

No. 93564

IN THE ESTATE OF
KENT S. FOSTER,
DECEASED

အသုံးပြုသူများအား

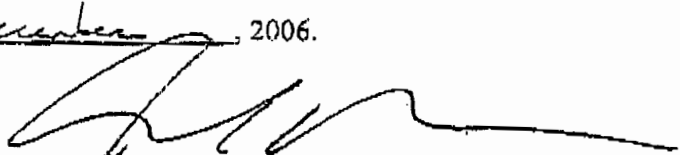
**IN THE COUNTY COURT
OF
JEFFERSON COUNTY, TEXAS**

ORDER PROBATING WILL AND
AUTHORIZING LETTERS TESTAMENTARY

IT IS THEREFORE, ORDERED AND DECREED by the Court that said Will is hereby proved and established and admitted to probate and recorded as the **LAST WILL AND TESTAMENT** of said Kent S. Foster, Deceased, and that **RONALD BERKLEY FOSTER** be, and is hereby appointed Independent Executor of said Will and Estate without bond.

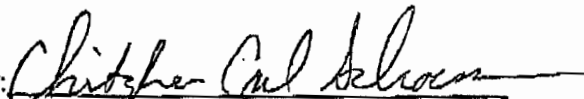
IT IS FURTHER ORDERED by the Court that Letters Testamentary upon the Will and Estate of Kent S. Foster, Deceased, be and the same are hereby granted to **RONALD BERKLEY FOSTER** upon taking the oath as required by law; and the Clerk is further required to issue Letters Testamentary in accordance with this Order to **RONALD BERKLEY FOSTER** when qualified according to law, and no other action shall be had in this Court other than the return of an Inventory, Appraisalment and List of Claims as required by law.

SIGNED this 14 day of December, 2006.


JUDGE PRESIDING

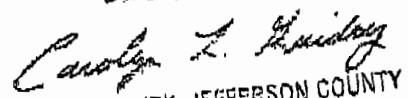
APPROVED AS TO FORM:

GRANSTAFF, GAEDKE & EDGMON, P.C.
5535 Fredericksburg Road, Suite 110
San Antonio, Texas 78229
Tel: (210) 348-6600
Fax: (210) 366-0892

By: 
CHRISTOPHER CARL SCHOESSOW
Attorney for Applicant
State Bar No. 24047191

FILED

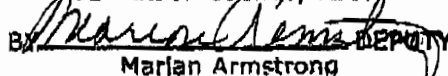
DEC 14 2006


COUNTY CLERK, JEFFERSON COUNTY

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

DEC 14 2006

CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS

By: 
Marian Armstrong

LAST WILL AND TESTAMENT

OF

KENT S. FOSTER

I, **KENT S. FOSTER**, of ~~Kent~~ ^{Jefferson} County, Texas, which I declare to be my domicile, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my **Last Will and Testament**, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death; provided, however, that the intent to dispose of all the property which I own does not include the exercise of any powers of appointment held by me at my death unless specific reference is made below to its exercise.

I

IDENTIFICATION

At the time of the execution of this Will I am single, having been married prior and divorced twenty-eight (28) years ago from Mary Lynn Lemons, and I have two children, namely, KENLYN FOSTER-SPENCE and KARLTON CLAY FOSTER. I hereby make no provisions in this, my Last Will and Testament, for my children as they have been provided for by a life insurance policy on my life. Since my divorce from Mary Lynn Lemons I have not remarried. I have not been married to or engaged to Jami Huryan at any point in time.

II

DISTRIBUTION OF ESTATE

A. Specific Bequests. Upon my death, the Independent Executor shall satisfy the following specific bequests.

1. The sum of One Hundred Thousand and No/100 dollars (\$100,000.00) in cash or cash equivalent in assets shall be distributed to my sister, SUE FOSTER, if she survives me. If SUE FOSTER does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

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2. The sum of Thirty Thousand and No/100 dollars (\$30,000.00) in cash or cash equivalent in assets shall be distributed to my niece, LEIGHANE KROUCH, if she survives me. If LEIGHANE KROUCH does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

3. The sum of Fifty Thousand and No/100 dollars (\$50,000.00) in cash or cash equivalent in assets shall be distributed to my nephew, ANDREW FOSTER, if he survives me. If ANDREW FOSTER does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

4. The sum of Twenty Thousand and No/100 dollars (\$20,000.00) in cash or cash equivalent in assets shall be distributed to my nephew, CHRIS FOSTER, if he survives me. If CHRIS FOSTER does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

5. The sum of Ten Thousand and No/100 dollars (\$10,000.00) in cash or cash equivalent in assets shall be distributed to my friend, WANDA TATE, if she survives me. If WANDA TATE does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

6. The sum of Ten Thousand and No/100 dollars (\$10,000.00) in cash or cash equivalent in assets shall be distributed to my friend, VICTORIA TAYLOR WHITE, if she survives me. If VICTORIA TAYLOR WHITE does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

7. The sum of Ten Thousand and No/100 dollars (\$10,000.00) in cash or cash equivalent in assets shall be distributed to my friend, PAMELA BRYANT, if she survives me. If PAMELA BRYANT does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

8. The sum of Ten Thousand and No/100 dollars (\$10,000.00) in cash or cash equivalent in assets shall be distributed to my cousin, STEVE FOSTER, if he survives me. If STEVE FOSTER does not survive me, this bequest shall lapse and pass as a part of the residue of the estate. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

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9. My Independent Executor shall distribute an amount of funds to PORT ARTHUR MEMORIAL HIGH SCHOOL (formerly Thomas Jefferson High School) to allow the school to purchase a new football score board to replace their current score board.

10. The sum of One Million and No/100 dollars (\$1,000,000.00) in cash or cash equivalent in assets shall be distributed to the KENT S. FOSTER FOUNDATION held at P & C BANK as Trustee. This bequest shall pass free of apportionment of any debts, taxes, and expenses of administration.

B. Distribution of the Residue of my Estate. My Independent Executor shall distribute the rest, residue and remaining assets of my estate to the FOSTER CHARITABLE FOUNDATION, INC. If the FOSTER CHARITABLE FOUNDATION, INC. is not in existence as of the date of my death or if it is not a Qualified Charity, as herein defined, then my Independent Executor is authorized to form and organize a non-profit corporation (the "Foundation") for the purposes of devoting and applying the Foundation's property and the income to be derived therefrom, exclusively for charitable purposes by way of specific gifts to Qualified Charities, the award of scholarships and grants, or other forms of charitable gifts. Notwithstanding the foregoing, the Foundation shall make distributions at such times and in such manner as will prevent the Foundation from being subject to tax under Sections 4941 through 4945 of the Internal Revenue Code. The Foundation is to be organized under the laws of the State of Texas, and when organized, is to have the power to administer and control its affairs and property, and to carry out its uses, objects and purposes. Upon the creation and organization of the Foundation, my Independent Executor is authorized and empowered to convey, transfer, and deliver to the Foundation all of the property and assets to which the Foundation may be or become entitled. JANA SMITH shall be the incorporator. JANA SMITH, HARRY HERZOG, DAVID LARRY GREENWALD, and DAVID CARMEN shall constitute and act as the first Board of Directors of the Foundation. The application for charter, the provisions thereof, the organization, the bylaws, rules, regulations and other provisions for management of the Foundation and its affairs and property shall be determined by the Board of Directors; provided, however, that such corporation shall be organized and operated for the uses and purposes of the Foundation, and in any event, in a manner so as to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code and the regulations thereunder so as to constitute a Qualified Charity. Any distribution to the FOSTER CHARITABLE FOUNDATION, INC. or the Foundation is conditioned upon the entity being a Qualified Charity at the time of the distribution. If the gift to the FOSTER CHARITABLE FOUNDATION, INC. or the Foundation is not fully deductible for federal estate tax purposes, then the gift shall be distributed to Qualified Charities selected by the majority vote of JANA SMITH, HARRY HERZOG, DAVID LARRY GREENWALD, and DAVID CARMEN, within their sole discretion. All references herein to "Qualified Charities" or to a "Qualified Charity" mean those organization or any one organization described in Section 2055(a) of the Code.

C. Additional Instructions. I hereby authorize and direct my Independent Executor to have any sperm donations held under my name at Houston Texas Baylor Hospital destroyed.

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D. Undistributed Property. Any share or portion of a share of any trust created hereunder or any other property of mine that has not been disposed of under any other provision of this Will shall go and be distributed to the FOSTER CHARITABLE FOUNDATION, INC.

E. Informal Disposition. I may provide instructions in a Letter to my Independent Executor as to the disposition of some of my personal and household effects. While I hope that my family and friends will abide by my wishes as expressed in the Letter, it is merely an expression of my wishes and is not intended to alter the absolute nature of any bequest contained in this my Will.

III EXECUTOR

I hereby nominate, constitute, and appoint **RONALD BERKLEY FOSTER** Independent Executor of my Estate. In the event that **RONALD BERKLEY FOSTER** shall predecease me or fail or refuse to qualify, or die, resign, or become unable to serve during the administration of my estate, I hereby nominate, constitute and appoint **BURNLEY FOSTER** as Independent Executor, and all the powers, duties and responsibilities granted and imposed upon **RONALD BERKLEY FOSTER** shall devolve upon and be exercised by **BURNLEY FOSTER**.

IV ADMINISTRATION

A. Independent Administration. I direct that no action be had in a county court or other court of probate jurisdiction in relation to the settlement of my estate other than the probating and recording of this Will and the return of an inventory, appraisement, and list of claims of my estate.

B. Rights and Liabilities.

1. Bond Not Required. No bond or other security shall be required of any Independent Executor.

2. Liabilities. This instrument shall always be construed in favor of the validity of any act by or omission of any Independent Executor, and my Independent Executor shall not be liable for any act or omission except in the case of gross negligence, bad faith or fraud.

3. Compensation. Any Independent Executor shall be entitled to receive reasonable compensation for services actually rendered to my estate without regard to the provisions of any statute dealing with fiduciary compensation. The regularly published fee schedule of any corporate Executor shall be taken into account in determining what is fair and reasonable compensation for its services. Any Independent Executor shall be reimbursed for any and all expenses which the Independent Executor incurs in connection with the administration of my estate.


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4. Accounting. Any Independent Executor shall furnish an accounting to any beneficiary or guardian of any beneficiary upon reasonable demand made therefor. If and to the extent required by a successor Executor, an accounting for the administration of my estate shall also be given to the successor Executor. A successor Executor shall be fully protected in relying upon such accounting and also in not requiring such an accounting from his predecessor.

C. Powers of Independent Executor. Any Independent Executor shall have all the rights, powers, and privileges granted to a trustee by the Texas Trust Code, as amended. In addition, any Independent Executor shall have the following rights, powers, and privileges, unless specifically limited by other provisions of this Will.

1. Testamentary Estate. The Executor may retain as a part of my estate any property acquired at any time and in any manner. The Executor may hold property unproductive of income and may invest all or any part of my estate in property of any description (including shares of open or closed end investment trusts or companies and wasting assets) regardless of location and without regard to any requirement of diversification as to kind or amount.

2. Partitions, Distributions. The Executor shall have full power and authority to make all partitions, divisions, and distributions under this Will, by allocating assets and property proportionately in kind or by allocating undivided interests therein in kind. Any partition, division, or distribution made by the Executor in good faith shall be binding and conclusive on all interested parties.

3. Methods of Payment. If a beneficiary shall, in the opinion of the Executor, be incapacitated by reason of age, illness, or any other cause at the time of a distribution, the Executor may apply the distribution for the benefit of such beneficiary in any manner that the Executor may deem advisable, whether by payment of such beneficiary's expenses or to any such beneficiary, the legal or natural guardian, the person having custody of such beneficiary, or any other person deemed suitable by the Executor. If any property is distributable under this Will to a minor person, the Executor may make the distribution to a custodian (who may be the Executor), selected by the Executor, for the minor under the Uniform Transfers to Minors Act of Texas or any other state.

4. Business Interests. The Executor may continue operation of any business entity, in any business form, with all or any part of my estate, and may reorganize or liquidate any such entity at any time. The Executor may acquire an interest in any business entity, in any business form, and may convey to it all or any part of my estate.

5. Transfers, Loans. The Executor may lease, sell, transfer, or encumber in any manner (including with purchase money mortgages) all or any part of my estate, and may loan or borrow money in any manner (including by joint and several obligations) with or without

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security; provided, however, that an Executor shall not make any loan personally to any person or corporation then serving as Executor hereunder.

6. Dealings with Third Parties. The Executor may deal with any person or entity regardless of any relationship or identity of any Executor to or with that person or entity and may hold or invest all or any part of my estate in common or undivided interests with that person or entity. My Independent Executor shall have full power and authority to compromise, arbitrate, settle and adjust any and all debts, claims, and taxes which may be due from or owing by my estate; provided, however, that my Independent Executor may pay, but is not required to pay, any unpaid charitable gifts.

7. Agents, Employees. The Executor may employ and compensate agents and other employees and may delegate to them any and all discretions and powers. The Executor shall not be liable for any act or omission of an agent if the agent was selected and retained by the Executor with due care. I hereby request my Executor to hire JANA SMITH to assist in the settlement of my estate with an annual salary of one hundred twenty thousand and no/100 dollars (\$120,000) per year, to be pro rata per months of her service to my Estate.

8. Claims, Controversies. The Executor may maintain and defend any claim or controversy by or against my estate without the joinder or consent of any beneficiary.

9. Power to Determine Income and Corpus. Stock dividends and capital gains shall be treated as corpus. Except as herein otherwise specifically provided, the Executor shall determine in accordance with general principles of federal tax law the manner in which expenses are to be borne and receipts credited between corpus and income and what shall constitute income, net income, and corpus. In determining such matters, the Executor may give consideration to, but shall not be bound by, the provisions of the Texas Trust Code.

10. Documents. The Executor may execute and deliver any deeds, conveyances, assignments, leases, contracts, stock or security transfer powers, or any other written instrument of any character appropriate to any of the powers or duties herein conferred upon the Executor.

11. Tax Elections and Allocations. My Independent Executor shall have full power and authority to make any and all estate, inheritance, generation-skipping transfer, income and other tax elections or allocations available to my Independent Executor including specifically (i) the date and options, alternative or method which should be selected for the valuation of property in my gross estate for federal and state tax purposes and the payment of all such taxes, (ii) whether a deduction shall be taken as an income tax deduction or an estate tax deduction, (iii) the election to extend the time for the payment of federal and state taxes and the election to pay any such tax in installments, (iv) the allocation of any of my available GST exemption from the federal generation-skipping transfer tax to any property as to which I am

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deeded to be the transferor under the provisions of Section 2652(a) of the Code, including any property transferred by me during my lifetime as to which I did not make an allocation prior to death. Property may be subject to the above elections and allocations whether or not such property is included in my probate estate. My Independent Executor shall incur no liability to any beneficiary of my probate and/or nonprobate estate on account of making or not making any such election or allocation, regardless of the fact that any federal or state tax imposed on my estate is thereby increased or that there is a change in the proportion in which any beneficiary shares in my estate. In determining the estate, inheritance and income tax liability related to my estate, my Independent Executor's decisions as to all available tax elections shall be conclusive on all concerned. No compensating adjustments between income or corpus or in the amount of any gift under this Will shall be made as a result of my Independent Executor's election.

12. Power of Sale. I hereby grant unto my Independent Executor or his successor named above, full power and authority over any and all of my estate and he is hereby authorized to sell, at private or public sale, manage and dispose of the same or any part thereof, and to carry out the terms of any agreement which I may have entered into to sell all or any part of any property or any interest I may own in any business at the time of my death; provided further, that my Independent Executor shall have the power to sell property to, or purchase property at public or private sale from any trust for a consideration equal to the then fair market value of the property, notwithstanding that he may be the fiduciary of both the selling estate and the purchasing trust. In connection with any such a sale or transaction, my Independent Executor is authorized to make, execute and deliver proper deeds, assignments, and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate. All persons shall be fully protected in relying upon his power to execute every such instrument and no one shall be obligated to see to the application by him of any money or property received by him pursuant to the execution and delivery of any such instrument.

13. Powers Cumulative. Except as herein otherwise provided, the powers conferred upon the Independent Executor shall not be construed as in limitation of any authority conferred by law but as in addition thereto.

V.

PAYMENT OF DEBTS, EXPENSES AND TAXES

A. Apportionment of Estate Taxes Under Texas Probate Code §322A.

1. I direct that all estate taxes (including interest and penalties thereon, which shall be included in the term "taxes" for purposes of this Article) on probate and nonprobate assets shall be allocated to corpus and shall be paid and apportioned in accordance with Texas law

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as it exists at the time of my death, including Texas Probate Code §322A, except where I have specifically provided to the contrary in the following Sections or elsewhere in this Will.

2. At the time this Will is signed, Texas Probate Code §322A(b)(1) states that "the portion of each estate tax that is charged to each person interested in the estate must represent the same ratio as the taxable value of that person's interest in the estate included in determining the amount of the tax bears to the total taxable value of all the interests of all persons interested in the estate included in determining the amount of the tax."

3. I specifically provide that for tax apportionment purposes, the taxable value of an interest means the net value for purposes of the estate tax involved, after taking into account any deductions with respect to or chargeable against the interest that are allowed in computing the tax. For example, the taxable value of an interest for which a full estate tax deduction is allowed shall be zero, both in the numerator and the denominator of the estate tax apportionment ratio. By way of further example, if a debt or expense for which the estate receives an IRC §2053 deduction is charged against a person's interest, the taxable value of that interest (in both the numerator and denominator of the ratio) should reflect the charge (by reducing the taxable value of the interest). This Article shall generally be applied so that the sum of the ratios shall equal one.

4. I recognize that §322A is of necessity a complicated statute that is not always clear in its meaning, and that tax apportionment is an imperfect science. For this reason, and since it is very difficult to imagine every variation of the tax apportionment problem, I specifically provide that §322A and this Article shall be interpreted and applied by my Executor, exercising his discretion in a fiduciary capacity, using common sense so as to achieve a just and equitable result, and shall not be applied in a manner that would result in a clearly anomalous or unjust apportionment.

B. Recovery of Estate Taxes Under Federal Law. If Federal law (including IRC §2207A) allows for the recovery of estate taxes on nonprobate assets in an amount exceeding the amount otherwise apportionable under this Article, then, except as otherwise limited in this Article, my Executor is authorized to recover such additional amount unless it is clearly not in the best interest of the beneficiaries of my estate to do so, as determined in the sole discretion of my Executor. Any additional amount so recovered shall reduce the estate tax otherwise to be apportioned under §322A and this Article.

C. Property Includible in the Gross Estate Under §2041. If any property over which I have a general power of appointment is includible in my estate under IRC §2041 (meaning that the power was not created by me), then notwithstanding anything else herein to the contrary, my estate shall be entitled to recover from the person receiving or holding such property the amount by which the total estate tax that has been paid or is or will be owing exceeds the total estate tax that would

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have been payable if the value of such property had not been included in my gross estate. To the extent necessary to achieve this end, I now exercise such power of appointment.

D. Gifts Passing Free of Estate Tax Apportionment.

1. General. In determining the taxable value of a person's interest for apportionment purposes, gifts passing free of estate tax apportionment (whether by operation of law or under the specific terms of this Will) shall be ignored in both the numerator and denominators of the estate tax apportionment ratios.

2. Residuary Estate Is Primary Source of Payment of Debts and Expenses Other Than Taxes. I direct that all of my "debts and expenses" shall be charged and paid in such order and out of such of the assets of my residuary estate (including the income of my residuary estate) as my fiduciaries may judge best, except where I have specifically provided to the contrary elsewhere in this Will. Expenses and debts for purposes of this Article do not include estate taxes. To the extent consistent with the preceding sentence:

a. My Executor shall allocate debts and expenses of my last illness and funeral to corpus, but shall charge administration expenses, interest, penalties, and other expenses in accordance with the Texas Principal and Income Act (Texas Property Code §113.101 et seq.);

b. Provided, however, that if the applicable statutory law should require the allocation of principal and income in another manner, statutory law shall govern. Notwithstanding the foregoing, expenses (other than general administrative expenses and estate taxes) that are directly attributable to a specific gift (such as, but not limited to property taxes, insurance, preservation costs, and upkeep) which are not part of my residuary estate shall be charged to the beneficiary of such gift. My Executor's right to elect whether administration expenses shall be deducted as an income tax deduction or as an estate tax deduction shall not be affected by the manner in which such expenses are charged between income and corpus for fiduciary accounting purposes. Notwithstanding the foregoing, my Executor shall not pay debts and expenses out of assets which are otherwise exempt from creditor claims, unless the nonexempt assets are clearly sufficient for this purpose and my estate is otherwise solvent.

3. Renewal and Extensions of Indebtedness. My Executor is specifically given the right to renew and extend, in any form that he, she, or it judges best, any secured or unsecured debt or charge existing at the time of my death. Under no circumstances shall my Executor be required to prepay any debts of mine.

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4. Insurance Policy Loans. No policy loan against a policy of life insurance owned by me shall be treated as a debt to be paid out of my Residuary Estate; rather, any such policy loan against a policy of life insurance owned by me shall be paid out of the proceeds of the policy, and any policy of life insurance owned by me shall be distributed to the beneficiary entitled to it subject to any such policy loan.

5. Right of Offset. My Executor is expressly authorized to offset any gifts under this instrument to a beneficiary by the amount of reimbursement or contribution otherwise owing.

VI. TAX ELECTIONS

A. General. If my Independent Executor in good faith decides that there is uncertainty as to the inclusion of particular property in my gross estate for federal estate tax purposes, he or she shall exclude such property from my gross estate in the estate tax return. My Independent Executor shall not be personally liable for any loss to my estate or to any beneficiary resulting from his or her decision made in good faith that there is uncertainty as to the inclusion of a particular property in my gross estate. Whenever my Independent Executor is given a choice of dates in valuing property in my gross estate, he or she may at his or her own discretion select the date which causes the lowest federal estate tax on my estate. My Independent Executor shall have the right in his or her absolute discretion to determine whether and to what extent any item of cost, expenses or loss shall be treated in whole or in part as a deduction from my gross estate for the purposes of federal estate, generation-skipping or state inheritance taxes and/or as a deduction from the gross income of my estate for the purposes of federal income taxes, even though the manner in which such election is exercised may result in an advantage or disadvantage to any beneficiary as compared with any other beneficiary.

B. Filing Returns. I authorize and empower my Independent Executor, without duty to give or obtain consideration therefor, to exercise any and all options available under said tax law to my estate of whatsoever kind or nature in whatever manner my Independent Executor in good faith considers advisable. My Independent Executor is not required to make compensating adjustments between the income or principal of any trust or among beneficiaries as a result of tax elections. My Independent Executor may, in his or her discretion, arrange for extensions of time for the payment of estate and inheritance taxes, over such period as may seem appropriate to my Independent Executor and available by statute, or may postpone the payment of such taxes upon future interests until the time possession thereof accrues to the beneficiary or beneficiaries.

C. Binding Effect. Any such good faith determination by my Independent Executor pursuant to the authority granted in Article IV hereof, shall be binding upon all devisees, legatees and appointees hereunder and upon all other interested persons.

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VII.
LIABILITY OF INDEPENDENT EXECUTOR

My Independent Executor shall be fully protected and shall not be liable to the beneficiaries of my estate or any other person directly or indirectly for any information furnished to the Internal Revenue Service or to such beneficiaries, if my Independent Executor has done everything reasonable as required by law to obtain such information, verify its accuracy, and impart such information.

VIII
IN TERROREM CLAUSE

As a condition to the taking, vesting, receiving or enjoying of any property, benefit or thing whatsoever under or by virtue of this Will or any trust created under this Will, each Distributee shall accept and agree to all of the provisions of this Will and that the provisions of this In Terrorem Clause are made an essential part of each and every benefit in and under this Will. If any Distributee hereunder, directly or indirectly, individually or with another, shall contest the probate or validity of this Will, or any provision thereof; or shall institute or join in (except as a party defendant) any proceeding to contest the validity of this Will or to prevent any provision hereof from being carried out in accordance with its terms or shall acquiesce therein; or shall fail or refuse to defend this Will or any provision herein; or shall in any manner question or dispute any statement or declaration herein; or shall in any manner aid, assist or encourage another in any such contest or questioning; or shall contest, question or oppose in any legal proceeding the performance by my Executor or, if applicable, my Trustee of any duty, act or discretion granted to or incumbent upon him or her under the terms of this Will or by law; or shall in any manner institute or participate in (except in support of my Executor or, if applicable, my Trustee) any construction of any provision of this Will by means of any declaratory judgment proceeding (without the prior written approval of the designated personal representative of my estate or, if applicable, my Trustee); or shall in any manner institute or participate in any proceeding (except in support of my Executor or, if applicable, my Trustee) to contest or in any manner question any accounting prepared by or on behalf of my Executor, or, if applicable, my Trustee; or shall institute any cause of action (including, but not limited to, any cause of action for tortious interference with inheritance rights) against any person which is based in any way on the proposition that I was not of sound mind, lacked testamentary capacity, was unduly influenced, or failed to comply with any applicable law at the time that I executed any legal instrument (any of the acts described above are hereinafter referred to as "Prohibited Acts"); then, in any such contingency, all benefits provided for such Distributee are revoked and such benefits shall pass to the Residuary Distributees under this Will (other than such Distributee), or if applicable the Residuary Distributees of any trust in the proportion that the share of each such Residuary Distributee bears to the aggregate of the effective shares of the residuary. If any distribution has been made to any Distributee prior to the time he or she engages in a Prohibited Act, then such Distributee shall repay to my Executor, or, if applicable, my Trustee, the amount of any such distribution plus simple interest at a rate of six per cent per annum and all attorney fees and expenses incurred in collecting this distribution. To the greatest extent permitted by Texas law this provision of this Will shall apply to

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any Distributee regardless of whether or not any Prohibited Acts were taken in good faith and with probable cause. If my Executor elects to take a charitable deduction on my Federal Estate Tax return then no provision of this In Terrorem Clause shall apply to any charity. This provision shall survive the administration of my estate and shall expressly apply to the administration of any trust created in this Will. No distributee shall be deemed to have violated this clause solely because he or she disclaims any interest in my estate and any trust created under this Will.

IX
DEFINITIONS AND GENERAL PROVISIONS

A. Survival. Except where specifically designated otherwise, for purposes of the dispositive provisions of this Will no person shall be deemed to have survived another if such person dies within ninety (90) days after the prior decedent's death.

B. Descendants. "Descendants" means the legitimate children of the person designated and the legitimate lineal descendants of such children, and includes any person adopted before attaining the age eighteen (18) years and the adopted person's legitimate lineal descendants. A posthumous child shall be considered as living at the death of his or her parent.

C. Heirs. "Heirs" means those persons who would have inherited a decedent's personal property if the decedent had then died single, intestate, and domiciled in Texas.

D. Code. "Code" means the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent federal tax laws.

IN TESTIMONY WHEREOF, I hereunto sign my name to this, my Last Will and Testament, consisting of fourteen (14) typewritten pages (including the pages containing the attestation clauses and the self-proving affidavit), each of which pages I am initialing or signing for the purpose of identification, all in the presence of the undersigned, who witness the same at my request, on this 26 day of October, 2006.

10-26-06 X

Kent S. Foster
KENT S. FOSTER
Testator

ATTESTATION

The foregoing instrument was, on this 26 day of Oct., 2006, made and published as the Last Will and Testament of KENT S. FOSTER, Testator and is signed and subscribed by the said KENT S. FOSTER, in our presence, and we, the undersigned, at his request, and in his presence, and in the presence of each other, sign and subscribe our names hereto as attesting witnesses.

Carol Latigue
WITNESS

7726 Ellis
STREET

Missouri City TX
CITY AND STATE

832-541-7936

SLSL
WITNESS

7500 San Felipe #675
STREET

Houston, Tx 77063
CITY AND STATE

(713) 781-7500

SELF PROVING AFFIDAVIT

STATE OF TEXAS

COUNTY OF Harris

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♣
♣

BEFORE ME, the undersigned authority, on this day personally appeared KENT S. FOSTER, known to me to be the Testator and the witnesses, Harry Herzog and Carol Latigue, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said KENT S. FOSTER, Testator, declared to me and to 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, each on his oath stated to me in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his Last Will and Testament and that he executed 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 said Testator was at that time eighteen (18) years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Kent S. Foster

KENT S. FOSTER
Testator

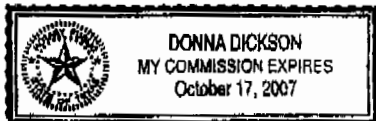
Carol Latigue

WITNESS

JKL

WITNESS

SUBSCRIBED AND SWORN before me by the said KENT S. FOSTER, Testator, and by the said Harry Herzog and Carol Latigue witnesses, this 26th day of October, 2006.



Donna Dickson
NOTARY PUBLIC, STATE OF TEXAS
My Commission Expires: 10/17/07