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**SHOULD THIS BE THE
LAST WILL AND TESTAMENT OF
UNNAMED SERVICE MEMBER CARTER?**

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I, UNNAMED SERVICE MEMBER CARTER, do make, publish, and declare this to have the effect of being my Last Will and Testament.

ARTICLE I: ADMINISTRATION

1. I direct that my Administrator, who shall be appointed by the Clerk of Superior Court in the North Carolina County in which I resided at the time of my death, to pay all of my legal and enforceable debts, but only to the extent that the same are enforceable obligations of my estate. After paying the costs of administration of my estate, the order of payment of other claims against my estate shall be (i) claims secured by a specific lien against property, but only in an amount not to exceed the value of the property, (ii) funeral expenses up to \$2,500, (iii) Federal taxes, *et cetera*, (iv) North Carolina taxes (including taxes imposed by its political subdivisions), (v) judgments currently in force, (vi) wages due any of my employees, (vii) claims for equitable distribution of marital property, and finally (viii) any other claims. **{NCGS § 28A-19-6}**

2. In selecting an Administrator for my Estate, the Clerk of Superior Court shall consider persons who are qualified to serve, in the following order, unless the clerk of superior court in his discretion determines that the best interests of the estate otherwise require: (a) my surviving spouse, (b) any heir of mine, (c) any of my next of kin, with a person who is of a closer kinship as computed pursuant to NCGS § 104A-1 having priority, (d) any creditor to whom I became obligated prior to my death, (e) any person of good character residing in the county where I resided at the time of my death who applies therefore, and then (f) any other person of good character not disqualified under NCGS § 28A-4-2. When applicants are equally entitled, the Clerk of Superior Court shall appoint the applicant who, in the Clerk's judgment is most likely to administer the estate advantageously, or the Clerk may appoint any two or more of such applicants. **{NCGS § 28A-4-1}**

3. My Administrator shall post a bond payable to the State of North Carolina to the use of all persons interested in the estate. Such bond shall be conditioned on the Administrator promising to faithfully execute the trust reposed in him and obey all lawful orders of the Clerk of Superior Court or other court touching the administration of the estate committed to him. Said Bond shall be in an amount not less than 1¼ times the value of all personal property of the decedent if the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of

Insurance to do business in North Carolina, provided that the Clerk of Superior Court, when the value of the personal property to be administered by the personal representative exceeds one hundred thousand dollars (\$100,000), may accept a bond in an amount equal to the value of the personal property plus ten percent (10%) thereof. The Clerk may, in its discretion, accept a bond posted by a first deed of trust or first mortgage on real property located in North Carolina in an amount equal to twice the value of my personal property. **{NCGS § 28A-8-2}**

ARTICLE II: DISPOSITION
{NCGS Ch. 29 unless otherwise indicated}

1. I give and bequeath the sum of \$10,000.00 to my surviving spouse and the sum of \$2,000.00 to each of my legitimate, adopted, and legitimated children (and if I am a female to my illegitimate children), including any child of mine who is born within 10 lunar months following my death, for each child's support for the year next ensuing my death, regardless of whether or not I decide that a child should receive such a bequest. **{NCGS §§ 30-15, 30-17}**

2. I give and bequeath the sum of \$30,000.00 to my spouse, unless, one or more of the conditions listed in Paragraph 5 hereinbelow shall apply. This payment to my spouse shall be made after the payment of all lawful claims against my estate, but prior to the payment of any other disposition. If my spouse shall not survive me, this sum shall revert to my residuary estate.

3. I give, devise, and bequeath all the rest, residue and remainder of my property and estate, real and personal and intangible, wherever situated, including all property which I may acquire or to which I may become entitled after the execution of this Will to the beneficiaries named below and in the proportions set out hereinbelow:

- a) if at the time of my death, I am survived by my spouse and 1 child, I give, devise and bequeath 1/2 undivided interest in my net estate plus \$30,000 to my spouse and the balance of my net estate to my child, however, if the personal property in my estate shall be less than \$30,000, then and in that event I give and bequeath all of my personal property to my spouse; or
- b) if at the time of my death, I am survived by my spouse and 2 or more children, I give, devise and bequeath 1/3 undivided interest in my net estate plus \$15,000 to my spouse and the balance of my net estate to my children, in equal shares, *per capita*, however, if the personal property in my estate shall be less than \$30,000, then and in that event I give and bequeath all of my personal property to my spouse; or
- c) if at the time of my death, I am survived by my spouse and no children, but one or both of my parents, I give, devise and bequeath 1/2 undivided interest in my net estate plus \$50,000 to my spouse and the balance of my net estate to my parent or parents who survive me, however, if the personal property in my estate shall be less than \$50,000, then and in that event I give and bequeath all of my personal property to my spouse; or
- d) if at the time of my death, I am survived by my spouse and neither children nor

- parent, I give, devise and bequeath my entire net estate to my spouse; or
- e) if I am not survived by lineal descendants or by either parent, then I give, devise and bequeath my estate to my collateral heirs in the proportions established in NCGS § 29-16, but only to the extent that I have collateral heirs within the 5th degree of kinship.
 - f) If, at the time of my death, I am not survived by a spouse, descendants, or collateral heirs within the 5th degree of kinship, I give, devise and bequeath all of my property and estate to the Treasurer of the State of North Carolina for vesting as an escheated item in the Reserve Trust Fund. **{NCGS § 116-209}**
 - g) For purposes of this Article II, any property which I gave to a beneficiary of my estate during my lifetime as an advancement shall be counted toward that advancee's share, but any *inter vivos* gift I have made shall be presumed to be an absolute gift and not an advancement unless there is evidence to the contrary. However, if the amount of any advancement exceeds the advancee's intestate share, that beneficiary shall be excluded from any further distribution from my estate, but I direct that he or she shall not be required to refund any part of the advancement. The valuation of the advancement shall be determined as of the time of advancee came into possession.

4. My spouse, if he/she shall survive me, may elect to take in lieu of the share set forth hereinabove:

- a) a life estate in 1/3 of all real estate owned by me at any time during my marriage to my said spouse, save and except for real estate to which my said spouse waived rights by joining in the conveyance or has otherwise deeded away such interest; and
- b) at the election of my spouse, a life estate in the usual dwelling house occupied by the surviving spouse at the time of the death of the deceased spouse if such dwelling house were owned by the deceased spouse at the time of his or her death, together with the outbuildings, improvements and easements thereunto belonging or appertaining, and lands upon which situated and reasonably necessary to the use and enjoyment thereof; and
- c) fee simple ownership in the household furnishings and appliances located in the said dwelling house.
- d) My surviving spouse shall be entitled to make this election regardless of the value of such life estate and household furnishings, even if such value shall exceed the 1/3 value referred to in Paragraph 4 (a) hereinabove.

5. Notwithstanding the provisions of Paragraphs 1-4 hereinabove, my wife shall not inherit if I obtained an absolute divorce, divorce from bed and board, or annulment of our marriage, or if my spouse had voluntarily separated from me and lived in adultery which I had not condoned, or if my spouse had willfully and without just cause abandoned me and refused to live with me and was not living with me at the time of my death, or if my spouse had obtained a divorce, the validity of which is not recognized under the laws of the State of North Carolina, or if my spouse knowingly contracted a bigamous marriage. **{NCGS § 31A-1}** No parent shall inherit if that parent willfully abandoned my care and maintenance, except where that parent was deprived of custody

of me under an order of a court of competent jurisdiction and that parent has substantially complied with all orders of the court related to the contribution of support for me. **{NCGS § 31A-2}**. Further, no one shall inherit hereunder if that person shall have been convicted by a court of competent jurisdiction or shall have tendered a plea of guilty or *nolo contendere* as a principal or accessory before the fact of the willful and unlawful killing of me, or who shall have been found in a civil action or proceeding brought within one year after my death to have willfully and unlawfully killed me or procured my killing, and who shall have died or committed suicide before having been tried for the offense and before the settlement of the estate. **{NCGS §§ 31A-3 ff.}**

ARTICLE V: PERSONAL GUARDIAN OF MY CHILDREN
{NCGS §§ 7B-402, ff., 7B-601, ff., 7B-1111, ff.}

1. Should my spouse predecease me and I have a child less than eighteen (18) years of age, I do not wish to exercise my right to nominate a guardian for my said minor children but, rather, I direct the Director of the Department of Social Services of the County in which I reside at the time of my death to immediately file a petition in the District Court of said County alleging that my child/children is/are dependent, and I stipulate that the Court shall place my children in foster care with such person or entity as the County's Department of Social Services shall deem to be in the child's/children's best interests, pending such efforts as the said Department shall make to locate a relative of my said child/children with whom to place them.

2. In the event that the Department of Social Services of the county in which I resided at the time of my death is unable to locate a relative to assume custody of my child/children, I direct that said Department seek adoptive placement for my said child/children.

ARTICLE VI: SIMULTANEOUS DEATH

In the event any legatee or devisee of this Will and I shall die as a result of a common disaster, or should any legatee or devisee die and there is no sufficient evidence that the legatee or devisee and I died other than simultaneously, then the bequest or devise to that person shall be treated as if I had survived him/her. **{NCGS § 28A-24-1}**.

IN WITNESS WHEREOF, I, UNNAMED SERVICE MEMBER CARTER, do hereby declare that I accept this instrument as my Last Will and Testament, that I do so willingly, that I do so as my free and voluntary act for the purposes herein expressed, and that I am eighteen (18) years of age or older, of sound mind (?), and under no constraint or undue influence.