



# LAST WILL AND TESTAMENT

for Married Person  
(POUR OVER WILL)

## ARTICLE ONE

### INTRODUCTION

1.1. I, \_\_\_\_\_,  
*(print or type full legal name)*  
a resident of \_\_\_\_\_ County, California, declare this to  
*(enter name of county)*  
be my will and I hereby revoke all wills and codicils previously made by me.

## ARTICLE TWO

### IDENTIFICATION OF BENEFICIARIES AND

### INTENT TO DISPOSE OF PROPERTY

2.1. **Property Being Disposed.** I intend to dispose of all my separate property, if any, my one-half interest in community property, and one half of my quasi-community property, if any. As used in this will, quasi-community property refers to the property in my estate described in Probate Code section 66.

2.2. **Marital Status.** I am a married person.

2.3. **Present Spouse.** I am presently married to:

\_\_\_\_\_  
*(print or type full legal name)*

All references in this will to “my spouse” are to him or her.



**ARTICLE THREE**

**RESIDUARY PROVISIONS**

3.1. **Gift to “Living Trust” (Inter Vivos Trust).** I give all of my estate and residuary estate, in trust, to the trustee under the trust instrument executed by my hand on:

\_\_\_\_\_, 19\_\_\_\_.

*(enter date trust was signed and notarized)*

The trustee shall add all my residuary estate to the principal of the trust and shall hold, administer, and distribute the property in accordance with the provisions of the trust instrument, including any amendments made before my death but after this will. If the trust has been revoked or terminated before the date of my death, this gift shall lapse and shall be disposed of by the following paragraph.

3.2. **Savings Clause If Trust Invalid or Revoked and No new Will or Trust.** If the “Living Trust” (inter vivos trust) has been revoked, terminated, or declared invalid for any reason, and there is no valid new will or trust, I give my entire residuary estate to the named successor trustees in the “Living Trust” (inter vivos trust), as Trustee, who shall hold, administer, and distribute the property under a testamentary trust in accordance with the provisions of the inter vivos trust instrument that are in effect on the date of execution of this will, in which case the terms of the inter vivos trust that are in effect on the date of execution of this will are hereby incorporated by reference.

**ARTICLE FOUR**

**PROVISIONS CONCERNING TAXES**

4.1. **Definition of “Death Taxes”.** In this article, “death taxes” refers to all estate, inheritance, succession, and similar taxes which may be or become payable upon or by reason of my death or by any person or persons on account of the interest in my estate which I have given to him, her, or them, or which are included as a part of my estate for the purposes of any such tax or taxes and whether or not any such tax or taxes shall pertain to property which is subject to the provisions of this will, together with all interest and penalties, if any, that may accrue on account thereof.

4.2. **Payment of Taxes.** By the terms of the revocable trust instrument entered into on the above date, between my spouse and I as trustors and/or co-trustees, all death taxes that may be payable because of my death, together with all interest and penalties, if any, shall be paid by the trustee from that trust. I therefore direct that the executor present to the trustee of the revocable trust instrument a written statement requesting that all death taxes be paid from that trust. If that revocable trust no longer exists or, if it does still exist, but it is insufficient to pay the taxes, the executor shall pay those taxes from my residuary estate and charge them as though they were ordinary expenses of the administration of my estate.

**ARTICLE FIVE**  
**APPOINTMENT OF FIDUCIARIES**

5.1. **Appointment of Executor and Successors.** Should there be no other designated person to act as executor, then I appoint the following persons to serve as executor and/or fill any vacancy that should occur in the the executorship of my will. References in my will to “the executor” are to the executor serving at the pertinent time.

<hr/> <i>(name of first nominee [may name spouse if desired])</i> <hr/> <i>(street address including apartment number if any)</i> <hr/> <i>(city, state, and zip code)</i>
<hr/> <i>(name of second nominee)</i> <hr/> <i>(street address including apartment number if any)</i> <hr/> <i>(city, state, and zip code)</i>
<hr/> <i>(name of third nominee if desired)</i> <hr/> <i>(street address including apartment number if any)</i> <hr/> <i>(city, state, and zip code)</i>
<hr/> <i>(name of fourth nominee if desired)</i> <hr/> <i>(street address including apartment number if any)</i> <hr/> <i>(city, state, and zip code)</i>

5.2. **Order in Which Executors Serve.** My designated nominees for executor of my will shall serve in the following order: *(Initial Appropriate Box)*

[        ] **1. SEQUENTIAL.** Any vacancy shall be filled first by nominee number one. If this successor fails to act, or ceases to serve, the vacancy(s) shall be filled in order by the next designated successor nominee.

See note\* [        ] **2. TWO PERSONS AS COEXECUTORS.** Any vacancy in the executorship of this will shall be filled first by both nominee number one and nominee number two who shall serve together as coexecutors. If either executor fails to act, or ceases to serve, the vacancy shall be filled by the next designated successor(s) in the order named, if any, and if no person is nominated to serve, the vacancy need not be filled. The remaining executor may serve alone. *\*Note: If your spouse is to serve alone use Choice Number 4, Sole Executor followed by co-executors.*

[        ] **3. THREE PERSONS AS COEXECUTORS.** Any vacancy in the executorship of this will shall be filled first by nominees number one, two and three, who shall serve together as coexecutors. If any executor fails to act, or ceases to serve, the vacancy shall be filled by the next designated successor(s) in the order named, if any, and if no person is nominated to serve, the vacancy need not be filled. The remaining executor(s) may serve alone.

[        ] **4. SOLE EXECUTOR FOLLOWED BY COEXECUTORS.** The first nominee named shall act as the sole executor of my will. In the event that my first nominee should fail to act or ceases to serve, the vacancy shall be filled by the next [        ]  
*(enter number of person(s))*  
nominees who shall each serve together as a coexecutors. If any executor fails to act, or ceases to serve, the vacancy shall be filled by the next designated successor(s) in the order named, if any, and if no person is nominated to serve, the vacancy need not be filled. The remaining nominee may serve alone. In the event that I appoint a sole executor, followed by another sole executor (*only "one" nominee entered above*), the next [        ] nominee(s) shall serve as executor(s). Any further vacancy shall be filled by the remaining nominee(s), if any, who shall serve together.

5.3. **Requirement of Bond.** Bond shall be waived or required of any executor named in this will for any purpose as I have designated herein: *(initial choice)*

Bond shall be required [        ] **yes** [        ] **no** (waived)

5.4. **Nomination of Guardian of the Person and Estate.** If it is necessary to appoint a guardian of the person and estate for any child of mine who is under the age of 18 years, and there is no surviving parent of the child who is able or willing to act, then I appoint the following persons as the guardians of the person and of the estate of each minor child of mine. In the event that the first nominee(s) should fail to act or cease to serve I nominate the next person(s) to act as guardian of the person and estate.

<p>_____</p> <p><i>(name of first nominee [may name spouse if desired])</i></p> <p>_____</p> <p><i>(street address including apartment number if any)</i></p> <p>_____</p> <p><i>(city, state, and zip code)</i></p>
<p>_____</p> <p><i>(name of second nominee)</i></p> <p>_____</p> <p><i>(street address including apartment number if any)</i></p> <p>_____</p> <p><i>(city, state, and zip code)</i></p>
<p>_____</p> <p><i>(name of third nominee if desired)</i></p> <p>_____</p> <p><i>(street address including apartment number if any)</i></p> <p>_____</p> <p><i>(city, state, and zip code)</i></p>

5.5. **Waiver of Bond.** No bond shall be required of any guardian named under this will for any purpose.

5.6. **Compensation.** Each guardian nominated under this will shall be entitled to reasonable compensation for the performance of the duties of, and reimbursement of reasonable expenses for, acting in that capacity.