**LAST WILL AND TESTAMENT**

**OF**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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 **Introductory Clause**. I, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a resident of and domiciled in the County of Charleston and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

 I am married to **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**. I have one child at this time, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**ITEM I**

 **Direction to Pay Debts with Discretionary Refinancing by Personal Representative**. I direct that all my legally enforceable debts, secured and unsecured, be paid as soon as practicable after my death. I direct that my Personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my Personal Representative may deem advisable taking into consideration the best interest of the beneficiaries hereunder. If at the time of my death any of the real property herein devised is subject to any mortgage, I direct that the devisee taking such mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the obligation secured thereby paid out of my general estate.

SAMPLE

**ITEM II**

 I direct that:

 (1) **Direction to Pay All Taxes from Residuary Estate**. Except as provided in (2) herein, all estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes) assessed with respect to my estate herein disposed of, or any part thereof, or on any bequest or devise contained in this my Last Will (which term wherever used herein shall include any Codicil hereto), be paid out of my residuary estate and shall not be charged to or against any recipient, beneficiary, transferee or owner of any such property or interests in property included in my estate for such tax purposes.

 (2) **Apportion Taxes on Nonprobate Property**. All such taxes in respect to any property or interests in property included in my gross estate under Sections 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, and 2044 of the Internal Revenue Code shall be charged against and paid by the recipient or beneficiary of such property or interest in property or from the property or interest in the property, provided, however: (a) there shall be no apportionment against any donee or recipient or any such property or interest in property which is a qualified charity under Section 2055 and the property or interest in property was allowed in my federal estate tax proceedings as a charitable deduction; (b) there shall be no apportionment against my surviving wife, if she is a donee or recipient of any such property or interest in property and the property or interest in property was allowed in my federal estate tax proceedings as a marital deduction under I.R.C. Section 2056. The amount of the tax to be charged against such donee or recipient shall be determined by multiplying a fraction (the numerator of which shall be the federal estate tax value of the property to the apportioned as finally determined in my federal estate tax proceedings and the denominator of which shall be the total value of my taxable estate for such federal estate tax purposes) times the net amount of such taxes payable by my estate after the application of all credits against such taxes.

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**ITEM III**

 **General Bequest of Personal and Household Effects With a Mandatory Memorandum.** I give and bequeath all my personal and household effects of every kind including but not limited to furniture, appliance, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, as follows:

 (1) I may leave written memoranda disposing of certain items or my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Personal Representative’s qualification, it shall be conclusively presumed that there is no such memoranda and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternative provision has been made shall pass according to the provisions of the following paragraph, and not pursuant to any anti-lapse statute.

SAMPLE

 (2) In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, I give and bequeath the rest of my personal and household effects of every kind to my wife, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, if she shall survive me. If my wife shall not survive me, I give and bequeath all this property to my children surviving me, in approximately equal shares; provided, however, the issue of a deceased child surviving me shall take per stirpes the share their parent would have taken had he or she survived. If my issue do not agree to the division of the property among themselves, my Personal Representative shall make such division among them, the decision of my Personal Representative to be in all respects binding upon my issue. If any beneficiary hereunder is a minor, my Personal Representative may distribute such minor’s share to such minor or for such minor’s use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Personal Representative. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

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**ITEM IV**

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 **Specific Devise of automobile**. I give and devise to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ any automobile that I may own.

**ITEM V**

 **Specific Devise of Residential Property (Not Identified).** I give and devise to **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, if she shall survive me, any interest which I own at the time of my death in the house and lot which I occupy as my residence at time of my death. If this property at the time of my death is subject to any mortgage, then this devise shall be subject thereto and the devisee shall not be entitled to have the obligation secured by such mortgage paid out of my general estate.

**ITEM VI**

SAMPLE

 **Outright Gift of All Property to Wife, Contingent Gift to Issue**. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises) wherever situate and whether acquired before or after the execution of this Will, absolutely in fee simple to my wife, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, if she shall survive me. If she shall not survive me, then I give, devise and bequeath all of the property to my surviving children in equal shares, provided, however, the ten living issue of a deceased child of mine shall take per stirpes the share their parent would have taken had he or she survived me.

**ITEM VII**

 **Naming the Personal Representative, Personal Representative Succession, Personal Representative’s Fees and other Matters.** The provisions for naming the Personal Representative, Personal Representative succession, Personal Representative’s fees and other matters are set forth below:

 (1) **Naming an Individual Personal Representative**. I hereby nominate, constitute, and appoint as Personal Representative of this my Last Will and Testament **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** and direct that she shall serve without bond.

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 (2) **Naming Individual Successor or Substitute Personal Representative.** If my individual Personal Representative should fail to qualify as Personal Representative hereunder, or for any reason should cease to act in such capacity, the successor or substitute Personal Representative who shall also serve without bond shall be **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.

 (3) **Final Succession If Individual Successor Personal Representative Cannot Act.** If my individual successor Personal Representative should fail to qualify as Personal Representative hereunder or for any reason should cease to act in such capacity, then the successor or substitute Personal Representative who shall also serve without bond shall be **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.

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 (4) **Fee Schedule for Individual Personal Representative.** For its services as Personal Representative, the individual Personal Representative shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses.

 (5) **Fee Schedule for Corporate Personal Representative.** For its services as Personal Representative, the corporate Personal Representative shall receive an amount determined by its Standard Fee Schedule in effect and applicable at the time of the performance of such services. If no such schedule shall be in effect at that time, it shall be entitled to reasonable compensation for the services rendered.

 (6) **Change in Corporate Fiduciary.** Any corporate successor to the trust business of the corporate fiduciary designated herein or at any time acting hereunder shall succeed to the capacity of its predecessor without conveyance or transfer.

SAMPLE

**ITEM VIII**

 **Definition of Personal Representative.** Whenever the word “Personal Representative” or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Personal Representative named herein and to any successor or substitute Personal Representative acting hereunder, and such successor or substitute Personal Representative shall possess all the rights, powers and duties, authority and responsibility conferred upon the Personal Representative originally named herein.

**ITEM IX**

 **Powers for Personal Representative.** By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Personal Representatives generally my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general, to exercise all the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Personal Representative may seem best, and to execute and deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

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**ITEM X**

 **Provision for Personal Representative to Act as Trustee for Beneficiary Under Age Twenty-One.** If any share or property hereunder becomes distributable to a beneficiary who has not attained the age of Twenty-one (21) years or if any real property shall be devised to a person who has not attained the age of Twenty-one (21) years at the date of my death, then such share or property shall immediately vest in the beneficiary, but notwithstanding the provisions herein, my Personal Representative acting as Trustee shall retain possession of the share or property in trust for the beneficiary until the beneficiary attains the age of Twenty-one (21), using so much of the net income and principal of the share or property as my Personal Representative deems necessary to provide for the proper support, medical care, and education of the beneficiary, taking into consideration to the extent my Personal Representative deems advisable any other income or resources of the beneficiary or his or her parents known to my Personal Representative. Any income not so paid or applied shall be accumulated and added to principal. The beneficiary’s share or property shall be paid over, distributed and conveyed to the beneficiary upon attaining age Twenty-one (21), or if he or she shall sooner die, to his or her personal representatives. Whenever my Personal Representative determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, benefit of a beneficiary for whom a trust is created hereunder, benefit of a beneficiary for whom a trust is created hereunder then the amounts shall be paid out by my Personal Representative in such of the following ways as my Personal Representative deems in such of the following ways as my Personal Representative deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the care, support and education. My Personal Representative as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Personal Representative.

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**ITEM XI**

 **Discretion Granted to Personal Representative in Reference to Tax Matters.** My Personal Representative as the fiduciary of my estate shall have the discretion, but shall not be required when allocating receipts of my estate between income and principal, to make adjustments in the rights of any beneficiaries, or among the principal and income accounts to compensate for the consequences of any tax decision or election, or of any investment or administrative decision, that my Personal Representative believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others; provided, however, my Personal Representative shall not exercise its discretion in a manner as may be herein provided. In determining the state or federal estate and income tax liabilities of my estate, my Personal Representative shall have discretion to select the valuation date and to determine whether any or all of the allowable administration expenses in my estate shall be used as state or federal estate tax deductions or as state or federal income tax deductions and shall have the discretion to file a joint income tax return with my wife.

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**ITEM XII**

 **Definition of Children.** For purposes of this Will, “children” means the lawful blood descendants in the first degree of the parent designated; and “issue” and “descendants” mean the lawful blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of such adopting parent and such adopted child and his or her issue shall be considered as issue of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or either of the adopting parents. The terms “child,” “children,” “issue,” “descendant” and “descendants” or those terms preceded by the terms “living” or “then living” shall include the lawful blood descendant in the first degree of the parent designated even though such descendant is born after the death of such parent.

SAMPLE

 The term “per stirpes” as used herein has the identical meaning as the term “taking by representation” as defined in the South Carolina Probate Code.

**ITEM XIII**

 **Definition of Words Relating to the Internal Revenue Code.** As used herein, the words “gross estate,” “adjusted gross estate,” “taxable estate,” “unified credit,” “state death tax credit,” “maximum marital deduction,” “marital deduction,” “pass,” and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to my estate. For purposes of this Will, my “available generation-skipping transfer exemption” means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of my death reduced by the aggregate of (1) the amount, if any, of my exemption allocated to lifetime transfers of mine by me or by operation of law, and (2) the amount, if any, I have specifically allocated to other property of my gross estate for federal estate tax purposes. For purposes of this Will if at the time of my death I have made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and I have not yet filed a return, it shall be deemed that my generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to Sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

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**ITEM XIV**

 **Provision for Appointment by a Married Person of a Testamentary Guardian.** If my wife shall predecease me, or if my wife dies after my death without having appointed a testamentary guardian for any minor child or children of ours, then I hereby nominate, constitute, and appoint J. James Client as testamentary guardian of the person and the property of such minor child or children and to the extent allowed by law direct that such guardian shall serve without bond.

**ITEM XV**

 **Simultaneous Death Provision Presuming Beneficiary Predeceased Testator.** If any beneficiary and I should die under such circumstances as would make it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of this Will that the beneficiary predeceased me.

 **Testimonium, Attestation and Self-Proving Affidavit**.

SAMPLE

 I, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, the Testator, sign my name to this instrument this \_\_\_\_ day \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2002, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last 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 years of age or older, of sound mine, and under no constraint or undue influence.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 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 signs and executes this instrument as his Last Will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the Testator, and in the presence of each other, 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.

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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **(WITNESS)**

 \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_

 **(WITNESS)**

**THE STATE OF SOUTH CAROLINA**

**COUNTY OF CHARLESTON**

 Subscribed, sworn to, and acknowledged before me by **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, the Testator, and subscribed and sworn to before me by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, witnesses, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NOTARY PUBLIC FOR SOUTH CAROLINA**

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

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