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DEKALB PROBATE COURT

2020-1458

**LAST WILL AND TESTAMENT**

**OF**

**Thomas Josiah McCord**

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Prepared By:  
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**Note to Executor:**

Please contact ROBERTS, ERCK & CLEVELAND if you have any questions or need assistance in interpreting this document, the probate of the Will, or the administration of the Estate. Upon the death of Thomas Josiah McCord, the Executor is entitled to an initial consultation of up to one hour at no charge.

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**Note to Thomas Josiah McCord:**

You may contact ROBERTS, ERCK & CLEVELAND if you have any questions regarding the purpose, effect, or meaning of this document. There is no additional charge for this service.

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## LAST WILL AND TESTAMENT

OF

Thomas Josiah McCord

I, Thomas Josiah McCord, the Testator, presently residing in Dekalb County, Georgia, being of sound and disposing mind and memory, do make, publish, and declare this to be my Last Will and Testament, hereby revoking any and all Wills and Codicils previously made by me in the United States of America.

I.

### EXPLANATION OF TERMS

(a) The term "Testator" shall refer to both the male and female genders; furthermore, throughout this Will, wherever the context requires or permits, genders shall be interchangeable and the singular number shall be deemed to include the plural, and vice versa.

(b) The term "Devise" shall refer to the distribution of real property, personal property, or both, as the context requires or permits; furthermore, the terms "Devisee" and "Beneficiary" shall be interchangeable where the context requires or permits.

(c) The term "my spouse" shall refer to the person to whom I am married at the time I execute this document; provided that I shall not be deemed to have a spouse if at the time of my death I am not married to that spouse by reason of divorce. The term "my children" shall include all of my children, whether born before or after the execution of this document; and the terms "child", "children", and "issue" shall include such child, children, and/or issue in gestation at the time of my death who are born alive within ten (10) months of my death. For the purposes of this Will, an adopted child shall be treated in all respects as if a natural child or issue of the adopting parents, regardless of whether such child is adopted before or after the execution of this Will. The term "my stepchildren" shall refer only to the children of the person to whom I am married at the time I execute this document, which children are not my children; provided that it shall not include such children if at the time of my death I am not married to that spouse by reason of divorce or am legally separated from that spouse.

(d) The term "Executor" shall refer to the Executor, Executrix, or Co-Executors, as the case may be, of my estate or to any successor or alternate thereto; provided, however, that in the case of Co-Executors, if one of the persons named has died, the surviving named person or persons shall act as the sole Executor. Katauna Nikol King shall serve as said Executor of my estate. <sup>(B)</sup>

II.

### DEBTS, ADMINISTRATION EXPENSE, AND TAXES

I direct my Executor, as soon as practicable after my death, to pay from my residuary estate or otherwise satisfy for the purposes of Georgia law, any debts of mine that are not barred by any applicable statute of limitation. I also direct the Executor to



pay from my residuary estate, my funeral expenses, the expenses of administering my estate, and any estate, inheritance, or other death taxes attributable to property passing under this Will or outside of this Will (including specifically the proceeds of any life insurance policies on my life), except the Executor shall make such claim as is permitted by law for any death taxes attributable to property over which I have a power of appointment or to the inclusion of qualified terminable interest property in my estate.

### III.

#### POWERS OF ADMINISTRATION

(a) In addition to and without limitation upon any powers granted by this Will or by law, the Executor, and any successor, shall have the following powers, which shall be exercisable in the Executor's discretion and in such manner as the Executor may deem equitable and just without order of or report to any court:

(1) To lease, sell, exchange, or otherwise dispose of any property owned by me at my death or acquired by the Executor after my death, at public or private sale, as the Executor deems best; and to make any election permitted by tax laws.

(2) To invest any monies or other properties in my estate in such stocks, bonds, notes, certificates of deposit, real estate, improvements thereon, or to make any other investment the Executor deems best.

(3) To use real estate brokers, accountants, attorneys, financial advisors, and others to assist in the administration of my estate, at the discretion of my Executor, and to reasonably compensate them for their services.

(4) To value the property in my estate for the purpose of making distributions and to distribute my estate in cash or in kind and in divided or undivided interests.

(5) To renew, extend, or modify any note, mortgage, deed of trust, or other indebtedness and to borrow money with or without security.

(6) Furthermore, I grant to my Executor all of the powers set forth in 1991 Georgia Laws 810 (Official Code of Georgia Annotated Section 53-12-232) as amended to the date of execution of this Will.

(7) The power to determine whether items should be charged or credited to income or principal, or be apportioned between income and principal. The Executor shall exercise the Executor's discretion in such manner as the Executor may reasonably deem equitable and just under all the circumstances and regardless of whether such items are charged or credited to or apportioned between income and principal as provided in Article 10, Sections 53-12-210 through 53-12-219 of the Official Code of Georgia Annotated.

(b) If I have directed my Executor to distribute any portion of my tangible personal property by a separate written instrument, it is my desire that such property be distributed as so directed, but without imposing any legal obligation on my Executor to do so.

(c) Any successor or alternate Executor shall have all of the rights, powers, privileges, and immunities of the originally named Executor. No Executor shall be required to make or file any inventory, appraisal, return, or account, or report to any





court, or be required to post bond, unless otherwise required to do so notwithstanding this provision. No successor or alternate Executor or other fiduciaries shall be required to inquire into or audit the acts of any predecessor or to make claim against any predecessor or his or her estate.

(d) A corporate Executor may receive compensation for its services in accordance with its published schedule of fees in effect at the time the services under this Will are rendered. An individual Executor may receive that compensation for his or her services which is allowed by law at the time the services under this Will are rendered.

(e) If it becomes necessary for a representative of my estate to qualify in any jurisdiction other than the State of Georgia in which my Executor shall be unable or unwilling to qualify as Executor, then my Executor shall have the right to appoint an individual or corporate representative of my estate in such jurisdiction. Any such representative is authorized and requested to appoint my domiciliary Executor as agent to handle the details of the administration of my estate in such other jurisdiction. Any such representative is requested to complete the administration of my estate in such other jurisdiction as soon as possible and to transfer any property received in such administration to my domiciliary Executor.

#### IV.

#### SIMULTANEOUS DEATH

If any Beneficiary or Devisee under this Will does not survive me by thirty (30) days from the date of my death, it shall be presumed for purposes of any distribution to or for the benefit of such Beneficiary or Devisee that such Beneficiary or Devisee predeceased me.

#### V.

#### EFFECT OF BIRTH OR ADOPTION OF CHILD

This Will is made in contemplation of the birth or adoption of children or additional children and shall not be revoked by any such event or events.

#### VI.

#### DEVISE OF RESIDUARY ESTATE

④ I devise all of the rest, residue, and remainder of my estate, real, personal, or mixed, wheresoever located, as follows:

I hereby devise the remainder of my estate to the Trustees then acting under the Family Trust executed by me immediately prior to my execution of this Will, as the same may be amended prior to my death, to be held, managed, and distributed under the terms of such trust as of the date of my death. In the event that this devise of my residuary estate to the Family Trust is for any reason ineffective, I devise such property to the Executor, acting as Trustee, to be held, managed, and distributed pursuant to the terms of the Family Trust, the terms of which are hereby expressly incorporated by reference herein.

I, Thomas Josiah McCord, the Testator, sign my name and affix my seal to this instrument this 10<sup>th</sup> day of January, 2008, and do hereby declare and publish this instrument as my Last Will and Testament 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 fourteen (14) years of age or older, of sound mind, and under no constraint or undue influence.

Thomas Josiah McCord (SEAL)  
Thomas Josiah McCord, Testator

We, Barbara Long and Martha Rush, the witnesses, sign our names to this instrument on the date above written, and do hereby declare that the Testator signed, sealed, declared, and published this instrument as his(her) Last Will and Testament and that he(she) signed it willingly [or willingly directed another in his(her) presence and hearing to sign for him(her)], and that each of us, at his(her) request and in the presence and hearing of the Testator and in the presence and hearing of each other, hereby signs this Will as witness to the Testator's signing, and to the best of our knowledge the Testator is fourteen (14) years of age or older, of sound mind, and under no constraint or undue influence.

Barbara Long  
Witness Signature

Martha Rush  
Witness Signature

*[Handwritten initials]*



AFFIDAVIT

STATE OF GEORGIA

COUNTY OF Schall

Before me, the undersigned authority, on this day personally appeared Thomas Josiah McCord, Barbara Lee and Martha Rush, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, Thomas Josiah McCord, Testator, declared to me and to the said witnesses in my presence that said instrument is his(her) Last Will and Testament and that he(he) had willingly made and executed it as his(her) free act and deed for the purposes therein expressed. The witnesses, each on his oath, stated to me in the presence and hearing of the Testator that the Testator had declared to them that the instrument is his(her) Last Will and Testament and that he(he) executed same as such and wanted each of them to sign it as a witness; and upon his(her) oath each witness stated that he(he) did sign that same as witness in the presence of the Testator and at his(her) request; that he(he) was at the time fourteen (14) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Thomas Josiah McCord  
Thomas Josiah McCord, Testator

Barbara Lee  
Witness

Martha Rush  
Witness

Sworn to and subscribed before me by Thomas Josiah McCord, the Testator and sworn to and subscribed before me by:

Barbara Lee and Martha Rush, witnesses,  
this 10<sup>th</sup> day of January, 2008.



Carlotta Pentecost Notary Public

Carlotta Pentecost Printed Name of Notary

My Commission Expires: March 22, 2010

*[Handwritten signature]*