Davidson County WILL
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# Last Will and Testament

**OF**

**SALVATORE J. FORMOSA, SR.**

I, **SALVATORE J. FORMOSA, SR.**, a resident of and being domiciled in Davidson County, Tennessee, and being of sound mind and disposing memory, do hereby make, declare and publish this to be my Last Will and Testament, and I do hereby revoke all Wills and Codicils made by me at any time heretofore.

## ARTICLE I

1. I nominate and appoint my sons, Nicky Anthony Formosa and Tony Michael Formosa, to serve as Co-Executors of this Will and of my estate. If either of my said sons shall not survive me, or fail to qualify as a Co-Executor hereunder for any reason or having qualified shall die or resign, then the remaining Co-Executor shall serve as sole Executor. Any reference herein to Co-Executors, Co-Executor, Executors, or Executor shall be deemed to be a reference to whomever of the above shall be servicing in such capacity.

2. I direct that no bond shall be required of my Executors for the faithful performance of duties in such capacity.

## ARTICLE II

1. I direct my Executors to pay all of my just debts, funeral expenses, expenses of administration, and any and all inheritance, income and estate taxes imposed by any taxing

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authority, as soon as practicable after my death.

2. I hereby authorize and empower my Executors to exercise the powers set forth in paragraphs 1 through 32, inclusive, of §35-50-110 of the Tennessee code Annotated, to the extent applicable, all of which provisions and powers are incorporated herein by reference.

3. I hereby specifically excuse my Executors from the requirements of filing an inventory and from the making of interim accounting for my estate in accordance with the authority of §30-2-301 of the Tennessee code Annotated.

**ARTICLE III**

I will, devise and bequeath to my son, **NICKY ANTHONY FORMOSA**, my one-fourth (1/4) interest in the real property located at 528 Third Avenue North in Nashville, Davidson County, Tennessee, and my one-fourth (1/4) interest in the real property located at 712 Fourth Avenue North in Nashville, Davidson County, Tennessee, if he survives me.

**ARTICLE IV**

1. I anticipate that I will prepare a holographic codicil to this Will, wherein I will dispose of certain items of tangible personal property. In the event I do prepare such a holographic codicil, then it will be found with this Will.

2. I give and bequeath all the rest, residue and remainder of my tangible personal property, which I may own at the time of my death, to **NICKY ANTHONY FORMOSA, TONY MICHAEL FORMOSA, VINCE MARTIN FORMOSA and TONI TYANNE FORMOSA**, to be divided among them as they see fit. In the event of any disagreement, then my Executors' decision as to the disposition of any contested item of tangible personal property shall be final, binding and non-challengeable. Should a named beneficiary be deceased at the time of the division of said tangible personal property, then the bequest to the deceased beneficiary shall lapse.

3. All the rest, residue and remainder of my estate, which I may own at the time of my death shall be divided into six equal shares. Subject to the following provisions, my Executors shall then distribute:

(A) One (1) share each to **NICKY ANTHONY FORMOSA, TONY MICHAEL FORMOSA, VINCE MARTIN FORMOSA and TONI TYANNE FORMOSA,** per stirpes, one (1) to my Trustee, hereinafter named, the same to be held as the principal of a trust estate hereby designated and called the Deno Mario Formosa Trust, to be held and administered in accordance with the terms of the Deno Mario Formosa Trust, and one (1) to my Trustee hereinafter named, the same to be held as the principal of a trust estate hereby designated and called the Lindsay Nicole Formosa Trust, to be held and administered in accordance with the terms of the Lindsay Nicole Formosa Trust, and

(B) Any share for deceased children shall, subject to the following provisions, per capita and in fee, to the surviving children of each deceased child of mine. If any beneficiary hereof shall not have attained the age of twenty-one (21) years at the time a share, or any part thereof, is directed to be distributed to him/her, then the share or fund of such beneficiary shall be retained in trust by Trustee until he/she shall have attained such age. During such interim, Trustee shall pay to such beneficiary, or expend on his behalf, the such amounts of net income and principal from his/her particular share or fund as Trustee, in Trustee's sole and absolute discretion may deem advisable for such beneficiary's health, maintenance, education and support. When such beneficiary shall have attained the age of twenty-one (21) years or upon his/her death prior thereto, the trust shall terminate with respect to such share or fund and Trustee shall distribute the entire principal and undistributed income, if any, of such share or fund to such beneficiary in fee or to the estate of such beneficiary if he/she should die before attaining the age of twenty-one (21) years.

4. I specifically acknowledge that I have other children which I have specifically not included in this Will, it being my intention to disinherit them from my estate.

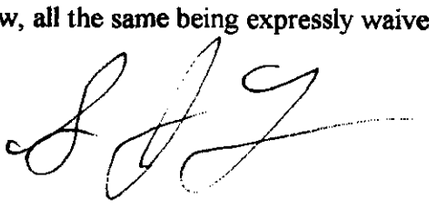
**ARTICLE V**

1. I nominate and appoint my sons, **NICKY ANTHONY FORMOSA** and **TONY MICHAEL FORMOSA,** as Co-Trustees of the Deno Mario Formosa Trust and my Co-Trustees shall have the powers and duties set forth herein with respect to the said trust estates. If either of my said sons shall not survive me, or fail to qualify as a Co-Trustee hereunder for any reason or having qualified shall die or resign, then the remaining Co-Trustee shall serve as sole Trustee. Any reference herein to Co-Trustees, Co-Trustee, or Trustee shall be deemed a reference to whoever shall be serving in such capacity.

2. I nominate L. R. DeMarco as Trustee of the Lindsay Nicole Formosa Trust and my Trustee shall have the powers and duties set forth herein with respect to the said trust estate. If my Trustee shall not survive me, or fail to qualify as a Trustee hereunder for any reason, or having qualified shall die or resign, then I nominate my son, **NICKY ANTHONY FORMOSA**, as the alternate Trustee.

3. I hereby authorize and empower my Trustees to exercise the powers set forth in Paragraphs 5 through 32, inclusive of T.C.A. 35-50-110 to the extent applicable, all of which provisions and powers are incorporated herein by reference.

4. The Trustees herein named, and any Successor Trustees, shall not be required to give any bond or other security for any purpose for the faithful performance of Trustees' duties hereunder, or to make any accounting, report or statement to any court or tribunal as may otherwise be required by law, all the same being expressly waived.



## ARTICLE VI

Prior to the termination of the Deno Mario Formosa Trust:

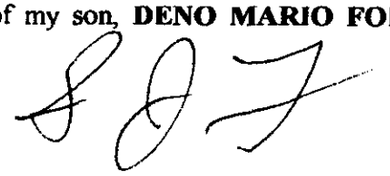
1. Trustee is authorized and directed to pay to my son, **DENO MARIO FORMOSA**, first from the income (and/or if necessary from the principal) of the Deno Mario Formosa Trust, Three Hundred Dollars and .00/100 ($300.00) per week, said amount to be increased according to the increases in the Consumer Price Index measured from the date of my execution of this Will.

2. Trustee is authorized and empowered to pay to my son, **DENO MARIO FORMOSA**, from the income and/or principal of the Deno Mario Formosa Trust, such amount or amounts, at any time and from time to time in the exercise of Trustee's sole and absolute discretion, may deem advisable to provide for **DENO MARIO FORMOSA'S** health, maintenance, and support.

3. If at any time **DENO MARIO FORMOSA** is under disability, or in the opinion of the Trustee is incapable of properly managing his financial affairs, then Trustee may make those distributions directly to **DENO MARIO FORMOSA**, to a lawful guardian of **DENO MARIO FORMOSA**, or may otherwise expend the amount to be distributed for the benefit of **DENO MARIO FORMOSA** in such manner as Trustee considers advisable.

4. **DENO MARIO FORMOSA** shall not assign, pledge, transfer, sell, or in any manner whatsoever, accelerate, anticipate or encumber any interest in the principal or the income of the Deno Mario Formosa Trust; nor shall any of such principal or income be or become, in any manner whatsoever, subject to or liable for the debts of contracts of **DENO MARIO FORMOSA**; nor shall principal or income be or become, in any manner whatsoever, subject to any assignment, or any other alienation or disposition, whether voluntary or involuntary.

5. After the death of my son, **DENO MARIO FORMOSA**, my Trustee shall



distribute any and all remaining assets in said trust to **NICKY ANTHONY FORMOSA, TONY MICHAEL FORMOSA, VINCE MARTIN FORMOSA, TONI TYANNE FORMOSA,** and **THE LINDSAY NICOLE FORMOSA TRUST,** per stirpes.

**ARTICLE VII**

Prior to the termination of the Lindsay Nicole Formosa Trust:

1. Trustee is authorized and directed to pay my daughter, **LINDSAY NICOLE FORMOSA**, first from the income (and/or if necessary from the principal), of the Lindsay Nicole Formosa Trust, Three Hundred Dollars and .00/100 ($300.00) per week, said amount to be increased according to the increases in the Consumer Price Index measured from the date of my execution of this Will.

2. The Trustee shall collect the income from the property comprising the trust estate, and said income from the trust estate, or so much thereof, as may be necessary in the judgment of the Trustee, shall be spent by the Trustee for the support, care, maintenance, and education of **LINDSAY NICOLE FORMOSA**, or may be accumulated into the trust corpus in the Trustee's discretion.

3. The Trustee is authorized to encroach upon the corpus of the said trust from time to time and at any time even to the extent, if necessary, of entirely depleting the corpus, to meet any extraordinary expenses, emergency, medical, surgical, or hospital expenses of my said daughter, and also, to pay those expenses which the Trustee may consider necessary or proper.

4. Until the expiration of the trust herein created, the beneficiary shall not have the right or power to assign, encumber, or anticipate the corpus or income of the property of the trust, nor shall it be subject to her debts or liabilities.

5. My Trustee shall hold title to said trust property and, out of the income therefrom,

shall pay all the expenses and costs of maintaining and executing the trust hereby created; and, he shall invest any cash corpus that may come into his possession and from time to time, in his discretion, sell, assign, mortgage or otherwise encumber or dispose of said trust property, real or personal, and execute and deliver for that purpose all necessary and property deeds, mortgages, notes, assignments or bills of sale, and receipts of proceeds, which he shall thereupon reinvest and hold upon the same uses and trusts, and the purchasers shall not be required to see to the application of the proceeds; and, in making such investments or re-investments my Trustee shall not be limited by any statute governing the investment of trust or trust guardianship funds, but he is to authorize any kind of property real or personal, including by way of illustration, but not of limitation, stocks, bonds, notes, insurance or annuity contracts and any other securities.

6. To the extent I may lawfully do so, I direct that my Trustee shall not be required to make any inventory or appraisal of the assets of my trust nor to file any accountings or reports with any Court.

7. This trust shall terminate on January 6, 2010, when **LINDSAY NICOLE FORMOSA** reaches the age of twenty-one (21) years and all remaining funds in said Trust shall be distributed to **LINDSAY NICOLE FORMOSA**, or her issue, per stirpes.

**ARTICLE VIII**

If any person, legatee, or devisee shall directly or indirectly contest or dispute any provision in this Will, either before a Probate Court or before any judicial body, that this is not my last will, or call in question before any court or tribunal the provisions of any legacy, devise or provision herein, then I revoke all provisions in this Will made in his or her behalf and declare the same void and of no effect and give such legacy, devise, or provision so revoked to the individuals listed in Article IV -3.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name to this my Last Will and Testament, consisting of this and seven (7) preceding typewritten pages and, for the purpose of identification, I have signed each such page, all in the presence of the persons witnessing it at my request, on this 24 day of Feb, 2006, at Nashville, Tennessee.

Salvatore J. Formosa SR

**SALVATORE J. FORMOSA, SR.**

The foregoing instrument, consisting of this and seven (7) preceding typewritten pages as signed, sealed, published, and declared by **SALVATORE J. FORMOSA, SR.**, the Testator, to be his Last Will and Testament, in our presence, and we, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses, this 24 day of February, 2006, at Nashville, Tennessee.

Kimberly Garratt residing at Goodlettsville, TN

[illegible] residing at [illegible], TN

**AFFIDAVIT**

Kimberly Garratt and Maxine G. Sims, after being duly sworn according to law, depose and say:

1. That they are adult citizens of the State of Tennessee.

2. That they witnessed the execution of the Last Will and Testament of **SALVATORE J. FORMOSA, SR.**, dated the 24 day of Feb, 2006, to which this affidavit is attached, and that this affidavit is being made at the request of the Testator, and in accordance with Tennessee Code Annotated § 32-2-110.

3. That their signatures are affixed to said Last Will and Testament, that they signed or affixed the same at the instance and at the request of the Testator and in his presence, and in the presence of each other, at the place and on the date recited in said Last Will and Testament.

4. That the Testator signed said paper writing as and for his Last Will and Testament, in their sight and presence.

5. That at the time they witnessed said Will, the Testator was, in their opinion, of sound mind and over the age of eighteen (18) years.

Kimberly Garratt

Maxine G. Sims

STATE OF TENNESSEE )
)
COUNTY OF DAVIDSON )

Subscribed and sworn to before me this 24th day of February, 2006.

NOTARY PUBLIC

My commission expires: 1-26-08

**STATE OF TENNESSEE**

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the LAST WILL AND TESTAMENT heretofore entered in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 22 day of MARCH , 2007 , in Case Number 07P457 between FORMOSA, NICKY ANTHONY ET.AL Petitioner, and FORMOSA SR., SALVATORE J ET.AL Respondent, as same remains in the records of said Court.

**IN TESTIMONY WHEREOF,** I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 21 day of MAY 2008

**RICHARD R. ROOKER,** Clerk,

By _____
Deputy Clerk

SEAL