

DISTRICT COURT

STATE OF IOWA

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number IA-006-D

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

You and your spouse must agree to all terms of the divorce to use this packet.
All forms to be filed with the clerk must be printed on bond paper.

INFORMATION ABOUT DIVORCE

1. **WHO MAY USE THESE FORMS:** You may use the forms in this package only when all of the following facts are true:

(a) “There has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed, and there remains no reasonable likelihood that the marriage can be preserved.” (Iowa is a “No-Fault” divorce state, and the above quotation is the only ground for divorce in Iowa.) **598.5, 598.17.**

(b) You and your spouse agree on all terms of the divorce.

(c) There are minor children of said marriage.

(d) You have **either** been a resident of the State of Iowa for at least one year prior to filing the *Petition for Dissolution of Marriage*, **or** your spouse is a resident of Iowa and will be personally served the dissolution of marriage papers. (Options for service of the divorce papers to your spouse are explained in detail in the “Instructions” section, below.)

If you have NOT been a resident of Iowa for one year, and your spouse is NOT a resident of Iowa, you may not file for divorce in Iowa under any circumstances.

2. **THE BASICS:** Actions for divorce in the State of Iowa are filed in the **District Court**. Each county has its own District Court. The party who files the *Petition for Dissolution* is known as the “Petitioner,” while the Petitioner’s spouse is known as the “Respondent.”

The *Petition* may be filed in the District Court for the county where either party resides. **598.2.**

3. **RESIDENCY REQUIREMENTS:** You must **either** have been a resident of the State of Iowa for at least one year prior to filing the *Petition for Dissolution*, **or** your spouse is a resident of Iowa and will be personally served the dissolution of marriage papers. **598.6.**

If the averments as to residence are not fully proved, the hearing shall proceed no further, and the action be dismissed by the court. **598.9**

If you have NOT been a resident of Iowa for one year, and your spouse is NOT a resident of Iowa, you may NOT file for divorce in Iowa.

4. **GROUND FOR DIVORCE:** Iowa law allows a “No-Fault” divorce due to “A breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed, and there remains no reasonable likelihood that the marriage can be preserved.” This is the only ground for divorce allowed in Iowa, and applies to all situations for which someone might seek a divorce. **598.5, 598.17.**

5. **LEGAL SEPARATION:** This package contains form for DIVORCE, not for Legal Separation. This information on Legal Separation is provided for your information only. A legal separation cannot be obtained using the forms in this package.

A legal separation is different than a divorce. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation **does not terminate the marital status** of the parties, and the parties are **not** free to marry again. For more information, contact a local attorney.

6. **WAITING PERIODS:** There is a ninety (90) day waiting period that must elapse between the date that the *Acceptance of Service, Waiver and Answer* is filed by your spouse, and the day that the *Decree of Dissolution* may be granted. Once the papers are filed, the Court will schedule your case to be reviewed by the Judge after the 90 days have expired. **598.19.**

7. **MEDIATION:** The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any dissolution of marriage action. **598.7A**

8. **CONCILIATION:** At any time upon its own motion or upon the application of a party, the court may require the parties to participate in conciliation efforts for sixty days or less following the issuance of such an order. **598.16**

8. **DISTRIBUTION OF PROPERTY:** In a divorce, the property such as land, house, buildings, and items of personal property owned by the couple is divided between the parties. Debts owed are also allocated to one party or the other, or both. This is accomplished by means of a *Separation and Property Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Separation and Property Settlement Agreement*, which will be incorporated by reference into the *Decree of Dissolution* that ultimately ends your marriage. You may agree to divide the property any way you like, as long as a basic

fairness is maintained, and you both agree. The Judge will reject your *Agreement* if he or she finds it to be unfair.

If you cannot agree on any item of this division, the dissolution of marriage transforms into a **contested divorce**. A contested divorce is outside the scope of this packet, and you must consult a local attorney if your divorce becomes contested.

In a contested case, the court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

- (a) The length of the marriage.
 - (b) The property brought to the marriage by each party.
 - (c) The contribution of each party to the marriage.
 - (d) The age and physical and emotional health of the parties.
 - (e) The contribution by one party to the education, training or increased earning power of the other.
 - (f) The earning capacity of each party.
 - (g) The desirability of awarding the family home to the party having custody of the children, or if the parties have joint legal custody, to the party having physical care of the children.
 - (h) The amount and duration of an order granting support payments to either party.
 - (i) Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.
 - (j) The tax consequences to each party.
 - (k) Any written agreement made by the parties concerning property distribution.
 - (l) The provisions of an antenuptial agreement.
 - (m) Other factors the court may determine to be relevant in an individual case.
- 598.21**

- 9. ALIMONY:** Because this is an agreed divorce, you and your spouse will decide issues of spousal “alimony”-- the periodic payment of money from one spouse to the other on a temporary or permanent basis. The forms in this no-fault divorce package assume that no alimony will be paid and none will be sought-- but you may add provisions for alimony to the *Separation and Property Settlement Agreement* if you desire.

In a contested case, upon judgment of dissolution the court may grant an order requiring support payments to either party for a limited or indefinite length of time after considering all of the following:

- (a) The length of the marriage.
- (b) The age and physical and emotional health of the parties.

- (c) The distribution of property.
 - (d) The educational level of each party at the time of marriage and at the time the action is commenced.
 - (e) The earning capacity of the party seeking maintenance.
 - (f) The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal.
 - (g) The tax consequences to each party.
 - (h) Any mutual agreement made by the parties concerning financial or service contributions by one party with the expectation of future reciprocation or compensation by the other party.
 - (i) The provisions of an antenuptial agreement.
 - (j) Other factors the court may determine to be relevant in an individual case.
- 598.21**

- 9. CHILD CUSTODY:** The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents after the parents have dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child, unless direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result from such contact with one parent. The court shall consider the denial by one parent of the child's opportunity for maximum continuing contact with the other parent, without just cause, a significant factor in determining the proper custody arrangement.

In considering what custody arrangement is in the best interest of the minor child, the court shall consider the following factors:

- (a) Whether each parent would be a suitable custodian for the child.
- (b) Whether the psychological and emotional needs and development of the child will suffer due to lack of active contact with and attention from both parents.
- (c) Whether the parents can communicate with each other regarding the child's needs.
- (d) Whether both parents have actively cared for the child before and since the separation.
- (e) Whether each parent can support the other parent's relationship with the child.
- (f) Whether the custody arrangement is in accord with the child's wishes or whether the child has strong opposition, taking into consideration the child's age and maturity.
- (g) Whether one or both the parents agree or are opposed to joint custody.
- (h) The geographic proximity of the parents.

- (i) Whether the safety of the child, other children, or the other parent will be jeopardized by the awarding of joint custody or by unsupervised or unrestricted visitation.
- (j) Whether a history of domestic abuse exists.

Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records. **598.41**

- 10. CHILD SUPPORT:** In ordering child support, the court should determine the amount of support specified by the guidelines. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the Supreme Court is the correct amount of child support to be awarded. That amount may be adjusted upward or downward, however, if the court finds such adjustment necessary to provide for the needs of the children and to do justice between the parties under the special circumstances of the case. **Rule 9.4**

All parties shall file a *Child Support Guidelines Worksheet* prior to a support hearing or the establishment of a support order. **Rule 9.8**

The court shall not vary from the amount of child support which would result from application of the guidelines without a written finding that the guidelines would be unjust or inappropriate as determined under the following criteria:

- (a) Substantial injustice would result to the payor, payee, or child
- (b) Adjustments are necessary to provide for the needs of the child and to do justice between the parties, payor, or payee under the special circumstances of the case
- (c) Other special circumstances. **Rule 9.9**

The court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child. In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the Supreme Court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the Supreme Court.

The court shall order as child medical support a health benefit plan if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court

as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support. **598.21**

- 11. MANDATORY CHILD EDUCATION COURSE:** The court shall order the parties to any action which involves the issues of child custody or visitation to participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action. At a minimum, an approved course shall include information relating to the parents regarding divorce and its impact on the children and family relationship, parenting skills for divorcing parents, children's needs and coping techniques, and the financial responsibilities of parents following divorce. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this requirement, unless participation in the course is waived or delayed for good cause. Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order. **598.19A**
- 12. NAME CHANGE:** When a divorce is granted, the court may restore the wife to her maiden or former name if she so requests. **598.37.**

For more information, see the Iowa Divorce Law Summary.

FORMS LIST

The following forms are included in this package:

1. Civil Petition Cover Sheet (IA-810)
2. Petition for Dissolution of Marriage (IA-504)
3. Separation and Property Settlement Agreement (IA-DO-11A)
4. Motion of Waiver of 90 Day Waiting Period (IA-817D)
5. Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818D)
6. Original Notice (IA-803D)
7. Acceptance of Service, Waiver, and Answer (IA-804D)
8. Affidavit of Financial Status (IA-508D)
9. Child Support Worksheet (IA-510D)
10. Confidential Information Sheet (IA-816D)

Notes: Depending upon the County of filing, there may be additional forms required for filing. If so, these forms should be available from the Clerk of Court in the County of filing.

FORM EXPLANATIONS

All forms included in this are identified and described below.

- 1. Civil Petition Cover Sheet (IA-810)** – The Civil Petition Cover Sheet is for statistical purposes of the Court only. It has no legal effect in the case.
- 2. Petition for Dissolution of Marriage (IA-504)** – This document contains the legal details of your request for the court to dissolve your marriage. Your Separation and Property Settlement Agreement must be signed by both spouses and attached to the Petition as Exhibit “A” at the time you file the Petition.
- 3. Separation and Property Settlement Agreement (IA-DO-11A)** – This is the agreement by which you and your spouse divide all of your marital property, assets and debts. This agreement, if approved by the judge, will be incorporated into the final Decree of Dissolution in your case. Both spouses must sign the Agreement in front of a Notary Public, though this need not be done by the spouses at the same time. The Agreement must be finalized and signed by both parties prior to the filing of the Petition.
- 4. Motion of Waiver of 90 Day Waiting Period (IA-817D)** - This document is used when both parties wish to ask the Court that the required 90 day waiting period between filing for divorce and having the Final Decree of Divorce entered, be waived. The Motion of Waiver must be signed and dated by both parties, accompanied by an Affidavit in Support of the Motion.
- 5. Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818D)** - This Affidavit is used in conjunction with the Motion of Waiver of 90 Day Waiting Period. It states that the parties have agreed to a Stipulated Judgment of Dissolution, and that all matters concerning the divorce have been resolved. This too must be signed and dated by both parties.
- 6. Original Notice (IA-803D)** – This is the official notice to your spouse that you have filed the Petition with the court. Even though you and your spouse have agreed to divorce, and your spouse knows about your filing, the Original Notice along with a copy of the Petition (with the completed Settlement Agreement attached) and certain other documents must be delivered to your spouse.

7. **Acceptance of Service, Waiver and Answer (IA-804D)** – This form must be signed by your spouse in front of a Notary Public. It indicates that your spouse has received the *Original Notice* and accompanying documents, waives further notices in the case, agrees with the *Petition*, and agrees to the divorce according to the terms of the *Separation and Property Settlement Agreement*.
8. **Affidavit of Financial Status (IA-508D)** – This form is used to provide the Court with a true and complete statement of each party's financial status. Each party must exchange completed copies of this document and file the original with the Court.
9. **Child Support Worksheet (IA-510D)** – The Child Support Worksheet is used to calculate the correct amount of child support due. Each party must complete and file with the Court a Worksheet.
10. **Confidential Information Sheet (IA-816D)** – This form is used to provide the Court with the parties' personal information such as address, employment, etc. for contact purposes in the future.

INSTRUCTIONS AND STEPS

Note: All forms containing a space for the signature of a Notary Public must be signed by the appropriate party or parties in front of a Notary Public. Make several copies of the documents that you prepare. You and your spouse should have a copy of everything you file, stamped “filed” by the clerk.

STEP 1: The filing party (Petitioner) should complete the *Civil Petition Cover Sheet (IA-810)*.

Both parties should jointly complete the *Petition for Dissolution of Marriage (IA-504)*, the *Separation and Property Settlement Agreement (IA-DO-11A)*, the *Motion of Waiver of 90 Day Waiting Period (IA-817D)*, as well as the *Affidavit in Support of the Motion of Waiver of 90 Day Waiting Period (IA-818D)*. Care should be taken in completing the *Separation and Property Settlement Agreement (IA-DO-11A)*, as the terms of the *Separation and Property Settlement Agreement (IA-DO-11A)* will be incorporated into the *Decree of Dissolution (IA-513D)*.

STEP 2: Attach the *Separation and Property Settlement Agreement (IA-DO-11A)* to the *Petition for Dissolution of Marriage (IA-504)*. Label the *Agreement (IA-DO-11A)* “Exhibit A” by writing this in clear, large letters in the bottom margin of the first page. Also, attach the *Affidavit (IA-818D)* to the *Motion (IA-817D)*. Label the *Affidavit (IA-818D)* “Exhibit A” by writing this in clear, large letters in the bottom margin of the first page.

STEP 3: Go to the clerk’s office at the courthouse. You must bring the original and at least 4 copies of the following documents:

- *Civil Petition Cover Sheet (IA-810)*
- *Petition for Dissolution of Marriage (IA-504)*
- *Separation and Property Settlement Agreement (IA-DO-11A)*
- *Original Notice (IA-803D)*
- *Motion of Waiver of 90 Day Waiting Period (IA-817D)*
- *Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818D)*

File the above-listed documents with the clerk. You must pay filing fees at this time – call ahead to determine the amount and acceptable forms of payment. Keep extra stamped “filed” copies of your documents.

The clerk will stamp and sign your *Original Notice (IA-803D)*. (You will not need the second page of the *Original Notice (Directions for Service)*).

- STEP 4:** Mail copies of the stamped “filed” *Petition (IA-504)* and attached *Separation and Property Settlement Agreement (IA-DO-11A)*, the stamped *Original Notice (IA-803D)*, the *Acceptance, Waiver and Answer (IA-804D)*, the *Motion of Waiver of 90 Day Waiting Period (IA-817D)*, and the *Affidavit in Support of the Motion of Waiver of 90 Day Waiting Period (IA-818D)*, to your spouse. Instruct your spouse to sign the *Acceptance, Waiver and Answer (IA-804D)* in front of a notary public, and file it with the court, or return it to you for filing with the court.
- STEP 5:** The ninety (90) day waiting period before the *Decree of Dissolution (IA-513D)* may be granted begins on the date that the *Acceptance of Service, Waiver and Answer (IA-804D)* is filed by your spouse. **(NOTE: If you choose to file the Motion to Waive the 90 Day Waiting Period, this time period will not be an issue.)**
- STEP 6:** During the waiting period, each of the parties should complete an *Affidavit of Financial Status (IA-508D)*. Once completed, the parties should exchange completed copies and file the originals with the Clerk of Court. If the parties choose to file the *Motion of Waiver of the 90 Day Waiting Period*, then this *Affidavit of Financial Status (IA-508D)* should be completed and exchanged upon filing the *Petition for Divorce (IA-504)*.
- STEP 7:** Using the financial information supplied in the completed *Affidavit of Financial Status (IA-508D)* each party should complete and file a *Child Support Worksheet (IA-510D)*.
- STEP 8:** Each party should make arrangements to attend the mandatory *Child Education Course*. A final decree will not be granted until the parties have complied with this requirement. Each party must submit a *Certification of Completion* of the course to the court before the Court will grant the final decree.
- STEP 9:** After the required waiting period of ninety (90) days has elapsed, each party should complete a *Confidential Information Sheet (IA-816D)*, which should then be filed with the Clerk of Court. Ask the Clerk whether it is necessary to schedule a final hearing, or if the Court will grant the dissolution without a hearing. If a hearing is necessary, make arrangements with the Clerk at this time to schedule it. **(NOTE: Again, if you choose to file the Motion to Waive the 90 Day Waiting Period, this time period will not be an issue.)**

STEP 10: If a final hearing was not necessary, once you are notified that the Judge has signed your decree and it has been entered in the clerk's office, go to the courthouse and obtain a certified copy of the decree. Instruct your spouse to do the same, or mail your spouse a copy.

STEP 11: If it was necessary to schedule a final hearing, attend the hearing and answer any questions the Court may have regarding the marriage and information supplied to the Court in the pleadings. Once the Judge has signed your decree and it has been entered in the Clerk's office, go to the courthouse and obtain a certified copy of the decree. Instruct your spouse to do the same, or mail your spouse a copy.

CHECKLIST

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The filing party (Petitioner) completes *Civil Petition Cover Sheet (IA-202D)*.

Both parties jointly complete *Petition for Dissolution of Marriage (IA-504)* and *Separation and Property Settlement Agreement (IA-DO-11A)*, and the *Motion (IA-817D)* and *Affidavit (IA-818D)*.

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Agreement and *Petition*, and *Motion* and *Affidavit*, signed and notarized, as per Step 1. Attach *Agreement* to *Petition* as "Exhibit A," and attach *Affidavit* to *Motion* as "Exhibit A," as per Step 2.

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Following documents filed with Clerk of Court:

- *Civil Petition Cover Sheet (IA-202D)*
- *Petition for Dissolution of Marriage (IA-504)*
- *Separation and Property Settlement Agreement (IA-DO-11A)*
- *Motion of Waiver of 90 Day Waiting Period (IA-817D)*
- *Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818D)*
- *Original Notice (IA-803D)*

** Special note: ELECTRONIC FILING:

These forms must be used whether the filings in your case will be electronic or in paper. If you are unsure whether your county, or the county where your case is filed, accepts electronic filing, check the map available on the Iowa Judicial Branch website at:

<http://www.iowacourts.gov/eFiling/Overview/> or call the clerk of court office in your county. You can find a directory at <http://www.iowacourts.gov/Administration/Directories/>.

If the county where this case is filed accepts electronic filing, you must file electronically unless you get permission from the court to file in paper. Contact the clerk of court if you wish to file on paper.

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Filing fee paid.

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Petition (IA-202D), *Separation and Property Settlement Agreement (IA-DO-11A)*, *Original Notice (IA-803D)*, *Motion of Waiver of 90 Day Waiting Period (IA-*

817D), *Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818D)* and *Acceptance, Waiver and Answer (IA-804D)* mailed to your spouse. Spouse instructed to sign *Acceptance, Waiver and Answer (IA-804D)* in front of notary public and file with court, or return to you for filing with court.

- ☐ Ninety (90) day waiting period begins on date *Acceptance of Service, Waiver and Answer (IA-804D)* is filed by your spouse. **(NOTE: If you choose to file the Motion to Waive the 90 Day Waiting Period, this time period will not be an issue.)**
- ☐ During waiting period, each party completes *Affidavit of Financial Status (IA-508D)*. Once completed, parties exchange completed copies and file originals with Clerk of Court. **(NOTE: If you choose to file the Motion to Waive the 90 Day Waiting Period, this time period will not be an issue; therefore, you must submit the financial information to each other before the Petition is filed.)**
- ☐ Each party completes and files *Child Support Worksheet (IA-510D)*.
- ☐ Each party attends *Child Education Course* and submits *Certification of Completion* to the Court.
- ☐ After waiting period elapses, each party completes *Confidential Information Sheet (IA-816D)*, which is then filed with Clerk of Court. Final hearing scheduled if necessary. **(NOTE: Again, if you choose to file the Motion to Waive the 90 Day Waiting Period, this time period will not be an issue.)**
- ☐ If final hearing was not necessary, Judge signs decree and it is entered in Clerk's office. Certified copy decree obtained. Spouse instructed to do the same, or mail your spouse a copy.
- ☐ If final hearing necessary, hearing attended and any questions of Court answered. Judge signs decree and it is entered in Clerk's office. Certified copy decree obtained. Spouse instructed to do the same, or mail your spouse a copy.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet may contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go to the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible. If they do not become visible, then they were not included in this form package.

To complete the forms click on the gray shaded areas and type. You may also change other words in the document if the document is not locked. The separation agreement is a good example of a document that is not locked and allows you to make modifications outside the gray shaded areas.

Some forms may be locked which means that the content of the forms cannot be changed while the form is locked. You can only fill in the information in the fields. If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock, click on “Tools” in the Menu bar and then selecting “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields. After any required changes re-lock the document, then click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/IA/IA-006-D.htm>

DISCLAIMER

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