

Last Will & Testament

A Last Will & Testament is a legal document in which an individual (the testator) specifies how their assets should be distributed after death and may also appoint an executor to manage the estate and a guardian for minor children, if applicable.

Common uses for a Last Will & Testament include:

1. **Distribution of Assets:** Specify that your estate be divided equally between your children, including your home, savings, and family heirlooms.
2. **Appointment of an Executor:** Appoint a spouse or trusted friend as the executor. This executor is responsible for managing the distribution of your assets, paying off debts, and handling all other affairs related to your estate after your passing.
3. **Guardianship:** Outline plan for backup guardians, along with sufficient funds from your estate to assist in the children's upbringing.

Last Will & Testament Instructions for John Smith

Review your Last Will & Testament

- Confirm that the decisions made and the people named are accurate and representative of your wishes
- Make any changes needed on your account ()

Print and execute your Last Will & Testament

- Find a notary public and two witnesses to be present when you sign the document (bring an ID!) Witnesses need to be at least 18 years of age and should not be named in the Will as beneficiaries of your estate or in any other role
- Sign and date the document where indicated
- Have witnesses sign underneath and fill in their information

Sign the 'Self-Proving Affidavit' at the end of this document

- Have witnesses sign the "Self-Proving Affidavit"
- Have the notary public sign and "acknowledge" the document

Last Will & Testament of John Smith

I, JOHN SMITH, of the STATE OF OKLAHOMA, make this my last will and testament (hereinafter my "Will"), and I revoke all wills and codicils previously made by me.

Article 1 – Identification

- A. **Spouse.** My Spouse's name is Jane Smith. All references in this Will to "Spouse" are to Jane Smith.
- B. **Children.** I have two children, Julie Smith and Alan Smith. All references in this Will to "my children" are to them and to all children hereafter born to or adopted by me. In addition, all references in this Will to "my Descendants" are to my children (as defined above) and to all of their respective Descendants.
- C. **Pets.** I have one pet, Frisco (Goldendoodle). All references in this Will to "my pets" are to them and to all pets hereafter owned by me.

Article 2 – Final Arrangements

- A. **Final Resting Place.** Regarding my body and final resting place, I authorize my Executor named in this Will to determine the appropriate disposition of my remains in my Executor's sole discretion.
- B. **Ceremony.** Regarding my end of life ceremony, I authorize my Executor named in this Will to determine the appropriate ceremony or memorial in my Executor's sole discretion.

Article 3 – Gifts at Death

- A. **Memorandum.** I may leave a writing disposing of some or all my tangible personal property. I request that my wishes, as expressed in that writing, be followed. This provision shall apply whether the writing is executed before or after this Will. If no such writing is found by my Executor within thirty (30) days of the admission of my Will to probate, it shall be conclusively presumed that no such writing exists and I direct that such tangible personal property be distributed in accordance with the remaining provisions of this Will.
- B. **Specific Gifts.**
 - 1. I hereby give, devise and bequeath Jewelry Collection located at 3030 E Cornell Ave to my child, Julie Smith; provided, however, if Julie Smith fails to survive me, this gift shall lapse.
- C. **Balance of Tangible Personal Property.** If my Spouse survives me, except as may be provided as a specific gift elsewhere in this instrument or in a separate

memorandum as provided in Paragraph A of this Article (including gifts of tangible property items associated with a gift of real property, if applicable), I give to my Spouse all of my interest in any motor vehicles, boats and personal watercraft, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books, clothing, jewelry or other articles of personal use or ornament, and other tangible personal property of a nature, use or classification similar to the foregoing. If my Spouse fails to survive me, except as may be provided as a specific gift elsewhere in this instrument or in a separate memorandum as provided in Paragraph A of this Article (including gifts of tangible property items associated with a gift of real property, if applicable), I give such property to the person or persons to whom the residue of my estate will be distributed, with particular items to be allocated as they may agree, or if they cannot agree, as my Executor shall decide. If any beneficiary hereunder is a minor, my Executor 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 such minor's share is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property to any such beneficiary shall be charged against my estate as an expense of administration.

Article 4 – Residue

Residue. The residue of my estate is all the property remaining in my estate after (1) any bequests under Article 3 are satisfied, and (2) all debts and applicable expenses under Article 8 are paid, and is referred to throughout my Will as the "Residue".

- A. I give all of the residue of my estate to my Spouse if my Spouse survives me. If my Spouse fails to survive me, I give all of the residue of my estate to those of my Descendants who survive me Per Stirpes.
- B. If neither my Spouse nor any of my Descendants survive me, then all of the residue of my estate shall be divided into two equal shares and I give one such share of the residue of my estate to my Heirs and the other such share of the residue of my estate to my Spouse's Heirs.

Article 5 – Executor Provisions

- A. **Executor.** I nominate my relative, Bill Smith, to be Executor of my Will and estate. If they fail to qualify, dies, resigns, becomes Incapacitated, or otherwise ceases to serve, I nominate my Spouse, Jane Smith to be Executor of my Will and estate.
- B. **Expenses and Compensation.** Every Executor shall be reimbursed for the reasonable costs and expenses incurred in connection with such Executor's duties.

Every Executor shall be entitled to fair and reasonable compensation for services rendered by such Executor in an amount not exceeding the customary and prevailing charges for services of a similar character at the time and place such services are performed. Additionally, every Executor shall be entitled to additional fair and reasonable compensation for extraordinary services performed by such Executor in an amount equal to the prevailing charges for services of a similar character at the time and place such extraordinary services are performed.

- C. **Reliance on Legal Opinion.** In acting or declining to act, each Executor may rely upon the written opinion of a competent attorney licensed and in good standing in the jurisdiction where the subject matter of any opinion is sought, any facts stated in any instrument, furnished in writing and believed to be true, or any other evidence such Executor deems sufficient. Each Executor shall be indemnified and further held harmless from any liability for any action taken, or for the failure to take any action, if done in good faith and without gross negligence.
- D. **Ancillary Executors.** If my estate contains property located in another state or a foreign jurisdiction and my Executor cannot or chooses not to serve under the laws thereof, my Executor shall have the power to nominate an ancillary individual or corporate executor of such property.
- E. **Acts of Prior Executors.** Each Executor shall be relieved of any duty to examine the acts of any prior Executor and no court accounting shall be required. Each successor Executor shall be responsible only for properties that are actually delivered to such Executor.
- F. **Multiple Executors.** Except as otherwise specifically provided in this Will, if two or more Executors are named or serving hereunder and any one or more, but not all, decline, fail, or cease to serve for any reason, and no successor Executor is named herein, then the remaining Executor or Co-Executors, as the case may be, shall be nominated or continue to serve in such capacity.
- G. **Actions by Executors.** Unless otherwise specifically indicated: (1) actions authorized throughout this Will in the discretion of my Executor shall mean the reasonable discretion of such Executor; and (2) in all matters relating to my estate, if the number of Executors authorized to exercise a power or discretion shall be greater than one, the decision of a majority of the Executors then serving shall control. Any writing signed by the persons whose decisions shall control shall be valid and effective for all purposes as if signed by all such Executors.

Article 6 – Guardian Provisions

I nominate my relative, Jill Smith to be guardian of the person and estates of those of my children who are under the age of legal majority at the time of my death, without the requirement of bond or other security. If this person dies, does not qualify, fails to serve, ceases to serve, or is unwilling or unable to serve for any reason, I nominate my relative, Bill

Smith, to be the first alternate guardian of the persons and estates of those of my children who are under the age of legal majority at the time of my death, without requirement of bond or other security. The provisions of this Article are intended to apply if the need to nominate a guardian arises following my death.

Article 7 – Executor Powers

- A. **Powers.** Each Executor shall, to the extent permitted by law, act independently and free from the control of any court as to my estate (and as to all of the property of my estate). Each Executor shall have and possess the following powers and authorities (each of which shall be exercisable in the discretion of such Executor) with respect to my estate, and the following provisions shall apply to my estate:
1. **Retention of Property.** To retain, in the discretion of my Executor, and without liability for any depreciation or loss occasioned by such retention, any property which was owned by me at my death when my Executor determines that, because of the circumstances involved, my estate would be better served by not diversifying the investment in such property;
 2. **Dealing in Estate Assets.** To exchange, sell, convey, or lease for cash, property, or credit, or to partition, publicly or privately, at such prices, on such terms, times, and conditions and by instruments of such character and with such covenants as my Executor deems proper, all or any part of the properties of my estate, including real property, and no vendee or lessee shall be required to look to the application made of any funds paid to my Executor;
 3. **Borrowing.** To borrow money from any source (including any Executor) and to mortgage, pledge, or in any other manner encumber all or any part of the properties of my estate as may be advisable in the judgment of my Executor for the advantageous administration of my estate;
 4. **Distributions to Minor or Incapacitated Beneficiaries.** To make, in the discretion of my Executor, any distribution required or permitted to be made to any beneficiary under this Will in any of the following ways when such beneficiary is a minor or is Incapacitated: (i) to such beneficiary directly; (ii) to the guardian or conservator of such beneficiary's person or property; (iii) by utilizing the same, directly and without the interposition of any guardian or conservator, for the health, support, maintenance, or education of such beneficiary; (iv) to a person or financial institution serving as custodian for such beneficiary under a Uniform Gifts to Minors Act or a Uniform Transfers to Minors Act of any state; (v) by reimbursing the person who is actually taking care of such beneficiary (even though such person is not the legal guardian or conservator) for expenditures made by such person for the benefit of such beneficiary; and (vi) by managing such distribution as a separate fund

- on the beneficiary's behalf; and the written receipts of the persons receiving such distributions shall be full and complete acquittances to my Executor;
5. **Distributions in Kind.** To make divisions, partitions, or distributions in money or in kind, or partly in each, whenever required or permitted to divide, partition, or distribute all or any part of my estate; and, in making any such divisions, partitions, or distributions, the judgment of my Executor in the selection and valuation of the assets to be so divided, partitioned, or distributed shall be binding and conclusive and my Executor shall not be liable for any differing tax consequences to the beneficiaries of my estate; and, further, my Executor shall be authorized to make distributions from my estate on a non-pro rata basis;
 6. **Investing.** To invest and reinvest the properties of my estate in any kind of property whatsoever, real or personal (including oil, gas, and other mineral leases, royalties, overriding royalties, and other interests), whether or not productive of income, and such investments and reinvestments may be made without regard to the proportion that such property or property of a similar character held may bear to my entire estate if my Executor determines that, because of the circumstances involved, my estate would be better served by not diversifying such investment or reinvestments;
 7. **Dealing with Interested Parties.** To enter into any transaction on behalf of my estate (including loans to beneficiaries for adequate security and adequate interest) despite the fact that another party to any such transaction may be: (i) a trust of which any Executor under this Will is also a trustee; (ii) an estate of which any Executor under this Will is also an executor, personal representative, or administrator, including my estate; (iii) a business or trust controlled by any Executor under this Will or of which any such Executor, or any director, officer, or employee of any such corporate Executor is also a director, officer, or employee; or (iv) any beneficiary or Executor under this Will acting individually;
 8. **Delegation and Agents.** To employ attorneys, accountants, investment managers, specialists, and such other agents as my Executor shall deem necessary or desirable; to have the authority to nominate an investment manager or managers to manage all or any part of the assets of my estate, and to delegate to said manager investment discretion and such nomination shall include the power to acquire and dispose of such assets; and to charge the compensation of such attorneys, accountants, investment advisors, investment managers, specialists, and other agents and any other expenses against my estate;

9. **Payment of Debts.** To use the cash and any of the securities or other property owned by me to satisfy any loans or other debts for which my estate is liable or to continue all or any portion of such loans or debts;
10. **Storing Personal Property.** To store personal property given to a person who is a minor or who is Incapacitated for later distribution to such person;
11. **Closely Held Businesses.** To continue any business (whether a proprietorship, corporation, partnership, limited partnership, or other entity) which I own or in which I am financially interested at the time of my death for such time as my Executor deems it to be in the best interests of my estate; to employ in the conduct of any such business such properties of my estate as my Executor deems proper; to borrow money for use in any such business alone or with other persons financially interested in such business, and to secure such loan or loans by mortgage, pledge, or any other manner of encumbrance of not only my interest in such business, but also such other properties of my estate as my Executor deems proper; to organize, either alone or jointly with others, new corporations, partnerships, limited partnerships, or other entities; and generally to exercise with respect to the continuance, management, sale, or liquidation of any business which I own or in which I am financially interested at the time of my death or of any new business or business interest, all the powers I could have exercised during my lifetime; and
12. **Digital Assets.** To access, utilize, manage, close, control, cancel, deactivate, or delete any Digital Accounts and Digital Assets in which I had a right or interest at my death. This authorization is intended to be construed to be lawful consent under the Electronic Communications Privacy Act of 1986, as amended; the Computer Fraud and Abuse Act of 1986, as amended; and any other applicable federal or state data privacy law or criminal law. Digital Asset means an electronic record in which I had a right or interest at death and may include data, files, documents, audio, video, images, sounds, social media content, social networking content, apps, codes, credit card points, travel-related miles and points, computer source codes, computer programs, software, software licenses, databases, or the like, which are created, generated, or stored by electronic means. The term Digital Asset and the rights regarding Digital Assets granted herein specifically includes the content of electronic communications as defined in 18 U.S.C. § 2510(12) and does not include an underlying asset or liability unless the asset or liability is itself an electronic record. For purposes of this definition, "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, and "record" means information that is inscribed on a tangible medium or that is

stored in an electronic or other medium and is retrievable in perceivable form. The term Digital Account means an arrangement under a terms-of-serve agreement in which a custodian either carries, maintains, processes, receives, or stores a Digital Asset, or provides goods or services for me; and

13. **Other Acts.** To perform other acts necessary or appropriate for the proper administration of my estate, execute and deliver necessary instruments and give full receipts and discharges.
- B. **Statutory and Common Law Powers.** In addition to the power granted to each Executor under Paragraph A of this Article, each Executor shall have and possess all powers and authorities conferred by statute or common law in any jurisdiction in which such Executor may act, including all powers and authorities conferred by the Oklahoma Statutes Title 58, and by any future amendments thereto, except for any instance in which such powers and authorities may conflict with the express provisions of this Will, in which case the express provisions of this Will shall control.

Article 8 – Miscellaneous Provisions

- A. **Spendthrift Provisions.** Prior to the actual receipt of property by any beneficiary, no property (income or principal) distributable under this Will shall, voluntarily or involuntarily, be subject to anticipation or assignment by any beneficiary, or to attachment by or to the interference or control of any creditor or assignee of any beneficiary, or taken or reached by any legal or equitable process in satisfaction of any debt or liability of any beneficiary, and any attempted transfer or encumbrance of any interest in such property by any beneficiary hereunder prior to distribution shall be void.
- B. **Survivorship Provisions.** No person shall be deemed to have survived me if such person shall die within thirty (30) days after my death. Any person who is prohibited by law from inheriting property from me shall be treated as having failed to survive me.
- C. **Payment of Taxes and Expenses.**
 1. **Payment of Taxes.** All estate, inheritance, or similar taxes (including interest and penalties thereon) arising in connection with my death with respect to any property included in my gross estate for the purpose of calculating such taxes, whether or not such property passes under my Will, shall be paid out of the residue of my estate without apportionment.

To the extent the residue of my estate is insufficient for the payment of such taxes, then any excess taxes, except as otherwise specifically provided in this Subdivision (a), shall be paid on a pro rata basis from all of the assets passing by reason of my death.

Notwithstanding the foregoing, no portion of any estate, inheritance, or similar taxes (including interest and penalties thereon) arising in connection

with my death shall be apportioned or charged to property qualifying fully for the marital or charitable deduction for federal estate tax purposes; provided, however, to the extent that the assets passing by reason of my death that do not qualify for the marital or charitable deduction are insufficient for the payment of such taxes, then any excess taxes shall be paid on a pro rata basis from the assets that qualify for the marital or charitable deduction.

The provisions of this Subdivision (a) of Paragraph C shall not apply to any generation-skipping transfer taxes imposed by 26 U.S.C. § 2601 et seq., which taxes shall instead be payable in accordance with the provisions of 26 U.S.C. § 2603.

2. **Payment of Expenses.** All funeral expenses, and all expenses incurred in connection with the administration of my estate shall be paid out of the residue of my estate without apportionment. To the extent the residue of my estate is insufficient for the payment of such expenses, then any excess expenses shall be paid on a pro rata basis from all of the assets passing by reason of my death.
- D. **Payment of Debts.** I direct that all of my legal debts, funeral and testamentary expenses, costs, and expenses of administration of my estate shall be paid as soon after my death as in the opinion of my Executor is practical and advisable. Unless specifically provided for otherwise in this Will, if at the time of my death any of my property is subject to a mortgage, lien, or other debt, I direct that the devisee taking such property shall take it subject to such mortgage, lien, or other debt, and that such person shall not be entitled to have the obligation secured thereby paid out of my general estate. My Executor is specifically given the right to renew, refinance, and extend, in any form that it deems best, any secured or unsecured debt or charge existing at the time of my death. Under no circumstances shall my Executor be required to prepay any debt of mine.
- E. **Tax Elections.** My Executor may join in the filing of a joint income tax return with my spouse or my spouse's estate. My Executor may elect to claim administration expenses as deductions in whole or in part either in the income tax returns of my estate or in the estate tax return.
- F. **Savings Clause.** For the purposes of this Will, either gender shall be interpreted as encompassing the other gender, and the singular shall encompass the plural and vice versa as the meaning shall dictate.
- G. **Severability.** If any clause or term of this Will is held to be unenforceable or invalid as a matter of law, all other provisions of this Will shall remain in effect to the fullest extent permissible under the governing law of this Will.

Article 9 – Defined Terms

- A. **Defined Terms.** References in this Will to the following capitalized terms have the meanings specified below in this Article:
1. **Code.** References to the Code, various Sections of the Code, or to 26 U.S.C. followed by Section numbers, are to such designated Sections of the Internal Revenue Code of 1986 as amended.
 2. **Executor.** Unless another meaning is clearly indicated or required by context or circumstances, the term shall mean and include all persons or entities that may at any time be serving, including but not limited to the initial or Executors (including all co-Executors), and any acting alternate or successor Executor.
 3. **Heirs.** References to Heirs are to those persons who would inherit separate personal property from the person designated under the statutes of descent and distribution of the State of Oklahoma, if such person died intestate and unmarried (and not in a registered domestic partnership) at such time. A distribution to Heirs is a distribution in the shares and manner prescribed under such statutes.
 4. **Incapacitated.** A beneficiary shall be deemed Incapacitated if my Executor, in my Executor's discretion, determines that such beneficiary lacks the ability, due to a physical or mental condition, to manage his or her own personal and financial affairs. My Executor shall be deemed Incapacitated if and for as long as: (1) a court of competent jurisdiction has made a finding to that effect; (2) a guardian or conservator of such Executor's person or estate has been appointed by a court of competent jurisdiction and is serving as such; or (3) two physicians (licensed to practice medicine in the state where my Executor is domiciled at the time of the certification, and one of whom shall be board certified in the specialty most closely associated with the cause of my Executor's incapacity) certify that due to a physical or mental condition my Executor lacks the ability to manage his or her own personal and financial affairs. An Incapacitated Executor shall be deemed to have regained capacity if there is a finding to that effect by a court of competent jurisdiction or if two physicians (with the same qualifications described above) certify that the Executor is capable of managing his or her personal and financial affairs.
 5. **Descendants.** Except as otherwise provided in this Will, references to Descendants shall mean the lineal blood descendants of any degree of the ancestor designated; provided, however, that such references shall include as then living Descendants, with respect to any provision of this Will, Descendants who have been conceived at any specific point in time relevant to such provision and who thereafter survive birth.

The term "Descendants" shall include a person conceived through assistive reproductive techniques or procedures, unless: (i) the person was born to an individual who was acting solely as a surrogate on behalf of another individual and did not intend to treat the person as their child, or (ii) the person was born to an individual who acted solely as the donor of genetic material on behalf of another individual and did not intend to treat the person as their child. Except as hereinafter provided in this Paragraph, an adopted child and such adopted child's Descendants by blood or adoption shall be considered under this Will to be Descendants of the adopting parent or parents and of anyone who is by blood or adoption a lineal ancestor of the adopting parent or of either of the adopting parents.

Notwithstanding any provision in this Will to the contrary, the following persons shall not be included in the definition of Descendants for any purposes hereunder: (i) any person who is adopted (by anyone other than me) after reaching age eighteen (18) and (ii) any person who would otherwise be considered the Descendants (whether by blood or adoption) of such person.

6. **Per Stirpes.** When a distribution is to be made to a person's Descendants Per Stirpes property shall be divided into as many equal shares as there are (a) members of the nearest generation of Descendants who survive such person, and (b) deceased members of that generation who left Descendants who survive such person. This division into shares shall begin at the generation nearest to such person that has a surviving member. Each surviving member of the nearest generation of Descendants with a member who survives such person shall receive one share, and the share that would have passed to each deceased member of that generation who left Descendants who survive such person shall be divided in a similar manner (by reapplying the preceding rule) among their Descendants who survive such person. For example, if a person has deceased children and surviving children when a distribution is to be made, the assets will be divided into equal shares at the child level and distributed Per Stirpes below that level; however, if the person has no surviving children at such time, that equal division will be made at the grandchild level (or lower, if appropriate) and distributed Per Stirpes below that level. This definition is intended to override any conflicting or contrary statutory or common law definition.
- B. **Other Defined Terms.** Other terms may be defined throughout this Will for purposes of the provision in which they are included and those definitions apply to those terms in the context in which they are defined despite not being included in this Article.

IN WITNESS WHEREOF, I have signed this Will on the _____ day
of _____, 20_____.

John Smith, Testator

Date

The foregoing instrument was signed by the Testator in our presence and declared by
the Testator to be the Testator's Will, and we, the undersigned witnesses, sign our
names hereunto as witnesses at the request and in the presence of the Testator on the
_____ day of _____, 20_____.

Witness Signature

Witness Signature

Witness Printed Name

Witness Printed Name

Witness Address

Witness Address

Date

Date

Self-Proving Affidavit

STATE OF OKLAHOMA

COUNTY OF _____

I, John Smith, 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 (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 18 years of age or older, of sound mind, and under no constraint or undue influence.

John Smith, Testator

We, _____ and _____, sign our names to this instrument this _____ day of _____, 20_____, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as their Will and that they sign it willingly (or willingly direct another to sign for them), and that each of us, in the presence and hearing of the Testator, hereby signs this Will as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness Signature

Witness Signature

Witness Address

Witness Address

STATE OF OKLAHOMA
COUNTY OF _____

SUBSCRIBED, sworn to and acknowledged before me by the Testator, John Smith, and
subscribed before me by the witnesses, _____ and
_____, this _____ day of _____,
20_____, by John Smith.

(SEAL)

Notary Public: State of Oklahoma

My commission expires