

**LAST WILL AND TESTAMENT OF**

\_\_\_\_\_ [1]

**BE IT KNOWN THIS DAY THAT,**

I, \_\_\_\_\_ [2], of \_\_\_\_\_ [3] County, South Dakota, being of legal age and of sound and disposing mind and memory, and not acting under duress, menace, fraud, or undue influence of any person, do make, declare and publish this to be my Will and hereby revoke any Will or Codicil I may have made.

**ARTICLE ONE  
Marriage and Children**

I am single (not married). I am a parent of the following children:

Name: \_\_\_\_\_ [4] Date of Birth: \_\_\_\_\_ [5]  
Name: \_\_\_\_\_ [6] Date of Birth: \_\_\_\_\_ [7]  
Name: \_\_\_\_\_ [8] Date of Birth: \_\_\_\_\_ [9]

**ARTICLE TWO  
Debts and Expenses**

I direct my Personal Representative to pay all costs and expenses of my last illness and funeral expenses. I further direct my Personal Representative to pay all of my just debts that may be probated, registered and allowed against my estate. However, this provision shall not extend the statute of limitations for the payment of debts, or enlarge upon my legal obligation or any statutory duty of my Personal Representative to pay debts.

**ARTICLE THREE  
Specific Bequests of Real and/or Personal Property**

I will, give and bequeath unto the persons named below, if he or she survives me, the Property described below:

Name [10]	Address [11] [12] [13]	Relationship [14]
Property: [15]		

Name [16]	Address [17] [18] [19]	Relationship [20]
Property: [21]		

Signed by Testator/Testatrix: \_\_\_\_\_

Name [22]	Address [23] [24] [25]	Relationship [26]
Property: [27]		

In the event I name a person in this Article and said person predeceases me, the bequest to such person shall lapse and the property shall pass under the other provisions of this Will. In the event that I do not possess or own any property listed above on the date of my death, the bequest of that property shall lapse.

**ARTICLE FOUR  
All Property of Every Kind**

I will, devise, bequeath and give all of my property and estate of every kind and character, including, but not limited to, real and personal property in which I may have an interest at the date of my death and which is not otherwise effectively disposed of ("Residuary Estate"), to my child(ren) \_\_\_\_\_ [28]. If I have more than one child and one of my children shall predecease me, then the equal share set apart for that deceased child shall instead be distributed to his or her descendants, per stirpes. If one of my children shall predecease me leaving no descendants surviving, then the equal share set apart for that deceased child shall instead be distributed to my other child, or if that child has also predeceased me, then to his or her descendants, per stirpes.

**ARTICLE FIVE  
Property To Vest In Trustee for Minor Beneficiary**

If any of my children are minors under the age of \_\_\_\_\_ [31] years of age on the date of my death, then I direct that my Personal Representative shall transfer, assign and deliver over to my Trustee, named below, such minor beneficiary's share of my estate and the objects of property described herein. I direct my Trustee to hold said Beneficiaries share of my estate on the following terms and conditions:

**A.**

The Trustee shall hold and administer the assets of the Trust for the use and benefit of the Beneficiaries for the purpose of providing for their health, education and general welfare in accordance with their accustomed standard of living as much as is possible, considering the value of the Trust property and their other sources of income.

**B.**

The Trustee, may in his or her discretion, distribute to or for the benefit of the named Beneficiaries, such portions of the income and principal of the Trust as he or she in his or her sole discretion shall determine to be necessary to accomplish the purposes of this Trust. The Trustee may make such distributions as often or as seldom as he or she may determine in his or her sole discretion without the necessity of any court authority or approval, this being a private trust.

**C.**

As each Beneficiary herein reaches the age of \_\_\_\_\_[32] years, the Trustee shall distribute to said beneficiary his or her share of the trust principal and income as of the distribution date. When the youngest Beneficiary reaches the age of \_\_\_\_\_[33] years, the Trustee shall distribute all of the remaining Trust property including principal and accumulated income to the Beneficiary and this Trust shall terminate. In making said distributions, the Trustee may make distributions in kind and shall have the sole discretion as to valuation of the Trust property in determining and apportioning distributions among the Beneficiaries.

**D.**

In the event of the death of any of the above named Beneficiary prior to the final date of distribution, and said deceased Beneficiary shall leave living issue, the Trustee shall hold only that portion of the Trust property attributable to said deceased Beneficiary beyond the distribution dates as provided in Subparagraph C above, and administer said Trust property for the use and benefit of said living issue. When said youngest living issue reaches the age of \_\_\_\_\_[34] years, the Trust as to said living issue shall terminate and the Trustee shall distribute all of the remaining Trust property in equal shares to said living issue. In the event of the death of any of the above named Beneficiaries prior to the final date of distribution and said deceased Beneficiaries leave no living issue, then that portion of the Trust property to be distributed to the deceased Beneficiaries as provided for in Subparagraph C above, shall instead be distributed to the surviving Beneficiaries in equal shares.

**E.**

Personal and real property may be maintained for my Beneficiaries or converted to cash as my Trustee shall determine. I direct that my Trustee administer hereunder any funds coming into the hands of my Beneficiaries pursuant to any life insurance policy insuring my life.

**ARTICLE SIX  
Creditors of Beneficiaries**

Neither the principal nor the income of any Trust provision contained in this Will nor any part of same shall be liable for the debts of any Beneficiary hereunder, nor shall the same be subject to seizure by any Creditor of any Beneficiary, and no Beneficiary therein shall have any power to sell, assign, transfer, encumber, or in any manner to anticipate or dispose of his or her interest in the Trust fund, nor any part of same nor the income produced from said fund nor any part of same.

**ARTICLE SEVEN  
Appointment of Trustee**

I appoint \_\_\_\_\_[36], or if the appointee fails to qualify or cease to act, I appoint \_\_\_\_\_[37], as Trustee of the Trust provisions of this Will to serve in said capacity with all the powers during the administration of the Trust as are granted to Trustees under South Dakota law including the power to sell any of the real or personal property of the Trust for cash or on credit or to mortgage it or to lease it, all to be exercised without Court order. The Trustee named herein shall also have all powers as

are granted to my Personal Representative under the provisions of this Will during the administration of this private Trust.

**ARTICLE EIGHT**  
**Appointment of Guardian**

I appoint \_\_\_\_\_ [38], as guardian of my children who may be minors under the age of \_\_\_\_\_ [39] years.

**ARTICLE NINE**  
**Appointment of Personal Representative, Executor or Executrix**

I hereby appoint \_\_\_\_\_ [41], as Personal Representative of my estate and this Will. In the event my Personal Representative shall predecease me, or, for any reason, shall fail to qualify or cease to act as my Personal Representative, then I hereby appoint \_\_\_\_\_ [42] to serve as successor Personal Representative of my estate and Will.

The term "Personal Representative", as used in this Will, shall be deemed to mean and include "Personal Representative", "Executor" or "Executrix".

**ARTICLE TEN**  
**Waiver of Bond, Inventory, Accounting, Reporting and Approval**

My Personal Representative and successor Personal Representative shall serve without any bond, and I hereby waive the necessity of preparing or filing any inventory, accounting, appraisal, reporting, approvals or final appraisal of my estate.

**ARTICLE ELEVEN**  
**Powers of Personal Representative, Executor and Executrix**

I direct that my Personal Representative shall have broad discretion in the administration of my Estate, without the necessity of Court approval. I grant unto my Personal Representative, all powers that are allowed to be exercised by Personal Representatives by the laws of the State of South Dakota and to the extent not prohibited by the laws of South Dakota, the following additional powers:

1. To exercise all of the powers, rights and discretions granted by virtue of any "Uniform Trustees' Powers Law," and/or "Probate Code" adopted by the State of South Dakota.
2. To compromise claims and to abandon property which, in my Executor's opinion is of little or no value.
3. To purchase or otherwise acquire and to retain any and all stocks, bonds, notes or other securities, or shares or interests in investment trusts and common trust funds, or in any other property, real, personal or mixed, as my Personal Representative may deem advisable, whether or not such investments or property be of the character permissible by fiduciaries, without being liable to any person for such retention or investment.

4. To settle, adjust, dissolve, windup or continue any partnership or other entity in which I may own a partnership or equity interest at the time of my death, subject, however, to the terms of any partnership or other agreement to which I am a party at the time of my death. I authorize my Personal Representative to continue in any partnership or other entity for such periods and upon such terms as they shall determine. My Personal Representative shall not be disqualified by reason of being a partner, equity owner or title holder in such firm from participating on behalf of my estate in any dealings herein authorized to be carried on between my Personal Representative and the partners or equity owners of any such partnership or other entity.

5. To lease, sale, or offer on a lease purchase, any real or personal property for such time and upon such terms and conditions in such manner as may be deemed advisable by my Personal Representative, all without court approval.

6. To sell, exchange, assign, transfer and convey any security or property, real or personal, held in my estate, or in any trust, at public or private sale, at such time and price and upon such terms and conditions (including credit) as my Personal Representative may deem advisable and for the best interest of my estate, or any trust. I hereby waive any requirement of issuing summons, giving notice of any hearing, conducting or holding any such hearing, filing bond or other security, or in any way obtaining court authority or approval for any such sale, exchange, assignment, transfer or conveyance of any real or personal property.

7. To pay all necessary expenses of administering the estate and any trust including taxes, trustees' fees, fees for the services of accountants, agents and attorneys, and to reimburse said parties for expenses incurred on behalf of the estate or any trust hereunder.

8. Unless otherwise specifically provided, to make distributions (including the satisfaction of any pecuniary bequest) in cash or in specific property, real or personal, or in an undivided interest therein, or partly in cash and partly in other property, and to do so with or without regard to the income tax basis of specific property allocated to any beneficiary and without making pro rata distributions of specific assets.

9. To determine what is principal and what is income with respect to all receipts and disbursements; to establish and maintain reserves for depreciation, depletion, obsolescence, taxes, insurance premiums, and any other purpose deemed necessary and proper by them and to partite and to distribute property of the estate or trust in kind or in undivided interests, and to determine the value of such property.

10. To participate in any plan of reorganization, consolidation, dissolution, redemption, or similar proceedings involving assets comprising my estate or any trust created hereunder, and to deposit or withdraw securities under any such proceedings.

11. To perform such acts, to participate in such proceedings and to exercise such other rights and privileges in respect to any property, as if she or he were the absolute owner thereof, and in connection therewith to enter into and execute any and all agreements binding my estate and any trust created hereunder.

12. To compromise, settle or adjust any claim or demand by or against my estate, or any trust, to litigate any such claims, including, without limitation, any claims relating to estate or income taxes, or agree to rescind or modify any contract or agreement.

13. To borrow money from such source or sources and upon such terms and conditions as my Personal Representative shall determine, and to give such security therefor as my Personal Representative may determine.

All authorities and powers hereinabove granted unto my Personal Representative shall be exercised from time to time in her or his sole and absolute discretion and without prior authority or approval of any Court, and I intend that such powers be construed in the broadest possible extent.

## ARTICLE TWELVE Construction Intentions and Misc. Provisions

It is my intent that this Will be interpreted according to the following provisions:

1. The masculine gender shall be deemed to include the feminine as well as the neuter, and vice versa, as to each of them; the singular shall be deemed to include the plural, and vice versa.

2. The term "testator" as used herein is deemed to include me as Testator or Testatrix.

3. This Will is not a result of a contract between myself and any beneficiary, fiduciary or third party and I may revoke this Will at any time.

4. If any part of this Will shall be declared invalid, illegal, or inoperative for any reason, it is my expressed intent that the remaining parts shall be effective and fully operative and it is my intent that any Court so interpreting same construct this Will and any provision in favor of survival.

I direct that this Will and the construction thereof shall be governed by the Laws of the State of South Dakota.

**(I have placed my initials next to the provisions below that I desire to adopt. Unmarked provisions are not adopted by me and are not a part of this Will)**

\_\_\_\_\_ If any person named herein is indebted to me at the time of my death and such indebtedness be evidenced by a valid Promissory Note payable to me, then such person's portion of my estate shall be diminished by the amount of such debt.

\_\_\_\_\_ Any and all debts of my estate shall first be paid from my residuary estate. Any debts on any real property left herein shall be assumed by the person to receive such real property and not paid by my Personal Representative.

\_\_\_\_\_ I desire to be buried in the \_\_\_\_\_ [43] cemetery in \_\_\_\_\_ [44] County, \_\_\_\_\_ [45].

\_\_\_\_\_ I direct that my remains be cremated and that the ashes be disposed of according to the wishes of my Executor.

I, \_\_\_\_\_ [46], having signed this Will in the presence of \_\_\_\_\_ and \_\_\_\_\_

who attested it at my request on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at  
\_\_\_\_\_(address), declare  
this to be my Last Will and Testament.

\_\_\_\_\_  
\_\_\_\_\_  
Testator/Testatrix [47]

The above and foregoing Will of \_\_\_\_\_[48] (name of testator/testatrix) was declared by \_\_\_\_\_[49] (name of testator/testatrix) in our view and presence to be his/her Will and was signed and subscribed by the said \_\_\_\_\_[50] (name of testator/testatrix) in our view and presence and at his/her request and in the view and presence of \_\_\_\_\_[51] (name of testator/testatrix) and in the view and presence of each other, we, the undersigned, witnessed and attested the due execution of the Will of \_\_\_\_\_[52] (name of testator/testatrix) on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness Signature  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

\_\_\_\_\_  
Witness Signature  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
City, State, \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_



**South Dakota Self Proving Affidavit**

I, \_\_\_\_\_, the testator/testatrix, 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, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Testator  
Typed Name: \_\_\_\_\_

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/testatrix signs and executes this instrument as [his] [her] will and that [he] [she] signs it willingly, that [he] [she] executes it as [his] [her] free and voluntary act for the purposes therein expressed, and that each of us, in the presence and hearing of the testator/testatrix, hereby signs this will as witness to the testator's/testatrix signing, and that to the best of our knowledge the testator/testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

The State of South Dakota  
County of \_\_\_\_\_

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

(Seal)

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

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