



*In the name of Allah, the Most Beneficent, the Most Merciful*

## LAST WILL AND TESTAMENT

I, the undersigned \_\_\_\_\_,

Having Identity Number \_\_\_\_\_, and

Presently residing at No \_\_\_\_\_

\_\_\_\_\_ **Cape Town, Western Cape**

and

Being of sound mind and memory

do hereby revoke any and all former Wills and codicils made by me, and do make, ordain, publish, and declare this my Last Will and Testament.

### PREAMBLE

I bear witness that there is no deity but Allah, the One, the Merciful, the Almighty - Creator of the heavens and the earth and all therein - God of Abraham, Moses, Jesus, Muhammad, and all the Prophets, mercy and peace be upon them all He is One God and He has no partner. And I bear witness that the Prophet Muhammad is His Servant and his Messenger and the last of all the Prophets, mercy and peace be upon him. I bear witness that Allah is the Truth, that His promise is Truth, and that the Meeting with Him is Truth. I bear witness that Paradise is Truth and that Hell is Truth. I bear witness that the coming of the Day of Judgement is Truth, there is no doubt about it, and that Allah, who is exalted about all deficiencies and imperfections, will surely resurrect the dead of all generations of mankind, first and last and those in between.

This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they strive to be true Muslims, that they submit to their Creator - may He Be exalted-and worship Him as He alone is to be worshiped, fear Him as He alone is to be feared, and love Him and His Prophet Muhammad with a complete love that is rivalled by nothing besides them. Let them obey Him and hold Fast to His

*Shari'ah*. Let them spread and firmly establish His religion of Islam, and let them die only in a state of complete submission to His Will.

I remind them that no man and no woman dies before his/her time. The exact duration of each life span is precisely determined before we are born by the All-Powerful Creator, may He be exalted. Death is tragic only for the one who lived out his/her life in self-deception without submitting to the Creator and preparing for the final return to Him. So, do not preoccupy yourselves with my death, but instead make the proper preparations for your own.

Maintain patience and self-composure as the religion of Islam requires. Islam permits relatives to mourn for no more than three days, although a widow is allowed to mourn for four lunar months and ten days, until her *iddah* (period of waiting) is completed. Wailing and excessive lamentation is forbidden by the Creator, and it reflects only a lack of understanding and dissatisfaction with the Will of the Creator, may He be exalted. Instead, I remind you of the following Hadith:

“Abu Huraira (Allah be pleased with him) reported Allah's Messenger (may peace be upon him) as saying: When a man dies, his acts come to an end, but three, recurring charity (Sadaqatul Jaariyah), or knowledge by which people benefit, or a pious child who prays for him (the deceased).

Finally, I ask all my relatives, friends, and all others - whether they choose to believe as I believed or not - to honour my Constitutional right to these beliefs. I ask them to honour this document which I have made, and not to try to obstruct it or change it in any way. Rather, let them see that I am buried as I have asked to be buried and let my properties be divided as I wanted them to be divided.

## **ARTICLE I:**

### **FUNERAL AND BURIAL RIGHTS**

- a. I ordain that no autopsy or embalming be done on my body unless required by law and, without unjustified delay, my body be washed, wrapped with cloth free of any ornaments and other articles, prayed for, and then buried, which should all be done by Muslims in complete accordance with Islamic tenets.
- b. I ordain that no pictures, crescents or stars, decorations, crosses, flags, any symbols, Islamic or otherwise, or music shall be involved at any stage of the process of conducting my burial or ever be placed at the site of my grave.

- c. I ordain that my body shall not be transported over any unreasonable distance from the locality of my death, particularly when such transportation would necessitate embalming, unless when long distance transportation is required to reach the nearest Muslim cemetery or any other cemetery selected by my Muslim family.
- d. I ordain that my grave shall be dug deep into the ground in complete accordance with the specifications of Islamic practice and that it face the direction of Qiblah (the direction of the city of Mecca in the Arabian Peninsula, towards which Muslims face for prayer).
- e. I ordain that my body shall be buried without a casket or any encasement that separates the wrapped body from the surrounding soil. In the event that local laws require casket encasement, I ordain that such encasement be of the simplest, most modest, and least expensive type possible. I further ordain that the encasement be left open during burial and filled with dirt, unless prohibited by law.
- f. I ordain that my grave shall be level with the ground or slightly mounded, with no construction or permanent structure of any kind over it. The marking, if necessary should be a simple rock or marker, merely to indicate the presence of the grave. There should be no inscriptions or symbols on the said marking.

## ARTICLE II:

### EXECUTOR AND GUARDIAN

- a. I hereby nominate and appoint \_\_\_\_\_, presently residing at No \_\_\_\_\_, **Cape Town, Western Cape** to be the executor of this, my Last Will and Testament. In the event that he/she will be unwilling or unable to act as executor, I nominate and appoint \_\_\_\_\_, presently residing at No \_\_\_\_\_, **Cape Town, Western Cape** to be executor of this, my Last Will and Testament
- b. I give my executor herein named power to settle any claim for or against my estate and power to sell any property, real, personal, or mixed, in which I have an interest, without court order and without bond.
- c. I direct no bond or surety for any bond be required for my executor in the performance of his/her duties.

### ARTICLE III:

#### DEBTS AND EXPENSES

- a. I direct that my executor apply first, the assets of my estate to the payment of all my legal debts - including such expenses incurred by my last illness and burial as well as the expenses of administrating my estate. I direct the said executor to pay any "obligations to Allah" (Huquq Allah) which are binding on me, such as unpaid Zakah, Kaffarat, or unperformed pilgrimage (Hajj).
- b. I direct that all inheritance, state, and succession taxes (including interest and other penalties thereon) payable by reason of my death shall be paid out of and be charged generally against the principal of my residuary estate, without reimbursement from any person; except that this provision shall not be construed as a waiver of any right which my executor has, by law or otherwise, to claim reimbursement for any such taxes which become payable on account of property, if any, over which I have a power of appointment.
- c. I direct that all other debts payable by reason of my death shall be paid out of and be charged generally against the principal of my residuary estate

### ARTICLE IV:

#### CHARITABLE CONTRIBUTIONS AND TESTAMENTARY TRANSFER

I direct and ordain my executor to pay the following contributions and transfers, not to exceed one third of the remainder of my estate after making provision for payments of my obligations mentioned in Article III, to the following named persons, if they are still alive at the time of my death, and organizations, subject to there being sufficient cash available in the estate. In the event of there being insufficient cash my executor shall have the sole discretion to reduce the amount payable herein to ensure the maximum amount possible is paid

Name of Persons or Organizations		Amount / Percentage
1		
2		

## ARTICLE V:

### DISTRIBUTION OF THE REMAINDER OF MY ESTATE

- a. I direct, devise, and bequest all the residue and remainder of my estate after making provision for payment of my obligations and distributions provided in Article III and IV, to only my Muslim heirs whose relation to me, whether ascending or descending, has occurred through Islamic or lawful marriage at each and every point. The distribution of the residue and remainder of my estate shall be made strictly in accordance with:

#### ISLAMIC SHARIAH LAW OF INHERITANCE

- b. I direct that no part of the residue and remainder of my estate shall be inherited by any non-Muslim relative, whether he/she is a kin or an in-law, spouse, parent or child. I further direct and ordain that any non-Muslim relative be disregarded and disqualified in the application hereof.
- c. Should I die as a result of murder, I direct that the adjured murderer, principal or accessory in the murder shall be disqualified to receive any part of my estate.
- d. I direct that no part of my estate shall be given to relatives whose relationship to me, ascending or descending, has occurred through non-Islamic and unlawful marriage, or through adoption, at each and every point, except the following:
1. Legatees specifically named in Article IV
  2. A relative who is related to me through his/her biological mother
- e. I direct that should any of my heirs not be in a position to manage their inheritance as a result of old age or any other condition, that their share of the estate be placed in trust for their sole benefit and to be administered by my executor(s) at his/their sole discretion.
- f. I direct, devise, and bequest all the residue and remainder of my estate of every nature and kind and whenever situated after making provisions for payments of my obligations and distribution of my estate as provided in Articles III and IV. I further direct, devise, and bequest any portion of my estate disclaimed or refused to be received by any of the legatees named or referred to in this Last Will and Testament.

**ARTICLE VII:**

**SEPARABILITY**

I direct and ordain that if any part of this Last Will and Testament is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.

In witness whereof, I have hereunto set my hand and seal this \_\_\_\_ day of June 2018.

\_\_\_\_\_  
**NAME:**

We hereby certify that the forgoing instrument, including the handwritten portions thereof, was on the date thereof written, signed, published, and declared by the aforementioned Testator \_\_\_\_\_ as his Last Will and Testament, in our presence, who at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses thereto, believing said Testator at the time of the signing to be of sound mind and memory.

1. \_\_\_\_\_ of \_\_\_\_\_  
Name:

2. \_\_\_\_\_ of \_\_\_\_\_  
Name:

This document, comprising 6 pages, is made in two copies. The original is with me, one copy with my Executor.