

Last Will of

I, [Client], a resident of [City], Texas, [County] County, declare that this is my last will and I revoke all prior wills and codicils.

ARTICLE I DESCRIPTION OF FAMILY

A. Marital Status

[if never married] I am not married and I have never been married.

[if single but previously married] I am not married. I was formerly married to [Ex-Spouse]. [We were divorced] [[Ex-Spouse] died] on [date].

[if currently married for first time] I am married to [Spouse]. We were married on [date]. This is my only marriage.

[if remarried] I am married to [Spouse]. We were married on [date]. I was formerly married to [Ex-Spouse]. [We were divorced] [[Ex-Spouse] died] on [date].

B. Descendants

[if no living descendants] I have no living descendants, either born or adopted.

[if living descendants] I have [number] child[ren] [and [number] grandchildren].
[description]

C. Parents

My parents are [Mother] and [Father].

[Client]

[Witness One]

[Witness Two]

D. Siblings

[if no siblings] I have no siblings.

[if siblings] I have [number] siblings. [description]

E. Additional Family Description

**ARTICLE II
GENERAL PROVISIONS**

A. Definitions

B. Survival

If any beneficiary dies within [number] days of my death, such person shall be deemed to have predeceased me. The phrase “survives me” and similar expressions used in this will refer to this [number] day survival requirement.

C. Express Disinheritance

I expressly intend that my [description of relationship], [Name], take no property from my estate either under this will or by intestacy.

D. Pretermitted Children

I intentionally make no provision for any child whom I may have or adopt after execution of this will.

E. Divorce

If I am divorced from [Spouse] or [condition] at the time of death, all provisions in this will in favor of [Spouse] are to be given no effect. For purposes of this will, [Spouse] will then be treated as if [Spouse] predeceased me.

[Client]

[Witness One]

[Witness Two]

F. In Terrorem Provision

If any beneficiary under this will [or the trust created herein] contests or challenges this will [or trust] or any of its [their] provisions in any manner, be it directly or indirectly (including the filing of a will contest action), all benefits given to the contesting or challenging beneficiary are revoked and those benefits pass as if the contesting beneficiary predeceased me without descendants.

G. Satisfaction

No gift of any kind that I make under this will shall be considered either fully or partially satisfied by any inter vivos gift that I hereafter make.

H. Not Contractual

At approximately the same time, [Spouse] and I are executing similar wills. The wills are not, however, the result of any contract or agreement between us and either will may be revoked at the sole discretion of its maker.

I. Anatomical Gifts

I hereby confirm my intent to make the following anatomical gifts: [description of gift].

J. Body Disposition Instructions

I request that I be given a simple funeral and that my remains be [buried] [cremated] in an economical manner. It is my desire that the greatest possible portion of my estate pass to the beneficiaries I have named in this will.

**ARTICLE III
SETTLEMENT OF ESTATE OBLIGATIONS**

A. Exoneration

[if no exoneration desired] All specific gifts made in this will pass subject to any mortgage, security interest, or other lien existing at the date of my death without right of exoneration.

[Client]

[Witness One]

[Witness Two]

[if exoneration desired] If any specific gift made in this will is subject to a mortgage, security interest, or other lien, I direct that my executor pay the debt from other property of my estate which is not specifically given.

B. Abatement

I direct the gifts made in this will abate in the following order: [order].

C. Apportionment

I direct that any tax payable because of a transfer of property upon my death, such as the federal and state estate tax, be paid from the following property of my estate in the order listed. [list]

**ARTICLE IV
DISTRIBUTION OF PROPERTY**

[Option 1 — by type of gift]

A. Specific Gifts

I leave my [item] to [Beneficiary]. If [Beneficiary] does not survive me, I leave my [item] to [Alternate Beneficiary]. If [item] is not in my estate, [ademption instructions].

B. General Gifts

I leave [amount] to [Beneficiary]. If [Beneficiary] does not survive me, I leave [amount] to [Alternate Beneficiary].

C. Residuary Gift

I leave the residue of my estate to [Beneficiary]. If [Beneficiary] does not survive me, I leave the residue to [Alternate Beneficiary].

[Client]

[Witness One]

[Witness Two]

[Option 2 — by identity of survivors — spouse and children example]

A. If Survived by [Spouse]

If I am survived by [Spouse], I leave [Spouse] all of my property.

B. If Not Survived by [Spouse]

If [Spouse] does not survive me, I leave all my property to [Children]. If any of my children predecease me survived by descendants who survive me, these surviving descendants receive the deceased child's share per capita or per stirpes as in an intestacy distribution governed by Texas Probate Code § 43, as amended at the time of my death.

C. If Not Survived by [Spouse] or Descendants

If I am survived by neither [Spouse] nor descendants, I leave all my property to [Beneficiary]. If [Beneficiary] does not survive me, I leave all my property to [Alternate Beneficiary].

[Option 3 — conditional gifts — spouse and children example]

A. If Survived by [Spouse]

If I am survived by [Spouse], I leave [Spouse] all of my property.

B. If Not Survived by [Spouse] and My Youngest Child is At Least [Age] Years Old

If I am not survived by [Spouse] and if my youngest surviving child is at least [age] years old, I leave all my property to my surviving children.

C. If Not Survived by [Spouse] and My Youngest Child is Under [Age] Years Old

If I am not survived by [Spouse] and if my youngest surviving child is under [age] years old, I leave all my property to the trustee, in trust, of the [Name] Trust created in Article V of this will.

[Client]

[Witness One]

[Witness Two]

D. If Not Survived by Spouse or Children

If I am survived by neither [Spouse] nor children, I leave all my property to [Beneficiary]. If [Beneficiary] does not survive me, I leave all my property to [Alternate Beneficiary].

**ARTICLE V
[NAME] TRUST**

A. Conditions of Creation

This trust is to be created upon the conditions stated in Article IV.

B. Governing Law

This trust is to be governed by Texas law unless this Article provides to the contrary.

C. Trustees

I appoint [Trustee] as Trustee of this trust. If [Trustee] is unwilling or unable to serve, I appoint [Alternate Trustee] as trustee.

D. Bond

No bond shall be required of any trustee named in this Article.

E. Trustee Compensation

[trustees to be compensated]

The trustee shall be entitled to reasonable compensation from the trust for serving as trustee.

[trustees to be uncompensated]

No trustee shall be entitled to compensation for serving as trustee.

[Client]

[Witness One]

[Witness Two]

F. Beneficiaries of Trust

The beneficiaries of this trust are [Children].

G. Distribution of Trust Property Until Youngest Beneficiary is At Least [Age] Years Old

The trustee shall pay to or apply for the benefit of my children under [age] years old so much of the net income and so much of the principal, up to the whole thereof, of the trust property as the trustee in the trustee's sole discretion deems advisable for the beneficiary's proper care, support, education, medical expenses, and maintenance. The trustee [is] [is not] required to treat each child equally. The trustee [may] [must] [need not] consider the beneficiary's other resources and income in making distribution decisions.

[if Client also wishes to provide benefits for older children]

If in the trustee's opinion the trust income and corpus will be sufficient to satisfy the needs of my children who are under [age] years old for the duration of this trust, the trustee may pay to or apply for the benefit of my children who are at least [age] years old so much of the income [and principal] as the trustee in the trustee's sole discretion deems advisable for the beneficiary's proper care, support, education, medical expenses, and maintenance. The trustee [is] [is not] required to treat each child equally. The trustee [may] [must] [need not] consider the beneficiary's other resources and income in making distribution decisions.

H. Events Causing Termination of this Trust

This trust terminates when the first of the following events occurs:

1. The death of all the beneficiaries [my children], or
2. My youngest child beneficiary becoming [age] years old.

I. Distribution of Property Upon Termination

1. If this trust terminates because of the death of all the beneficiaries [my children], the trustee shall deliver all remaining trust property to [Beneficiary]. If [Beneficiary] is not living at the time of trust termination, the trustee shall deliver all remaining trust property to [Alternate Beneficiary].

[Client]

[Witness One]

[Witness Two]

2. If this trust terminates because my youngest child reaches [age] years of age, the trustee shall deliver all remaining trust property to my then surviving children in equal shares.

J. Spendthrift Provision

This is a spendthrift trust, that is, to the fullest extent permitted by law, no interest in the income or principal of this trust may be voluntarily or involuntarily transferred by any beneficiary before payment or delivery of the interest by the trustee.

K. Principal and Income

The trustee shall have the discretion to credit a receipt or charge an expenditure to income or principal or partly to each in any manner which the trustee determines to be reasonable and equitable.

L. Trustee Powers

[if Client is satisfied with default powers]

The trustee shall have all powers granted to trustees under Texas law.

[if Client wishes to alter default powers]

The trustee shall have the following powers in addition to the powers Texas law grants trustees: [description]

The trustee shall not have the following powers which are ordinarily accorded trustees under Texas law: [description]

M. Exculpatory Clause

The trustee shall not be liable for any loss, cost, damage, or expense sustained through any error of judgment or in any other manner except for a breach of trust committed in bad faith, intentionally, or with reckless indifference to the interest of the beneficiary.

[Client]

[Witness One]

[Witness Two]

N. Rule Against Perpetuities Savings Clause

If a court of proper jurisdiction finds that this trust violates the Rule Against Perpetuities, the remaining trust property shall be distributed to [Beneficiary].

**ARTICLE VI
ESTATE ADMINISTRATION****A. Appointment of Independent Executor**

I appoint [Executor] as independent executor of this will. If [Executor] is unwilling or unable to serve, I appoint [Alternate Executor] as independent executor.

B. Creation of Independent Administration

To the extent permitted by law, no action shall be had in any court exercising probate jurisdiction in relation to the settlement of my estate other than the probating and recording of my will and return of an inventory, appraisalment, and list of claims of my estate.

C. Bond

No bond shall be required of any executor named in this will.

D. Executor Compensation

[executor to be compensated]

The executor shall be entitled to reasonable compensation for serving as the executor of my estate.

[executor to be uncompensated]

The executor shall not be entitled to compensation for serving as the executor of my estate.

[Client]

[Witness One]

[Witness Two]

E. Executor Powers

I vest my independent executor with full power and authority to sell, lease, encumber, or otherwise dispose of or convert any or all of my estate in such a manner as my executor may see fit, it being my desire that, subject only to the terms of this will, my independent executor shall have full power and authority to do all things reasonably necessary for the settlement of my estate.

F. Exculpatory Clause

The executor shall not be liable for any loss, cost, damage, or expense sustained through any error of judgment or in any other manner except for and as a result of the executor's own bad faith or gross negligence.

**ARTICLE VII
GUARDIANS AND CONSERVATORS**

A. Guardian of Person

I appoint [Guardian] as guardian of the person of [Child]. If [Guardian] is unwilling or unable to serve, I appoint [Alternate Guardian] as guardian of [Child].

B. Guardian of Estate

I request that the guardian of the person named in subsection A above also seek appointment as guardian of [Child's] estate.

C. Waiver of Bond

I direct that no bond or other security shall be required of any guardian appointed in my will.

[Client]

[Witness One]

[Witness Two]

TESTIMONIUM

I hereby sign my name to this my last will [in blue ink], consisting of 11 pages (each of which I am initialing and/or signing for the purpose of identification), all in the presence of the two persons who have at my request and in my presence acted as witnesses on this the [day] day of [month], [year], at [city], [state].

[Client]

ATTESTATION

The foregoing instrument consisting of 11 pages was signed, published, and declared by [Client] to be [his] [her] last will. We now, at [his] [her] request, in [his] [her] presence, subscribe our names [in blue ink] as witnesses this the [day] day of [month], [year]. For identification, we have each initialed or signed each page of this will.

[Witness One]

[Witness Two]

[Address]

[Address]

[Client]

[Witness One]

[Witness Two]

