1. Last Will and Testament
of
[NAME OF TESTATOR]

I, [Testator], a resident of [address], revoke any prior Wills and codicils made by me and declare this to be my Last Will and Testament (*Will*).

# Family Information

I am [single or married] to [name of spouse]. Any reference in my Will to “[husband/wife/life partner]” is to [name of spouse].

I have [number of children] children. They are:

[Name of First Child];

[Name of Second Child]; and

[Name of Third Child].

All references in my Will to “[child or my children]” are references to these children, as well as to any children subsequently born to me or adopted by me in a legal proceeding valid in the jurisdiction (domestic or foreign) in which it occurred.

References to “my descendant(s)” are to my children and their descendants, including descendants of any deceased child.

# Distribution of My Property

## Specific Distribution to [NAME OF BENIFICIARY]

I give and devise [Specific Distribution property] to the [Name of Benificiary], presently located in [location of property], or its successors in interest, to be used for its general charitable purposes.

If the [Name of Benificiary] no longer exists, and either has no successor in interest or its successor in interest cannot be identified with reasonable certainty then this devise will lapse and my Independent Executor shall distribute this property as a part of the residue of my estate.

## Disposition of Remaining Tangible Personal Property

I give and bequeath my remaining tangible personal property according to a separate *Personal Property Memorandum* or other similar writing signed by me and kept with my personal records. The writing will qualify to distribute my tangible personal property under applicable state law. If the writing is not found at the time of my death, or is ruled an improper disposition, this bequest will lapse and I give and bequeath my remaining tangible personal property not disposed of by a written memorandum to my [husband/wife/life partner], if my [husband/wife/life partner] survives me. If my [husband/wife/life partner] does not survive me my Independent Executor shall divide and distribute my tangible personal property as part of the residue of my estate.

## Distribution of the Residue of My Estate

If my [husband/wife/life partner] survives me, I give, devise, and bequeath the residue of my estate to my [husband/wife/life partner], outright and free of trust.

If my [husband/wife/life partner] has predeceased me, I give, devise, and bequeath the residue of my estate outright and free of trust to the following person:

**Beneficiary Share**

[Remote Beneficiary name] [percentage share]

If the person named as a beneficiary under this Section predeceases me, the person’s share shall pass to the person’s descendants, *by representation*. But if the beneficiary does not have any descendants or cannot take the share for any other reason, then my Independent Executor shall distribute the property as provided in Section 2.04.

## Alternate Disposition

If at any time no person or entity is qualified to receive final distribution of any part of my residuary estate, I give, devise, and bequeath that portion of my residuary estate to those persons who would inherit it had I then died intestate owning the property, as determined and proportioned under the laws of [State of Testator] then in effect.

# Designation and Succession of Fiduciaries

## Independent Executor

I nominate [Personal Representative name] as my Independent Executor.

## Guardian

I nominate [Guardian name] as guardian for each child of mine who needs a guardian.

I direct that no guardian be required to give any bond in any jurisdiction. But if a guardian’s bond is required by law or by court determination, no sureties will be required on the bond.

## Conservator

If it becomes necessary to appoint a conservator for the estate of any child of mine, I nominate the child’s guardian to serve as conservator of that child’s estate.

# Powers of Fiduciaries

## Grant of Powers

My Independent Executor may perform every act reasonably necessary to administer my estate and any trust established under my Will. In addition to this general grant of powers, my Independent Executor is specifically authorized to:

hold, retain, invest, reinvest, sell, and manage any real or personal property, including interests in any form of business entity including limited partnerships and limited liability companies, and life, health, and disability insurance policies, without diversification as to kind, amount, or risk of non-productivity and without limitation by statute or rule of law;

partition, sell, exchange, grant, convey, deliver, assign, transfer, lease, option, mortgage, pledge, abandon, borrow, loan, and contract;

distribute assets of my estate in cash or in kind, or partly in each, at fair market value on the distribution date, without requiring *pro rata* distribution of specific assets and without requiring *pro rata* allocation of the tax bases of those assets;

hold any interest in nominee form, continue businesses, carry out agreements, and deal with itself, other fiduciaries, and business organizations in which my Independent Executor may have an interest;

establish reserves, release powers, and abandon, settle, or contest claims; and

employ attorneys, accountants, custodians for trust assets, and other agents or assistants as my Independent Executor deems advisable to act with or without discretionary powers, and compensate them and pay their expenses from income or principal.

## Powers Granted by State Law

In addition to the above powers, Independent Executor may, without prior authority from any court, exercise all powers conferred by my Will by common law, or by the [State of \_\_\_] Fiduciary Powers Act or other [State] statute or any other jurisdiction whose law applies to my Will. My fiduciaries have absolute discretion in exercising these powers. Except as specifically limited by my Will these powers extend to all property held by my Independent Executor until the actual distribution of the property.

## Distribution Alternatives

My Independent Executor may make any payments under my Will:

directly to a beneficiary;

in any form allowed by applicable state law for gifts or transfers to minors or persons under disability;

to a beneficiary’s guardian, conservator, or caregiver for the beneficiary’s benefit; or

by direct payment of the beneficiary’s expenses.

A receipt by the recipient for any distribution will fully discharge my Independent Executor if the distribution is consistent with the proper exercise of my Independent Executor’s duties under my Will.

# Administrative Provisions

## Bond

To the extent permissible by law, my Independent Executor is not required to give any bond, surety, or security to any court.

## Informal Proceedings

Under the Uniform Probate Code, an interested person may choose either informal or formal procedures for each step in the settlement of an estate.

## Compensation and Reimbursement

My Independent Executor is entitled to reasonable compensation commensurate with services actually performed. In addition, my Independent Executor is entitled to reimbursement for reasonable expenses incurred.

## Ancillary Independent Executor

If any ancillary administration is required or desired, and my domiciliary Independent Executor is unable or unwilling to act as an Ancillary Independent Executor, my domiciliary Independent Executor may have power to designate, compensate, direct, and remove an Ancillary Independent Executor. The Ancillary Independent Executor may either be a person or a corporation. My domiciliary Independent Executor may delegate to the Ancillary Independent Executor any powers granted to my domiciliary Independent Executor as my domiciliary Independent Executor considers to be proper, including the right to serve without bond or without surety on bond. The net proceeds of the ancillary estate will be paid over to the domiciliary Independent Executor.

# Taxes, Claims, and Expenses

I direct that my Independent Executor pay the expenses of my last illness, of my funeral, and of my estate’s administration from my residuary estate. My Independent Executor shall pay all estate, inheritance and similar taxes payable with respect to property included in my estate, whether or not passing under my Will, and any interest or penalties, from my residuary estate without apportionment and with no right of reimbursement from any recipient of any estate property.

If payment would decrease the federal estate tax charitable deduction available to my estate, my Independent Executor may not pay any administrative expenses from assets passing to an organization that qualifies for the federal estate tax charitable deduction.

If payment would decrease the federal estate tax marital deduction available to my estate or violate the provisions of Treasury Regulation Section 20.2056(b)-4(d), my Independent Executor may not pay any administrative expenses from the net income of property qualifying for the federal estate tax marital deduction.

# General Provisions

## Adopted and Afterborn Persons

A legally adopted person in any generation and that person’s descendants, including adopted descendants, have the same rights and will be treated in the same manner under this Will as natural children of the adopting parent if the person is legally adopted before turning 18 years old. If an adoption was legal in the jurisdiction it occurred in at that time, then the adoption is considered legal.

A fetus *in utero* that is later born alive will be considered a person in being during the period of gestation.

## Contest Provision

If any person directly or indirectly attempts to contest or oppose the validity of my Will, (including any codicil to my Will), or commences, continues, or prosecutes any legal proceedings to set my Will aside, then that person will forfeit his or her share, cease to have any right or interest in my estate, and will, for purposes of my Will, be deemed to have predeceased me.

## Survivorship Presumption

If my [husband/wife/life partner] and I die under circumstances in which the order of our deaths cannot be established, I will be considered to have survived my [husband/wife/life partner].

If any other beneficiary is living at my death, but dies within 30 days after my death, then the beneficiary will be considered to have predeceased me.

## Applicable Law

The validity and construction of my Will will be determined by the laws of the State of Alabama.

## No Contract to Make Will

I have not entered into any contract, actual or implied, to make a Will.

## Construction

Unless the context requires otherwise, words denoting the singular may denote the plural, and words indicating the plural may denote the singular. As the context requires, words of one gender may denote another gender.

## Headings and Titles

The headings and paragraph titles are for reference only.

## Internal Revenue Code, IRC, or Code

References to the Internal Revenue Code, the IRC or the Code refer to the Internal Revenue Code of the United States. References to specific sections of the Code apply to any sections of similar import that replace the specific sections due to changes to the Internal Revenue Code made after the date of my Will.

## Other Definitions

Except as otherwise provided in my Will, terms will be interpreted as defined in the [State of Testator] Probate Code as amended after the date of my Will and after my death.

## Severability

If any part of this instrument is determined to be void or invalid, the remaining provisions will continue in full force and effect.

I have initialed all of the pages of this Last Will and Testament, and have signed it on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

[Name of Testator]

This instrument, each preceding page of which is identified by [Name of Testator]’s initials, was subscribed, published and declared by [Name of Testator], the [Testator/Testatrix] to be [his/her] Last Will and Testament in our presence, and each of us, as witnesses, are more than 14 years of age and we hereby declare that in the [Testator’s/Testatrix’s] presence, at [his/her] request, and in the presence of each other, we subscribed our names as witnesses, and we declare that at the execution hereof, the [Testator/Testatrix] was over the age of 18 years, was of sound mind and memory and under no constraint or undue influence.

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|  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Self-Proving Affidavit

**STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_ [state]**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [county]**

BEFORE ME, the undersigned authority, on this day personally appeared [Name of Testator], \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me to be the [Testator/Testatrix] and the witnesses respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, [Name of Testator] declared to me and to the witnesses in my presence that said instrument is [his/her] last will and testament, and that [he/she] had willingly made and executed it as [his/her] free act and deed; and the said witnesses, each on his or her oath, stated to me, in the presence and hearing of the [Testator/Testatrix] that the [Testator/Testatrix] had declared to them that said instrument is [his/her] last will and testament, and that [he/she] executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as a witness in the presence of [Name of Testator] and at [his/her] request; that [he/she] at that time was eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Services) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

[Name of Testator]

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| --- | --- |
|  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Witness\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Subscribed and sworn before me by [Name of Testator], the [Testator/Testatrix], and by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the witnesses, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Notary Public