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**APPENDIX D**

**Sample Will**

*(married person with minor children and no anticipated federal estate tax)*

**LAST WILL AND TESTAMENT**

**OF**

I, \_\_\_\_\_, of the Town 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 and funeral expenses (including unpaid charitable pledges) be paid by my Executor, hereinafter named, as soon as may be practicable.

**SECOND:** To my \_\_\_\_\_, \_\_\_\_\_, if \_\_\_\_\_ survives me, I give and bequeath all my 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. This bequest shall include the proceeds of any insurance collected after my death as a result of the damage or destruction of my tangible personal property either before or after my death. If my \_\_\_\_\_ fails to survive me, then such property shall pass equally to those of my children who survive me.

In the event my children do not reach agreement on the distribution of such tangible personal property, then I authorize my Executor, in the exercise of absolute discretion, to make division of the property in approximately equal shares to my children. Alternatively, the Executor may sell any such property and distribute the proceeds similarly. The share of tangible personal property allocated to an infant may be delivered to the guardian of the infant or other adult with whom the infant is living, and the Executor shall have no further responsibility for such property.

**THIRD:** All the residue of my estate, both real and personal and wheresoever situate, I give, devise and bequeath to my \_\_\_\_\_, \_\_\_\_\_, if \_\_\_\_\_ survives me. If my \_\_\_\_\_ does not survive me, I give, devise and bequeath all the residue of my estate as follows:

(A)(1) If any surviving child of mine is under the age of twenty-one (21) years, all such property shall pass to the Trustee, hereinafter named, IN TRUST, to invest and reinvest the same, to collect and receive the income therefrom, and to accumulate or pay or apply the income and the principal, even to all of both, to or for my children in such proportions as my Trustee may determine, in the exercise of absolute discretion, keeping in mind that my primary concern is for the support, education, health and comfort of my children who are under the age of 21 years, and payments for them or their needs should take precedence. Any such payment shall not be charged against the share to which such child shall later be entitled.

(2) When there is no living child of mine under the age of 21 years, or at my death if all children have already reached that age, the trust property or residue of my estate shall be divided into a sufficient number of shares so there is one share for each living child of mine, and one share for the issue of any deceased child, collectively. The share of a deceased child who left issue surviving shall be further divided among his or her descendants, per stirpes. The share of any descendant who has reached the age of 30 years shall be paid to him or her. The share of any descendant who has not reached the age of 30 years shall be held and distributed by the Trustee as follows: