

**LAST WILL AND TESTAMENT OF \_\_\_\_\_**

I, \_\_\_\_\_, presently of \_\_\_\_\_,  
....., declare that this is my Last Will and Testament.

**PRELIMINARY DECLARATIONS**

**Prior Wills and Codicils**

1. I revoke all prior Wills and Codicils.

**Marital Status**

2. I am married to \_\_\_\_\_ (my "Spouse").

**Current Children**

3. I have the following living child:

- \_\_\_\_\_.

4. The term 'child' or 'children' as used in this Will includes the above listed children and any children of mine that are subsequently born or legally adopted.

**EXECUTOR**

**Definition**

5. The expression 'my Executor' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires. The term 'executor' in this Will is synonymous with and includes the terms 'personal representative', 'executrix' and 'trustee'.

**Appointment**

6. I appoint my Spouse, \_\_\_\_\_, as the sole Executor of this Will, but if my Spouse should predecease me, or should refuse or be unable to act or continue to act as my Executor, then I appoint \_\_\_\_\_ of \_\_\_\_\_, ..... to be the sole Executor of this Will in the place of my Spouse.

7. No bond or other security of any kind will be required of any Executor appointed in this Will.

**Powers of My Executor**

8. I give and appoint to my Executor the following duties and powers with respect to my estate:
- a. To pay my legally enforceable debts, funeral expenses and all expenses in connection with the administration of my estate and the trusts created by my Will as soon as convenient after my death. If any of the real property devised in my Will remains subject to a mortgage at the time of my death, then I direct that the devisee taking that mortgaged property will take the property subject to that mortgage and that the devisee will not be entitled to have the mortgage paid out or resolved from the remaining assets of the residue of my estate;
  - b. To take all legal actions to have the probate of my Will completed as quickly and simply as possible, and as free as possible from any court supervision, under the laws of .....,
  - c. To retain, exchange, insure, repair, improve, sell or dispose of any and all personal property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;
  - d. To invest, manage, lease, rent, exchange, mortgage, sell, dispose of or give options without being limited as to term and to insure, repair, improve, or add to or otherwise deal with any and all real property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;
  - e. To purchase, maintain, convert and liquidate investments or securities, and to vote stock, or exercise any option concerning any investments or securities without liability for loss;
  - f. To open or close bank accounts;
  - g. To maintain, continue, dissolve, change or sell any business which is part of my estate, or to purchase any business if deemed necessary or beneficial to my estate by my Executor;
  - h. To maintain, settle, abandon, sue or defend, or otherwise deal with any lawsuits against my estate;
  - i. To employ any lawyer, accountant or other professional; and

j. Except as otherwise provided in this Will, to act as my Trustee by holding in trust the share of any minor beneficiary, and to keep such share invested, pay the income or capital or as much of either or both as my Executor considers advisable for the maintenance, education, advancement or benefit of such minor beneficiary and to pay or transfer the capital of such share or the amount remaining of that share to such beneficiary when he or she reaches the age of 18 years or, prior to such beneficiary reaching the age of 18 years, to pay or transfer such share to any parent or guardian of such beneficiary subject to like conditions and the receipt of any such parent or guardian discharges my Executor.

9. The above authority and powers granted to my Executor are in addition to any powers and elective rights conferred by state or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

**DISPOSITION OF ESTATE**

**Specific Bequests**

10. To receive a specific bequest under this Will a beneficiary must survive me for thirty (30) days. Any item that fails to pass to a beneficiary will return to my estate to be included in the residue of my estate. All property given under this Will is subject to any encumbrances or liens attached to the property. My specific bequests are as follows:

a. I leave to \_\_\_\_\_ of \_\_\_\_\_, ..... if they shall survive me, for their own use absolutely, the following: \_\_\_\_\_.

**Distribution of Residue**

11. To receive any gift or property under this Will a beneficiary must survive me for thirty (30) days. Beneficiaries of my estate residue will receive and share all of my property and assets not specifically bequeathed or otherwise required for the payment of any debts owed, including but not limited to, expenses associated with the probate of my Will, the payment of taxes, funeral expenses or any other expense resulting from the administration of my Will. The entire estate residue is to be divided between my designated beneficiaries with the beneficiaries receiving a share of the entire estate residue. All property given under this Will is subject to any encumbrances or liens attached to the property.

12. The entire residue of my estate will be transferred to my Spouse, if my Spouse survives me for thirty (30) full days, for their own use absolutely.
13. If my Spouse is not living on the thirtieth day following my death, I direct my Executor to divide the residue of my estate into as many equal shares as there shall be children of mine then alive at my death, subject to the provisions hereinafter specified and to pay and transfer one such share to each of those surviving children. If any child of mine shall die before becoming entitled, in accordance with the terms of this Will, to receive the whole of his or her share of my estate, but such child has a child or children which survive me, that child of mine shall be deemed to have survived me for the purposes of this division and the share of that child of mine or the amount remaining thereof shall be distributed according to the provisions hereinafter provided.
14. If any child of mine shall die before becoming entitled in accordance with the terms of this Will, to receive the whole of his or her share of my estate, I direct that such share or the amount remaining of that share will be divided and transferred in equal shares to each of the surviving children of that deceased child of mine. And if any of such children of my deceased child dies before receiving the whole of his or her share of my estate, that share or the amount remaining thereof will be divided in equal shares amongst the surviving children of that child of mine. But if that deceased child of mine leaves no surviving children, then that share or the amount remaining of that share will be divided amongst my surviving children in equal shares.

**Wipeout Provision**

15. Should my Spouse predecease me, or fail to survive me for thirty (30) full days and should I leave no children, child, grandchildren or grandchild surviving me, or should they all die before becoming entitled to receive the whole of their share of my estate, then I direct my Executor to divide any remaining residue of my estate into one hundred (100) equal shares and to pay and transfer such shares as follows:
  - a. 50 shares to be divided equally between my parents and siblings, or the survivors thereof, for their own use absolutely, if all or any of them is then alive. If any of these beneficiaries shall die before becoming entitled, in accordance with the terms of this Will, to receive the whole of his or her share of my estate, but such beneficiary has a child or children which survive me, that beneficiary shall be deemed to have survived me for the purposes of this distribution. Provided however, that if all of my parents and siblings shall predecease me and have no children surviving them, or surviving me, die before receiving their share of my

estate, I direct that their share of my estate or the amount remaining of that share will be divided equally between my Spouse's parents and siblings for their own use absolutely, if all or any of them is then alive; and

- b. 50 shares to be divided equally between my Spouse's parents and siblings, or the survivors thereof, for their own use absolutely, if all or any of them is then alive. If any of these beneficiaries shall die before becoming entitled, in accordance with the terms of this Will, to receive the whole of his or her share of my estate, but such beneficiary has a child or children which survive me, that beneficiary shall be deemed to have survived me for the purposes of this distribution. Provided however, that if all of my Spouse's parents and siblings shall predecease me and have no children surviving them, or surviving me, die before receiving their share of my estate, I direct that their share of my estate or the amount remaining of that share will be divided equally between my parents and siblings for their own use absolutely, if all or any of them is then alive.

**CHILDREN**

**Guardian for Minor and Dependent Children**

- 16. Should my Spouse not survive me and should my minor or dependent children require a guardian to care for them, I appoint the following individual to be their guardian (the 'Guardian'):
  - a. I appoint \_\_\_\_\_ of \_\_\_\_\_, Alabama to be the sole Guardian of all my minor and dependent children until they are at least 19 years of age.

**TESTAMENTARY TRUST**

**Testamentary Trust For Minor Beneficiaries**

- 17. It is my intent to create a testamentary trust (the "Testamentary Trust") for each minor beneficiary named in this Will. I name my Executor(s) as trustee (the "Trustee") of any and all Testamentary Trusts required in this Will. Any assets bequeathed, transferred, or gifted to a minor beneficiary named in this Will are to be held in a separate trust by the Trustee until that minor beneficiary reaches the designated age. Any property left by me to any minor beneficiary in this Will shall be given to my Executor(s) to be managed until that minor beneficiary reaches the age of 18.

**Trust Administration**

18. The Trustee shall manage the Testamentary Trust as follows:
- a. The assets and property will be managed for the benefit of the minor until the minor reaches the age set by me for final distribution;
  - b. Upon the minor reaching the age set by me for final distribution, all property and assets remaining in the trust will be transferred to the minor beneficiary as quickly as possible; and
  - c. Until the minor beneficiary reaches the age set by me for final distribution, my Trustee will keep the assets of the trust invested and pay the whole or such part of the net income derived therefrom and any amount or amounts out of the capital that my Trustee may deem advisable to or for the support, health, maintenance, education, or benefit of that minor beneficiary.
19. The Trustee may, in the Trustee's discretion, invest and reinvest trust funds in any kind of real or personal property and any kind of investment, provided that the Trustee acts with the care, skill, prudence and diligence, considering all financial and economic considerations, that a prudent person acting in a similar capacity and familiar with such matters would use.
20. No bond or other security of any kind will be required of any Trustee appointed in this Will.

**Trust Termination**

21. The Testamentary Trust will end after any of the following:
- a. The minor beneficiary reaching the age set by me for final distribution;
  - b. The minor beneficiary dies; or
  - c. The assets of the trust are exhausted through distributions.

**General Trust Provisions**

22. The expression 'my Trustee' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires.

**(1) Powers of Trustee**

To carry out the terms of my Will, I give my Trustee the following powers to be used in his or her discretion at any time in the management of a trust created hereunder, namely:

- a. The power to make such expenditures as are necessary to carry out the purpose of the trust;
- b. Subject to my express direction to the contrary, the power to sell, call in and convert into money any trust property, including real property, that my Trustee in his or her discretion deems advisable;
- c. Subject to my express direction to the contrary, the power to mortgage trust property where my Trustee considers it advisable to do so;
- d. Subject to my express direction to the contrary, the power to borrow money where my Trustee considers it advisable to do so;
- e. Subject to my express direction to the contrary, the power to lend money to the trust beneficiary if my Trustee considers it is in the best interest of the beneficiary to do so;
- f. To make expenditures for the purpose of repairing, improving and rebuilding any property;
- g. To exercise all rights and options of an owner of any securities held in trust;
- h. To lease trust property, including real estate, without being limited as to term;
- i. To make investments he or she considers advisable, without being limited to those investments authorized by law for trustees;
- j. To receive additional property from any source and in any form of ownership;
- k. Instead of acting personally, to employ and pay any other person or persons, including a body corporate, to transact any business or to do any act of any nature in relation to a trust created under my Will including the receipt and payment of money, without being liable for any loss incurred. And I authorize my Trustee to appoint from time to time upon such terms as he or she may think fit any person or persons, including a body corporate, for the purpose of exercising any powers

herein expressly or impliedly given to my Trustee with respect to any property belonging to the trust;

- l. Without the consent of any persons interested in trusts established hereunder, to compromise, settle or waive any claim or claims at any time due to or by the trust in such manner and to such extent as my Trustee considers to be in the best interest of the trust beneficiary, and to make an agreement with any other person, persons or corporation in respect thereof, which shall be binding upon such beneficiary;
- m. To make or not make any election, determination, designation or allocation required or permitted to be made by my Trustee (either alone or jointly with others) under any of the provisions of any local, state, federal, or other taxing statute, in such manner as my Trustee, in his or her absolute discretion, deems advisable, and each such election, determination, designation or allocation when so made shall be final and binding upon all persons concerned;
- n. To pay himself or herself a reasonable compensation out of the trust assets; and
- o. To employ and rely on the advice given by any attorney, accountant, investment advisor, or other agent to assist the Trustee in the administration of this trust and to compensate them from the trust assets.

The above authority and powers granted to my Trustee are in addition to any powers and elective rights conferred by statute or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

**(2) Other Provisions**

- a. Subject to the terms of this Will, I direct that my Trustee will not be liable for any loss to my estate or to any beneficiary resulting from the exercise by him or her in good faith of any discretion given him or her in this Will;
- b. Any trust created in this Will shall be administered as independently of court supervision as possible under the laws of the State having jurisdiction over the trust; and



- c. If any trust condition is held invalid, it will not affect other provisions that can be given effect without the invalid provision.

**GENERAL PROVISIONS**

**Individuals Omitted From Bequests**

- 23. If I have omitted to leave property in this Will to one or more of my heirs as named above or have provided them with zero shares of a bequest, the failure to do so is intentional.

**Insufficient Estate**

- 24. If the value of my estate is insufficient to fulfill all of the bequests described in this Will then I give my Executor full authority to decrease each bequest by a proportionate amount.

**Additional Provisions**

- 25. \_\_\_\_\_  
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**No Contest Provision**

- 26. If any beneficiary under this Will contests in any court any of the provisions of this Will, then each and all such persons shall not be entitled to any devises, legacies, bequests, or benefits under this Will or any codicil hereto, and such interest or share in my estate shall be disposed of as if that contesting beneficiary had not survived me.

**Severability**

- 27. If any provisions of this Will are deemed unenforceable, the remaining provisions will remain in full force and effect.

IN WITNESS WHEREOF, I have signed my name on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_, ..... declaring and publishing this instrument as my Last Will, in the presence of the undersigned witnesses,



**AFFIDAVIT**

I, \_\_\_\_\_, the Testator, sign my name to this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes expressed in the Last Will, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Testator

We, \_\_\_\_\_ and \_\_\_\_\_, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as the Testator's Last Will and that the Testator signs it willingly (or willingly directs another to sign for the Testator), and that each of us, in the presence and hearing of the Testator, hereby signs this Last Will as witness to the Testator's signing, and that to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Witness #1

\_\_\_\_\_  
Witness #2

CITY OF \_\_\_\_\_

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the Testator, and subscribed and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Seal)

(Signed) \_\_\_\_\_

\_\_\_\_\_  
(Official capacity of officer)