

## Sample Clauses in Wills

### **Dividing tangible personal property:**

"The tangible personal property described above shall be divided among my children in approximately equal shares. If the children do not all agree on such division, I direct that they shall choose items individually in order of age, with the oldest child choosing one item first, followed by the second oldest and so on, until all items are selected or until the children have no interest in taking more items. For purposes of this paragraph, sets of items shall be considered single items. For example, a set of matched silverware, a set of matched dishes or a table and chair set shall each be treated as one item. If such a formal procedure is used, the Executor shall first have such appraised, and the appraisal value of each item shall be the charge to the share of the child who chooses it. Any items not chosen by any child shall be disposed of by the Executor in whatever manner seems reasonable. Adjustments between the beneficiaries for items which have greater or lesser value than those selected by other beneficiaries may be made from the residuary share of each under this Will."

### **Specific Distributions:**

"For a period of two years after the date of my death, \_\_\_\_\_ shall have the right, if she chooses, to reside at my home, (Address), full-time or part-time, seasonally or year round, without any obligation to pay rent. Expenses of the home, which include property and school taxes, water, sewer, electric, and repairs, shall be paid from \_\_\_\_\_."

### **Residuary estate:**

"In the event that my daughter, \_\_\_\_\_, does not survive me, then I give my residuary estate as aforesaid to her issue, then surviving, meaning to include children born to or adopted by her."

"All the rest, residue and remainder of my Estate, I hereby bequeath and give to the following individuals in the percentage indicated:

Name	Percentage
Name	Percentage

....

"In the event that any of the individuals named in this clause of this my Last Will and Testament predecease me, then his or her share shall be distributed as follows:

i. If the individual has children, then his or her share shall be divided by the number of children that he or she has, and the funds placed in trust for each child, in each instance, the trustee of such fund shall be the parent or natural guardian of the child, and if there is none, then

the trustees shall be ...and.... The trustee or trustees for each fund may use any portion of the said trust for that child's educational expenses, but otherwise the trust fund will not be accessed until the child reaches the age of 23, at which time the said trust fund will be distributed to the said child.

ii. If the individual does not have children, then his or her share shall be distributed equally to the surviving individuals named in this clause.”

### **Additional Executor powers:**

"(A) To retain and continue the operation of any business, either incorporated, unincorporated or limited or general partnership (whether or not income-producing or resulting in lack of diversification) which I may own or in which I may have an interest at the time of my death, and any successor business thereto; and to purchase or otherwise acquire any business or interest in any business (incorporated or limited or general partnership) and to operate the same; and in connection with any business, to have the following authority and to exercise the following powers, as may be deemed advisable: to take part in the management of such business and to delegate such duties, with the requisite powers, to any employee, manager, partner or associate, without liability for such delegations; to reduce, expand, limit or otherwise fix and change the operation or policy of any such business and to act with respect to any other matter in connection with any such business; to advance money or other property from my estate or any other source to any such business as may be deemed advisable; to make loans of cash or securities to any such business and to guarantee the loans of others made to any such business; to borrow money for any such business from any lender and to secure such loan or loans by a pledge or mortgage of any part of my estate; to select and vote for directors, partners, associates and officers of any such business; to act as directors, general or limited partners, associates and officers of any such business and to reasonably compensate such directors, partners, associates and officers, including any person who is a beneficiary or fiduciary under this my Will; to establish and to join with others in establishing such partnerships, limited partnerships, corporations and other business organizations and associations for the carrying on of any such business, and to contribute to the capital of such business any part or all of my estate as may be deemed advisable; to deposit securities with a voting Trustee; to enter into stockholders' agreements with corporations in which my estate or any trust estate has an interest and/or with the stockholders of such corporations; to sell any such business, any interest in any such business, or any stock or other securities representing the interest of my estate or any trust estate in any such business; to liquidate, either alone or jointly with others any such business or any or any interest in such business; and generally, to exercise any and all powers as my Executor and Trustee may deem necessary with respect to the continuance, management, sale or liquidation of any such business. (B) In the event "Subchapter S Corporation" stock is to be allocated to a trust created hereunder and the recipient trust must qualify as a "Qualified Subchapter S Trust" (QSST) or an "Electing Small Business Trust" (ESBT) as defined in the Code, the Trustee shall be authorized to amend the terms of such trust so as to qualify it as a QSST or ESBT, but only to the extent that doing so does not affect the availability of the estate tax marital deduction for such trust.”

“In the administration of any property, real or personal, forming a part of my estate or any trust established hereunder, whether owned by me at the time of my death or subsequently acquired by my Executor or the Trustee, including any accumulated income thereof, my Executor or the Trustee, in addition to and not by way of limitation of the powers provided by law, shall, except as otherwise provided in this, my Will, have the following powers to be exercised in their absolute discretion: To purchase or otherwise acquire and to retain any and all stocks, bonds, notes, or other securities, or any such variety of real or personal property, including interests in common trusts funds and securities of or other interests in investment companies or investment trusts, whether or not such investments be of the character permissible for investments by fiduciaries and without regard to the effect any such investment or reinvestment may have upon the diversification of investments; to sell, lease, pledge, mortgage, transfer, exchange, convert or otherwise dispose of, or grant options with respect to, any and all property at any time forming a part of my estate or any trust estate, in any manner, at any time or times, for any purposes, for any prices and upon any terms, credits and conditions; to borrow money from any lender or any other fiduciary at any time acting hereunder, for any purpose connected with protection, preservation or improvement of my estate or any trust estate, and as security to mortgage or pledge any real or personal property forming a part of my estate or any trust estate upon any terms and conditions; to compromise and adjust any claims or demands of my estate against others or of others against my estate or any trust estate; to make distributions in kind (including in satisfaction of pecuniary bequests) and to cause any distribution to be composed of cash, property or undivided shares in property different in kind from any other distribution without regard to the income tax basis of the property distributed to any beneficiary or any trust; and to execute and deliver such instruments as may be necessary to carry out any of these powers.”

“No person dealing with my Executor or the Trustee shall be bound to see to the application or disposition of cash or other property transferred to my Executor or the Trustee or to inquire into the authority for or propriety of any action by my Executor or the Trustee.”

### **Trusts:**

“If any of the persons who take under this, my Will, is under the age of twenty-one (21) years at the time title vests in them, I authorize my Executor, in his discretion, to retain said share, to manage, invest and reinvest the same, and apply the net income therefrom or such portion thereof and such portion of the principal of my estate as my Executor may deem necessary for the proper education, support and general welfare of such persons, until (s)he attains the age of twenty-one (21) years, at which time I direct my Executor to transfer or pay to such minor the accumulated income, if any, and the balance of the principal.

“My Executor is authorized to retain, accumulate or reinvest any part of the net income not applied to the benefit of such minor. Any payment or principal applied to the benefit of such minor may be made by paying the same to the parent, guardian or other person having the care

and control of such minor or be expended in any other manner as the Executor in his sole discretion believes will benefit such minor and may also pay directly to the minor such sums as he may deem advisable as an allowance. Any payment herein authorized shall be a full discharge to my Executor with respect thereto.”

"Any share or part distributable to any beneficiary under Paragraph “ \_\_\_\_\_ ” above who is under the age of 35 years shall not vest in such beneficiary, but instead, I give, devise and bequeath the same to my Trustee, IN TRUST, to apply to the use of such beneficiary under the age of 35 years at any time and from time to time, so much or all of the income including any accumulated income and so much or all of the principal as my Trustee, in his discretion, deems advisable for the support, education and welfare of such beneficiary. My Trustee may, in his discretion, make any such application, among other methods, by payments to such beneficiary, a parent or guardian of such beneficiary, or the person with whom such beneficiary resides, without bond or security, and my Trustee shall not be bound to see to the application or use of payment so made. My Trustee shall pay over any then remaining principal and accumulated income to such beneficiary upon attaining the age of 35 years, and if said beneficiary dies before attaining said age, then upon such beneficiary’s death, to such beneficiary’s then living children, in equal shares *per stirpes*, and if none, to his estate."

"I nominate, constitute and appoint \_\_\_\_\_, trustee of any trusts created under this my last will and testament."

“I direct that my Executors and the Trustees shall not be entitled to any fees in the execution of their duties.”

“If my wife/husband/spouse, \_\_\_\_\_, survives me, I give and bequeath to \_\_\_\_\_ and \_\_\_\_\_, as Co-Trustees, the maximum amount by which my federal taxable estate (determined without regard to this Article of my Will) may be increased without causing an increase in the federal estate tax payable by reason of my death after taking into account all credits available against such tax, provided, however, that the credit for state death taxes shall be taken into account only to the extent that it does not result in an increase in the state death taxes which would otherwise be payable. In computing the amount of this bequest, the values and amount as finally determined for federal estate tax purposes shall control.

“I direct the Trustees to hold said amount, IN TRUST, NEVERTHELESS, to manage, invest and reinvest the same, to collect the income thereof, and to pay over the net income to my spouse, or to apply the same for her benefit, in convenient installments but at least annually, during her life.

“Upon the death of my spouse, the principal of the trust, as it shall then be constituted, shall be transferred, conveyed and paid over to my children, \_\_\_\_\_, in equal shares, share and share alike, *per stirpes*.”