

**LAST WILL AND TESTAMENT  
(with Descendants Trust)**

I, \_\_\_\_\_, also known as \_\_\_\_\_,  
a resident of \_\_\_\_\_ County, Colorado, being over the age of 18 years, and  
being of sound mind and memory, revoke any prior Wills and Codicils made by me and declare this to be  
my Last Will and Testament.

- 1 **Spouse.**  I am married to \_\_\_\_\_, referenced to in this Will as my spouse.  
 I am unmarried.

- 2 **Children.** The names and dates of birth of my children are as follows:

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References in my Will to my children are to such child or children, as well as any children subsequently  
born to or legally adopted by me. Any reference in my Will to my descendants is to my children and their  
descendants.

3 **Tangible Personal Property.** I give specific household goods, personal effects and other items  
of tangible personal property in accordance with any Letters Distributing Tangible Personal Property  
incorporated herein that are to be kept with my Will. Any items of tangible personal property that are not  
covered by such Letter shall become part of my residuary estate.

- 4 **Specific Gifts.** I make gifts of the following specific items:

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5 **Residuary Estate.** All the remainder of my estate, including the property, real, personal or  
mixed, which I shall own at my death and which is not effectively disposed of by the foregoing provisions  
of my Will, shall be referred to in this Will as my "residuary estate."

5.1 **Gift to Spouse.** I give my residuary estate to my spouse.

5.2 **Gift to Descendants.** If my spouse does not survive me, but I am survived by at least  
one of my descendants, I give my residuary estate to my descendants by representation according to the  
statutes of Colorado. However, if my spouse does not survive me and all of my children who survive me  
have not reached the age of \_\_\_\_\_ years, I give my residuary estate to my Trustee subsequently  
named, in trust. Such estate, together with any other sums payable directly to my Trustee, shall be referred  
to in this Will as the Descendants Trust and shall be administered in accordance with the provisions of  
Article 6.

- 6 **Descendants Trust.** The Descendants Trust shall be held and administered as follows:

6.1 **Income and Principal Distributions.** My Trustee may distribute to, or apply for the  
benefit of, any one or more of the living members of the group consisting of my descendants, such

amounts of the net income or principal, or both, of the Descendants Trust as my Trustee, in my Trustee's discretion, determines to be necessary or advisable for their health, education, support, or maintenance, without the necessity of equalization among them at any time. Without limiting the absolute discretion of my Trustee, I suggest that my Trustee should consider all funds or other resources available to a beneficiary, including income or principal of other trust funds, or a support duty owed to a beneficiary by another, before making a distribution to a beneficiary.

**6.2 Education.** Under this instrument, distributions for education may, in the Trustee's discretion, include the cost of tuition, fees, books, supplies, living expenses, and travel, to the extent they are reasonable. The term "education" means: (a) study or instruction at, or under the auspices of, an accredited educational institution (the term "accredited educational institution" means a public or private elementary or secondary school; a college or university granting undergraduate or graduate degrees; or a trade school or other institution for specialized, vocational, or professional training; if such school, college, university, trade school, or other institution provides an academic curriculum, employs a full-time faculty, offers classes on a campus, and enjoys a currently effective accreditation from a generally recognized accreditation board); and (b) study or instruction which the Trustee, in its discretion, considers appropriate for a beneficiary who has special needs or abilities which are not likely to be served by an accredited educational institution.

**6.3 Termination of Trust.** The Descendants Trust shall terminate when there is no living child of mine under the age of \_\_\_\_\_ years. Upon termination, the Descendants Trust as it then exists shall be distributed outright to my then-living descendants by representation according to the statutes of Colorado.

**6.4 Remote Contingent Disposition.** If at any time there is no person or entity qualified to receive final distribution of my trust estate or any part of it, then any such portion of my trust estate with respect to which such failure of qualified recipients has occurred shall be distributed one-half to those persons who would inherit it had I then died intestate and unmarried owning such property, and one-half to those persons who would inherit it had my spouse then died intestate and unmarried owning such property, all as determined and in the proportions provided by the laws of Colorado then in effect.

## 7. Fiduciaries.

**7.1 Personal Representative.** I nominate \_\_\_\_\_ as my Personal Representative. If my Personal Representative predeceases me, fails to qualify, or refuses or ceases to act for any reason, I nominate \_\_\_\_\_ to act as my Personal Representative.

**7.2 Trustee.** I appoint \_\_\_\_\_ as Trustee of all trusts created under my Will. If my Trustee predeceases me, fails to qualify, or refuses or ceases to act for any reason, I appoint \_\_\_\_\_ as the successor Trustee.

**7.3 Guardian and Conservator.** I appoint \_\_\_\_\_ as Guardian of any unmarried minor child of mine. If such Guardian predeceases me, fails to qualify, or refuses or ceases to act for any reason, I appoint \_\_\_\_\_ as the successor Guardian. I also request that any Guardian of a minor be appointed as conservator of the estate of such child if appointment of a conservator is necessary for the protection of such child's estate.

**7.4 Powers.** My fiduciaries may exercise all of the powers set forth in the Colorado Fiduciaries' Powers Act as amended after the date of my Will. I incorporate such Act as it exists today by reference and make it a part of this instrument.

## 8. Administrative Provisions.

**8.1 Court Proceedings.** It is my intention that the probate of my estate be conducted as an administrative, not a judicial, proceeding under the Colorado Probate Code. I therefore suggest informal probate of my Will and informal appointment of my Personal Representative, unless changed circumstances occur which I could not have anticipated and which would necessitate formal or supervised judicial proceedings for the protection of persons interested in my estate. Additionally, any trust

established under my Will shall be administered in a timely and efficient manner consistent with its terms, free of active judicial intervention and without order, approval, or other action by any court. Any such trust shall be subject only to the jurisdiction of a court being invoked by the trustees or other interested parties as otherwise provided by law.

8.2 **No Bond.** I direct that no fiduciary shall be required to give any bond in any jurisdiction, and if, notwithstanding this direction, any bond is required by any law, statute, or rule of court, no sureties be required.

8.3 **Inalienability.** No beneficiary shall have any right to anticipate, sell, assign, mortgage, pledge, or otherwise dispose of or encumber all or any part of any trust estate established for his or her benefit under this instrument. No part of such trust estate, including income, shall be liable for the debts or obligations of any beneficiary or be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process.

8.4 **Undistributed Income at Death of Beneficiary.** Upon the death of any beneficiary entitled to receive income from any trust established under this instrument, all accrued or undistributed income held for the account of such beneficiary shall be treated as if it had accrued or been received immediately following the death of such beneficiary.

8.5 **Protection Against Perpetuities Rule.** All trusts created hereunder shall in any event terminate no later than 90 years after the date of my death. The property held in trust shall be discharged of any trust and shall immediately vest in and be distributed to the persons then entitled to the income therefrom in the proportions in which they are beneficiaries of the income and, for this purpose only, any person then eligible to receive discretionary payments of income of a particular trust shall be treated as being entitled to receive the income, and if two or more persons are so treated, the group of such persons shall be treated as being entitled to receive such income as a class, to be distributed among them by representation according to the statutes of Colorado.

8.6 **Mode of Distributions.** My fiduciaries may make any payments under my Will directly to the beneficiary, or in any form allowed by law for gifts to minors, or to the beneficiary's guardian or conservator, or to any person deemed suitable by my fiduciaries, or by direct payment of the beneficiary's expenses. Such payments may be made by my fiduciaries in any of the ways authorized by this paragraph without continuing court supervision or the intervention of a beneficiary's guardian, conservator, or other legal representative, and without giving or requiring any bond. Any such distributions shall be without obligation on the part of my fiduciaries to see to the further application thereof. A receipt for any such distribution by the recipient shall fully discharge my fiduciaries.

9. **Taxes.** I direct that all estate, inheritance, and other taxes payable by reason of my death shall be apportioned as provided under the laws of Colorado in effect at the date of my death.

#### 10. **General Provisions.**

10.1 **Applicable Law.** The validity and construction of my Will shall be determined by the laws of Colorado. Questions of administration of any trust established under my Will shall be determined by the laws of the situs (governing state) of administration of such trust.

10.2 **Other Definitions.** Definitions of terms in my Will shall be as defined in the Colorado Probate Code in effect at my death.

10.3 **Survivorship.** For purposes of this Will, a beneficiary shall be deemed to have predeceased me if such beneficiary dies within 30 days after the date of my death.

In case any one or more of the provisions contained in my Will are for any reason held to be invalid, illegal, or unenforceable in any respect, such issue shall not affect the validity, legality, or enforceability of the any other provision of my Will.

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 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 therein expressed and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Testator

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**AFFIDAVIT AND ACKNOWLEDGMENT – SELF-PROVING (see Note below)**

We, \_\_\_\_\_, \_\_\_\_\_, 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 Will and that the testator signs it willingly (or willingly directs another to sign for the testator), and that the testator executes it as the testator’s free and voluntary act for the purposes therein expressed, and that each of us, in the conscious presence and hearing of the testator hereby signs this Will as witness to the testator’s signing, and that to the best of our knowledge the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the testator, and subscribed and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, witnesses, on \_\_\_\_\_, (date) in the County of \_\_\_\_\_, State of Colorado.

\_\_\_\_\_  
Signature

(SEAL)

\_\_\_\_\_  
Official Capacity of Officer

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**OR**

**ACKNOWLEDGMENT – TESTATOR (see Note below)**

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the testator, on \_\_\_\_\_ (date) in the County of \_\_\_\_\_, State of Colorado.

\_\_\_\_\_  
Signature

(SEAL)

\_\_\_\_\_  
Official Capacity of Officer

**Questions regarding the use or execution of this form should be directed to your attorney.**

**GENERAL INFORMATION:**

Choosing a Personal Representative. Also known as an executor, this is the person you choose to be responsible for your estate after your death. This person pays your debts and taxes, files probate paperwork, locates beneficiaries, distributes your assets, and other duties allowed by law. An alternate or successor personal representative is named in case your initial choice cannot serve.

Tangible Personal Property, in general, is something that you can actually touch and is movable such as personal items, household goods, motor vehicles, etc. A Letter may be created to list specific gifts of personal property, and the recipients, that becomes a part of your will. The Letter may be changed from time to time as ownership or beneficiaries of these items change.

Intangible Personal Property is generally stocks, bonds, money, IRAs, etc.

Real Property is real estate – your house, buildings or land.

Residuary estate is the remainder of an estate after specific gifts, debts, and expenses. The residuary beneficiary is the recipient of anything not left specifically to someone else.

Beneficiary is any recipient who receives a gift from you of any type of property. A successor or contingent beneficiary is commonly named to receive the gift if your first choice dies before you. Full names and the relationship are commonly used in a will to name a beneficiary, or the name and address of an institution if the beneficiary is not a person.

**NOTE:**

**Complete only one of the two acknowledgments in the Will.**

1. Self-proving affidavit (the testator and 2 witnesses sign in the presence of a notary): A self-proving affidavit and acknowledgment attached to a will certifies that the witnesses and testator properly signed the will. A self-proved will is generally accepted when filed and satisfies the court's requirements for execution of the will without testimony of any attesting witnesses, unless there is evidence of fraud or forgery affecting the acknowledgment or affidavit.

OR

2. Testator Acknowledgment (the testator signs in the presence of a notary): If the will is notarized, but not self-proved (without attesting witnesses), the court assumes that the requirements for execution are satisfied upon filing the will, unless someone comes forward to contest it and proves otherwise.