the parties sign the prenup. The execution date is distinct from the critical date; the agreement may only become effective upon marriage.

**Exhibit** – Related terms: Attachment, schedule. A document attached to the prenup that provides additional detail, such as a list of assets, valuations, or a copy of a trust instrument. Proper referencing of exhibits enhances clarity.

**Family Law Act** – Related terms: Statutory framework, jurisdiction. The primary legislation governing marriage, divorce, and related matters in many jurisdictions. Prenup drafting must align with the provisions of the applicable Family Law Act, especially regarding enforceability criteria.

**Financial Affidavit** – Related terms: Disclosure statement, net worth declaration. A sworn document summarizing each party's financial position, often required by courts in divorce proceedings. Prenups may incorporate the financial affidavit as a baseline disclosure.

**Force Majeure** – Related terms: Unforeseen event, impossibility. Though more common in commercial contracts, a force-majeure clause in a prenup could address extraordinary circumstances (e.G., Natural disaster) that affect the parties' ability to fulfill obligations.

**Forfeiture Clause** – Related terms: Penalty provision, liquidated damages. A provision that imposes a penalty if a party breaches the prenup (e.G., Fails to disclose an asset). Courts may enforce forfeiture clauses if they are reasonable and not punitive.

**Full and Fair Disclosure** – Related terms: Transparency, honesty. The legal requirement that each party disclose all material assets, liabilities, and income. Failure to provide full and fair disclosure can render a prenup voidable.

**Future Interest** – Related terms: Remainder, reversion. A property interest that will become possessory at a later date. Prenups may allocate future interests (e.G., A remainder interest in a trust) as separate property.

**Garnishment** – Related terms: Wage seizure, attachment. A legal mechanism to collect a debt directly from a debtor's wages. Prenup clauses may specify that each spouse remains responsible for garnishment of their own earnings.

**General Partnership** – Related terms: Joint venture, co-ownership. A business structure where partners share profits, losses, and management. Prenups that involve partners should address how partnership interests are valued and divided upon divorce.

**Good Faith** – Related terms: Honest intent, fair dealing. The expectation that parties will act honestly and

fairly. A prenup may include a good-faith clause obligating each party to cooperate in the implementation of its terms.

Guardianship – Related terms: Custodial rights, fiduciary duty. Legal authority to care for a minor or incapacitated person. Prenups may address guardianship preferences for children from prior relationships.

Hazardous Debt – Related terms: High-risk obligation, contingent liability. Debt that carries significant risk, such as a personal guarantee for a business loan. Prenups can allocate responsibility for hazardous debt to the guarantor spouse.

Implied Covenant of Good Faith and Fair Dealing – Related terms: Equitable doctrine, implied term. Though not always written, courts may imply this covenant into contracts, including prenups, to prevent one party from acting in a manner that defeats the contract's purpose.

Implied Trust – Related terms: Constructive trust, equitable remedy. A trust inferred by law based on the parties' conduct. Prenups can expressly deny the creation of an implied trust by clarifying ownership intentions.

Indemnity Clause – Related terms: Hold harmless, reimbursement. A provision requiring one party to compensate the other for losses arising from specific actions. Example: "Party B shall indemnify Party A for any tax liability resulting from Party B's failure to disclose offshore accounts."

Injunction – Related terms: Restraining order, equitable relief. A court order requiring a party to do or refrain from doing something. Prenups may include a clause allowing either party to seek an injunction to enforce a non-competition provision.

Joint Tenancy – Related terms: Right of survivorship, tenancy in common. A form of ownership where each owner has an equal share and the right of survivorship. Prenups may specify that property held in joint tenancy will convert to tenancy in common upon divorce.

Judicial Review – Related terms: Court oversight, appellate scrutiny. The process by which a court examines the legality of a prenup's provisions. Courts may review for compliance with public policy, fairness, and statutory requirements.

Judicial Separation – Related terms: Legal separation, de facto divorce. A court-ordered separation that does not dissolve the marriage. Prenup clauses may define the effect of a judicial separation on support obligations.

Key Person Insurance – Related terms: Life insurance, business continuity. A policy that pays a benefit upon the death of a vital employee. Prenups involving business owners may allocate the ownership of such policies as separate property.

Legal Capacity – Related terms: Age of majority, mental competence. The ability to enter into a binding contract. If a party lacks legal capacity (e.G., Minor, mentally incapacitated), the prenup may be void.

Legal Separation Agreement – Related terms: Separation contract, interim agreement. An agreement

reached during separation that outlines temporary property division, support, and living arrangements. Prenups often serve as a template for such interim agreements.

Liquidated Damages – Related terms: Predetermined penalty, enforceable clause. A fixed sum agreed upon in advance as compensation for breach. In prenups, liquidated damages may apply to undisclosed assets, provided the amount is reasonable.

Limited Liability Company (LLC) – Related terms: Pass-through entity, member interest. Prenups involving LLCs must address how membership interests are valued, transferred, or retained upon divorce.

Lock-Box Arrangement – Related terms: Escrow, secure holding. A method where assets are placed in a secure account, accessible only under specified conditions. Prenups may use a lock-box to hold a buy-out fund until the divorce is finalized.

Mandate – Related terms: Direction, instruction. A provision that obligates a party to act in a certain way. Example: "Party A mandates that Party B shall maintain the family home as a primary residence for at least five years."

Marital Settlement Agreement (MSA) – Related terms: Divorce decree, final judgment. The final agreement that resolves all issues in a divorce. A well-crafted prenup can simplify the MSA by pre-determining property and support terms.

Marital Property – Related terms: Community property, joint assets. Property acquired during marriage that is subject to division upon divorce unless waived. Prenups may define categories of marital property and specify exclusions.

Material Change – Related terms: Significant alteration, substantial event. A change that affects the parties' rights or obligations under the prenup. Example: A sudden windfall from an inheritance may trigger a material-change clause allowing amendment.

Merger Clause – Related terms: Integration clause, entire agreement. A clause stating that the written prenup constitutes the entire agreement between the parties, superseding any prior oral or written understandings.

Mitigation – Related terms: Damage reduction, reasonable steps. The duty to take reasonable actions to reduce losses. Prenup clauses may require each spouse to mitigate financial harm, such as seeking employment after separation.

Modification – Related terms: Amendment, alteration. A change to the prenup after execution. Most jurisdictions require that modifications be in writing, signed, and notarized, mirroring the original formalities.

Monetary Award – Related terms: Financial compensation, settlement. In the context of prenup disputes, a court may order a monetary award if one party breaches the agreement.

Mutual Waiver – Related terms: Reciprocal release, joint relinquishment. A clause where both parties waive

certain rights, such as the right to claim spousal support. Mutual waivers are more likely to be upheld than unilateral waivers.

**Negotiated Settlement** – Related terms: Compromise, agreement. The process by which parties reach a mutually acceptable resolution without resorting to litigation. Prenup drafting itself is a negotiated settlement of future financial matters.

**Non-Compete Clause** – Related terms: Restrictive covenant, business protection. A provision that limits a spouse's ability to engage in a competing business after divorce. Enforceability varies by jurisdiction and must be reasonable in scope and duration.

**Non-Disclosure Agreement (NDA)** – Related terms: Confidentiality clause, secrecy provision. Often incorporated into prenups to protect sensitive financial information. Example: "The parties agree not to disclose the terms of this Agreement to any third party, except as required by law."

**Notice Provision** – Related terms: Communication requirement, formal notice. A clause that specifies how and when parties must give notice of a breach or intent to enforce a provision. Proper notice can preserve rights to remedies.

**Obligation** – Related terms: Duty, requirement. Any legally enforceable responsibility set out in the prenup, such as the duty to maintain insurance on jointly owned property.

**Obligation to Disclose** – Related terms: Duty of honesty, transparency. A specific requirement that each party provide accurate and complete financial information before signing. Failure can render the agreement voidable.

**Offshore Account** – Related terms: Foreign asset, tax haven. Assets held in jurisdictions outside the parties' residence. Prenups often require disclosure of offshore accounts to satisfy full-and-fair-disclosure standards.

**On-Going Support** – Related terms: Maintenance, alimony. Support obligations that continue for a defined period or indefinitely. Prenups may set a fixed term (e.G., Five years) or tie support to specific milestones.

**Option to Purchase** – Related terms: Right of first refusal, buy-out option. A clause that grants one spouse the right to purchase the other's interest in a particular asset before it can be sold to a third party.

**Parental Rights** – Related terms: Custody, visitation. Prenups may address the parties' rights and responsibilities toward children from prior relationships, including support obligations and decision-making authority.

**Parol Evidence Rule** – Related terms: Extrinsic evidence, contract interpretation. A rule limiting the use of oral statements to interpret a written contract. Prenups often include integration clauses to invoke the parol evidence rule and prevent external claims.

**Partial Waiver** – Related terms: Limited relinquishment, conditional waiver. A waiver that applies only to certain circumstances or for a limited time. Example: "Party B waives alimony for the first three years of marriage, after which rights may be reassessed."

**Partition Action** – Related terms: Division lawsuit, property split. A legal action to divide jointly owned property. Prenups can include a partition clause that obligates parties to sell and split proceeds rather than pursue litigation.

**Per Capita Distribution** – Related terms: Equal share, per head. A method of dividing assets equally among all children, regardless of age. Prenups may specify per-capita distribution for inheritance purposes.

**Petition for Divorce** – Related terms: Dissolution filing, divorce complaint. The initiating document in a divorce proceeding. A well-drafted prenup can streamline the petition by referencing predetermined property division.

**Pre-Marital Asset** – Related terms: Separate property, prior acquisition. Any asset owned by a party before the marriage. Prenups typically list pre-marital assets to preserve their separate status.

**Precedent** – Related terms: Case law, authority. Prior judicial decisions that influence how courts interpret prenup provisions. Understanding relevant precedent helps in drafting enforceable clauses.

**Preliminary Agreement** – Related terms: Letter of intent, memorandum of understanding. An initial document outlining the parties' intent to negotiate a full prenup. While not binding, it can set the framework for the final agreement.

**Premarital Counseling** – Related terms: Relationship education, mediation. Though not a contractual element, many couples obtain counseling to demonstrate voluntariness and informed consent, supporting enforceability.

**Prevention of Fraud** – Related terms: Misrepresentation, deceit. Prenups must include anti-fraud provisions, such as warranties that all disclosures are true and accurate.

**Probate** – Related terms: Estate administration, will execution. The legal process of validating a will. Prenups often coordinate with estate planning to ensure that the agreement's property allocations survive probate.

**Proprietary Estoppel** – Related terms: Equitable claim, reliance. A claim that arises when one party relies on a promise about property ownership. Prenups can pre-empt such claims by clearly stating ownership intentions.

**Qualified Domestic Relations Order (QDRO)** – Related terms: Retirement plan division, court order. An order used to divide retirement benefits. Prenups may contain a QDRO provision that outlines how pension assets will be allocated.

**Quid Pro Quo** – Related terms: Consideration, exchange. The essential consideration in a contract; each party must receive something of value. In prenups, consideration may be the mutual promises to waive certain rights.

**Radical Transparency** – Related terms: Full disclosure, openness. An approach where parties disclose every financial detail, including future expectations, to strengthen enforceability.

**Reciprocal Waiver** – Related terms: Mutual relinquishment, bilateral waiver. Similar to mutual waiver, where each party relinquishes the same right (e.G., Both waive spousal support).

**Recovery Clause** – Related terms: Restitution provision, remedial clause. A clause that allows a party to recover assets wrongfully transferred during the marriage.

**Reformation** – Related terms: Contract correction, amendment. A judicial remedy that modifies a contract to reflect the parties' true intent when a drafting error is evident.

**Relevant Jurisdiction** – Related terms: Governing law, venue. The state or country whose laws will govern the prenup. Prenups must specify the relevant jurisdiction to avoid conflicts.

**Restrictive Covenant** – Related terms: Non-compete, non-solicitation. A clause that limits a spouse's activities post-divorce, such as soliciting clients. Enforceability depends on reasonableness.

**Right of First Refusal** – Related terms: Pre-emptive right, purchase option. A provision granting a spouse the first opportunity to buy an asset before it is offered to an outsider.

**Separate Property** – Related terms: Pre-marital asset, non-marital asset. Property owned by one spouse individually, not subject to division unless commingled. Prenups typically list separate property to preserve it.

**Settlement Agreement** – Related terms: Compromise, final accord. An agreement that resolves all claims between parties. A prenup is a form of settlement agreement concerning future marital matters.

**Spousal Maintenance** – Related terms: Alimony, support. Ongoing financial support paid to a spouse after separation. Prenups may set a fixed term, amount, or waive maintenance entirely.

**Spousal Support Waiver** – Related terms: Alimony waiver, maintenance relinquishment. A clause where one or both parties agree not to seek spousal support. Courts scrutinize waivers for fairness at the time of enforcement.

**Statutory Formalities** – Related terms: Legal requirements, execution rules. The specific legal steps required for a prenup to be valid, such as notarization, witnesses, and written form.

**Step-Child** – Related terms: Blended family, non-biological child. Children from a prior relationship. Prenups may address obligations toward step-children, including support and inheritance rights.

**Statute of Limitations** – Related terms: Time bar, prescription. The period within which a party may bring a claim for breach of a prenup. Some jurisdictions impose a specific limitation period for contract claims.

**Stipulation** – Related terms: Provision, clause. A specific term or condition set forth in the prenup.

**Substantial Evidence** – Related terms: Evidentiary standard, proof. The level of proof required to demonstrate that a prenup was signed under duress or fraud.

**Survivorship Rights** – Related terms: Right of survivorship, joint tenancy. Rights that allow an owner's share

to pass automatically to the surviving co-owner. Prenups can alter survivorship rights by converting joint tenancy to tenancy in common.

**Tax Allocation** – Related terms: Tax responsibility, fiscal burden. A provision that assigns which spouse will bear tax liabilities for certain assets or income.

**Tax Shelter** – Related terms: Tax-advantaged investment, deferral. Prenups may reference tax shelters to clarify ownership and tax consequences.

**Third-Party Beneficiary** – Related terms: Intended beneficiary, external party. A person who, although not a signatory, may enforce a right under the prenup (e.G., A child named as a beneficiary of a trust).

**Time-Barred Claim** – Related terms: Expired claim, limitation period. A claim that cannot be pursued because the statutory period has elapsed. Prenup clauses may include a time-bar provision for certain actions.

**Title Transfer** – Related terms: Deed conveyance, registration. The act of moving legal ownership of an asset. Prenups may include a schedule of assets to be transferred at marriage.

**Trustee** – Related terms: Fiduciary, trust administrator. The person or entity managing a trust created by the prenup. The trustee's duties are outlined in the trust instrument referenced in the agreement.

**Undue Influence** – Related terms: Coercion, pressure. A factor that can render a prenup void if one party exerted excessive pressure over the other's free will.

**Unilateral Waiver** – Related terms: One-sided relinquishment, single party waiver. A waiver of rights by only one party, often viewed with suspicion and less likely to be enforced.

**Uniform Premarital Agreement Act (UPAA)** – Related terms: Model statute, state adoption. A model law adopted by many states to standardize prenup enforceability criteria, including disclosure and fairness standards.

**Usury Clause** – Related terms: Interest rate limitation, loan provision. A provision that caps the interest rate on any loan between spouses, ensuring compliance with state usury laws.

**Variable Interest Rate** – Related terms: Adjustable rate, floating rate. May be addressed in loan provisions within a prenup to define how interest will be calculated on intra-marital loans.

**Waiver of Rights** – Related terms: Relinquishment, surrender. The act of voluntarily giving up a legal right, such as the right to inherit or claim spousal support. Must be clear, unequivocal, and made with full knowledge.

**Warranty of Title** – Related terms: Guarantee of ownership, representation. A statement that a party owns the asset being transferred and has the right to convey it. Prenups often include warranties to protect against future claims.

**Willful Misrepresentation** – Related terms: Fraud, deceit. Deliberate false statements in disclosures. If proven,

can render the entire prenup voidable.

**Willful Breach** – Related terms: Intentional violation, non-performance. A breach committed with knowledge and intent, often triggering liquidated damages or specific performance clauses.

**Work Product Doctrine** – Related terms: Attorney-prepared materials, privilege. Protects documents prepared by counsel in anticipation of litigation. Prenup negotiations may generate work product that remains privileged.

**Zero-Sum Settlement** – Related terms: Equal exchange, balanced division. A settlement where one party's gain is exactly the other's loss. Prenups often aim for zero-sum outcomes in property division.

**Zone of Indeterminacy** – Related terms: Ambiguous area, interpretive gap. Areas of the prenup that lack clear language, leading to potential disputes. Effective drafting minimizes zones of indeterminacy through precise definitions.