# *THE*
# *LAST WILL AND TESTAMENT*
# *OF*

## *John Doe*

### DECLARATION

I, John Doe, a resident of the state of Colorado and being of sound mind and memory, do hereby make, publish, and declare this to be my last will and testament, thereby revoking and making null and void any and all other last will and testaments and/or codicils to last will and testaments heretofore made by me. All references herein to "**this Will**" refer only to this last will and testament.

### FAMILY

**[This section varies based upon your marital and parental status.]**

At the time of executing this Will, I am married to Jane Doe. The names of my children are listed below. Unless otherwise specifically indicated in this Will, any provision for my children includes the below-named children as well as any child of mine hereafter born or adopted.

Ann Doe
Charles Doe

### DEBT

I direct that as soon as is practical after my death, the executor named pursuant to this Will review all of my just debts and obligations, including last illness and funeral expenses, except for those secured long-term debts that may be assumed by the beneficiary of such property, unless such assumption is prohibited by law or on agreement by the beneficiary. The executor is further directed to pay any attorneys' fees and any other estate administration expenses. The executor shall pay these just debts only after a creditor provides timely and sufficient evidence to support its claim and in accordance with applicable state law.

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I direct that any estate, inheritance, and succession taxes, including any interest and penalties thereon, imposed by the federal government or any state, district, or territory, attributable to assets includible in my estate, passing either under or outside of this Will, be apportioned among the persons interested in my estate in accordance with the Uniform Estate Tax Apportionment Act, as amended, as set forth in the Uniform Probate Code.

I further direct that if any beneficiary named in this Will is indebted to me at the time of my death, and evidence of such indebtedness is provided or made available to my executor, that share of my estate that I give to any and each such beneficiary be reduced in value by an amount equal to the proven indebtedness of such beneficiary unless: (i) I have specifically provided in this Will for the forbearance of such debt, or (ii) such beneficiary is the sole principal beneficiary.

## SPECIAL DIRECTIVES

**[This section only appears if you include instructions regarding issues not covered in the document, or to provide clarification regarding specific issues of concern to you:]**

Notwithstanding any other provision of this Will, I furthermore direct that:

These are my additional instructions.

## DISTRIBUTION

I give, devise and bequeath all of the rest, remainder and residue of my Estate, whether real or personal property of whatsoever kind or character and wherever situated, to the Trustees or co-trustees, whichever applicable, named and appointed under the declaration of trust known as The John Doe and Jane Doe Living Trust, dated _____ , 20___, as then written or thereafter amended (the "Trust"), to be added to the property then held IN TRUST and to become one and a part of the trust corpus, subject to the terms and conditions of the Trust, except the following property, if any and if owned by me at the time of my death, which will be distributed as follows:

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**[This paragraph will appear if you elect to leave gifts specific bequests:]**

- To my brother, David Doe,
  I give: All of my tools in the shed.

If at the time of my death the Trust is revoked or fails for any reason, I incorporate herein by reference the terms of the Trust that are in effect on the date of the Trust's execution, and give the rest, remainder, and residue of my estate to the trustee named in said Trust, to be held, administered, and distributed in accordance with the terms of the Trust incorporated herein.

## EXECUTOR NOMINATION

I nominate Jane Doe to be the executor of this Will.

If, for any reason, my first nominee executor is unable or unwilling to serve or to continue to serve as executor of this Will, I nominate James Smith, to be the executor of this Will.

If, for any reason, all of the nominees designated above are unable or unwilling to serve or to continue to serve as executor of this Will, I nominate Judy Smith, to be the executor of this Will.

If none of the nominated executors are able and willing to serve or continue to serve, and the vacancy is not filled as set forth above, the majority of estate beneficiaries shall nominate a successor executor. If the majority of estate beneficiaries are unable to nominate a successor executor, the vacancy will be filled pursuant to a petition filed in a court of competent jurisdiction by the resigning executor or any person interested in the estate.

## MISCELLANEOUS EXECUTOR PROVISIONS

The term "**executor**" includes any executrix, personal representative, or administrator, if those terms are used in the statutes of any state that has jurisdiction over all or any portion of my estate.

My executor will have broad and reasonable discretion in the administration of my estate to exercise all of the powers permitted to be exercised by an executor under state law, including the power to sell estate assets with or without notice, at either public or private sale, and to do everything he or

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she deems advisable and in the best interest of my estate and the beneficiaries thereof, all without the necessity of court approval or supervision. I direct that my executor perform all acts and exercise all such rights and privileges, although not specifically mentioned in this Will, with relation to any such property, as if the absolute owner thereof and, in connection therewith, to make, execute, and deliver any instruments, and to enter into any covenants or agreements binding my estate or any portion thereof.

If there are two co-executors serving, they shall act by unanimous agreement. If there are more than two co-executors serving, they shall act in accordance with the decision made by the majority of co-executors.

Subject to specific provisions to the contrary, I authorize my executor to distribute a share of my estate given to a minor beneficiary, up to the whole thereof, to a custodian under the applicable Transfers to Minors Act or Gifts to Minors Act, if in the executor's discretion, it is in the best interests of the beneficiary. The executor may also make distributions to a minor by making distributions to the guardian of the minor's person, or the guardian of the minor's estate.

No person named as an executor is required to post any bond.

I authorize my executor to make the following choices or elections in my executor's absolute discretion, regardless of the resulting effect on any other provisions of this Will or on any person interested in my estate or in the amount of any of the taxes referred to: (a) choose a valuation date for estate or inheritance tax purposes or choose the methods to pay estate or inheritance taxes; (b) elect to treat or use an item, for either federal or state tax purposes, as either an income tax deduction or as a deduction for estate or inheritance tax purposes; (c) determine when a particular item is to be treated as taken into income or used as a tax deduction, to the extent the law provides that choice; and (d) disclaim all or any portion of any interest in property passing to my estate at or after my death, even though any of these actions may subject my estate to additional tax liabilities. No person adversely affected by my executor's exercise of discretion under this clause is entitled to any reimbursement or adjustment, and my executor is not required to make any adjustment between income and principal or in the amount of any property passing under this Will as a result of any election under this provision.

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I authorize my executor, without obtaining court approval, to employ professional investment counsel on such terms as my executor considers proper, and to pay the fees of investment counsel as an expense of administration of my estate. However, my executor is under no obligation to employ any investment counsel.

I authorize my executor either to continue the operation of any business belonging to my estate for such time and in such manner as my executor may consider advisable and in the best interest of my estate, or to sell or liquidate the business at such time and on such terms as my executor may consider advisable and in the best interest of my estate. Any such good faith operation, sale, or liquidation by my executor will be at the risk of my estate and without liability on the part of my executor for any losses that may result.

## GUARDIAN NOMINATION

**[The section only appears if you have children, and nominate a guardian of a minor child in your Will:]**

I nominate Jane Doe to be the guardian of the person and estate of each minor child of mine.

If, any time during the minority of any child of mine, my first nominee guardian, for any reason, is unable or unwilling to serve or to continue to serve as guardian of the person and estate of each minor child, I nominate Helen Doe to be the guardian of the person and estate of each minor child of mine.

If, at any time during the minority of any child of mine, none of the individual(s) named above are able and willing to serve or to continue to serve guardian of the person and estate of each such child, I nominate James Doe to be the guardian of the person and estate of each minor child of mine.

**[The section only appears if you nominate a guardian of a minor child:]**

## ADDITIONAL GUARDIANSHIP PROVISIONS

The term "**guardian**" as used in this Will includes any person herein named as a guardian of both the person and estate of my minor children.

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As it is my desire that the loving care and treatment of my minor children be trusted in the guiding hands of the person designated by me as guardian of my minor children, I wish said guardian to exercise broad and reasonable discretion in dealing with the person and estate of my minor children so as to be able to do everything deemed advisable in the best interest of said minor children.

I direct that the guardian of my minor children perform all acts, take all proceedings, and exercise all such rights and privileges, although not specifically mentioned in this Will, with relation to any matter affecting both the person and estate of those minor children.

If there are two co-guardians serving, they shall act by unanimous agreement. If there are more than two co-guardians serving, they shall act in accordance with the decision made by the majority of co-guardians.

No person named as guardian in this Will is required to file any bond.

**SIMULTANEOUS DEATH**

If it cannot be established if a beneficiary of my estate survived me, the provisions of the applicable Uniform Simultaneous Death Act, as amended, or any substantially similar successor act effective on the date of my death, will apply.

**NONLIABILITY OF FIDUCIARIES**

Any fiduciary, including my executor and any trustee, who in good faith endeavors to carry out the provisions of this Will, will not be liable to me, my estate, my heirs, or my beneficiaries for any damages or claims arising because of their actions or inaction, or the actions of any predecessor fiduciary acting pursuant to this Will. My estate will indemnify and hold them harmless.

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**SAVINGS CLAUSE**

If a court of competent jurisdiction at any time invalidates or finds unenforceable any provision of this Will, such invalidation will not invalidate the whole of this Will. All of the remaining provisions will be undisturbed as to their legal force and effect. If a court finds that an invalidated or unenforceable provision would become valid if it were limited, then such provision will be deemed to be written, deemed, construed, and enforced as so limited.

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**IN WITNESS WHEREOF**, I, the undersigned testator, declare that I sign and execute this instrument on the date written below as my last will and testament and further declare that I sign it willingly, that I execute it as my free and voluntary act for the purposes expressed in this document, and that I am eighteen years of age or older, of sound mind and memory, and under no constraint or undue influence.

_____
(Signature of John Doe)

Date: _____

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## ATTESTATION CLAUSE

This last will and testament, which has been separately signed by John Doe, the testator, was signed, executed and declared by the above named testator as his or her last will and testament in the presence of each of us. We, in the presence of the testator and each other, at the testator's request, hereby subscribe our names as witnesses to the declaration and execution of the last will and testament by the testator, and we declare that, to the best of our knowledge, said testator is eighteen years of age or older, of sound mind and that this last will and testament was not procured by duress, menace, fraud or undue influence. We further declare that each of us is age 18 or older and a competent witness.

Each of us declares under the penalty of perjury under the laws of the state of Colorado that the foregoing is true and correct.

1. _____ _____
(Signature of witness) (Print Name)

Date:_____ _____
(Address)

_____
(City, State, ZIP)

2. _____ _____
(Signature of witness) (Print Name)

Date:_____ _____
(Address)

_____
(City, State, ZIP)

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**[This section only appears if you include final instructions and varies based upon your preference for the disposition of your remains.]**

## STATEMENT OF INTERMENT, CREMATION and WISHES

I, John Doe, the undersigned, having previously executed a last will and testament on the date hereof, hereby state that in addition to the directives and bequests set forth in said last will and testament, it is my desire that my remains be treated in the manner described below.

My further wishes are as follows: Sample instructions.

Dated:_____ _____
(Signature of John Doe)

## WITNESS ATTESTATION CLAUSE

This statement of interment, cremation, and wishes, which has been separately signed by John Doe, was signed, executed, and declared in the presence of each of us. We, in the presence of John Doe and each other, under penalty of perjury, hereby subscribe our names as witnesses to the declaration and execution of the statement of interment, cremation, and wishes by John Doe, and we declare that, to the best of our knowledge, John Doe is eighteen years of age or older, of sound mind and memory, and under no constraint or undue influence.

1. _____ _____
(Signature of witness) (Print Name)

Date:_____ _____
(Address)

_____
(City, State, ZIP)

2. _____ _____
(Signature of witness) (Print Name)

Date:_____ _____
(Address)

_____
(City, State, ZIP)

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**SELF-PROVING AFFIDAVIT**

State of Colorado
County of Denver

We, John Doe, _____and _____ the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as the testator's last will and that the testator signed willingly or willingly directed another to sign for the testator, and that he executed it as the testator's free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of our knowledge the testator was at that time an adult person, of sound mind and under no constraint or undue influence.

_____
Signature of John Doe

_____ _____
Signature of Witness Signature of Witness

Subscribed, sworn to and acknowledged before me by John Doe, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, _____.

(SEAL) _____
Signature of Notary Public

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