

Will and Trust

Tools of Succession Planning

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WILL

“**WILL**” is defined as “the legal declaration of the intention of the testator with respect to his property which he desires to be carried into effect after his death.” [Sec.2(h) of the Indian Succession Act, 1925]

In other words, a Will or a Testament means a document made by person whereby he disposes of his property, but such disposal comes into effect only after the death of the testator. This is a personal, confidential and sacred document.

Importance of Will:

- o Planned, systematic and effective tool for Succession Planning
- o Caring the most needed heir
- o Special needs and requirements of any heir
- o Safeguarding the interest of family
- o Exclusion of undesirable (Disinheritance)
- o Disproportionate distribution
- o Rewarding the trusted and loyal persons
- o Avoiding any dispute or difference within family

Importance of Will (cont'd):

- o Devolution of property and interest in a personalised manner
- o Religious, Charitable or Philanthropic objects
- o Trust under Will
- o Testamentary guardian may be appointed for minor, infirm, disabled, etc persons
- o Organ donation
- o Fulfilling wishes even after demise
- o No tax on bequest
- o Personal laws shall prevail

Why Will is necessary *even when:*

- # there are valid Nominations
- # all investments and properties are in Joint-names
- # Power of Attorney has been executed
- # there is only one legal heir
- # there is full confidence and harmony within family
- # equal distribution is planned amongst all heirs

Terminologies used in connection with Will/Heirship:

- **Testator** is a person making/declaring a Will and executing it. (If the maker of the Will is female, she is referred to as ‘Testatrix’)
- **Executor** is the legal representative for all purposes of a deceased person (testator) and all the properties of a testator vests in him. (If the Executor is female, she is referred to as ‘Executrix’)

Terminologies used in connection with Will/Heirship (cont'd):

- **Administrator** means a person appointed by competent authority to administer the estate of a deceased person when there is no Executor. The Court appoints one of the beneficiaries as the Administrator. Administrator has the same position as Executor.
- **Codicil** means an instrument made in relation to a Will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the Will. A Codicil should be numbered (like First Codicil, Second Codicil, etc), and it has to be executed and attested just like a Will. A Codicil is similar to a Will and is governed by the same rules as a Will.

Terminologies used in connection with Will/Heirship (cont'd):

- **Legatee/Beneficiary** is a person who inherits the property under a Will.
- **Probate** means the copy of a Will certified under the Seal of a Court of Competent jurisdiction with a grant of administration to the estate of the Testator. It decides only the genuineness of the Will, and not the title or existence of the properties devised. It is an official evidence of the Executor's authority.

Terminologies used in connection with Will/Heirship (cont'd):

- **Intestate:** When a person dies without making a valid Will, is termed as intestate.
- **Succession Certificate** is issued to the legal heirs as per applicable laws of inheritance who apply to the Court in case a person has not made a Will.

Terminologies used in connection with Will/Heirship (cont'd):

- **Letter of Administration** is issued when there is no Will, or Executors are not named in the Will, or Executors named in the Will are not willing to act as such, or Executors have died.
- **Heirship Certificate** is issued by local Talati/Mamlatdar/Tehsildar. It has the same effect as Succession Certificate.

Person capable of making Will:

Every person of sound mind not being a minor may dispose of his property by Will. A woman may dispose of by Will any property, which she could alienate by her own act during her life. Persons who are deaf, dumb, blind, otherwise handicapped, illiterate, etc can also make a Will, if they are able to know what they are doing. Thus, every person competent to contract can make a Will. There is no age limit.

Essentials of Will:

There is no format of Will, nor is there any model Will. However, it is necessary that while drafting a Will, the following points (all equally important) should be borne in mind for proper drafting:

- o Name, age, religion, description, address, etc to the Testator
- o Convey clear intention
- o Should state: First Will or Revocation of earlier Will (and in case of Codicil, state whether it is 1st Codicil, 2nd Codicil, etc)
- o Free from any fraud, coercion or undue influence
- o Disposing mind

Essentials of Will (cont'd):

- Signature
- Authentication for each correction/alteration
- Leave no blank space
- Appointment of Executors only after their affirmative nod
- At least two Independent Witnesses
- Single Will for all assets/properties or persons (*except* in case of Concurrent Will)
- Doctor's certification in case of sickness

Revocation/Cancellation of Will:

- By making new Will
- Few provisions may be altered/revoked by Codicil(s)
- On marriage (first or subsequent marriage/s) of Parsi and Christian persons, entire Will is automatically cancelled

Important features of valid Will:

- ✓ **Legal Declaration:** The documents purporting to be a Will or a testament must be legal, i.e. in conformity with the law and must be executed by a person legally competent to make it.
- ✓ **No requirement of Stamp Paper:** Will may be executed on plain sheet of paper. No Stamp Duty is payable for it. It should be neatly and legibly handwritten, typewritten or printed.
- ✓ **Disposition of Property:** The declaration should relate to disposition of the property of the person making the Will.

Important features of valid Will (cont'd):

- ✓ **Death of the Testator:** The declaration as regards the disposal of the property shall take effect only after the death of the Testator.
- ✓ **Revocability:** The essence of every Will is that it is revocable during the lifetime of the testator. Only last Will is enforceable in all the cases, since it becomes operative only after demise of the Testator.
- ✓ **Bequest:** In case of Muslim Testator, only one-third estate can be bequeathed to outsider.

Important features of valid Will (cont'd):

- ✓ **Only personal assets:** Ancestral properties, Trust properties, share in HUF or any Offices cannot be bequeathed. Tenancy right can also not be bequeathed. In case of partnership firm, if it is provided that particular heir would become partner, then only such heir would become partner of the firm; else, he would receive the assets/share of the Testator as legacy.
- ✓ **Next line of bequest:** It is always advisable to keep provision to provide for the next/substitute beneficiary, if the first beneficiary predeceases or dies before receiving legacy.

Duties of Executor

- to ascertain the assets of deceased
- to pay testamentary and funeral expenses out of the estate
- to collect the assets and receivables of the deceased
- to pay taxes, debts, liabilities, etc of the deceased out of estate
- to apply for Probate
- to pay/incur/get reimbursement of all expenses in connection with the Will and estate
- to distribute/administer the estate of the deceased as per the Will.

Remuneration of Executors:

- Executors may be remunerated only if it is expressly provided in the Will.
- If any bequest is given to the Executor, please specify whether it is as legacy/benefit, or it is as remuneration.

Classification/Types of Will:

1. Privileged & Unprivileged Will
2. Oral Will
3. Conditional or Contingent Will
4. Registered & Unregistered Will
5. Notarised Will
6. Joint Will
7. Mutual Will
8. Testamentary Trust Will
9. Pour over Will
10. Duplicate Will
11. Concurrent Will
12. Holograph Will
13. Living Will (not in India)
14. Sham Will

Court fees for obtaining Probate (*in Maharashtra*)

Value of Assets (Rs.)	Fees
1,000 to less than 50,000	2%
50,000 to less than 2,00,000	Rs.1,000/- + 4% of amount exceeding Rs.50,000/-
2,00,000 to less than 3,00,000	Rs.7,000/- + 6% of amount exceeding Rs.2,00,000/-
3,00,000 and above	Rs.13,000/- + 7.5% of amount exceeding Rs.3,00,000/- (maximum Rs.75,000/-)

*Food for
Thought:*


Where there is a Will,
there are relatives;

Where there is no Will,
there are more
relatives...

TRUST

“A Trust is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or another and the owner.” (Sec.3 of the Indian Trusts Act, 1882)

In simple terms, ‘Trust’ describes the holding of property by a Trustee in accordance with the provisions of a written Trust Declaration (‘Deed of Settlement’) for the benefit of one or more persons called beneficiaries. Trust is a matter of personal confidence.



Trust is also important tool of succession planning. It is superior to Will in most of the cases, since the trust property is transferred to the Trust immediately, and it becomes operative soon after its declaration. It must, however, be noted that Trust is neither Portfolio Management, nor Wealth Management.

Terminologies:

- **Settlor** is a Grantor or Creator or Author of the Trust.
- **Beneficiary** is a person for whose benefit the confidence is accepted.
- **Beneficial Interest** is a right of the beneficiary against Trustee.
- **Trustee** is a person who accepts the confidence, and includes every person holding property in Trust.
- **Trust Property** is the property to which the obligation is attached in confidence. It is also described as Corpus or Trust Fund or Trust Capital.
- **Deed of Settlement (Trust Deed)** is an instrument/document whereby a Trust is created.

Classification/Types of Family Trusts:

- Living/ *inter vivos* Trust
- Testamentary Trust
- Discretionary & Non-discretionary Trust
- Revocable & Irrevocable Trust
- Express & Implied Trust
- Resulting Trust
- Illusory Trust (such Trusts are void)

Classification/Types of Family Trusts (cont'd):

- Protective Trust (not allowed in India)
- Simple/Bare/Passive Trust
- Special Trust
- Contingent Trust
- Fixed Trust
- Executed Trust
- Executory Trust

Role of Trustees:

- # Carry out the provisions of the Deed
- # Legal obligations
- # Accounting and Administration
- # Investment Management
- # Custody of Securities
- # Duties towards beneficiaries

*Food for
Thought:*

Put no trust in
money;

Put money into
Trust...



Will & Trust : Tools of Succession Planning

F A Qs

Q: What does actually 'Will' mean? What is its importance? How to register it?

A. Will is a legal declaration of the intention of a person with respect to his property, which he/she desires to take effect after his/her death. Will is a document which becomes operative after the death of a person making the deposition and it is document which can be revoked, modified or substituted by the person executing the Will at any point of his time during his/her lifetime. Thus, **the core document associated with one's Estate Planning is called Will.** A Will allows the devolution of property in a personalised manner rather than letting the impersonal rules of inheritance take effect. To execute the Will, the person must be fully competent to contract, as much as he/she should not be a minor and should not be a person of unsound mind. The Will has to be in writing and has to state that the person executing the same is making it out of his/her own free will and accord, without any undue influence or coercion, and in a sound disposing state of mind. It has to be attested by at least two independent witnesses.

In the absence of a valid Will, even the most unwanted son/daughter, who had left the house for fraud, disobedience, violence, etc. may turn up to claim his/her share of estate from his/**her father's property. Similarly, an adulterous spouse** might demand his/her share as per inheritance laws.

Will is not required to be registered compulsorily, though it can be deposited with the Sub-Registrar in a Sealed envelope, and an entry to that effect can be made in the register. The Will may also be obtained back after registering in open form. It can be executed on a plain paper, and it would be fully valued even if unregistered. In the event of the person desiring Will to be registered, he/she has to approach the office of the Sub-registrar and has to be accompanied by the persons who have signed as witnesses on the said Will. The attesting witnesses have to put their signatures and thumb impressions in the register maintained by the Sub-Registrar. The jurisdiction of the Sub-Registrar would be as per the place of the residence of the person executing the Will.

The person who makes the Will is called 'Testator' (or 'Testatrix' in case of female); person appointed to administer the Estate is called 'Executor' (or 'Executrix' in case of female); person receiving benefits under the Will is called 'Beneficiary' or 'Legatee'.

Q: What are the essentials/conditions to make a valid Will?

A: The conditions for making a Will are briefly summarised below: The person competent to contract who wishes to make a Will, must sign document thereby indicating its authenticity. The Will should be attested by two or more independent witnesses, each of them who has seen the Testator signing the Will. Each of the witnesses shall sign the Will in presence of the Testator/Testatrix, and also in the presence of each-other. The Will may be revoked by another Will, or any other writing executed in the same way as that of the Will.

A later amendment to a Will is called a 'Codicil', and it must be signed with the same formalities. There may be more than one Codicils, like First Codicil, Second Codicil, Third Codicil, etc.

The contents of/narration in the Will must be clear and unambiguous; and ideally, should also provide for the next line of bequeath. Many disputes can be resolved at the very outset **if there is a clear disposition of one's property in a Will.** A Will may provide for absolute bequeaths or distributions, charities, conversion into a Family/Private Trust or Charitable or Religious Trust, etc or any combination of these. However, the Testator is eligible to bequeath in respect of only his/her own and absolute properties; and not for ancestral properties, the properties held upon Trust, etc.

Q: How is the property of the deceased either through a Will or intestate (i.e., a person who dies without making a valid Will) administered after the death of a person?

A: Where there is a valid Will, the Court grants Probate to the Executors. In case of a person dying intestate, the Court, on application to it, grants the Letter of Administration (generally to a person who is one of the persons entitled to the property of the deceased). The person so appointed shall administer the property. The Executor/Administrator would be responsible to ensure that the property of the deceased is administered/distributed as per the wishes of the Testator/Testatrix or law as the case may be. The grant of the Probate or the Letters of Administration is conclusive proof that the person has the representative title of the property of the deceased and can be used for all necessary purposes required by law.

Q: Most of my assets and investments are in joint names, and I have also made nominations in almost all applicable cases. Why should I make a Will?

A: Unless otherwise contrary is proved, joint-holdings are considered as the assets of the first-holder thereof, and the name(s) of the joint-holder(s) are deemed to have been added for the sake of convenience only. Further, nomination is just a facility, and not a means of succession or bequeath. **Nominee does not become beneficiary or owner of the deceased's assets/investments.** Nominee holds a position of a Trustee only. Even if the bank, society, company, insurer, etc get sufficient, valid and effectual discharge on payment to the nominee, the nominee is liable to account and hand over the same to the concerned executor/administrator/beneficiary/legal heir, etc, as the case may be.

Q: I have been observing illustrative harmony in my family; and I just can't think of any probability dispute even after my death... why should I make a Will?

A: It reminds me of an old one-liner: "Where there is Will, there are relatives; where there is no Will, there are more relatives". You may find millions of cases that the feelings turn adverse after the marriage! Even if you do not wish to give disproportionate bequeath, you must execute a Will for equal distribution also. Assets passed to the concerned legal heir after the demise of the Testator gives a clear title to such legatee also.

Q: Can I avoid executing a Will if I grant Power of Attorney in favour of such legatee?

A: Power of Attorney is a document whereby you give one or more persons the power to act on your behalf during your lifetime. The power may be limited to a particular activity (e.g., the sale of an immovable property) or general in its application, empowering one or more persons to act on your behalf in a variety of situations. It may take effect immediately or only upon the occurrence of a future event. It may give temporary or continuous, permanent authority to act on your behalf. A power of attorney may be revoked also (unless it is irrevocable).

The person named in a Power of Attorney to act on your behalf is commonly referred to as your "agent" or "constituted attorney".

Power of Attorney stands automatically cancelled on demise of the donor of the Power of Attorney. Thus, it is not a means of bequeath or succession planning.

Q: What is the proper age for making a Will?

A: Death is the most certain event which is absolutely uncertain. There is no age limit (except that he should not be a minor).

Q: What is a 'Trust'?

A: The term 'Trust' describes the holding of property by a Trustee (which may be one or more persons or a company or bank) in accordance with the provisions of a written Trust declaration/instrument (called 'Deed of Settlement') for the benefit of one or more persons called beneficiaries. A person may be both a Trustee and a beneficiary of the same Trust. A Trust created by your Will is called a testamentary Trust and the Trust provisions are contained in the Will. Trust is also termed as *obligation*.

When a person creates a Trust during his/her lifetime, he/she is described as the Trust's Settlor (or Grantor or Author), the Trust is called a Living or *inter vivos* Trust, and the Trust provisions are contained in the Deed of Settlement. In case of a Trust under Will, the provisions are contained in the Will. The provisions of the Deed of Settlement determine what would happen to the property in the Trust (called Corpus or Trust Fund) upon the Settlor's death. The benefits of Trust may be extended upto third generation.

A living Trust may be revocable (subject to alterations and termination by the Settlor) or irrevocable.

Trusts are *not* only for a particular sect of the society. Many young parents with limited assets also choose to create Trusts either during life or in their Wills for the benefit of their children in case both parents die before all their children have reached an age deemed by them to indicate sufficient maturity to handle the property. This permits the Trust estate to be held as a single undivided fund to be used for the support and education of minor children according to their respective needs, with eventual division of the Trust among the children when the youngest has reached a specified age. This type of arrangement has an obvious advantage over an inflexible division of property among children of different ages without regard to their level of maturity or individual needs at the time of such distribution.

Q: What is the difference between 'Will' and 'Trust/Settlement'?

A: An *inter vivos*/Living Trust becomes effective and operative soon after the Deed of Settlement is executed, while Will becomes operative only after the demise of the Testator. There are few advantages of Trust over Will, like provision for mentally or physically challenged child, drug addicted child, etc. Provisions for some definite withdrawal from Trust Fund or excess income in case of genuine and specific dire need may also be made in the Deed of Settlement itself.

In case of Will, it takes time to comply with several legal and procedural formalities to obtain Probate. Trust, on the other hand, since it becomes operative soon after signing, maintains immediate link for distribution of net income of the Trust Fund/Corpus on demise of the Settlor.

W J L L

I, _____ of Mumbai, (Religion) , Indian Inhabitant, aged about years, wife of/son of _____, (daughter of _____) residing at _____

_____ Mumbai 400____, DO

HEREBY declare this to be my last Will and Testament and revoke all my former Wills and Codicils heretobefore made by me.

1. **I HEREBY** appoint (1) _____ residing at _____, Mumbai 400____; (2) _____ residing at _____, Mumbai 400____; and (3) _____ residing at _____, Mumbai 400____ (**hereinafter referred to as 'my Executors'**, which would include any survivors or survivor of them and also any other person/s appointed as additional Executor/s) to be the Executors and Trustees of this my Will.

2. **I DECLARE** that my Executors may act by themselves or may employ/engage the services of, and pay Solicitors/Advocates, Brokers, Valuers, Auditors, Consultants, Retainers, Agents, etc. to transact all or any business required to be done.

3. **I HEREBY** declare that all my investments, estates and effects, whether moveable or immoveable, (whether present or in future) made in shares, stocks and debentures of companies or bodies corporate; Fixed Deposit Receipts, Loan Receipts etc., of Bank and/or any body corporate; claims under Life and/or General Insurance Policies; Units of Unit Trust of India or any Mutual Fund;

National Savings Certificates; Public Provident Fund; RBI/Government of India's Relief Bonds and Savings Bonds; Bonds of any PSU, Institution, body corporate or statutory corporation; any other investments; bank accounts; Postal Monthly Scheme, Bima Nivesh, Capital Gain Bonds, etc. which stand in the sole name of myself and/or in the joint-names of myself and others or if any nomination is made in favour of any person or persons, belong absolutely to me and the name of the joint-holder(s) and/or the name of nominee(s) as stated above has been added or will be added merely for the sake of convenience and that the joint-holder(s) and/or nominee(s) shall have no right, title or interest in the same and that all such joint-holdings, wherein my name stands first shall form part of my Estate and shall be disposed off by my Executors as per the directions given in this my Will.

4. ***I DIRECT*** my Executors to pay/reimburse a sum not exceeding ₹ _____/- (Rupees _____ Only) to _____ residing at _____ for the purpose of performing my funeral and other religious ceremonies (upto ____ months/years from the date of my death) in accordance with the tenets and rites of the _____ religion and customs. If any other person/s perform/s such funeral and other religious ceremonies, such amount shall be paid/reimbursed to such other person/s. My Executors shall not be responsible or liable to see to the application of the said amount nor the recipient be liable to render any account for the same to the Executors. The receipt of the recipient shall operate as a valid, complete and effectual discharge to my Executors.

[Narrate the provisions of the Will about charities, bequeaths/legacies, etc, specifying whether the bequeath/legacy is conditional or absolute. Give description of the assets also. Always provide for next line of benefit, if the named (first) beneficiary/legatee predeceases or dies before receiving the legacy. Contingencies should always be taken into consideration. In case of exclusion of any heir, explain the reasons for such exclusion. If Executors are to be remunerated, specify expressly. DO NOT forget to make provisions for residue estate. The following clauses 5 to 12 are just indicative, and would require alteration (edits, additions, deletions, etc on case-to-case basis).]

5. ***I AM*** staying in a rented house at _____. The rent receipts stand in my name and I am regularly paying the rent (₹ ____ per month at present) by cash/cheque from my Savings Account No. _____ with _____ (Bank), _____ Branch, _____.

Road, Mumbai. I wish to transmit my tenancy rights of the above flat to my _____ (Relation) Mr/Mrs _____. It is for the said _____ to take necessary steps to get the tenancy transferred in his/her name at his/her own cost. My Executors will give their assent to the transmission.

IN THE EVENT of the tenants in the building forming themselves into a Co-operative Housing Society (proposed) and purchasing the flats of the said building **with the permission of the State Government under the 'Ownership of Old Tenanted Building Scheme' under the Maharashtra Housing and Area Development Act, 1986** or any other law in force, and my acquiring the ownership right of the above flat No. _____ under the said Scheme, I bequeath the ownership right, title and interest in the said flat to my said _____ absolutely.

AND / OR

5. **I DECLARE** that I have purchased an ownership Flat No. _____ in _____ Co-operative Housing Society Ltd, _____ Mumbai 4000____. I give devise and bequeath the right, title and interest in my said Flat (alongwith five shares: Dist Nos. _____, Certificate No. _____, Folio/Regtn No. _____) and all fittings, fixtures, furniture and all my articles lying therein to my _____ (Relationship & Name, address) _____ absolutely. If, however, God forbid, the said _____ predeceases me or dies before taking the possession of the said Flat alongwith the said shares and all my belongings lying therein as stated above, then I give devise and bequeath the said Flat alongwith its five shares and all my belongings therein to my _____ (Relationship & Name, address) _____ absolutely.

6. **I HEREBY** give the particulars of my Bank Account/PPF Account/Demat Account and Safe Deposit Locker as follows:

- a. Savings Bank Account No. _____ with _____, jointly with Mr _____ who is _____.
- b. Savings Bank Account No. _____ with _____, jointly with Mr _____ who is _____.
- c. Savings Bank Account No. _____ with _____, jointly with Mr _____ who is _____.
- d. PPF Account No. _____, Ledger Folio _____, Pass Book No. _____ with _____.

- e. **Safe Deposit Locker Class** '___', **Locker No.**_____, **Key No.**_____ with _____, _____ Branch, _____ Road, _____, Mumbai 400____ (Joint-holder/Nominee: _____)..
- f. **Demat Account Client ID No.**_____ with _____, **DP ID No.**_____ (Joint-holder/Nominee: _____).
- g. At present my investments consist of shares and securities lying in the Demat Account (with _____ (DP Name & DP Id) _____, Client Id: _____) and _____ Bonds which are lying at my residence (Joint-holder(s) /Nominee: _____).

7. **I HEREBY** state that I am holding certain gold jewellery which may be lying at the place of my residence and/or in the Safe Deposit Locker mentioned above. I give, devise and bequeath the said jewellery to my _____ (Relation) _____, **viz.** _____ residing at _____; and my _____ (Relation) _____, **viz.** _____ residing at _____ in almost equal shares for their own use and benefit absolutely.

8. **I DIRECT** my Executors to pay absolute legacies as under:

- (1) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.
- (2) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.
- (3) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.
- (4) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.
- (5) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.
- (6) ₹ _____ (Rupees _____ only) to my _____ (Relation) _____, Mr/Ms _____ residing at _____ for his/her own use and benefit absolutely.

- (7) ₹ _____ (Rupees _____ only) to my _____ (Relation),
Mr/Ms _____ residing at _____
_____ for his/her own use and benefit absolutely.
- (8) ₹ _____ (Rupees _____ only) to my _____ (Relation),
Mr/Ms _____ residing at _____
_____ for his/her own use and benefit absolutely.
- (9) ₹ _____ (Rupees _____ only) to my _____ (Relation),
Mr/Ms _____ residing at _____
_____ for his/her own use and benefit absolutely.

PROVIDED THAT if any of the abovementioned person predeceases me or dies before receiving the legacy, then in such event I direct my Executor and Trustees to pay/handover to _____.

9. **IDIRECT** my Executors to pay the undermentioned amounts to the following charitable institutions in the name and memory of my Late _____ (Relation),
Mr/Mrs _____, for their uses and objects:

- (1) ₹ _____ (Rupees _____ Only) to _____
situated at _____;
- (2) ₹ _____ (Rupees _____ Only) to _____
situated at _____;
- (3) ₹ _____ (Rupees _____ Only) to _____
situated at _____;
- (4) ₹ _____ (Rupees _____ Only) to _____
situated at _____;
- (5) ₹ _____ (Rupees _____ Only) to _____
situated at _____;

PROVIDED THAT if any of the above mentioned charitable institutions refuses to accept the donation or if any of the institutions ceases to function then in such event I direct my Executor and Trustees to donate such amount to any other institution or institutions having the same, similar or identical objects and uses.

10. **IDIRECT** my Executors to collect, get in and realise all the rest and residue of my entire estate both movable and immovable, whatsoever and wheresoever situate, which I may die possessed of or entitled to at the time of my death, and not otherwise disposed off by me and shall from and out of the same pay all debts,

taxes, dues, duties, outgoings including expenses for Probate, Court Fees and all other charges, costs and expenses.

11. **AFTER PAYMENT** of all my liabilities, dues etc. as stated in the preceding Clause, and after paying pecuniary legacies as stated in Clauses _____ and _____ above, I direct my Executor and Trustees to divide the net residue of my Estate (**hereinafter called "my residuary Estate"**) into two equal parts and pay and hand over as under:

- (1) One equal part out of _____ equal parts to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit;
- (2) One equal part out of _____ equal parts to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit;
- (3) One equal part out of _____ equal parts to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit;
- (4) One equal part out of _____ equal parts to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit; and
- (5) One equal part out of _____ equal parts to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit.

In the event God forbid, any of the abovementioned legatees predeceases me or dies before receiving his/her share, then in such event, his/her share to be paid and handed over to _____.

12. ALL THE furniture, fixture, electrical/electronic appliances, utensils, linens and any other household effects and items lying in my residence be handed over to my _____ (Relation) Mr/Mrs _____ residing at _____ absolutely for his/her own use and benefit.

I AM listing out my financial assets every year at the time of preparing my Income Tax Returns (PAN: _____). These records, kept in my Income Tax files, shall help my Executors to take inventories of my such assets. My Income Tax matters are attended by Mr _____, of _____,

having Office at _____
_____ Mumbai 4000__.

IT IS MY WISH that my Executors act upon this my Will without the grant of Probate, if such course is feasible and practical.

NOTWITHSTANDING ANYTHING contained in this my Will or in any of the provisions, agreements, promises, bye-laws, etc by whatever name called, any Executor/s shall be not liable to indemnify or compensate to anyone for any breach, non-performance of any obligations under these presents or otherwise or for any harm, loss, damage or injury caused to the other due to causes reasonably beyond its control including but not limited to tide, storm, cyclone, flood, lightning, earthquake, fire, blast, explosion or any other act of God (*vis major* or *force majeure*), war, rebellion, insurrection, embargo or sanction, blockade, riot, civil commotion, labour action or unrest including strike, lock-out or boycott, interruption or failure of any utility service, enemy action, criminal conspiracy, act of terrorism or vandalism, sabotage, intrusion or any other irresistible force or compulsion.

FOR THE SAKE OF CLARITY AND REMOVAL OF DOUBTS, I HEREBY DECLARE that all my properties, cash and bank balances, Fixed Deposits with Banks/companies, investments, ornaments of precious metal, jewellery, etc. that I have, are absolutely my self-acquired properties built or acquired out of my own earning and income, or inherited by me absolutely, without any assistance of any ancestral estate and I am fully competent and entitled to invest, sell or otherwise dispose off, manage, distribute or bequeath in the manner I desire.

I HEREBY STATE THAT I am of sound disposing mind and memory and in good health at the time of making this Will; and I have made this Will of my own wish, free will and accord, and fully knowing the full purpose and effect thereof, and without any undue influence or coercion of any type by/from anyone; AND this Will shall be binding on all concerned. I advise all the beneficiaries to give their full co-operation to the Executors for the administration of my estate as per the provisions of this my Will, which I wish, and am sure they will do for me. In the event if any of the beneficiaries under my Will or any other person takes objection to or challenges the provisions of my Will, then in such event he or she shall not be given his or her right, title and benefits given under this my Will or purported to be acquired by him or her under this my Will.

IN WITNESS WHEREOF, I, the said _____ have
hereto set my hand to this my Will at **Mumbai** on this _____ day of _____
2011.

SIGNED AND DECLARED by }
the abovenamed Testator/Testatrix }
Mr/Mrs/Miss _____ }
as and for his/her last Will and Testament }
in the presence of both of us being present }
at the same time, who in his/her presence }
and at his/her request and in the presence of }
each other have hereunto subscribed our }
names as Attesting Witnesses: }

DATED this	day of	2011
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WILL

of
