**INDIAN WILL UNDER THE ACT OF JUNE 25, 1910 (36 STAT. 855–856)**

**AS AMENDED BY THE ACT OF FEBRUARY 14, 1913 (37 STAT. 678)**

**LAST WILL AND TESTAMENT OF**

**[FULL LEGAL NAME]**

[TRIBE NAME] Tribal Enrollment No. [201U000000]

Born on [DATE]

I, **[NAME]**, a resident of [CITY], Montana, and an enrolled member of the [TRIBE NAME] Indian Tribe, being of sound mind and memory and over eighteen (18) years of age, know the nature and extent of my property and the persons to whom I intend to leave my property. I do hereby make and declare this to be my Last Will and Testament, and I hereby revoke all prior Wills and Codicils at any time heretofore made by me.

**ARTICLE I**

**IDENTIFICATION OF BENEFICIARIES**

* 1. I am currently married to **[NAME]**, born on [DATE], an enrolled member of the [TRIBE NAME] Tribe [OR: a non-Indian]. [OR: I am not currently married.] [OR: I am not currently married. I am divorced from [NAME] since [YEAR].] [OR: I am currently a widow. My late husband/wife, [NAME], passed away in [YEAR].]
  2. My children are: [OR: I have no biological or adopted children.]
     1. My son, **[NAME]**, born on [DATE], who resides in [CITY, STATE], and is an enrolled member of the [TRIBE NAME] Indian Tribe ([ENROLLMENT NO.]).
     2. My daughter, **[NAME]**, born on [DATE], who resides in [CITY, STATE], and is an enrolled member of the [TRIBE NAME] Indian Tribe ([ENROLLMENT NO.]).
  3. I have no other children, whether living or deceased [OR: I have one deceased child, [NAME]]. Where stated below, it is my intent to provide for the issue and afterborn issue of those persons identified in this Article (Article I).
  4. [OPTIONAL] It is my express intent that my son, **[NAME]**, identified in Section 1.2.1. above, shall not take any property under this, my Last Will and Testament, due to the fact of his long-term estrangement from me that continues to the date of execution of this document.
  5. [OPTIONAL] Furthermore, I wish for the following individuals to take under this, my Last Will and Testament:
     1. My sister, **[NAME]**, born on [DATE], who resides in [CITY, STATE], and is an enrolled member of the [TRIBE NAME] Indian Tribe ([ENROLLMENT NO.]).
     2. My granddaughter, **[NAME]**, born on [DATE], who resides in [CITY, STATE], and is a descendant of the [TRIBE NAME] Indian Tribe. [NOTE: Only list specific grandchildren who will receive property other than through a class gift, i.e., where testator desires to give only one grandchild specific property and any other grandchildren would only receive property based on their class as the issue of an older generation, such as the testator’s children.]
     3. My friend, **[NAME]**, born on [DATE], who resides in [CITY, STATE], and is a non-Indian.

**ARTICLE II**

**APPOINTMENT OF FIDUCIARIES**

**2.1. Personal Representative/Bond Waiver/Non-Intervention**

I hereby nominate and appoint **[NAME]** as sole Personal Representative to administer my estate. In the event that [NAME] fails to qualify or is unable or unwilling to so act, then I hereby nominate and appoint **[NAME]**, as an alternate or successor Personal Representative of my estate. The term “Personal Representative” has the same meaning as the term “executor” herein.

Should the laws of the state and tribe in which my Last Will and Testament is probated allow it, then my Personal Representative shall not be required to furnish a bond for the faithful performance of his or her duties as Personal Representative, which may include, but may not be limited to, the sale, exchange, lease, mortgage, pledge, trade, or otherwise act to deal with or dispose of the whole or any part of my estate.

I authorize my Personal Representative to pay all just debts for which proper claims are filed against my estate, the expenses of my last illness, funeral, and burial, and the expenses incurred in the administration of my estate to be paid by my Personal Representative as soon as after my death as is practicable; provided, however, that this direction shall not authorize any creditor to require payment of any debt or obligation prior to its normal maturity in due course. The above payments shall be made from the residue of my estate, unless otherwise directed herein.

I further authorize my Personal Representative to devise my property in accordance with my Last Will and Testament in any way that may be appropriate, including but not limited to the following discretionary activities:

1. Delivery of all or any part of my property to such persons pursuant to the directions of my Last Will and Testament.
2. Reasonable placement of any of my property in safekeeping, and for payment of any fees incurred through that placement from my estate as an administrative expense.
3. Sale of all or any of my property under the direction of my Last Will and Testament or at the discretion of the Personal Representative, and distribution of the proceeds to such persons as directed herein, whether directly, or through any trust fund established for such persons’ benefit, or to the guardian or conservator of such persons for that person or persons’ sole benefit.

In the event the laws of the state and tribe in which my Last Will and Testament is probated allow it, I authorize my Personal Representative to administer my estate independently without adjudication, order, or direction of any court. The decision to administer my estate independently or under court supervision shall rest solely with my Personal Representative.

**ARTICLE III**

**REAL PROPERTY BEQUESTS**

**3.1. Trust or Restricted Lands**

I give to **[NAME]** any and all interests in any Trust or Restricted real property that I have acquired. If [NAME] does not survive me, then I give to **[NAME]** any and all interests in my Trust or Restricted real property.

[OPTIONAL: I give to **[NAME]** any and all interests in any Trust or Restricted real property that I have acquired. If [NAME] does not survive me, then I give to **[NAME]**, **[NAME]**, and **[NAME]** any and all interests in my Trust or Restricted real property, as joint tenants with right of survivorship. If any of the above-named contingent beneficiaries do not survive me, then I give any and all interests in my Trust or Restricted real property to the surviving named beneficiaries as joint tenants with right of survivorship. If none of the above-named beneficiaries survive me, then I give any and all interests in my Trust or Restricted real property to the issue of such beneficiaries, as joint tenants with right of survivorship.]

[OPTIONAL: I give to **[NAME]** any and all interests in the below Trust or Restricted real property. If [NAME] does not survive me, then I give to **[NAME]** any and all interests in the below Trust or Restricted real property:

[OPTIONAL: I give to **[NAME]** a life estate in the below Trust or Restricted real property. If [NAME] does not survive me, or at the end of the life tenancy, then I give to **[NAME]** and **[NAME]** any and all remaining interests in the below Trust or Restricted real property, as joint tenants with right of survivorship. If either of the above-named remaindermen do not survive the end of the life tenancy, then I give any and all remaining interests in the below Trust or Restricted real property to the surviving named remainderman. If neither of the above-named remaindermen survive the end of the life tenancy, then I give any and all remaining interests in the below Trust or Restricted real property to the issue of such remaindermen, as joint tenants with right of survivorship:

[OPTIONAL: I give to **[NAME]** and **[NAME]** equal shares in any and all interests in the below Trust or Restricted real property, as tenants in common. If either of the above-named beneficiaries do not survive me, then I give a one-half (50 percent) interest in the below Trust or Restricted real property to the surviving named beneficiary, and a one-half (50 percent) interest in the below Trust or Restricted real property to the issue of the predeceased beneficiary, all as tenants in common. If neither of the above-named beneficiaries survives me, then I give equal shares in any and all interests in the below Trust or Restricted real property to the issue of the above-named beneficiaries, as tenants in common:

**3.2. Non-Trust Lands**

I give to **[NAME]** any and all interests in my non-trust real property, wherever situated. If [NAME] does not survive me, then I give to **[NAME]** any and all interests in my non-trust real property.

[OPTIONAL: I give to **[NAME]** any and all interests in my non-trust real property, wherever situated. If [NAME] does not survive me, then I give to **[NAME]** and **[NAME]** equal shares as tenants in common in any and all interests in my non-trust real property.]

[OPTIONAL: I give to **[NAME]** any and all interests in the below non-trust real property. If [NAME] does not survive me, then I give to **[NAME]** and **[NAME]** equal shares as tenants in common in any and all interests in the below non-trust real property:

[FULL LEGAL DESCRIPTION]]

[OPTIONAL: I give to **[NAME]** any and all interests in the below non-trust real property that may be legally assignable or devisable upon my passing. If [NAME] does not survive me, then I give to **[NAME]** and **[NAME]** equal shares as tenants in common in any and all such interests in the below non-trust real property:

**ARTICLE IV**

**PERSONAL PROPERTY BEQUESTS**

**4.1. Trust Personal Property**

I give to **[NAME]** any and all funds contained within my Individual Indian Money (IIM) Account at the time of my passing. If [NAME] does not survive me, then I give to **[NAME]** any and all funds contained within my Individual Indian Money (IIM) Account at the time of my passing.

[OPTIONAL: I give to **[NAME]** any and all funds contained within my Individual Indian Money (IIM) Account at the time of my passing. If [NAME] does not survive me, then I give to **[NAME]**, **[NAME]**, **[NAME]**, and **[NAME]** equal shares of any and all funds contained within my Individual Indian Money (IIM) Account at the time of my passing, by right of representation.]

**4.2. Non-Trust Personal Property**

I reserve the right to dispose separately any of my tangible personal property by means of a separate written list attached to this will, which I hereby incorporate within this Last Will and Testament. I hereby direct that my Personal Representative distribute the items in accordance with the terms and conditions set forth within said separate list. Any such disposition by said separate list shall have first priority among any conflicting bequests under this instrument.

Except where disposed of separately by means of a written list attached to this will, I give to **[NAME]** any and all interests in my non-trust personal property, wherever situated and in whatever form. If [NAME] does not survive me, then I give to **[NAME]** any and all interests in my non-trust personal property, wherever situated and in whatever form.

[OPTIONAL: Except where disposed of separately by means of a written list attached to this will, I give to **[NAME]** any and all interests in my non-trust personal property, wherever situated and in whatever form. If [NAME] does not survive me, then I give to **[NAME]**, **[NAME]**, **[NAME]**, and **[NAME]** equal shares in any and all interests in my non-trust personal property, wherever situated and in whatever form.]

**ARTICLE V**

**RESIDUARY ESTATE**

**5.1. Trust Residue**

I give to **[NAME]** all of the rest, residue, and remainder of my trust estate. If [NAME] does not survive me, then I give to **[NAME]** all of the rest, residue, and remainder of my trust estate.

[OPTIONAL: I give to **[NAME]** all of the rest, residue, and remainder of my trust estate. If [NAME] does not survive me, then I give to **[NAME]**, **[NAME]**, **[NAME]**, and **[NAME]** equal shares as joint tenants with right of survivorship in all of the rest, residue, and remainder of my trust estate. If any of these named beneficiaries do not survive me, then I give to the surviving named beneficiaries equal shares as joint tenants with right of survivorship in all of the rest, residue, and remainder of my trust estate. If none of these named beneficiaries survive me, then I give to the issue of all of these named beneficiaries equal shares as joint tenants with right of survivorship in all of the rest, residue, and remainder of my trust estate.]

**5.2. Non-Trust Residue**

I give to **[NAME]** all of the rest, residue, and remainder of my non-trust estate, wherever situated and in whatever form. If [NAME] does not survive me, then I give to **[NAME]** all of the rest, residue, and remainder of my non-trust estate.

[OPTIONAL: I give to **[NAME]** all of the rest, residue, and remainder of my non-trust estate, wherever situated and in whatever form. If [NAME] does not survive me, then I give to **[NAME]**, **[NAME]**, **[NAME]**, and **[NAME]** equal shares in all of the rest, residue, and remainder of my non-trust estate. If any of these named beneficiaries do not survive me, then I give to the surviving named beneficiaries equal shares in all of the rest, residue, and remainder of my non-trust estate. If none of these named beneficiaries survive me, then I give to the issue of all of these named beneficiaries equal shares in all of the rest, residue, and remainder of my non-trust estate, wherever situated and in whatever form.]

**ARTICLE VI**

**DISPOSITION OF REMAINS**

* 1. Upon my passing, I wish for my remains to be buried at [PLACE], with funeral arrangements made through [FUNERAL HOME OR PERSON] at the direction of my Personal Representative.

[OPTIONAL: Upon my passing, I wish for my remains to be cremated, with funeral arrangements made through [FUNERAL HOME OR PERSON] at the direction of my Personal Representative. Following any such funeral or memorial service, I wish for my ashes to be spread at [PLACE] by my Personal Representative and any family member or friend who wishes to participate.]

**ARTICLE VI**

**MISCELLANEOUS**

* 1. Any beneficiary named herein who does not survive me by 24 hours shall be deemed to have predeceased me for purposes of this Will.
  2. If any portion of my Will shall be held illegal, invalid, or otherwise inoperative, it is my intention that all of the other provisions hereof shall continue to be fully effective and operative insofar as is possible and reasonable.
  3. In interpretation of this, my Last Will and Testament, use of masculine shall include the feminine, and vice versa, and use of the singular shall include the plural.

\* \* \* \* \* \* \*

**IN WITNESS WHEREOF,** I, the Testator, sign my name to this instrument this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ and being first duly sworn, do declare to the undersigned authority and below-named witnesses the following:

First, that I am an enrolled member of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tribe;

Second, that I have read the document or I have had the document read to me, and that I understand and affirm the intents, information, and instructions herein as the provisions clearly and accurately express my wishes;

Third, that I sign and execute this instrument as my Last Will and Testament, by my free and voluntary act for the purposes expressed herein;

Fourth, that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue duress or influence.

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

**TESTATOR**

**WITNESS ATTESTATION AND AFFIDAVIT**

**STATE OF MONTANA** )

) :**§**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_**  )

Each of us declares under penalty of perjury under the laws of the State of Montana that the following is true and correct:

1. On the date written below the maker of this will declared to us that this instrument was the maker’s will and requested us to act as witnesses to it;
2. We understand this is the maker’s will;
3. The maker signed this will in our presence, all of us being present at the same time;
4. We now, at the maker’s request, and in the maker’s and each other’s presence, sign below as witnesses;
5. We believe the maker is of sound mind and memory;
6. We believe that this will was not procured by duress, menace, fraud, or undue influence;
7. The maker is age 18 or older; and
8. Each of us is now age 18 or older, is a competent witness, and resides at the address set forth after his or her name.

**DATED** this ­­­\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2019.

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Signature of Witness #1 Signature of Witness #2

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

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Street Address Street Address

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City, State, Zip Code City, State, Zip Code

**SWORN AND SUBSCRIBED** to before me by the Testator, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and two attesting witnesses, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on this ­­­\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2019.

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

**NOTARY PUBLIC**