

# WEST VIRGINIA LAST WILL AND TESTAMENT OF

I. THE TESTATOR.

I, \_\_\_\_\_, resident in the city of \_\_\_\_\_, county of \_\_\_\_\_, state of West Virginia ("Testator"), being of sound mind, not acting under duress or undue influence, and fully understanding the nature and extent of all my property and disposition thereof, do hereby make, publish, and declare this document to be my Last Will and Testament, and hereby revoke any and all other wills and codicils heretofore made by me.

II. EXECUTOR.

I nominate and appoint my personal representative known as \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Executioner"), as the Executioner of my estate and I request that they be appointed as my current personal representative if applicable.

a.) **Successor Executioner.** If my Executioner fails or ceases to so serve, then I nominate \_\_\_\_\_ with a mailing address of \_\_\_\_\_ ("Successor Executioner"). The Successor Executioner shall have every right as the Executioner, only if, the Executioner fails to be available to act on behalf of the Testator.

III. DISPOSITION OF PROPERTY.

I devise and bequeath my property, both real and personal and wherever situated, as follows:

**1<sup>st</sup> Beneficiary:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_, as my \_\_\_\_\_ whose last four (4) digits of their Social Security Number (SSN) are xxx-xx-\_\_\_\_\_ with the following property:

**2<sup>nd</sup> Beneficiary:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_, as my \_\_\_\_\_ whose last four (4) digits of their Social Security Number (SSN) are xxx-xx-\_\_\_\_\_ with the following property:

**3<sup>rd</sup> Beneficiary:** \_\_\_\_\_ with a mailing address of \_\_\_\_\_, as my \_\_\_\_\_ whose last four (4) digits of their Social Security Number (SSN) are xxx-xx-\_\_\_\_\_ with the following property:

If any of my beneficiaries have pre-deceased me, then any property that they would have received if they had not pre-deceased me shall be distributed in equal shares to the remaining beneficiaries.

If any of my property cannot be readily sold and distributed, then it may be donated to any charitable organization or organizations of my Executor's choice. If any property cannot be readily sold or donated, my Executor may, without liability, dispose of such property as my Executor may deem appropriate. I authorize my Executor to pay as an administration expense of my estate the expense of selling, advertising for sale, packing, shipping, insuring and delivering such property.

**IV. EXPENSES & TAXES.**

I direct that all my debts, and expenses of my last illness, funeral, and burial, be paid as soon after my death as may be reasonably convenient, and I hereby authorize my Executor, hereinafter appointed, to settle and discharge, in his or her absolute discretion, any claims made against my estate.

I further direct that my Executor shall pay out of my estate any and all estate and inheritance taxes payable by reason of my death in respect of all items included in the computation of such taxes, whether passing under this Will or otherwise. Said taxes shall be paid by my Executor as if such taxes were my debts without recovery of any part of such tax payments from anyone who receives any item included in such computation.

**V. OMISSION.**

Except to the extent that I have included them in this Will, I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any family members and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

## **VI. BOND.**

No bond shall be required of any fiduciary serving hereunder, whether or not specifically named in this Will, or if a bond is required by law, then no surety will be required on such bond.

## **VII. DISCRETIONARY POWERS OF EXECUTOR.**

My Executor, shall have and may exercise the following discretionary powers in addition to any common law or statutory powers without the necessity of court license or approval:

- a.) To retain for whatever period my Executor deems advisable any property, including property owned by me at my death, and to invest and reinvest in any property, both real and personal, regardless of whether any particular investment would be proper for an Executor and regardless of the extent of diversification of the assets held hereunder.
- b.) To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for consideration, whether or not the highest possible consideration, and upon terms, including credit, as my Executor deems advisable, and to execute, acknowledge, and deliver deeds or other instruments in connection therewith.
- c.) To lease any real estate for terms and conditions as my Executor deems advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase.
- d.) To pay, compromise, settle or otherwise adjust any claims, including taxes, asserted in favor of or against me, my estate or my Executor.
- e.) To make any separation into shares in whole or in part in kind and at values determined by my Executor, with or without regard to tax basis, and to allocate different kinds and disproportionate amounts of property and undivided interests in property among the shares.
- f.) To make such elections under the tax laws as my Executor shall deem appropriate, including elections with respect to qualified terminable interest property, exemptions and the use of deductions as income tax or estate tax deductions, and to determine whether to make any adjustments between income and principal on account of any election so made.
- g.) To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plan.
- h.) To employ others in connection with the administration of my estate, including legal counsel, investment advisors, brokers, accountants and agents and to pay reasonable compensation in addition to my Executor's compensation.

- i.) To vote any shares of stock or other securities in person or by proxy; to assert or waive any stockholder's rights or privilege to subscribe for or otherwise acquire additional stock; to deposit securities in any voting trust or with any committee.
- j.) To borrow and to pledge or mortgage any property as collateral, and to make secured or unsecured loans. My Executor is specifically authorized to make loans without interest to any beneficiary hereunder. No individual or entity loaning property to my Executor or trustee shall be held to see to the application of such property.
- k.) My Executor shall also in his or her absolute discretion determine the allocation of any GST exemption available to me at my death to property passing under this Will or otherwise. The determination of my Executor with respect to any elections or allocation, if made or taken in good faith, shall be binding upon all affected.

#### **VIII. CONTESTING BENEFICIARY.**

If any beneficiary under this Will, or any trust herein mentioned, contests or attacks this Will or any of its provisions, any share or interest in my estate given to that contesting beneficiary under this Will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me.

#### **IX. GUARDIAN AD LITEM NOT REQUIRED.**

I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

#### **X. GENDER.**

Whenever the context permits, the term "Executor" shall include "Executor" and "Administrator," the use of a particular gender shall include any other gender, and references to the singular or the plural shall be interchangeable. All references to the Internal Revenue Code shall mean the Internal Revenue Code of 1986 or any successor Code. All references to estate taxes shall include inheritance and other death taxes.

#### **XI. ASSIGNMENT.**

The interest of any beneficiary in this Will, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her, or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

#### **XII. GOVERNING LAW.**

This document shall be governed by the laws of the state of West Virginia.

**XIII. BINDING ARRANGEMENT.**

Any decision by my Executor with respect to any discretionary power hereunder shall be final and binding on all persons interested. Unless due to my Executor's own willful default or gross negligence, no Executor shall be liable for said Executor's acts or omissions or those of any Successor Executor or prior Executor.

I, the undersigned Testator, do hereby declare that I sign and execute this instrument as my last Will, that I sign it willingly in the presence of each of the undersigned witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed, on this \_\_\_\_\_, 20\_\_\_\_.

**Testator's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

## WITNESS ACKNOWLEDGMENT

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

We, the two (2) witnesses, known as \_\_\_\_\_ and \_\_\_\_\_ respectively, whose names are signed to the foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument.

Furthermore, we acknowledge that the Testator signed this Last Will and Testament willingly and under their own free will and for the purposes therein expressed. Each of the named witnesses below acknowledge to be an adult under the requirements of Governing Law and to be of sound mind and under no constraint or undue influence.

**Witness #1 Signature:** \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**Witness #2 Signature:** \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

# NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_  
(insert name and title of the officer), personally appeared \_\_\_\_\_  
(testator's name) who proved to me on the basis of satisfactory evidence to be the  
person whose name is subscribed to the within instrument and acknowledged to me  
that they executed the same in their authorized capacity, and that by their signature on  
the instrument the person, or the entity upon behalf of which the person acted, executed  
the instrument.

I certify under PENALTY OF PERJURY under the laws of the state of  
\_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public: \_\_\_\_\_  
Print Name: \_\_\_\_\_

(seal)