# IDAHO WILL INSTRUCTIONS Widow or Widower with Minor Children

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1. This will is designed to be completed on your computer. To do so, use your mouse and click on each field which will be highlighted in gray. This will replace the gray with the words you type.

Example:	[:	1	will become JOHN DOE
_,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	L		, secenie <b>ee e</b> e e

If you ordered and received this Will in hard copy, you may also use these instructions to complete the will, leaving the reference numbers, and placing the names, etc you desire next to the field numbers.

- 2. The Will contains Articles which cover various matters. The information below is designed to assist you in completing the fields contained in the articles of the Will.
  - 3. Article / Field Completion Instructions

Field [1] - Your name. Field [2] - Your name

Field [3] - Your County of Residence.

#### **ARTICLE ONE**

Field [4] - Type the name of your spouse who is deceased.

Fields [5] – [10] Type the name(s) of your minor child(ren).

#### **ARTICLE THREE**

This article is for you to specify specific property to go to a specific person. If you do not leave any, type none and delete the fields.

Field [11] - Type name.

Field [12] - Type street address.

Field [13] - Additional Address line.

Field [14] - City, State, Zip. Field [15] - Relationship.

Field [16] - Describe the property to go to this person.

Field [17] - Type name.

Field [18] - Type street address.

Field [19] - Additional Address line.

Field [20] - City, State, Zip. Field [21] - Relationship.

Field [22] - Describe the property

Field [23] - Type name.

Field [24] - Type street address.
Field [25] - Additional Address line.

Field [26] - City, State, Zip. Field [27] - Relationship.

Field [28] - Describe the property

#### **ARTICLE FOUR**

This article is for you to leave your homestead, if you have one on the date of death to persons designated.

Field [29] Type name(s) of your child(ren), or other persons to

receive this property.

Fields [30]-[31] Omitted

#### **ARTICLE FIVE**

This article is for you to leave all the rest and remainder of your property except your homestead and any special items you listed in Article Three.

Field [32] Type name(s) of your child(ren), or other persons to

receive this property.

Field [33-34] Omitted

#### **ARTICLE SIX**

This article provides for the establishment of a trust for the benefit of minor beneficiaries.

Fields [35] Enter the age below which you desire that minor

beneficiaries property be placed in trust.

Fields [36-38] Enter age at which property will be released from trust.

#### **ARTICLE EIGHT**

This article provides for the appointment of a Trustee for the benefit of minor beneficiaries.

Field [39] Enter name of the Trustee.

Field [40] Enter name of alternate Trustee.

#### ARTICLE NINE

This article provides for the appointment of a guardian of minor children

Field [41] Enter the age below which you desire a guardian be

appointed for your children.

Field [42] Type the name of the guardian.

#### ARTICLE TEN

This article is for you to name your personal representative. This must be an adult and can be the person with whom you live.

Field [43] - Type name of Personal Representative.

Field [44] - Type name of successor Personal Representative.

#### ARTICLE FOURTEEN

All parts of Article 14 are optional. Complete as desired. Be sure to write your initials for any of these items you desire to apply.

Field [45] - Type name of Cemetery.

Field [46] - Type County. Field [47] - Type State.

#### **Ending and Signature**

Field [48] - Your name.
Field [49] - Your name.
Field [50] - Your name.
Field [51] - Your name.
Field [52] - Your name.
Field [53] - Your name.
Field [54] - Your name.

All other blanks in the Will are typically completed by hand, such as the names of the witnesses, day, month and year executed, etc.

Once you have completed the Will, double check all entries and then print. The Will should be signed by you in front of two witnesses, not related to you. Please sign all pages of the Will in the places designated.

The self-proving affidavit is used to prove the Will and make the Will subject to probate. If the affidavit is not completed now, someone will have to locate the witnesses after your death and obtain an affidavit. Therefore, it is best to sign the Will in the presence of two witnesses AND a notary public so that the affidavit can be completed by the Notary.

You should keep your Will in a safe place once executed. It is also recommended that you give a copy to your executor or other person as additional proof of execution.

#### ADDITIONAL INFORMATION ABOUT YOUR WILL FORM

This section will briefly explain some of the articles of your will and provide other information. Articles of the Will which are basically self explanatory are not discussed here. In addition, information which is already provided in the instructions above is not repeated.

**First Paragraph:** The first paragraph of the Will, provides your name, residence information and provides that all prior Wills, if any, are revoked since you have now made a new Will.

**Article Three:** Some people have specific property that they desire to leave to a specific person, such as a ring or antique. This Article is for you to leave such property. You do not have to name specific property and may simply state none if no property is to be left under this Article.

**Article Ten:** This Article is for you to name a personal representative, also called executor or executrix. The person named should be an adult.

**Article Eleven:** If not waived, some Courts will require your Personal Representative post a bond, and file an inventory, accounting and/or appraisal. All can be costly and time consuming. This Article states your intention that your Personal Representative not be required to post a bond or file an inventory or accounting.

**Article Twelve:** This Article sets forth powers of your Personal Representative and is designed to give broad powers without the requirement that Court approval be sought for action by the Representative to the extent permitted by the laws of your State.

**Article Thirteen:** This article sets forth some legal construction intentions to clarify some of the issues which may arise.

В	ASIC INFORMATION
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What is a Will? A Will is document which provides who is to receive your property death. at who will administer your estate. the appointment trustees of and guardians, if applicable. other and provisions.

make a Will?
Generally, any person 18 years or older of sound mind

may

Who

older of sound mind may make a Will. (Some states allow persons under 18 to make a Will)

What happens if I die without a Will? lf you die without a will you are an intestate. In such a case, state laws govern who receives your property. These laws are called "intestate succession laws". If you die without a Will, the Court decides who will administer

your estate. Generally, it more expensive to administer an estate of а person who died without а Will, than a person who dies with a Will.

#### General

When

Will

making

а

you

need to consider who will be named as your personal representativ e or executor to administer your estate, who you will name guardian and trustee of minor children if your spouse does not survive you and who will receive your property. You should also consider issues. tax The person appointed as executor or administrator is often your spouse, but you should also name an alternate, in case your spouse predeceases you. The person you name should be a person you can trust and who will get along with the beneficiaries named in the Will.

In the event your spouse predeceases you, the guardian you name will have actual custody of minor your children unless а court appoints someone else. The trustee you appoint to administer a trust you established will be in charge of the assets of the trust for the benefit of the minor beneficiaries.

Generally, a Will must be signed in the presence of at least two witnesses (three for Vermont) who also sign the Will. notary public will also need to sign if the Will contains а selfproving affidavit. Generally, a self-proving affidavit allows the Will to be admitted to probate without other

evidence of execution.

## Joint Property:

Many people do not understand that joint property may pass outside your Will and also sometimes assume that it will pass through their Will. They do not understand the significance joint of ownership. The issue is common in the following areas, provided as examples:

## (a) Real Estate:

Often. а husband and wife will own real estate joint as tenants with riahts survivorship. If one party dies, the surviving party receives the property regardless of what the Will provides. This is common and generally acceptable. However, if this is not your desire you should change the ownership of

the property to tenants in common or other form of ownership. If you own real estate as tenants in common, then you may designate who will receive your share of the property at your death. This issue be a can problem when uninformed persons take title to real estate as joint tenants with rights of survivorship but really intended to leave their share to, for example, children of a prior marriage.

(b) Ban k
Accounts/C ertificates of Deposit, Stock, Retirement Plans, IRA's and other type Property:

The same ownership as real estate can be made of these investments. In fact, many Banks routinely place Bank accounts and

Certificates of Deposit in the joint tenant with right of survivorship form of ownership if more than one person on the account or CD, without advising you the consequenc e of same. In situations where the persons are husband and wife and there is no issue or concern over divorce children from previous marriages, this may be best the course of action. However, with divorce on the rise, premarital agreements and multiple marriages beina common, the parties may be doing something that was not their intent. Another common problematic situation is where а parent has more than one child but only one child resides in the home town of the

parent. The

may

parent

place the name of the child who resides there on all accounts, CD's and other investments for convenience reasons and establish joint tenant with right of survivorship situation without realizing that only that child will be entitled to those assets at the parent's death. Simply put, should you be aware when you acquire an asset or investment exactly how it is titled.

For additional information, see the Law Summary and Information and Preview links in the search results for this form. A Definitions section is also linked on the Information and Preview page.

#### **DISCLAIMER/LICENSE/LIABILITY LIMITATION**

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### LAST WILL AND TESTAMENT OF

_		[1]
BE IT KNOWN T	THIS DAY THAT,	
menace, fraud, or undu	[2], of	[3] County, Idaho, memory, and not acting under duress, ake, declare and publish this to be my de.
	ARTICLE ONE Marriage and Child	ren
I was married to minor children from a sa		now deceased, and have the following
Name: Name: Name:	[5] Date of Bir [7] Date of Bir [9] Date of Bir	th:[6] th:[8] th:[10]
	ARTICLE TWO Debts and Expens	es
expenses. I further dire probated, registered and the statute of limitations statutory duty of my Pers	ect my Personal Representative to d allowed against my estate. Ho	Ē
I will, give and b property described below		d below, if he or she survives me, the
Name [11]	Address [12] [13] [14]	Relationship [15]
Property: [16]		
Name [17]	Address [18] [19] [20]	Relationship [21]
Property: [22] Name	Address	Relationship
by Testator/Testatrix:	- 1 -	
	- 1 -	

[23]	[24] [25] [26]	[27]
Property: [28]	[20]	
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.		
Но	ARTICLE mestead or Prin	FOUR mary Residence
110	inestead of 1 in	nary residence
homestead or primary residence	e on the date of r	y homestead or primary residence, if I own a my death that passes through this Will, to my [29]. If I have and
name more than one child, they	are to receive the	property, equally, per stirpes.
	ARTICLE	= FIVF
All Rem	_	/ – Residuary Clause
		•
kind and character, including, b	ut not limited to, re	remainder of my property and estate of every eal and personal property in which I may have ot otherwise effectively disposed of, to [32]. If I have and
name more than one child, they	are to receive the	
	ARTICLI	F SIX
Property T	_	ee for Child Beneficiary
my Trustee, named below, suc	ersonal Representa ch beneficiary's sh	der the age of[35] years ative shall transfer, assign and deliver over to hare of my estate and the objects of property said Beneficiaries share of my estate on the
Α.		
the Beneficiaries for the purpos	se of providing for ned standard of li	assets of the Trust for the use and benefit of their health, education and general welfare in iving as much as is possible, considering the s of income.

В.

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 \_\_\_\_\_\_\_[36] 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 \_\_\_\_\_\_[37] 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 \_\_\_\_\_\_\_[38] 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 SEVEN 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.

Signed by Testator/Testatrix:	

# ARTICLE EIGHT Appointment of Trustee

I appoint	_[39], or if the appointee fails to qualify or		
cease to act, I appoint provisions of this Will to serve in said capacity with	[40], as Trustee of the Trust all the powers during the administration of		
the Trust as are granted to Trustees under Idaho la			
or personal property of the Trust for cash or on cre			
exercised without Court order. The Trustee name			
granted to my Personal Representative under administration of this private Trust.	the provisions of this Will during the		
ARTICLE N	IINE		
Appointment of	Guardian		
In the event that a guardian is necessary for a	any of my children that may be under the age		
of[41] years, then on	the date of my death, I appoint an of said children.		
ARTICLE			
Appointment of Personal Represen	tative, Executor or Executrix		
I hereby appoint	[43], as Personal Representative of my		
estate and this Will. In the event my Personal Repr			
reason, shall fail to qualify or cease to act as my Pe	rsonal Representative, then I hereby appoint s successor Personal Representative of my		
estate and Will.	s successor reisonal Representative of my		
The term "Personal Representative", as used in this	. Will shall be deemed to mean and include		
"Personal Representative", "Executor" or "Executrix"			
ARTICLE EL	EVEN		
Waiver of Bond, Inventory, Accoun-	ting, Reporting and Approval		
My Personal Representative and successor Personal	onal Representative shall serve without any		
bond, and I hereby waive the necessity of prej			
appraisal, reporting, approvals or final appraisement			
ARTICLE TWELVE			
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			
powers that are allowed to be exercised by Persona Idaho and to the extent not prohibited by the laws of			
To exercise all of the powers, rights and di	scretions granted by virtue of any "Uniform		
Trustees' Powers Law," and/or "Probate Code" adop			
hv Testator/Testatriy			

- 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.

Signed by Testator/Testatrix: _	
	- 5 -

- 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, and to 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 THIRTEEN Construction Intentions

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

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.

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

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.

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.

## ARTICLE FOURTEEN Misc. Provisions

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

(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.  Signed if Selected:

I desire to be buried in the[46] County, Signed if Selected:	[45] cemetery in[47].	
I direct that my remains be cre according to the wishes of my Exec	emated and that the ashes be disposed of cutor.	
I,andit at my request on this the this to be my Last Will and Testament.	], having signed this Will in the presence of who attested day of, 20 at(address), declare	
The above and foregoing Will of testator/testatrix) was declared by testator/testatrix) in our view and presence to be	[51] (name of his/her Will and was signed and subscribed by	
the said[52] (name of testator/testatrix) in our view and presence and at his/her request and in the view and presence of[53] (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[54] (name of testator/testatrix) on this theday of, 20		
Print Name:	Witness Signature Print Name: Address:	
	City, State, Zip: Phone:	

Signed by Testator/Testatrix: \_\_\_\_\_\_\_ - 7 -

### **Idaho Self Proving Affidavit**

will and that I sign it willingly, that I execute i	, the testator/testatrix, sign my name to this, 20, and being first duly sworn, do that I sign and execute this instrument as my last it as my free and voluntary act for the purposes L8) years of age or older, of sound mind, and under
Typed Name:	
witnesses, sign our names to this instrumen the undersigned authority that the testator/te her last will and that he or she signs it willing of the testator/testatrix, hereby signs this wil	nd, the t, being first duly sworn, and do hereby declare to estatrix signs and executes this instrument as his or gly, and that each of us, in the presence and hearing I as witness to the testator's/testatrix's signing, and testator/testatrix is eighteen (18) years of age or ant or undue influence.
	Witness
	Witness
The State of Idaho County of	
Subscribed, sworn to and acknowledged be testator/testatrix and subscribed and sworn , witnesses,	fore me by, the to before me by, and this day of, 20
(Seal)	
	(Signed)
	(Official capacity of officer)