

**LAST WILL AND TESTAMENT**  
**OF**  
**John D. Brown**

*Prepared By:*

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - FAMILY BACKGROUND .....	3
Section 1.1. Family Members .....	3
Section 1.2. Appointment of Guardian .....	<b>Error! Bookmark not defined.</b>
ARTICLE II - INDEPENDENT EXECUTOR.....	<b>Error! Bookmark not defined.</b>
Section 2.1. Appointment of Independent Executor .....	<b>Error! Bookmark not defined.</b>
Section 2.2. Compensation and Bond .....	<b>Error! Bookmark not defined.</b>
Section 2.3. Creation of Independent Administration .....	<b>Error! Bookmark not defined.</b>
Section 2.4. Powers, Duties, and Responsibilities of Executor .....	<b>Error! Bookmark not defined.</b>
Section 2.5. Payment of Debts and Taxes.....	<b>Error! Bookmark not defined.</b>
ARTICLE III - BEQUEST AND DEVISE OF ESTATE .....	7
Section 3.1. Specific Bequests and Devises.....	7
Section 3.2. Definition of Residuary Estate.....	7
Section 3.3. Bequest and Devise of Residuary Estate .....	<b>Error! Bookmark not defined.</b>
Section 3.4. Denial of Claims by Spouse of Beneficiary.....	7
ARTICLE IV - MISCELLANEOUS PROVISIONS .....	8
Section 4.1. Definitions.....	8
Section 4.2. Headings .....	9
Section 4.3. Operative Law.....	9
Section 4.4. Invalid, Illegal, or Inoperative Provisions.....	9
Section 4.5. Tax Elections and Allocations .....	<b>Error! Bookmark not defined.</b>
Section 4.6. Estate Distributions .....	<b>Error! Bookmark not defined.</b>

LAST WILL AND TESTAMENT

OF

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**John D. Brown**

WACO, TEXAS

MCLENNAN COUNTY

I, \_\_\_\_\_, of Waco, Texas, being of sound mind and disposing memory, do make, publish and declare this, my Last Will and Testament, hereby revoking all wills and codicils by me heretofore made.

ARTICLE I

FAMILY BACKGROUND**Error! Bookmark not defined.**

Family Members**Error! Bookmark not defined.**

I declare that I am a widowed person. I have five children.

Irene M. Brown  
James D. Brown  
Sharon A. Jones  
Petra A. Kuykendall  
Bobbie J. Robertson

ARTICLE II

INDEPENDENT EXECUTOR

I appoint \_\_\_\_\_ to be the Independent Executor of this my Last Will and Testament. If he/she declines to serve, fails to survive me or fails to qualify, or having survived me thereafter dies, resigns, or becomes otherwise incapable of so acting, then I appoint my (son, grandson, or whomever), \_\_\_\_\_ to be the Independent Co-Executor of this my Last Will and Testament.

If any one of them declines to serve, fails to survive me or fails to qualify, or having survived me thereafter dies, resigns, or becomes otherwise incapable of so acting, then I appoint the remaining children as the Independent Co-Executors of this my Last Will and Testament. If any two decline to serve, fail to survive me or fail to qualify, or having survived me thereafter die, resign, or become otherwise incapable of so acting, then I appoint the remaining one to be the Independent Executor of this my Last Will and Testament. Any successor Executor or Co-Executor may act without examination or review, without liability for failing to make or have made such examination or review, and without the necessity for any conveyance or transfer. As a matter of convenience, my Independent Executor named herein, and all successors thereto, shall be referred to hereinafter as my Executor, regardless of whether such representative is acting alone or jointly with others.

I recognize that in naming my (grandson-example) and (daughter-example) as successor Independent Co-Executors, potential conflicts of interest may exist, inasmuch as my Independent Co-Executors will be under a duty to characterize assets as separate or community property, to determine whether any equitable interests have arisen as the result of expenditure of community funds on separate property, to select and value the assets to be used to fund the trusts created by my Will, and to make other decisions concerning the makeup, character, and administration of my estate. It is because of the importance of these decisions and because I have total confidence in my grandson and daughter that I have named them as successor Independent Co-Executors. I direct that my wishes be respected in this regard, and that allegations of conflicts of interest (of which potential conflict I am fully aware) shall not be used to frustrate my intent that my grandson and daughter serve as Independent Co-Executors if they are willing to do so.

I direct that my Executor shall be entitled to reasonable compensation for serving as Executor. My Executor shall not be required to furnish any bond or other security in any

jurisdiction, or if a bond is required, my Executor shall not be required to furnish any sureties thereon.

I direct that no action shall be had in the State of Texas Probate Court in relation to the settlement of my estate other than to probate this Will and, if required, to make, return, and record an inventory, appraisalment, and list of claims of my estate.

I hereby give my Executor full power and authority to administer upon my estate, including the power to sell or otherwise dispose of any real or personal property upon such terms as my Executor may deem advisable without Court supervision. In making the divisions herein provided, I specifically authorize a non-pro rata division of any community property. My Executor shall have, in extension and not in limitation of the powers given by law or under the terms of this Will, all of the powers granted to a trustee under the State of Texas Trust Code (or its successor statute governing the powers and responsibilities of trustees), and restated of even date herewith and as hereafter amended, such powers to be exercised without court supervision or control. In addition, my Executor shall have the power to distribute any gift made outright to a person under a legal disability under this Will to an existing trust established exclusively for such person, whether created under this Will or otherwise, or to a custodian for a minor, selected by my Executor under the Uniform Transfers to Minors Act (or corresponding statute) under the laws of the state where the minor resides, and all distributions made in this manner shall be a full discharge of my Executor with respect thereto. No person dealing with my Executor shall be required to inquire into the propriety of any of my Executor's actions. When the judgment or discretion of my Executor may be exercised, it shall be final and binding upon every person interested in my estate.

Notwithstanding anything herein contained to the contrary, no powers enumerated herein or otherwise accorded to my Executor shall ever be construed as permitting or enabling my

Executor to exercise or join in the exercise of any rights, powers, or privileges granted by any life insurance policies of which my Executor is the insured, and which are, to any extent, an asset of my estate, including (but not limited to) surrender or cancellation of the policy, assignment of the policy, revocation of an assignment, pledging the policy for a loan, obtaining from an insurer a loan against the cash surrender value of the policy, or determining the property or time of transfer of such property which will be used in the payment of premiums on any such life insurance policy. All of the rights, powers, and privileges with regard to any such life insurance policy shall be exercised solely by the next successor Executor appointed in Section 2.1.

I direct that my legally enforceable debts and funeral expenses be paid out of my Residuary Estate and that all expenses of the administration of my estate, and all federal and state estate, inheritance and succession taxes, including interest and penalties thereon, imposed upon my estate or any beneficiary thereof by reason of my death, including the portion of any such tax as is attributable to the proceeds of policies of insurance on my life or other property not constituting a part of my probate estate, be paid or apportioned as directed by the Executor, and restated of even date herewith and as hereafter amended. The above direction with respect to payment of debts shall not be construed to require the payment of any debt before it is due, and my Executor is specifically given the right to renew and extend, in any form that my Executor deems best, any debt or charge existing at the time of my death, including any mortgage on my home. Similarly, my Executor shall have the right and power to incur indebtedness and to borrow money for the purpose of paying any or all of the aforesaid debts, expenses and taxes. No policy loan against a policy of life insurance owned by me on my life or on the life of any other person shall be treated as a debt to be paid out of my Residuary Estate but rather any such policy loan against a policy of life insurance owned by me on my life shall be paid out of the proceeds of the policy and any

policy of life insurance owned by me on the life of any other person shall be distributed to the person or entity entitled thereto subject to any such policy loan.

### ARTICLE III

#### BEQUEST AND DEVISE OF ESTATE

Section 3.1. Specific Bequests and Devises. I hereby make the following Specific Bequests and Devises: I give all of my jewelry, clothing, motorcycles, water vehicles under fifty feet in length, automobiles, club memberships, and airline frequent flier miles to those persons listed in a separate written memorandum which I may leave addressed to my Executor. My Executor shall distribute such property in accordance with such memorandum, but shall not be liable or responsible to any person or persons whomsoever for failing or refusing, in whole or in part, to distribute any or all of such property in accordance with such memorandum. If no memorandum is found, or if it fails to adequately dispose of these items, these items shall be divided among my, as determined in the discretion of my Executor.

Section 3.2. Definition of Residuary Estate. My "Residuary Estate" shall consist of all of my property of every kind and character remaining after the distribution of any Specific Bequests and Devises as above provided.

Section 3.3. Denial of Claims by Spouse of Beneficiary. Even though a beneficiary of my estate may be married at a time when such beneficiary is entitled to benefits of my estate, all provisions and benefits of this Will shall inure only to the benefit of the specified beneficiaries hereof, and at all times shall be free from the control of the spouse of any married beneficiary. At no time and in no manner shall the provisions or benefits of this Will, or the property of my estate, be subject to any claim, legal or equitable, of the spouse of any married beneficiary. I recognize

that my beneficiaries will be required by law to segregate inherited property in order to maintain its character as separate property.

#### ARTICLE IV

##### MISCELLANEOUS PROVISIONS

###### Section 4.1. Definitions.

A. Whenever used in this Will the term “survive(s)” or “surviving” shall be construed to mean surviving the decedent for at least sixty (60) days. If the person referred to dies within sixty (60) days of the death of the decedent, the reference to him or her shall be construed as if he or she had failed to survive the decedent.

B. Whenever this instrument refers to the “children” of an individual, the term “children” shall be construed to mean those children naturally born to or legally adopted by such individual.

C. Whenever used in this instrument, the term “adopted” shall refer only to a person who was legally adopted prior to the date of his or her eighteenth (18th) birthday.

D. As used in this Will, the masculine, feminine and neuter genders shall each be deemed to include the others unless the context requires otherwise.

E. The singular shall include the plural and the plural shall include the singular whenever the context of this Will permits.

F. Whenever used in this Will, the term “Code” shall refer to the Internal Revenue Code as it now exists and is hereafter amended. Any references to specific Code Sections shall include any corresponding successor statutes.

**Commented [RB1]:** Here you may also want to include any stepchildren

Section 4.2. Headings. The headings above the various provisions of this Will have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Will or in ascertaining my intentions.

Section 4.3. Operative Law. This Will shall, in all respects, be construed under and governed by the laws of the State of Texas as now in effect or as hereafter from time to time shall be enacted, amended or repealed.

Section 4.4. Invalid, Illegal, or Inoperative Provisions. If any part of this Will shall be invalid, illegal or inoperative for any reason, it is my intention that the remaining parts, as far as possible and reasonable, shall be effective and fully operative.

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**John D. Brown**

ATTESTATION CLAUSE

The Testator whose name appears above declared to us, the undersigned, that the foregoing instrument was his Last Will and Testament, and he requested us to act as witnesses to such instrument and to his signature thereon. The Testator thereupon signed such instrument in our presence. At the Testator's request, the undersigned then subscribed our names to the instrument in our own handwriting in the presence of the Testator. The undersigned hereby declare, in the presence of each of us, that we believe the Testator to be of sound and disposing mind and memory.

Signed by us on the same day and year as this Last Will and Testament was signed by the Testator.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Witness' Printed Name

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Witness' Printed Name

\_\_\_\_\_

WACO, TEXAS §

MCLENAN COUNTY §

SELF-PROVING CLAUSE

Before me, the undersigned authority, on this day personally appeared (your Mon's name for her will and your name for your will), \_\_\_\_\_ and \_\_\_\_\_ known to me, or proved to me through a valid form of identification, to be the Testator and witnesses, respectively, whose names are subscribed to the foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said John D. Brown, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, on their oaths stated to me, in the presence and hearing of said Testator, that the said Testator had declared to them that said instrument is his Last Will and Testament, and that he executed the same as such and wanted each of them to sign it as a Witness; and upon their oaths each Witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that he was at that time eighteen years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said John D. Brown, Testator, and by the said \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

{SEAL}

\_\_\_\_\_  
Notary Public in and for