

**APPENDIX E**

**Sample Will**

*(individual with no spouse or children and less than \$1.5 million in assets)*

**LAST WILL AND TESTAMENT**

**OF**

I, \_\_\_\_\_, of the City of \_\_\_\_\_, County of \_\_\_\_\_ and State of New York, being of sound mind and memory, do make publish and declare this to be my last Will and Testament, hereby revoking all prior Wills and Codicils.

**FIRST:** I direct that all my legal debts (including unpaid charitable pledges) and funeral expenses be paid by my Executor, hereinafter named, as soon as may be practicable.

**SECOND:** (A) To my brother FERDINAND M. SMITH, if he survives me, I give and bequeath all shares of stock I may own in \_\_\_\_\_ Co. or its successor. If my brother fails to survive me, I give such shares to my sister \_\_\_\_\_.

(B) To \_\_\_\_\_, if he survives me, I give and bequeath the sum of Five Thousand Dollars (\$5,000). It is my wish, but I do not direct, that he will make a donation of that amount in my memory to \_\_\_\_\_.

(C) To \_\_\_\_\_, I give and bequeath any automobile I may own, and the sum of \_\_\_\_\_ (\$\_\_\_\_\_). If she fails to survive me, then her descendants shall take the bequest per stirpes.

(D) To each niece and nephew of mine who survives me, I give and bequeath the sum of \_\_\_\_\_ (\$\_\_\_\_\_). For purposes of this Article, only children born of my siblings (not adopted) shall share.

(E) To my Executor named herein (personally, and not in a fiduciary capacity), I give and bequeath all my remaining tangible personal property, which shall mean all property that is not real estate and whose value is its own substance or uniqueness, such as furniture,

jewelry or a coin collection. It does not include cash, books, documents or other papers that are only evidence of intangible property rights, such as bank accounts, stock certificates, promissory notes, insurance policies and the like. It is my wish, but I do not direct, that my Executor will distribute such property in accordance with my instructions, which I shall provide him during my life.

**THIRD:** All the residue of my estate, both real and personal and wheresoever situate, I give, devise and bequeath to \_\_\_\_\_ or its successor, with its offices at \_\_\_\_\_. I direct that the amount passing under this Article shall be added to the permanent endowment of the organization, and only the income shall be used for its research and operating expenses. If that organization has ceased to exist at my death, I authorize the Executor to choose another charity, devoted to \_\_\_\_\_, to receive this bequest. Any such successor organization must qualify under Internal Revenue Code § 501(c)(3).

**FOURTH:** If any beneficiary under this Will dies within thirty (30) days after my death, I direct, as a condition subsequent, that the bequest to that beneficiary shall be divested by his or her death, and that my estate shall be disposed of pursuant to the provisions of this Will as if the beneficiary had not survived me.

**FIFTH:** I confer upon my Executor with respect to the management and administration of any property included in my estate, of whatever nature and wherever located, in addition to the powers conferred upon an Executor by the laws of the State of New York and elsewhere in this Will, the following discretionary powers, without limitation by reason of specification:

(A) To retain any property in my estate, of whatever nature and wherever located, whether or not of a type or quality or constituting a diversification proper for investment by a fiduciary under the laws of New York or any other jurisdiction, and whether or not productive of income;

(B) To sell, exchange, abandon or otherwise dispose of any property at public or private sale, for such consideration and upon such terms, including credit, as seems advisable;

(C) To hold property in the name of a nominee;

(D) To determine, without restriction, whether to exercise any elections provided for under the Internal Revenue Code, as the same may be amended, including an election to claim administration expenses or losses as income- or estate-tax deductions or an election to value my estate as of the date of my death or under the so-called alternate valuation method or special use valuation method, and to forgo any adjustment of the shares of the beneficiaries that may be provided by law when such elections are made;

(E) If all or a portion of my estate shall vest in absolute ownership in a minor, I authorize the Executor in the exercise of absolute discretion and without authorization by any court, either:

(1) To distribute the whole or any part of such distribution to a custodian under the New York Uniform Transfers to Minors Act and to choose such custodian without limitation. In establishing such account, I authorize the duration to be extended to age 21 at the fiduciary's discretion. The receipt and release by the custodian shall be sufficient to discharge any liability of my Executor to the minor; or

(2) To distribute the whole or any part of such property to the parent or guardian of such minor.

**SIXTH:** (A) I hereby appoint \_\_\_\_\_ and \_\_\_\_\_, or whichever of them may be willing and able to act, as Executors hereof.

(B) No bond or other security shall be required of any Executor, even if residing outside the State of New York.

**IN WITNESS WHEREOF** I have hereunto subscribed my name this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_.

We, the undersigned, do hereby certify that the foregoing instrument was signed by the above-named Testator in the presence of us and each of us and that said Testator at the same time declared said instrument to be his Last Will and Testament and requested us and each of us to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of said Testator and of each other on the day and year last above written.

\_\_\_\_\_ residing at

\_\_\_\_\_

\_\_\_\_\_ residing at

\_\_\_\_\_

**WITNESS AFFIDAVIT**

STATE OF NEW YORK )

) SS.:

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

Each of the undersigned, individually and severally being duly sworn, deposes and says:

The foregoing instrument was subscribed in our presence and sight at the end thereof by \_\_\_\_\_, hereinafter referred to as the Testator, on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

The Testator at the time of making such subscription, declared the foregoing instrument so subscribed to be his last Will.

Each of the undersigned thereupon signed as a witness at the end of the foregoing Will at the request of the Testator and in his presence and in sight of each other.

The Testator, in the respective opinions of the undersigned, could read, write and converse in the English language and was suffering no defect of sight, hearing or speech, or from any other physical or mental impairment that would affect Testator's capacity to make a valid Will. The foregoing Will was executed as a single, original instrument and was not executed in counterparts.

Each of the undersigned was acquainted with the Testator at such time and makes this affidavit at Testator's request.

Each of the undersigned has, contemporaneously with the execution of this affidavit, examined the signatures at the end of the foregoing Will, and such signatures are the signatures affixed by the Testator and by each of the undersigned.

\_\_\_\_\_

Severally sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

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Sample