**LAST WILL AND TESTAMENT**

**OF**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

I, , a resident of \_\_\_\_\_\_\_\_\_\_\_\_, \_\_state\_\_, being over the age of eighteen (18) years and of sound mind and memory and not acting under fraud, duress, menace or undue influence of any person whatsoever, do hereby make, publish and declare this to be my Last Will and Testament in the manner and form following:

ARTICLE I PRIOR WILLS

I hereby expressly revoke all prior Wills and Codicils to Wills heretofore made by me.

ARTICLE II

PROPERTY DISPOSED OF BY THIS WILL

It is my intention that this Will dispose of all real and personal property over which I may have the power of testamentary disposition. I do not intend by this Will to exercise any power of appointment which I may have at the time of my death.

ARTICLE III

MARRIAGE AND FAMILY

I declare that I am married to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter sometimes referred to as "my spouse"), and that we have \_\_\_ (\_\_) child/children, his/her/their names and birth date(s) being: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (birth dates) (hereinafter sometimes referred to as "my child/children)."

ARTICLE IV

TAXES, DEBTS AND EXPENSES

I order and direct that my state and any federal inheritance, estate or succession taxes, if any, my just debts, currently owed by me or my Estate, excepting those properly secured and those under installment contracts not yet due and payable, all expenses of my last illness and burial and all costs and expenses in connection with the administration and distribution of my Estate be paid out of my Estate by my Executors prior to any distribution to my beneficiaries. Each of the devises or bequests made pursuant to this Will shall bear its pro rata share of any inheritance, estate or succession tax imposed by the United States or any state or territory thereof.

ARTICLE V

BEQUEST OF PERSONAL PROPERTY

I hereby direct my Executors to distribute my tangible personal property as set forth in Exhibit A, or in a separate written statement prepared by me in which I describe the items of property and designate the persons to receive such property. In the absence of such a statement and to the extent that my tangible personal property is not included in such a statement, I give, devise and bequeath the rest of my tangible personal property, including my jewelry, clothing, household furniture, personal automobiles, boats, books and paintings, to my spouse if he/she survives me by thirty (30) days and, if my spouse does not so survive me, all of said property shall go as hereinbelow provided in ARTICLE VI. This bequest does not include cash, savings accounts, checking accounts, certificates of deposit, stocks or bonds or similar items. The decision as to the distribution of my personal property among my heirs shall be made by my Executors and shall be final.

ARTICLE VI

RESIDUAL BEQUEST

I hereby give, devise and bequeath all the rest and residue of my Estate, including any lapsed gifts, whether real, personal or mixed of which I may die seized or possessed, or to which I may be entitled at the time of my death, including any lapsed or void bequest or devise to my spouse if he/she survives me for thirty (30) days. If my spouse does not so survive me, all of said property shall be distributed equally among my children.

ARTICLE VII

DISINHERITANCE

I hereby generally and specifically disinherit each, any and all persons whomsoever claiming to be, or who may be lawfully determined to be, my heirs at law, except as otherwise mentioned in this Will. If they, or their successors in interest, or any other person who, if I died intestate, would be entitled to share in my estate, lawfully or indirectly, singly or in conjunction with other persons, or if any other person or entity should seek to establish or assert any claims to my Estate, or any part thereof, excepting under this Will, or attack, oppose or seek to set aside its provisions, or to have the same or any part thereof, or any devise or trust herein, limited, declared void or diminished, or to defeat or change any part of the testamentary plan of this Will, whether or not in good faith and with probable cause, or settle or compromise, directly or indirectly, either in or out of court, with any contestants of this Will, or shall endeavor to secure or take any part of my Estate in any manner, other than through or under this Will, then, in any or all of the above‑mentioned cases and events, I hereby give and bequeath to such person, or persons, or entity, the sum of One Dollar ($1.00), and no more, in lieu of any other share or interest in my Estate.

ARTICLE VIII

APPOINTMENT OF EXECUTORS

I hereby nominate and appoint my spouse, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to serve as Executor/Executrix of my Estate without bond. In the event my spouse is unable or unwilling to serve in this said capacity, I nominate and appoint \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to serve as Executor without bond. In the event \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is unable or unwilling to serve in said capacity, I nominate \_\_\_\_\_\_\_\_\_\_\_ to serve as Executrix without bond.

ARTICLE IX

POWERS OF EXECUTORS

In addition to those powers granted by statute, I hereby grant to my Executors the following powers:

* 1. A. To sell, lease, mortgage or encumber by deed of trust the whole or any part of my Estate at either public or private sale, with or without notice, subject only to such confirmation as may be required by law.
	2. B. To continue the operation of any business belonging to my Estate and for such time and in such manner as may be deemed advisable and in the best interest of my Estate or to sell or liquidate said business at such time and upon such terms as is deemed advisable and in the best interest of my Estate. Any such operation, sale or liquidation shall be at the risk of my Estate and without liability on the part of my Executors for any losses resulting therefrom.
	3. C. To elect to file a joint federal income tax return in accordance with Section 6013 of the Internal Revenue Code, or any amendment thereto, on behalf of myself and my spouse for any period, or periods, for which such a return may be permitted following my death and to pay from my Estate the amount of income tax due thereon, and any adjustment thereof, and to consent to have any gifts made by me or by my spouse to a third person prior to my death which, for gift tax purposes, may be treated as having been made one‑half (½) to myself and one‑half (½) to my spouse under Section 2513 of the Internal Revenue Code, or any amendment thereto, and if such consent is given, to pay from my Estate any and all gift taxes that may be due by reason of such gifts.

ARTICLE X

GENERAL PROVISIONS

* 1. A. Should any part, clause, provision or condition of this Will be held to be void, invalid or inoperative, then I direct that such invalidity shall not affect any other clause, provision or condition hereof, but the remainder of this Will shall be effective as though such clause, provision or condition had not been contained herein.
	2. B. Whenever it shall be necessary to interpret this Will, the masculine, feminine and neuter personal pronouns may be construed interchangeably and the singular shall include the plural and the plural the singular.
	3. C. The titles of the Articles in this Will are placed here for the convenience of reference only and in the event of any conflict, the text of this instrument, rather than the titles, shall control.

ARTICLE XI

NOMINATION OF ATTORNEYS

Having been advised of my legal inability to bind my Executors in the selection of an attorney to represent my Estate and without imposing any obligation upon my Executors, I suggest, because of the confidence I have in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esq., that said attorney be retained to act as attorney for my Estate.

ARTICLE XII

NOMINATION OF GUARDIAN OF CHILDREN

In the event my spouse should predecease me, I nominate \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to act as guardian of the persons and estates of any minor children I might have at the time of my death. My spouse and I have great confidence in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and I feel that they will raise our minor children and manage their estates in accordance with our wishes and desires.

ARTICLE XIII

NOMINATION OF GUARDIAN OF TESTATOR/TESTATRIX,

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the event it should be determined that I am incompetent and that I am in need of a guardian to care for my person or my estate, I hereby nominate my spouse, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In the event my spouse is unable or unwilling to act as my guardian, I hereby nominate my son, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to act as my guardian. I have great confidence in my spouse and my son and I feel that they will act in my best interest and will care for my person and manage my estate for my best interest and in accordance with my wishes and desires.

IN WITNESS WHEREOF, I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, set my hand to this Last Will and Testament this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

(signature) \_\_\_\_\_\_\_\_\_\_\_\_\_

[witnesses if not notarized]

On the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, , then and there personally appeared the within named \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who, being duly sworn, depose and say:

That they witnessed the execution of the within Will of the within named Testatrix, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; that the Testatrix subscribed said Last Will and Testament and declared the same to be his/her Last Will and Testament in their presence; that they thereafter subscribed the same as witnesses in the presence of the Testatrix and in the presence of each other and at the request of the Testatrix; that the Testatrix at the time of the execution of the Will appeared to them to be of full age and of sound mind and memory, and that they make this Affidavit at the request of the Testatrix.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF HAWAII

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This instrument was sworn and subscribed to before me on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

**Items of Personal Property**

**To be Given to the Persons Identified Below**

Copyright 2009, Freelegalaid.com © ALL RIGHTS RESERVED. NO REPRODUCTION OR DISTRIBUTION OF THIS FORM IS PERMITTED WITHOUT THE EXPRESS WRITTEN PERMISSION OF FREELEGALAID.COM

**DISCLAIMER**

This form is provided free of charge by FreeLegalAid.com.  It is provided AS IS, without any warranty of any kind, and is to be used as an "example" of a document that might be used under certain circumstances, and is NOT intended to be a substitute for legal advice.  The forms and/or information are provided as a general aid and reference but not to be used as a legal document without the advice of a qualified attorney.  These forms do not in any way constitute legal advice or knowledge.  We make no claim or guarantee as to the accuracy, completeness or suitability of the information, and do not warrant that any of the forms we offer are up-to-date or appropriate for your specific needs.

As the law may vary in each jurisdiction, we do not recommend that you substitute these materials and information for comprehensive legal advice.

By using this form, you agree that no attorney-client relationship is created between you and anyone affiliated with Freelegalaid.com.  FreeLegalAid.com offers free forms for users to review only and does not offer advice, assistance, form filing services, paralegal services, or any other kind of legal service.  You agree to indemnify and hold harmless Freelegalaid.com and all if its officers, employees, owners, affiliates from any claim, liability, damages and attorneys fees arising from your use of this form.