

Will of Martha Smith

I, Martha Smith, make and publish this my Will, and declare that this is my Will.

I revoke all wills and codicils that I previously made.

1.About me

1.1My age

I am 18 or older.

1.2My home

I am a resident of Utopia.

1.3Spouse

I do not have a spouse.

1.4Children, grandchildren, and other descendants

My children's names are Samuel Wright and Diane Wright. I have no grandchildren or other descendants.

2.Paying my Estate's expenses, taxes, and debts

2.1Expenses

The Personal Representative will pay, before any division of my Estate, all expenses of my Estate, including expenses of my last illness and funeral (including expenses of a religious rite or ceremony, and amounts to be applied to the maintenance of a burial lot or other final resting place), and administration (including ancillary administration) expenses, other proper charges and enforceable claims against my Estate, and, subject to apportionment and reimbursement, Death Taxes.

For this purpose, my debts will not include debts or obligations, if any, secured by a Mortgage of real estate or by a pledge of or lien on shares in a real estate cooperative, which debts or obligations I direct the Personal Representative to pay or satisfy in the Personal Representative's discretion.

For any debt owed to an insurance company that is secured by an annuity policy or a life insurance policy, the Personal Representative may pay such debt if he, she, or it finds doing so advantageous to my Estate or may permit such debt to be satisfied out of the proceeds of the policy securing the debt.

This Provision (and any other provision of my Will) does not revive any debt barred by a statute of limitations or statute of repose, and does not accelerate any obligation.

2.2Taxes

The Personal Representative must pay, subject to apportionment and reimbursement, Death Taxes.

2.2.1Early payment of taxes

If a tax law or tax authority provides a discount for early payment of taxes, the Personal Representative may (but need not) choose to pay a tax early. The Personal Representative is not liable to any Person for any loss or damage arising out of a decision to make or not make an early payment of taxes.

2.3 Debts

Except as provided below, the Personal Representative will pay, before any division of my Estate, all proper obligations of my Estate, including my debts (except as provided below), , other proper charges and enforceable claims against my Estate, and,.

2.3.1 Barred debts not revived

This and any other provision of my Will does not revive any debt barred by a statute of limitations or statute of repose.

2.3.2 Obligation not yet due

This any other provision of my Will does not require the payment of a periodic obligation any earlier than it is due.

2.3.3 Charitable pledges

My Personal Representative must meet any charitable pledge I made that is a legally binding debt of my Estate.

2.3.4 Mortgage

The Personal Representative may (but need not) pay a debt or obligation secured by a Mortgage of real estate or by a pledge of or lien on shares in a real estate cooperative.

2.3.5 Insurance policy loan

For a debt owed to an insurance company that is secured by an annuity or life insurance contract, the Personal Representative may (but need not) pay such debt if he, she, or it finds doing so advantageous to my Estate, or may let debt be satisfied under the insurance contract.

3. My tangible personal property

3.1 Giving my tangible personal property by a list

I might leave a written statement or list disposing of items of tangible personal property. If I do and my written statement or list is found and delivered to the Personal Representative no later than 30 days after the application for probate of my Will, and the Personal Representative Finds that the list so delivered is my list, then my written statement takes precedence over any other Gift of the same item or items of property in my Will.

3.2 Default disposition by Personal Representative

To the extent that my tangible personal property is not disposed of under ¶ 3.1, the Personal Representative will decide the disposition of all my books, papers, computers, musical instruments, clothing, jewelry, other personal effects, furniture, furnishings, household effects, other articles of domestic use or ornament, and other tangible personal property (but not currency or money of any kind). The Personal Representative will choose appointees from my Beneficiaries of all classes without regard to whether a Beneficiary is not entitled to any residue of my Estate, and may decide the disposition of my tangible personal property among the appointees in his, her, or its discretion.

3.3 Expenses of delivering tangible personal property

The Personal Representative will pay, as a general estate-administration expense, the expenses of safekeeping, insuring, packing, shipping, and delivering tangible personal property.

3.4 Insurance on tangible personal property

To the extent practical in the Personal Representative's discretion, I Give any contract of insurance on any item of tangible personal property to the beneficiary to whom I Give the insured property.

3.5 Discharge on delivery of personal property

An appointee's receipt of an item of tangible personal property discharges the Personal Representative from all liabilities concerning the item so appointed and distributed.

3.5.1 Delivery for a Minor

If an appointee is a Minor, delivery to the appointee's Guardian, parent, or a Person with whom the appointee resides is delivery to the Minor.

3.5.2 Delivery for an Incapacitated Person

If an appointee is an Incapacitated Person, delivery to the appointee's Guardian or agent under a durable power of attorney is delivery to the Incapacitated Person.

3.6 Sell undisposed tangible personal property

Concerning any tangible personal property not retained or claimed under a homestead or family allowance, not given under ¶ 3.1, and not appointed or distributed under ¶ 3.2, the Personal Representative may sell such property, for such price and on such terms as the Personal Representative decides, and add the net proceeds to my Estate's residue. Also, the Personal Representative may abandon tangible personal property that has only nominal value or that is impractical to sell. However, the Personal Representative may not destroy or abandon any pet animal and must, if a pet animal is not otherwise disposed of, Give the pet animal to a suitable Charity.

4. Specific gifts

4.1 Care of pet animals

I leave to the Person who accepts my pet animals the sum of \$5,000 under a trust, to the extent permitted by State Law, and otherwise with the wish that this Person will invest this amount and use the income and principal to provide for the veterinary care, feeding, housing, maintenance, and comfort of these pet animals. The Personal Representative will pay this amount in a lump sum. Notwithstanding any delay in payment, this amount does not bear interest.

4.2 Charitable pledges

My Personal Representative may meet any charitable pledge I made, even if it is not legally enforceable.

4.3 I make no other specific gifts.

Except as provided above, there are no specific gifts under my Will.

5. Giving my Estate

5.1 Beneficiaries

I Give all the residue of my Estate (all property subject to my Will that is not disposed of above), but not any property over which I have a power of appointment, to my Beneficiaries in the order and shares specified below.

Class 1

I Give to each Beneficiary named below the percentage or fraction of the residue that is stated next to his, her, or its name if he, she, or it Survives Me.

Samuel Wright 50%
Diane Wright 50%

5.2 Omitted heirs

If a Person is named under ¶ 1.3 [“Spouse” at page 1] or ¶ 1.4 [“Children, grandchildren, and other descendants” at page 1] but is not a Beneficiary named in ¶ 5.1, I with full knowledge intend not to provide for that Person.

6. Personal Representative and other Fiduciary appointments

6.1 Personal Representative

I name Sarah Smith Jones the Personal Representative under my Will and for all purposes concerning my Estate and its administration. If this Person fails to qualify, declines the office, or ceases to act as the Personal Representative, I name T. Grange Nabor as the Personal Representative.

6.2 Personal Representative’s compensation

If a Natural Person who is a Beneficiary serves as the Personal Representative, he or she is entitled to Reasonable Compensation as he or she chooses in his or her discretion. An additional executor, administrator, or personal representative has the Reasonable Compensation provided by a written agreement between him, her, or it and the Personal Representative. A Personal Representative that is a bank, trust company, or other Organization or who is a Natural Person who is not a Beneficiary has the Reasonable Compensation provided by his, her, or its written agreement, or, if there is no such agreement, Reasonable Compensation that is no more than his, her, or its customary fee for similar services for a similarly situated estate – even if that is less than the compensation that otherwise would be provided by State Law. Each Fiduciary’s compensation must be no more than Reasonable Compensation, and all Fiduciaries’ compensation together must be no more than Reasonable Compensation.

6.3 Custodian for a Gift to a minor or young adult

Concerning each Person entitled to a Gift under my Will who has not attained the oldest age by which an UTMA Custodianship must end, I name Sarah Smith Jones as the Custodian. If this Person fails to qualify, declines the office, or ceases to act as the Custodian, I name T. Grange Nabor as the Custodian.

6.4 Guardian

If any Child of mine needs, after my death, a Guardian, I name Sarah Smith Jones. If this Person is unavailable or declines to service, I name T. Grange Nabor. Consistent with ¶ 10.14 [“Transfer to minor or young adult” at page 11], this Person is not the guardian of a Child’s property that arises out of a Gift under my Will.

7. Personal Representative’s duties

7.1 Personal Representative’s duties

The Personal Representative has the duties required of an executor, administrator, and personal representative under Applicable Law.

7.2 Fiduciary duty

Except as otherwise required by Applicable Law, the Personal Representative must discharge his, her, or its duties solely in the interest of my Estate and its Beneficiaries.

7.3 Personal Representative must invest

The Personal Representative must invest and reinvest the money and Investments of my Estate. The Personal Representative is not limited in the Investments he, she, or it may select, and instead may invest according to modern portfolio theory and prudent-investor principles. However, the Personal Representative's investment duties must recognize the Personal Representative's duty to liquidate the Estate for distribution, with appropriate regard for the known and reasonably anticipated claims against my Estate, and with a view to the anticipated distribution of my Estate.

7.4 Personal Representative must account

The Personal Representative must account for his, her, or its administration of my Estate as required by Applicable Law.

8. Personal Representative's powers

8.1 Broad powers

I grant the Personal Representative every power (except as provided by ¶ 8.7) that I may legally provide.

Without limiting the comprehensive effect of the preceding sentence, in addition to every power provided by Applicable Law, the Personal Representative has every power that could be granted or provided by a Person who wanted his or her executor, personal representative, or other fiduciary to have the fullest powers that may be provided to a fiduciary of any kind. Further, the Personal Representative has the following specific powers in addition to any powers provided above.

8.2 Specific powers

Without limiting the comprehensive effect of the above provisions and solely to avoid any doubt and to give further assurance concerning the Personal Representative's powers, I specify the following powers, each to be exercised in the Personal Representative's discretion.

8.2.1 Hire lawyers

The Personal Representative may hire lawyers.

8.2.2 Hire investment adviser

I recognize that a Natural Person who is not expert in investments generally or in fiduciary investment matters in particular might be inadequate to serve as Personal Representative unless he or she can obtain appropriate investment advice. Therefore, I expressly authorize a Personal Representative who is a Natural Person to engage an investment adviser and pay the investment adviser's fees out of the Estate property.

8.2.3 Businesses

I might have an interest in one or more businesses at the time of my death. If a business interest becomes a part of my Estate, the Personal Representative has complete freedom to deal with any such interest as he, she, or it considers advantageous for my Estate.

Without limiting the comprehensive effect of the preceding sentence, the Personal Representative has all of the following powers:

The Personal Representative may, without court approval, retain any business interest, continue any business, and invest additional amounts, property, and rights in any business.

The Personal Representative may retain and further invest in my business notwithstanding that doing so may involve increased risk and decreased diversification.

The Personal Representative may, without court approval, incorporate or otherwise organize any business. The Personal Representative may take any action necessary or appropriate to convert any sole proprietorship into a partnership, corporation, or other form or organization. The Personal Representative may combine businesses under a new corporation or other form of organization. The Personal Representative may join in any incorporation, partnership, or other form of association. The Personal Representative may join in any recapitalization, merger, reorganization, liquidation, or voting trust. The Personal Representative may do anything that he, she, or it finds advantageous or appropriate regarding the organization, operation, or liquidation of any business, or concerning any change in the purpose, nature, or structure of any business.

The Personal Representative may deposit investments under an agreement, and may pay assessments.

The Personal Representative may distribute any part or all of any business interest in kind.

The Personal Representative may operate any business. The Personal Representative may diminish, enlarge, or change the scope or nature of any business.

The Personal Representative may delegate discretionary authority concerning any business.

The Personal Representative may elect or appoint, employ and compensate any Person as a director, officer, partner, employee, or agent of any business.

I recognize that the Personal Representative's work concerning each business may be greater than would be involved in the administration of an estate that did not include any business. Therefore, I specifically authorize and direct that the Personal Representative, to the extent that he, she, or it serves as a director, officer, or other principal of a business, is entitled to an additional fee for each such service.

The Personal Representative may, for fiduciary-accounting purposes, treat any business as an entity separate from my Estate. In any accounting concerning my Estate, the Personal Representative may report the earnings and condition of the business according to generally accepted accounting principles for a business rather than for a fiduciary entity or agency.

The Personal Representative may sell any part or all of my interest in any business at the time, to the Persons, for a price, and on such other terms as the Personal Representative finds advantageous.

The Personal Representative has complete powers to manage any farm or ranch; to operate any farm or ranch, personally or with hired labor, tenants, or sharecroppers; to lease any farm or ranch for cash or a share of crops under a lease that permits, limits, or precludes the participation of the Personal Representative; to fertilize and improve the soil; to employ conservation practices; to abate or cleanup any environmental hazard; to enter into any agreement or arrangement, including a lease, pooling, or unitization agreement for exploration, development, operation, conservation, and removal of minerals or other natural resources; to participate in government programs; and to perform or provide for any other acts the Personal Representative finds desirable to operate or manage the property. In deciding whether to materially participate in any operations, the Personal Representative may consider whether an election has been made or should be made to qualify a property for special-use valuation under IRC § 2032A.

The Personal Representative has and may freely exercise any powers incidental to any of the foregoing powers. I recognize that these powers may involve substantial or even unusual discretion, and I expressly authorize the Personal Representative to act in his, her, or its unfettered discretion. The Personal Representative may exercise these powers without court approval. All powers and directions provided by my Will concerning any business will likewise apply with the same effect to any Organization or business into which the business is merged or consolidated.

8.2.4 Real estate

The Personal Representative may, without court approval:

- sell (or exchange) real or personal property, publicly or privately, for such price and on such terms as the Personal Representative, in his, her, or its discretion and without court approval, decides.
- lease real estate without restriction as to term or provisions.
- grant options for the right to buy, exchange, lease or otherwise deal with real estate.

8.2.5 Borrow money

The Personal Representative may borrow money from any source, including any trust I created or of which I am or may be a beneficiary.

8.3 Estate-planning powers

Except as otherwise provided by the last sentence of this Provision, the Personal Representative may exercise the following powers in his, her, or its discretion.

8.3.1 Power of appointment

The Personal Representative may exercise or refrain from exercising or may waive any power of appointment that I may have at the time of my death.

8.3.2 Disclaimers

I specifically grant the Personal Representative full power to disclaim or transfer any interest in property or under a contract, without any court approval or supervision. The Personal Representative has no liability to my Estate or any Beneficiary for any consequence of any disclaimer made in good faith, or for any failure to make any disclaimer for any reason.

8.3.3 Claim elective share

I specifically grant the Personal Representative full power and authority to claim an elective share of the estate of my deceased spouse.

However, the Personal Representative does not have any of these powers to the extent that such power would cause any amount, property, or right to become a part of the Personal Representative's estate for the purposes of any Death Tax.

8.4 Administrative powers

The Personal Representative has all of the following powers.

8.4.1 Personal Representative may commence or settle litigation

The Personal Representative has power to compromise or settle, arbitrate, or commence or contest or defend any legal proceeding of any kind under or relating to my Estate; or under or relating to my Estate's or the Personal Representative's ownership of any Investment or property; or relating to or arising out of any claim, debt, or damages due or owing to or from my Estate.

8.4.2 Compromises

I specifically grant the Personal Representative full power to liquidate or compromise any claim due to or by my Estate. I specifically grant the Personal Representative full power to compromise controversies concerning my Estate. The Personal Representative may exercise these powers without court approval.

8.4.3 Litigation

I specifically grant the Personal Representative full power to prosecute or defend any action at law or in equity to which I may be a party.

8.4.4 Accountants and lawyers

I specifically grant the Personal Representative full power to engage, retain, or discharge any accountants and any lawyers and legal assistants, and to pay the actual fees of any accountants and lawyers and legal assistants.

8.4.5 Confidentiality privileges

I specifically grant the Personal Representative power to waive any privilege for communications between a lawyer or accountant and client privilege, any physician-patient privilege, and any similar confidentiality privilege that I may have.

8.4.6 Broad general powers

Except as otherwise specified by my Will, I grant the Personal Representative full power to do (or omit) any act which he, she, or it considers necessary or appropriate for the advantageous management, investment, and distribution of my Estate.

8.5 Tax elections

To the extent permitted by 26 U.S.C. § 441, the Personal Representative may decide the taxable year of my Estate for each and all tax purposes, and need not select the taxable year that results in advantageous tax consequences, and may make that decision for reasons of convenience or for any reason in his, her, or its discretion. The Personal Representative is not liable to anyone for any loss arising out of his, her, or its election of any taxable year. The Personal Representative need not make tax or administrative elections that result in advantageous tax consequences, and need not act impartially in making any tax elections. The Personal Representative is not liable to anyone for any loss arising out of his, her, or its tax election(s).

8.6 Personal Representative's discretionary authority

The Personal Representative has full authority and discretion and every power necessary or appropriate to discharge his, her, or its duties.

8.7 No general power of appointment

The Personal Representative cannot appoint any money, property, or right to the Personal Representative, the Personal Representative's creditors, the Personal Representative's estate, or the Personal Representative's estate's creditors. The Personal Representative does not have any power that is a general power of appointment within the meaning of IRC § 2041 or IRC § 2514. The Personal Representative does not have a right, power, or discretion to the extent that it would cause the Personal Representative to have a general power of appointment under IRC § 2041 or IRC § 2514 such as would cause any assets of my Estate to be included in the Personal Representative's estate.

9. Fiduciary powers regarding Investments

9.1 Powers regarding Investments

The Personal Representative has all the following powers. Also, except as otherwise provided by the written agreement made by the Fiduciary and approved by the Personal Representative, each Fiduciary has the following powers.

9.1.1 Fund

Each Fiduciary may invest in a Fund. If the Personal Representative (or its subsidiary or affiliate) manages or advises the Fund, any investment-advisory fee of the Fund is a set-off to the Personal Representative's compensation.

9.1.2 Registration

Each Fiduciary has power to register any Investment in his, her, or its own name, or in the name of a nominee, with or without any designation of fiduciary capacity.

9.1.3 Bank

Each Fiduciary may use the facilities of any bank or trust company specifically approved in writing by the Personal Representative under the provisions that the Personal Representative has approved in writing.

9.2 Incidental powers

Each Fiduciary has power to employ (at its own expense) suitable agents, accountants, auditors, examiners, investigators, attorneys, lawyers, legal assistants, proxy solicitors, consultants, and counsel of any kind.

10. General provisions

10.1 Absentees

If a Beneficiary or other Person cannot be located on the Personal Representative's reasonable efforts, that Person's right, claim, title, and interest lapse.

10.2 Accounts

Each Fiduciary must keep and deliver accounts consistent with Applicable Law.

10.3 After-born children

In making my Will, I considered the possibility of children born to or adopted by me after the execution of my Will, and I declare that I intend to include all such after-born and after-adopted children (if any) in the disposition of my Estate, and they are bound by the provisions of my Will.

10.4 Bond not required

The Personal Representative and each Fiduciary need not give any bond or any other security in any State or other jurisdiction for the faithful performance of his, her, or its duties.

10.5 Charity

If anything in my Will provides a Gift to a Charity but does not name the Charity, the Gift does not lapse and instead the Personal Representative will in his, her, or its discretion select a Charity or Charities, after considering any wish I communicated and any pattern of my charitable giving known to the Personal Representative. If anything in my Will provides a Gift to a named Charity that dissolved or abandoned its operations, the Gift does not lapse and instead the Personal Representative will in his, her, or its discretion select a Charity or Charities with Charitable Purposes as near as possible to those of the named Charity.

10.6 Construction

A Personal Representative is relieved from liability or responsibility if he, she, or it construed or interpreted my Will according to Part 12 ["Construction" at page 14].

10.7 Discharge from personal liability for taxes

While the Personal Representative acts in his, her, or its discretion, I suggest that the Personal Representative obtain the discharge from personal liability permitted by IRC § 2204.

10.8 Gift to a trust

Any Gift to a trust is a Gift to the trust's duly appointed and then-currently-serving trustee or trustees. If a trust has more than one trustee, the Personal Representative may pay or deliver a distribution to any of the trustees, and need not see to any trustee's handling of the money or property distributed. A Beneficiary

who or that is a trustee of a trust is a distributee, and nothing in my Will requires him, her, or it to qualify with or report to any court.

10.9 Inability to locate payee

In addition to ¶ 10.1 [“Absentees” at page 9], if any amount cannot be paid because the payee cannot be located on reasonable efforts, that amount need not be paid and that Person’s claim or interest lapses.

10.10 Omitted heirs

Except as otherwise specified by my Will, I have intentionally and with full knowledge omitted to provide for my heirs at my death.

10.11 Principal and income

To the extent permitted by Applicable Law, the Personal Representative has discretion to make any accounting or apportionment between principal and income, and between tenants and remaindermen.

10.12 Severability

If a court finds that any provision of my Will is invalid, my Will must be construed and enforced as if the invalid provision was not a provision of my Will.

10.13 Simultaneous deaths

In addition to ¶ 11.34 [“Survives me” at page 14], if applying any provision of my Will turns on a Natural Person Surviving another Person and there is no sufficient evidence that the Person who would not become a Beneficiary unless he or she Survived and the other Person died (or ceased to exist) other than simultaneously, the provision applies as if the Person who would not become a Beneficiary unless he or she Survived had predeceased the other Person.

10.14 Transfer to minor or young adult

In this Will, every Gift to a Person who has not attained the oldest age by which an UTMA Custodianship must end is a transfer to that Person’s Custodian to create custodial property under an UTMA Custodianship. In establishing an UTMA Custodianship, the Custodian may select as the governing State Law the Law of any State of which I, the Beneficiary, or the Custodian is a resident, or a State in which the custodial property is, or on effecting the transfer will be, located. The Custodian may choose an Investment or a financial institution because it is located in a State that permits a later age or time for ending an UTMA Custodianship than could be permitted without using that Investment or financial institution. For example, if I, the Beneficiary, and the Custodian all reside in a State that requires an UTMA Custodianship to end no later than the minor’s age 21, the Custodian may choose a financial institution because it is located in a State that permits an UTMA Custodianship until the minor’s age 25.

10.15 Will contest

If any heir or beneficiary or potential beneficiary under my Will (or any Person that claims through such heir or beneficiary) contests or otherwise challenges the validity of my Will or any of its provisions, any share or interest in my Estate given to such Person under my Will hereby is revoked, any such share or interest shall be provided or distributed as if such Person had died before my death.

11. Definitions

Whenever used in my Will, each of the following terms has the meaning stated below.

11.1 “Adult”

a Natural Person who is not a Minor.

11.2“Applicable Law”

means Federal Law or State Law to the extent that the Law governs my Will, my Estate, or the Personal Representative’s administration of my Estate.

11.3“Beneficiary”

refers to a Person named in ¶ 5.1 [page 4], and includes a legatee or devisee.

11.4“Charity”

means an Organization described in IRC § 501(c)(3) that is exempt from Federal Income Tax under IRC § 501(a) and organized and operated such that a charitable contribution or gift would be entitled to a Federal Income Tax deduction under IRC § 170 and, if a Distribution otherwise would attract a Federal Estate Tax, would be entitled to a deduction under IRC § 2055 or, if a Distribution otherwise would attract a Federal Gift Tax, would be entitled to a deduction under IRC § 2522.

11.5“Charitable Purposes”

refers to the religious, charitable, educational, literary, scientific, testing for public safety, or other purposes described in IRC § 501(c)(3) for which a Charity may be organized and operated, and concerning a particular Charity refers to the purposes for which the Charity is then-currently organized and operated.

11.6“Child”

includes a Natural Person born to or adopted by me, and excludes a Person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

11.7“Custodian”

refers to the Person who is the custodian under an UTMA Custodianship.

11.8“Death Tax”

refers to an estate, inheritance, succession, transfer, or death tax, or other tax payable by reason of my death (including taxes arising from the transfer or receipt of assets not part of my Estate), and any income or similar taxes on appreciation (including interest, penalties, and any excise or supplemental taxes) imposed by the laws of any domestic or foreign taxing authority at the time of or by reason of my death.

11.9“Estate”

refers to my probate estate, and does not include any amounts, property, or rights that are or may be transferred under contract or by a beneficiary designation.

11.10“Federal Law”

means Law other than State Law of the United States of America.

11.11“Fiduciary”

means the Personal Representative, any Person appointed under Part 6 [“Personal Representative and other Fiduciary appointments” at page 4], and each other Person that accepts any fiduciary responsibility concerning my Estate or any property of my Estate.

11.12“Find” or “Finding”

refers to a Fiduciary’s decision, determination, finding, or conclusion of any kind.

11.13“Fund”

means a registered investment company, common trust fund, collective trust fund, real estate investment trust, or insurance company separate account.

11.14 “Gift” or “Give”

includes a legacy, bequest, devise, or any testamentary disposition.

11.15 “Good Faith”

means honesty in fact, awareness of the provisions of my Will or a governing document, observance of fiduciary principles, and seeking advice when a reasonably prudent Person in similar circumstances would seek advice.

11.16 “Guardian”

refers to a Person who or that is the guardian, conservator, or similar office holder that under relevant Law has authority to care for the person of a Minor or an Incapacitated Person.

11.17 “Heir”

refers to a Person who could become entitled to property of a decedent if the State Law of intestate succession applied.

11.18 “Incapacitated Person”

refers to a Natural Person who under relevant Law has been found to be incompetent or incapacitated to manage his or her person or property.

11.19 “Investment”

includes any Security, or interest in a Fund.

11.20 “I” or “me” or “my”

refers to Martha Smith, the testator (or testatrix) and maker of this my Will.

11.21 “Internal Revenue Code” or “IRC”

refers to Title 26 of the United States Code (the Internal Revenue Code of 1986, as amended).

11.22 “Law”

means any statute, regulation, rule, decision, or order of the United States of America (or another nation), a State, a State’s political subdivision, or any court or government agency of any of them.

11.23 “Maker”

refers to a testator or testatrix, the Person who makes a will.

11.24 “Minor”

refers to a Natural Person who because he or she has not attained an age provided by State Law is not competent to make a legally binding contract, or who may disaffirm a contract he or she made before his or her attainment of an age provided by State Law.

11.25 “Mortgage”

means any conveyance, agreement, or arrangement in which property is encumbered or used as security.

11.26 “Natural Person”

means a human being.

11.27 “Organization”

means a Person other than a Natural Person.

11.28 “Person”

includes a Natural Person, a corporation, a limited-liability company, an unincorporated association, a partnership, a joint venture, a trust, an estate, and anything that is a person within the meaning of Applicable Law.

11.29“Personal Representative”

means the Person appointed by or under ¶ 6.1 [“Personal Representative” at page 4], and includes an executor, administrator, successor personal representative, special administrator, and any Person who has a similar function under a State Law that governs his, her, or its status concerning the administration of my Estate.

11.30“Reasonable Compensation”

means compensation that is reasonable compensation under Applicable Law and IRC § 2053(a)(2). In applying provisions that refer to this rule, compensation is not reasonable unless, in addition to other requirements, a deduction is allowed under IRC § 2053(a)(2) or would have been allowed had my Estate filed a Federal estate tax return.

11.31“Security”

includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

11.32“State”

means any of the 50 states of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and other territories and possessions of the United States of America, or the jurisdiction of a Native American Indian tribe.

11.33“Survive”

means that a Person has not predeceased an event, including the death of another Person, and is not deemed to have predeceased an event under the next paragraph, a disclaimer or renunciation, or otherwise. The term includes its derivatives, such as “survives”, “survived”, “survivor”, “surviving”.

11.34“Survives me”

means that a Person Survived (consistent with ¶ 11.33) me by 60 days.

But concerning a Gift to my Spouse for which the Personal Representative elects tax treatment under IRC § 2056(a) or a State Law that provides a Death Tax exclusion, exemption, credit, or deduction for a transfer to a Spouse, “Survives me” means that my Spouse survived me by six months or, if shorter, the longest time permitted under IRC § 2056(b)(3) or the relevant State Law that does not cause an interest passing to my Spouse to be considered as an interest that will end or fail on my Spouse’s death.

11.35“Swear” or “Sworn”

includes making or having made a legally sufficient affirmation or otherwise qualifying or having qualified under Law, especially if the Person making an acknowledgment, affidavit, or other solemn statement has a religious or conscientious objection to swearing an oath.

11.36“Tax”

means a pecuniary charge imposed or required by Applicable Law to support a government, whether or not described as a tax, including any tax imposed under the Internal Revenue Code, or under any State’s or nation’s Law. Without limiting the comprehensive effect of the preceding sentence, a Tax includes any interest, penalties, or additions to a Tax.

11.37“UTMA Custodianship”

refers to a Custodian’s care of custodial property under a State Law based on the National Conference of Commissioners on Uniform State Laws’ *Uniform Transfers to Minors Act*.

12.Construction

12.1Construction rules for my Will

The provisions of this Part govern the construction or interpretation of any provision of my Will.

12.2Statutes and regulations

A reference to a statute or regulation also refers to any successor provision.

12.3Construction of the Internal Revenue Code

A reference to a provision of the Internal Revenue Code also refers to any successor provision. A reference to a provision of Treasury regulations or guidance of general applicability also refers to any successor provision. Any reference to a Revenue Ruling, Revenue Procedure, IRS Notice, IRS Announcement, or other guidance of general applicability also refers to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling, Revenue Procedure, IRS Notice, IRS Announcement, or other guidance. In construing the Internal Revenue Code, a Fiduciary is not imprudent if he, she, or it reasonably relies on an IRS ruling or written determination.

12.4Federal Constitution and State Constitution

When applying any of the preceding construction rules, a Fiduciary need not consider any statute, regulation, or other source of Law (other than a court order) to the extent that its application is contrary to the Constitution of the United States of American or is contrary to the Constitution of the relevant State. A Fiduciary is not imprudent if he or she presumes that a Law is not unconstitutional until a published controlling court decision expressly holds that such Law is contrary to a Constitution. A Personal Representative is not imprudent if he or she in Good Faith presumes that a Law is unconstitutional, even if no court has so found, until a published controlling court decision expressly holds that such Law is not contrary to the Constitution.

12.5Usage rules

My Will must be construed according to this Provision’s usage rules, even if such a usage otherwise would result in a construction contrary to a reader’s expectation.

12.5.1Gender

A use of a word of one sex or gender includes the corresponding words of the other sex or gender.

12.5.2Number

A use of a word that refers to the singular includes the plural. A use of a word that refers to the plural includes the singular.

12.5.3Person includes successors

A reference to a Natural Person includes his or her Representative. A reference to an Organization includes its successor, receiver, or administrator. However, a provision for a Charity will apply to its successor only if the successor is a Charity and is organized and operated for Charitable Purposes substantially similar to the Charity of which it is a successor.

12.5.4Series

A reference to a series of numbers or letters includes the first and the last number or letter.

12.5.5 Tense

A use of a word in the present tense includes the future tense.

12.6 Words deliberately used

The words and phrases defined below have the meanings stated by this Provision, even if such a meaning otherwise would be contrary to a reader's expectation.

12.6.1 "As", "if"

A use of the word "as" or "if" includes the phrase "to the extent that".

12.6.2 "Includes", "including"

A use of the word "includes" includes the phrase "but is not limited to". A use of the word "including" includes the phrase "but not limited to".

12.6.3 "May"

The word "may" confers a power, authority, right, permission, or privilege. A use of the word "may" includes the phrases "but need not" and "but is not required to". A use of the word "may" includes discretion, and discretionary power.

12.6.4 "May not", "must not", "will not"

The words "may not", "must not", or "will not" preclude a power.

12.6.5 "Must"

The word "must" states an obligation, requirement, or condition precedent.

12.6.6 "Shall"

My Will does not use the word "shall"; instead, the word "will" includes both "will" and "shall".

12.6.7 "Will"

The word "will" states an obligation, requirement, or condition precedent.

12.7 Common usage

Unless a phrase or word is defined by my Will or a statute or regulation cited by my Will, the phrase's or word's meaning is according to its context, the rules of grammar, and common usage.

12.8 Date and time

Except as otherwise specified, a date or time refers to the date and time at the place of the Personal Representative's administration.

12.9 Absence of a formality

This document might include or permit some formalities or evidence more than as required by Applicable Law. By doing so, I do not intend to provide any requirement or condition not imposed by Applicable Law. The absence of a formality not required by Applicable Law must not be construed to suggest any defect in the execution of my Will.

Signing my Will

This is my Will. I ask the Persons whose names appear on the following page to be my witnesses. In the presence of them, I declare that this is my Will, and I publish this as my Will.

Today's date

Martha Smith

SAMPLE

Witnesses' statement

Each of us states that the following is true and correct:

The "Maker" refers to Martha Smith.

All of the oral and written statements and acts described below occurred on the date written below.

The Maker requested us to act as witnesses to the execution of her Will.

The Maker declared to us that this document is her Will.

We now, at the Maker's request, and in the Maker's and one another's presence, sign below as witnesses.

We believe that the Maker is of sound mind and memory.

We believe that this Will was not procured by duress, menace, fraud, or undue influence.

The Maker is age 18 or older.

Each of us is age 21 or older, and is a competent witness.

Each of us resides at the address set forth after his or her name.

Today's date

name:
address:
city-state-zip:

Today's date

name:
address:
city-state-zip:

Today's date

name:
address:
city-state-zip:

Although some States do not require any witness for the execution of a will and most of the States that require witnesses require no more than two, this page includes spaces for three witnesses; but the Maker does not intend to suggest any condition not imposed by Applicable Law, and an absence of anything from this page must not be construed to suggest any defect in the execution of this Will.

Maker's acknowledgment

State (or Commonwealth) of _____
County (or Parish) of _____

I, Martha Smith, signed my name to this instrument on the date written next to my signature, and being first duly Sworn or qualified according to law, do now hereby declare to the undersigned authority that I signed and executed this instrument as my will and that I signed it willingly (or willingly directed another to sign for me), that I executed it as my free and voluntary act for the purposes therein expressed, and that I was then and am now eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Today's date

Martha Smith

Sworn to or affirmed and acknowledged before me, the undersigned notary or official, by the Maker named above on the date written above.

Date

Witnesses' affidavit

State or Commonwealth of _____
County or Parish of _____

We, the witnesses, respectively, whose names are written on and signed to the attached or foregoing instrument, being first duly Sworn or qualified according to law, do hereby declare to the undersigned authority that the Maker signed and executed the instrument as the Maker's will and that she had signed willingly (or willingly directed another to sign for her), and that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Maker and one another, signed the will as witness, and that to the best of our knowledge the Maker was at that time eighteen years or age or older, of sound mind, disposing memory, and under no constraint or undue influence; and that our statements on the page captioned "Witnesses' statement" are true and correct.

Today's date

Today's date

Today's date

Sworn to or affirmed and subscribed to before me, the undersigned notary or official, by the witnesses named above on the date written above.

Date

