PICK-UP

Davidson County WILL
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# Last Will and Testament

OF

**PATRICIA S. BLANTON**

I, **Patricia S. Blanton**, a resident of and domiciled in Nashville, Davidson County, Tennessee, do make, publish and declare the following to be my Last Will and Testament, hereby revoking all prior wills and codicils made by me.

**ARTICLE I**

**DEFINITIONS**

1.1 **Spouse.** I am a widow and unmarried at this time.

1.2 **Children.** I have three children, **Benjamin R. Blanton, Nicholas B. Blanton,** and **Robert W. Blanton.** I have intentionally specified one grandchild as a contingent beneficiary.

1.3 **Fiduciary.** The term "fiduciary" means the Executor, Trustee, Guardian or Conservator serving at any time under this will and includes successors.

1.4 **Per Stirpes.** References in this will to "per stirpes" means the method of dividing an estate whereby an individual, or class of individuals, take the share of a deceased individual. This designation insures that the individual, or class of individuals, inherit only the share of the deceased person and do not inherit equally with other surviving beneficiaries. Division of my estate per stirpes shall be calculated from the first generation below the initial beneficiary whether or not there is anyone in that generation living at the time of the calculation.

1.5 **Singular and Gender Usage.** Any use of a specific

gender includes the other, and any use of the singular includes the plural when such meaning is appropriate.

1.6 **Captions.** The captions contained in this will are inserted solely as a matter of convenience, and in no way define, limit, or describe the scope of any provision of the will or the intent thereof.

**ARTICLE II**

**FIDUCIARIES**

2.1 **Executor.** I appoint **Benjamin R. Blanton,** currently of Nashville, Davidson County, Tennessee, and **Nicholas B. Blanton,** currently of Shepardstown, West Virginia, to serve as Co-Executors of my will. If one of these persons predeceases me, fails to qualify or ceases to serve, the remaining one may serve alone.

2.2 **Trustee.** I appoint **Nicholas B. Blanton** and **Benjamin R. Blanton** to serve as Co-Trustees under Article VII of my will. If one of them predeceases me, fails to qualify or ceases to serve, the remaining one may serve alone.

**ARTICLE III**

**PROVISIONS RELATIVE TO FIDUCIARIES**

3.1 **Bond.** No bond is required of any fiduciary appointed under this will or by a court.

3.2 **Powers.** Any fiduciary appointed under this will has each power, duty, and discretion which is set forth in this will, as well as each duty, power or discretion contained in Tennessee Code Annotated, §35-50-110 as it exists at the time of the execution of this will, which section is incorporated herein by reference. In the event Tennessee Code Annotated, §35-50-110 shall be amended after the execution of this will, it is my desire that any such amendment shall be incorporated herein by reference to the extent that the powers of the fiduciary are expanded thereby, but

not to the extent that such powers are lessened thereby.

3.3 **Resignation.** Each fiduciary serving under this will may resign at any time by giving written notice of the resignation to any remaining fiduciary, and to any successor fiduciary or to the person having the power to appoint a successor fiduciary or to the court having jurisdiction to appoint a successor fiduciary.

3.4 **Appointment of Successor Fiduciary.** If there is no fiduciary serving, the beneficiaries of the estate or trust estate, as the case may be, may appoint a fiduciary to serve.

3.5 **Appointment of Additional Fiduciary.** If at any time my fiduciaries desire to have additional fiduciaries (acting unanimously if more than one), such fiduciaries shall have the power to appoint such other person or bank as such fiduciaries may desire to serve with them as co-fiduciary, including any fiduciaries that may be necessary for ancillary administration of my estate.

3.6 **Action by Beneficiaries.** Any action to be taken by the beneficiaries under this Article is valid if taken by the beneficiaries of the estate or of the trust estate, as the case may be, who at any time represent a majority in interest in the estate or in the trust estate. Any beneficiary who is a minor or who is under other legal disability shall be represented by such beneficiary's parent or duly appointed guardian.

3.7 **Indemnity of Fiduciary.** It is my desire that the fiduciary exercise discretion without fear of incurring a liability or expense. Therefore, unless the fiduciary acts capriciously or arbitrarily, my estate or the Trust shall indemnify the fiduciary for each monetary expense (including attorney's fees) incurred, expended or arising from the exercise of such discretion.

3.8 **Fiduciary Compensation.** Compensation of any corporate

fiduciary shall be in accordance with such fiduciary's published schedule of fees as in effect at the time the services are rendered. Any non-corporate fiduciary may receive reasonable compensation for services rendered.

3.9 **Corporate Fiduciary.** If any corporate fiduciary designated to act, or at any time acting hereunder, is merged with or transfers substantially all of its assets to another corporation, or is in any other manner reorganized or reincorporated, the resulting or transferee corporation shall become fiduciary in place of its corporate predecessor.

3.10 **Settlement of Accounts on Vacating Office.** If a fiduciary ceases to serve, except where an individual fiduciary dies, the fiduciary shall file with each other fiduciary, including successors, a settlement of the accounts and an inventory of the estate or trust estate. The expense of the settlement and inventory shall be paid by the estate or trust estate respectively. The fiduciary ceasing to serve shall deliver the estate or trust estate assets to the successor or remaining fiduciary.

3.11 **Nonresident Fiduciary.** Should the state of my domicile at the time of my death require at least one (1) fiduciary be a resident of the state of my domicile, the named fiduciary may appoint a fiduciary to meet this requirement.

**ARTICLE IV**

**PAYMENT OF DEBTS, EXPENSES, AND TAXES**

4.1 **Debts.** My fiduciary shall pay all my lawful debts, except as provided in Paragraph 4.2. If permitted by law, my fiduciary may pay a debt without requiring the creditor to file a claim. I suggest that my fiduciary consult with the attorney for my estate before paying any debt.

4.2 **Encumbered Property.** If any interest in property



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passing under this will or otherwise by reason of my death shall be encumbered by a mortgage or lien or shall be pledged to secure any obligation (whether such interest in property is owned by me individually or jointly), the devisee, legatee, joint owner, or beneficiary shall take such interest in property subject to all encumbrances existing at the time of my death and shall not be entitled to payment of such obligation from my estate. Provided, however, if the creditor files a claim against my estate so that my fiduciary must pay the debt, my fiduciary shall collect the amount my estate paid to the creditor from the recipient of the property.

4.3 **Funeral and Administration Expenses.** My fiduciary shall pay my funeral expenses, including the cost of a grave marker, and the expenses of administering my estate as soon as possible after my death, including any expenses of ancillary administration in another state.

4.4 **Taxes.** All estate and inheritance taxes including interest and penalties, if any, together with all administration expenses, payable in any jurisdiction by reason of my death, (including those taxes and expenses payable with respect to assets which do not pass under this will,) shall be paid out of and charged generally against the principal of my residuary estate, without apportionment. I waive any right of reimbursement for, recovery of, or contribution toward the payment of those taxes and administration expenses, except my Executor shall, to the maximum extent be permitted by law, seek reimbursement for, recovery of, or contribution toward the payment of any increase in federal or state estate tax attributable to property in which I have a qualifying income interest for life or over which I have a power of appointment, or which is included in my gross estate by reason of Section 2036 of the Internal Revenue Code of 1986, as from time to



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time amended and which is not otherwise paid or payable. Any generation-skipping tax resulting from a transfer occurring under this will shall be charged to the property constituting the transfer in the manner provided by applicable law.

**ARTICLE V**

***SPECIFIC BEQUESTS AND***

**DISTRIBUTION OF TANGIBLE PERSONAL PROPERTY**

5.1 **Specific Bequests.** I give and bequeath certain items of my personal and household effects to those persons designated in a separate writing that may be in existence at the time of my death, which will be written entirely in my own handwriting and signed and dated by me, and which shall describe these items and the legatees with reasonable certainty. If no separate writing or list is found within thirty (30) days after my Executor's qualification, it shall be presumed that no such writing exists, and any subsequently discovered writing or list shall be ignored. In the event any person named in such separate writing shall predecease me, then the bequest made to such person shall lapse and become null and void. If any item is not found among my possessions after my death, my executor is to consider that the item has been disposed or destroyed prior to my death and may then disregard the gift of such item.

5.2 **Remaining Tangible Personal Property.** I give all remaining tangible personal property that I own at my death, including any household furniture and furnishings, automobiles, books, pictures, jewelry, art objects, hobby equipment and collections, wearing apparel, and other articles of household or personal use or ornament to my surviving sons.

5.3 **Expenses.** All the cost of safeguarding, insuring, taking, and storing my tangible personal property before its distribution

and of delivering each item to the place of residence of the beneficiary of that item shall be deemed to be expenses of administration of my estate.

5.4 **Disputes.** My Executor shall have the absolute discretion to resolve any disputes regarding the division of personal property.

**ARTICLE VI**

**DISTRIBUTION OF RESIDUARY ESTATE**

6.1 **Specific Devise.** If my son, **Benjamin R. Blanton,** survives me, I give, bequeath and devise to him all interests that I own in real property located at 4727 Benton Smith RD, Nashville, Tennessee 37215. If my son predeceases me, this bequest shall lapse and become part of my residuary estate.

6.2 **Residuary Estate.** All the rest, residue and remainder of my property real and personal, and wheresoever situated, including all lapsed bequest and devises, but not including any property over which I have power of appointment, I give, bequeath and devise, in substantially equal shares, to my Trustee named in Paragraph 2.2 Article II, to be used for the benefit of my son, **Robert W. Blanton,** pursuant to the provisions of Article VII of my will, and my son, **Nicholas B. Blanton.** If one of these beneficiaries predeceases me, that share shall be distributed to the surviving beneficiary, subject to the provisions of Article VII of my will. If both **Robert W. Blanton** and **Nicholas B. Blanton** predecease me, I give and devise my residuary estate to my son, **Benjamin R. Blanton.** If all my sons predecease me, I give, bequeath and devise my residuary estate to my grandson, **Jonathan Blanton,** or his issue, per stirpes.



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**ARTICLE VII**

**ROBERT W. BLANTON TRUST**

7.1 **Establishment of Trust.** If my son, **Robert W. Blanton**, survives me, then my Executor shall deliver his specified share to my Trustee specified in Paragraph 2.2 of Article II of this will as Trustee for Article VII, to be held as part of the **"Robert W. Blanton Trust"** as set out in Paragraphs 7.2 through 7.9.

7.2 **Purpose and Payments from Trust.** The purpose of this Trust is to provide for the supplemental support, maintenance and education of my son until his death. My Trustee shall pay to or on behalf of my son so much of the net income of the Trust as my Trustee, in my Trustee's sole and unlimited discretion deems necessary and appropriate, in monthly, quarterly, semi-annual or annual installments. Any income not distributed is to be accumulated for future use.

7.3 **Encroachment on Trust.** If at any time the Trustee, in the Trustee's sole and unlimited discretion, determines that it is desirable to encroach upon the corpus of the Trust to provide proper care and maintenance of my beneficiary, the Trustee is hereby authorized to use on behalf of my Beneficiary so much of the principal as my Trustee, in the Trustee's sole and unlimited discretion, may determine is necessary to carry out the provisions of this Trust.

7.4 **Consolidation of Trusts.** My Trustee shall have the authority to consolidate the Trust established under this will with an identical Trust that may be established for the same beneficiary under any other will or document.

7.5 **Optional Termination of Trust.** The Trustee in the Trustee's unlimited discretion shall have the authority to terminate the Trust created hereunder when in the Trustee's opinion

the principal amount thereof does not warrant the cost of continuing such Trust, or its administration would otherwise be impractical. Upon such termination, Trustee shall pay over the then remaining balance in such Trust to or for the benefit of my Beneficiary.

7.6 **Duration of the Trust.** The Trust continues until the death of my son or as otherwise provided for in this Article.

7.7 **Disposition of Assets Upon Termination.** Upon the death of my beneficiary, the Trust assets shall be distributed, free of trust, to **Nicholas B. Blanton**, or if he predeceases **Robert W. Blanton**, to my son, **Benjamin R. Blanton,** or if he predecease **Robert W. Blanton,** to my grandson, **Jonathan Blanton**, or his issue per stirpes.

7.8 **Perpetuity.** Notwithstanding anything herein to the contrary, any Trusts created hereunder shall be terminated not later than any such time after which their continued existence would violate the rule against perpetuities, the rule against suspension of the power of alienation or any other rule of law. The Trustee shall distribute the principal and all accrued or undistributed net income of the Trust to the beneficiary for whom the Trust is named.

7.9 **Spendthrift Provision.** In all circumstances, despite any provision of law to the contrary, no power of appointment or power of withdrawal shall be subject to involuntary exercise, and no interest of any beneficiary of any trust shall be subject to anticipation, to claims for alimony or support, to voluntary or involuntary transfer and the same shall not be subject to be taken by beneficiary's creditors by any process what ever.



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**ARTICLE VIII**

**TRUSTEES AND GENERAL TRUST PROVISIONS**

8.1 **Powers.** The Trustees shall have the following powers with respect to any Trust created under this document in addition to those powers granted in Tennessee Code Annotated, Section 35-15-816 and may be exercised even after termination of all Trusts hereunder until actual distribution of all Trust principal, but not beyond the period permitted by any applicable rule of law relating to perpetuities:

(a) To make allocations, divisions, and distributions of Trust property in cash or in kind, or partly in each; to allocate different kinds or disproportionate shares of property or undivided interests in property among the beneficiaries or separate trusts, without liability for, or obligation to make compensating adjustments by reason of, disproportionate allocations of unrealized gain for federal income tax purpose; and to determine the value of any property so allocated, divided, or distributed;

(b) To cause any security or other property to be held, without disclosure of any fiduciary relationship, in the name of the Trustee, in the name of a nominee, or in unregistered form;

(c) To receive any property, real or personal, to be added to the Trust, from my spouse in any event (and, if the Trustee consents in writing, from any other person) by lifetime or testamentary transfer or otherwise;

(d) To execute instruments of any kind, including instruments containing covenants and warranties binding upon and creating a charge against the Trust property and containing provisions excluding personal liability; and



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(e) To perform all other acts necessary for the proper management, investment, and distribution of the Trust property.

8.2 **Exculpation.** The Trustee's exercise or non-exercise of powers and discretions in good faith shall be conclusive on all persons. No person paying money or delivering property to any Trustee hereunder shall be required or privileged to see to its application. The certificate of the Trustee that the Trustee is acting in compliance with this instrument shall fully protect all persons dealing with a Trustee.

8.3 **Bond/Accounting.** To the extent that such requirements can legally be waived, no Trustee hereunder shall ever be required to give bond or security as Trustee, or to qualify before, be appointed by, or account to any court, or to obtain the order or approval of any court with respect to the exercise of any power or discretion granted in this instrument.

8.4 **Indemnity of Fiduciary.** It is the desire of the Testator that the Trustee exercise discretion without fear of incurring a liability or expense. Therefore, unless the Trustee acts capriciously or arbitrarily, the Trust shall indemnify the Trustee for each monetary expense (including attorney's fees) incurred, expended or arising from the exercise of such discretion.

**ARTICLE IX**

**MISCELLANEOUS PROVISIONS**

9.1 **Income During Administration.** During the administration of my estate, the Executor is authorized to make distributions of income of the estate to the same persons, and in the same proportions as might be made if the administration were completed.

9.2 **Disposition of Assets.** I authorize the Executor, without the order of any court, to sell any of my real estate or personal

property not specifically given by me at public or private sale, without the joinder of any beneficiary, in the manner and on the terms and for the price as may seem best; and on each sale of real estate, the proceeds are to be treated as forming part of my estate to pay administrative costs, taxes, and any remaining amounts shall become part of my residuary estate.

9.3 **Waiver of Inventory Reports and Appraisal.** I authorize my Executor to administer and settle my estate without the necessity of filing an inventory, making any report, accounting, or final settlement with any court to the extent permitted by law. I expressly waive appraisal of my estate in the event an appraisal is required by law. The fiduciary's only responsibility for statements and accountings shall be to furnish a complete final accounting to the beneficiaries of my residuary estate if such beneficiaries are different than my fiduciary.

9.4 **Discretionary Powers.** In addition to and not in limitation of all common law, any fiduciary appointed under this will has each power, duty, and discretion which is set forth in this will, as well as each duty, power or discretion contained in Tennessee Code Annotated, Section 35-50-110 as it exists at the time of the execution of this will, which section is incorporated herein by reference, the Executor is granted the following specific discretionary powers, duties and obligations:

(a) **Diversification.** To acquire and retain all kinds of property without regard to principles of diversification.

(b) **Distribution.** To make distribution in cash, or in kind, or partly in each, even if shares are composed differently and to allocate different kinds of disproportionate shares of property or undivided interests in property among the beneficiaries and to determine the value of any property

distributed in kind.

(c) **Bypass Trustee.** Any property or portion thereof, given to the Trustee of a Trust identified under this will, which Trust pursuant to its terms would be immediately subjected to final distribution and termination upon receipt of the property, may be distributed by my Executor directly to the beneficiaries of the Trust in order to avoid the needless transfer of property to the Trustee as a preliminary step to distribution to the ultimate beneficiaries.

9.5 **Ancillary Administration.** If I own real estate located outside the state of my domicile or if ancillary administration of my estate is needed for any other reason, I appoint my domiciliary Executor, to qualify in such other jurisdiction as my Executor in such jurisdiction. If my domiciliary Executor is unable or unwilling to qualify, I appoint as my Executor in such other jurisdiction the person or persons selected by my domiciliary Executor and delivered to the person or persons so selected and to the court in such other jurisdiction having the authority over the ancillary probate of my will. The ancillary administrator is not required to post bond, file inventories or make reports to any court and has the same powers as my domiciliary Executor. As quickly as the ancillary administrator completes the ancillary administration, the net assets from the ancillary administration are to be delivered to my domiciliary Executor.

9.6 **Real Estate.** Any real property which I own at my death is to be part of my probate estate and treated as personalty for administrative purposes.

9.7 **Life Insurance.** The proceeds of any life insurance payable to my Executor or my estate are free from the claims of creditors. The proceeds paid to my Executor are to be held and distributed as

provided by the terms of this will. My Executor may use any portion of such proceeds as my Executor deems advisable for the payment of debts, expenses and taxes, but only if my Executor thinks such use of the proceeds is in the best interest of my spouse or children.

9.8 **Casualty Insurance.** Each insurance policy covering an item of property passing under this document passes with the property. The recipient is not to be charged for any unearned premium already paid. If an item of property passing under this will has been destroyed or damaged, and such item of property was specifically listed on the insurance policy, the insurance proceeds recovered or recoverable are to be paid in place of the destroyed item and in addition to the damaged item. However, this shall not apply if an item has been disposed of or destroyed prior to my death.

9.9 **Spendthrift Provision.** Prior to distribution, no interest of any beneficiary in the corpus or income of my estate, as distributed in any Article of this will, shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary, including the claims of any divorced spouse for alimony or support payments, and may not otherwise be voluntarily or involuntarily alienated or encumbered by any beneficiary and the same shall not be subject to be taken by beneficiary's creditors by any process whatsoever.

9.10 **Construction.** I direct that should any clause in this will be construed contrary to state laws such clause shall be construed to conform to state law in the implementing of this my Last Will and Testament according to my expressed desires.



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IN WITNESS WHEREOF, I have hereunto subscribed my name to this my Last Will and Testament, consisting of this and fourteen (14) preceding typewritten pages and for the purpose of identification have initialed each such page, all in the sight and presence of the persons witnessing it at my request on this 7th day of April, 2005, at Nashville, Tennessee. In accordance with Tennessee Code Annotated, Section 32-2-110. I have requested these witnesses to make the Affidavit which is attached to this Last Will and Testament.

Patricia S Blanton

Patricia S. Blanton, Testatrix

**ATTESTATION CLAUSE**

On the date last above written, we saw **Patricia S. Blanton** in our presence, sign the foregoing instrument at its end. She then declared it to be her Last Will and Testament and requested us to act as witnesses to it. We then, in her presence and in the presence of each other, signed our names as attesting witnesses, believing her at all times herein mentioned to be of sound mind and memory and not acting under constraint of any kind.

Susan T. Manley Residing at 101 Church St.

Nashville TN 37201

Kristin K Oakland Residing at 101 Church St Ste 300

Nashville TN 37201



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**AFFIDAVIT OF WITNESSES**

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Susan H. Moseley and Kristin K. Orsland

being severally duly sworn, depose and say that:

We are acquainted with **Patricia S. Blanton**, who executed this annexed Last Will and Testament, consisting of seventeen (17) typewritten pages, dated April 7, 2005 at Nashville, Tennessee, by subscribing her name at the end thereof in the presence and sight of each of us.

At the time of subscribing such Last Will and Testament, **Patricia S. Blanton** declared the instrument so subscribed by her to be her Last Will and Testament and we thereupon signed our names as witnesses at the end of such instrument at her request and in her presence and sight, and in the presence and sight of each other.

At the time of executing such Last Will and Testament, **Patricia S. Blanton** was over the age of eighteen (18) and in our opinion was of sound mind, memory and understanding and not under any restraint or in any respect incompetent to make a Last Will and Testament.

This Affidavit is made at the request of **Patricia S. Blanton**.

The annexed Last Will and Testament was examined by the undersigned at the time this affidavit was made.

Susan H. Moseley

Kristin K Orsland

**SWORN TO AND SUBSCRIBED** before me, this 7th day of April, 2005.

Colleen O Mallory

Notary Public

My Commission Expires: 11/25/06.

**STATE OF TENNESSEE**

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the LAST WILL AND TESTAMENT heretofore entered in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 10 day of AUGUST , 2005 , in Case Number 05P1222 between BLANTON, BENJAMIN R. ET.AL Petitioner, and BLANTON, PATRICIA S. Respondent, as same remains in the records of said Court.

**IN TESTIMONY WHEREOF,** I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 13 day of SEPTEMBER 2006

**RICHARD R. ROOKER,** Clerk,

SEAL

By _____
Deputy Clerk