

**LAST WILL AND TESTAMENT**  
**OF**  
**RICHARD TEX MCCONATHY**

**THE STATE OF TEXAS**                   §

**COUNTY OF DALLAS**                   §

That I, Richard Tex McConathy, of Dallas County, Texas, being of sound mind and disposing memory, do make, publish and declare this my Last Will and Testament, hereby revoking all Wills and Codicils by me heretofore made.

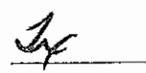
**SECTION I.**

**PAYMENT OF DEBTS, EXPENSES AND TAXES**

Except as otherwise provided by this Will, I direct that my legally enforceable debts, funeral expenses and expenses of the administration of my estate be paid out of my residuary estate. I direct that all estate, inheritance, and succession taxes, together with any interest and penalties on such taxes, payable as a result of my death, are to be allocated and apportioned among, charged to, and collected from, each of the beneficiaries sharing in my gross taxable estate, including the beneficiaries of property passing outside my will, on a pro rata basis in accordance with the applicable provisions of the Texas Probate Code. My Executor is directed to take whatever action is necessary to collect such taxes and charges from all beneficiaries sharing in my gross taxable estate, and may withhold such taxes and charges from any property that may be distributable to such beneficiaries.

The above direction with respect to payment of debts shall not be construed to require the payment of any debt before it is due and my executor is specifically given the right to renew and extend, in any form that my executor deems best, any debt or charge existing at the time of my death, including any mortgage on my home. Similarly, my executor shall have the right and power to incur indebtedness and to borrow money for the purpose of paying any or all of the aforesaid debts, expenses and taxes. If, at the time of my death, any of the property bequeathed or devised to a beneficiary is subject to a mortgage, I direct that the beneficiary taking such mortgaged property shall take it subject to such mortgage and that the beneficiary shall not be entitled to have the obligation secured thereby paid out of my estate.

*LAST WILL AND TESTAMENT*



No policy loan against a policy of life insurance owned by me on my life or on the life of any person shall be treated as a debt to be paid out of the residuary of my estate, but rather any such policy loan against a policy of life insurance owned by me on my life shall be paid out of the proceeds of the policy (and any policy of life insurance owned by me on my life of any other person) and shall be distributed to the person or entity entitled thereto subject to any such policy loan.

## SECTION II.

### SPECIFIC BEQUESTS

#### A.

I give, devise, and bequeath all of the property which I may own at the time of my death, real, personal and mixed, tangible and intangible, of whatsoever nature and whosoever situated, including all property which I may acquire or become entitled to after the execution of this will to my both my sons, Richard Charles McConathy, Matthew Michael McConathy in equal portions. With the following conditions, that if my youngest son, Matthew Michael McConathy, is not of the age of 25 at the time of my death that my son, Richard Charles McConathy, place Matthew Michael McConathy's portion of the estate into a trust for the purposes of his education and wellbeing. This trust will be managed by my son Richard Charles McConathy and he will be the ultimate determinor of the purposes of the trust. This trust will dissolve upon the 25<sup>th</sup> birthday of Matthew Michael McConathy, to which he will have total control of his portion of the estate.

#### B.

To Carol Webb Barnes, Marge McConathy, and Mary Ann Allen, I hereby give, devise, and bequeath equally among the three my cold dead ass so that each can kiss it from now until eternity. As for the rest of my estate, I figured that you took all that you could when I was alive so you will get nothing.

## SECTION III.

### DISPOSITION OF RESIDUE

If my son, Richard Charles McConathy fails to survive me, I give, devise, and bequeath his portion of the estate, residue and remainder of the property which I may own at the time of my death, real, personal and mixed, tangible and intangible, of whatsoever nature and whosoever situated, including all property which I may acquire or become entitled to after the execution of this will to my daughter-in-law April Ann McConathy, with the following restrictions, that my entire estate be held in its entirety as separate property of my daughter-in-law in the event that she remarries if my son fails to survive me. However, if my son and daughter-in-law have children and my son fails to survive me, that the entirety of my estate be placed into a trust, to be managed by my daughter-in-law, for the care and needs of my grandchildren and my daughter-in-law. This trust will only be used for the children produced from the marriage with my son. However, if my daughter-in-law fails to survive me, I devise and bequeath me entire

*LAST WILL AND TESTAMENT*

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estate equally to such of my grandchildren who are alive and who survive me according to the terms of section four. However, if my grandchildren are not of the age of twenty-one at the time of my death, and my daughter-in-law fails to survive me I request that the entirety of my estate be placed in a trust to be managed by a trustee of the probate court's determination. The second half of my estate will go to my son Matthew Michael McConathy as discussed in section II. With the following leaping amendment, that if my son Richard Charles McConathy fails to survive me, and my son Matthew Michael McConathy fails to reach his 25<sup>th</sup> birthday by my death, that April Ann McConathy will become manager of the trust mentioned in section II. with all the privileges and restrictions aforementioned.

If my son, Matthew Michael McConathy fails to survive me, then the entire estate will be given to my son Richard Charles McConathy.

#### SECTION IV.

##### DEFINITIONS

All references in this will to my son relate only to Richard Charles McConathy and Matthew Michael McConathy. All references in this will to my daughter-in-law relate only to April Ann McConathy. All references in this will to my grandchildren relate only to offspring by either birth or adoption during the marriage between my son Richard Charles McConathy and my daughter in law April Ann McConathy. As used in this will, the word "executor" shall include both the singular and the plural and shall mean the executor or executors acting hereunder at anytime whether one or more. As used in this will, the masculine, feminine, and the neuter genders shall each be deemed to include the other unless the context requires otherwise. The singular shall include the plural and the plural shall include the singular whichever the context of this will permits.

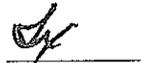
#### SECTION V.

##### PROVISIONS RELATING TO EXECUTOR

I constitute and appoint my son, Richard Charles McConathy as Independent Executor, without bond, of this my Last Will and Testament. I direct that no action shall be had in any court respecting the settlement of my estate other than to probate this Will and, if required, to make, return and record an Inventory and Appraisalment of my estate and list of claims.

If my original executor ceases or fails to serve, I appoint my daughter-in-law, April Ann McConathy as my Independent Executor. However, if my daughter-in-law fails to survive me than I request that if my son Matthew Michael McConathy has reached his 25<sup>th</sup> birthday that he be made executor of my estate, however of Matthew

*LAST WILL AND TESTAMENT*



Michael McConathy has not reached his 25 years of age, I request that the probate court appoint a qualified executor of my will, with the following restrictions, that the probate court not appoint Carol Webb Barnes, Marge McConathy, and Mary Ann Allen as my executors. Any executor, original or successor, named herein may be referred to as my executor. No executor shall be required to furnish bond.

In addition to the powers given to my executor by law, I grant to my executor all of the powers given to trustees under the Texas Trust Code as it now exists or is hereafter amended to broaden the powers of trustees, such powers to be exercised without court supervision or control. Without limiting the generality of the foregoing authorization, my executor shall further have the power:

- (1) To retain any property of my estate;
- (2) To convey, sell, transfer, exchange, partition, mortgage, pledge, lease, assign or otherwise dispose of, hypothecate or deal with any and all properties in my estate;
- (3) To borrow or lend money for such purposes and on such terms and conditions as my executor deems appropriate;
- (4) To invest and reinvest any assets, funds, properties, or income of my estate in such properties or investments as my executor deems appropriate;
- (5) To extend or renew any indebtedness upon such terms and for such time or times as my executor deems appropriate;
- (6) To settle claims in favor of or against my estate; and
- (7) To continue the operation of any proprietorship, partnership, corporation or other business owned by my estate, including power to carry out and enforce the provisions of any agreement for the disposition of my interest in any such business enterprise, even though my executor may be financially in such business or agreement.

My executor may exercise such powers for any purpose and upon such terms, conditions and limitations (whether or not to exist longer than the administration of my estate), which in the judgment of my executor shall be in the best interest of my estate and the beneficiaries thereof.

*LAST WILL AND TESTAMENT*



My executor shall have full power and authority to make any and all estate, inheritance and income tax elections available to my executor, including specifically:

- (a) The date and option, alternative or method which should be selected for the valuation of my property in my gross estate for federal and state estate and inheritance tax purposes and the payment of all such taxes;
- (b) Whether a deduction shall be taken as an income tax deduction or and estate tax deduction; and
- (c) The election to extend the time for the payment of federal and state estate and inheritance taxes and the election to pay such tax installments.

My executor shall also incur no liability to any beneficiary of my estate on account of making such election, regardless of the fact that any federal or state estate, inheritance or income 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. My executor's decisions with respect to such matters shall also be binding and conclusive upon all concerned. No compensating adjustments between income or principal or in the amount of any bequest or devise hereunder shall be made as a result of any such decision.

I authorize my executor to distribute my estate in whole or in part at such time or times as my executor deems advisable and my executor is authorized to make such distribution in cash, or in kind, or partly in cash and partly in kind. My executor is further authorized to distribute my estate subject to any and all indebtedness incurred by me or by my executor, which in the opinion of my executor need not first be paid, and subject to any or all mortgages, deeds of trust or other liens created by me or by my executor; provided, however, except as otherwise provided by this Will, the source of the payment of any such debt shall be as provided in Section I. Hereof.

If any beneficiary to whom my executor is authorized by this instrument to make distributions is under a legal disability or is, in the opinion of my executor, incapable of properly managing his or her affairs, my executor may make such distributions in any one or more of the following ways:

- (a) To such beneficiary directly;
- (b) To the guardian, committee, conservator or other similar official of such beneficiary;

*LAST WILL AND TESTAMENT*



- (c) To a relative of such beneficiary to be expended by such relative for the benefit of such beneficiary, including payment to such relative;
- (d) To a custodian selected by my executor under an applicable Uniform Transfers to Minors Act; or
- (e) By my executor expending the same directly for the benefit of such beneficiary.

In each case, the receipt by such beneficiary or other person to whom payment is made or entrusted shall be a complete discharge to my executor, and my executor shall be without obligation to see to the further application of such distribution.

## SECTION VI.

### MISCELLANEOUS PROVISIONS

For purposes of this Will, one (1) person shall be regarded as having survived another only if the former survived the latter by thirty (30) days or more. If any part of this instrument shall be invalid, illegal, or inoperative for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. My executor may seek and obtain court instructions for the purpose of carrying out as nearly as may be possible the intention of this instrument as shown by the terms hereof, including any term held invalid, illegal, or inoperative.

The headings used throughout this Will have been inserted for administrative convenience only and do not constitute matter to be constructed in interpreting this Will.

If all of the above named beneficiaries fail to survive me, my executor shall distribute my residue to those persons who would inherit from me in accordance with the laws of the intestate distribution then in effect in the State of Texas, as if I had died intestate one day following the later of the following dates, owning only personalty:

- (a) The date of my death; or
- (b) The date of death of my last surviving descendant.

*LAST WILL AND TESTAMENT*



THIS I MAKE AND PUBLISH as my Last Will and Testament, hereunto subscribing my name in the presence of Barbara Garza and George Zanh, who have, at my request and in my presence and in the presence of each other, also subscribed their names hereto as attesting witnesses, on this the 22nd day of April, 2004.

J. M. Conacher, Testator

LAST WILL AND TESTAMENT

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We, the undersigned persons, of lawful age, have on this day at the request of Richard Tex McConathy, Testator, witnessed Testator's signature to the foregoing Last Will and Testament, in the presence of each of us and we have, at the same time and in the Testator's presence and in the presence of each other, subscribed our names hereto as attesting witnesses.

Barbara Gay  
Witness

800 W Airport Fwy #1100  
Irving, TX 75062

George W. Johnson  
Witness

800 W Airport Fwy, #1100  
Irving, TX 75062

LAST WILL AND TESTAMENT

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STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

BEFORE ME, the undersigned authority, on this day personally appeared Richard Tex McConathy, BARBARA GARZA and George Zahn, known to me to be the Testator and the witnesses, respectively, whose names are in subscribed to the annexed or foregoing instrument in their respective capacities and, all of the said persons being by me duly sworn, the said Testator declared to me and to the 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 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; and that he was at least 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.

Barbara Garza  
Witness

Richard Tex McConathy  
, Testator

George Zahn  
Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Sammie Walker, Testator, and SUBSCRIBED AND SWORN TO BEFORE ME by the said Barbara Garza and George Zahn Witnesses, this the 22nd day of April, 2004, A.D.

Cynthia Umanson  
Notary Public in and for the State of Texas



LAST WILL AND TESTAMENT

24

*LAST WILL AND TESTAMENT*

  
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