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LAST WILL AND TESTAMENT

OF

E. N. HOLMES, JR.

My name is E.N. Holmes, Jr.. I presently reside in Sumner County, Tennessee, and I declare this to be my last Will and Testament, revoking all prior testamentary instruments. I am unmarried, widowed after the death of Dorothy A Holmes. I have two children, Clifford A. Holmes and Larry N. Holmes

ARTICLE I

1.1 **Appointment of Personal Representative.** I appoint Clifford A. Holmes and Larry N. Holmes, as Co-Executors of my estate. If either should be unable or unwilling to serve for any reason, I then appoint either Clifford A. Holmes or Larry N. Holmes individually, to serve as the alternate Executor of my estate.

These persons and any successor fiduciaries are referred to generally herein as my "personal representative."

1.2 **Trustee of the Holmes Trust.** I name Clifford A. Holmes, as Trustee of the trust created by this Will. If Clifford A. Holmes is unwilling or unable to serve as Trustee of the trust, I nominate J. Trent Lehman as the alternate trustee of the Trust.

1.3 **Accounting and Inventory of Estate.** Unless such is required by applicable state law, I hereby excuse my personal representative from the requirement of filing an accounting or a detailed inventory of my estate in the probate proceedings.

1.4 **Bond is Excused.** I direct that each personal representative, Executor, or Trustee named herein be permitted to serve without bond. If the law should require a bond for such personal representative, Executor, or Trustee, I then authorize such bond to be purchased using funds of my

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estate.

ARTICLE II.

2.1 **Expenses, Debts, and Taxes.** All of my lawful debts, funeral expenses, and expenses of the administration of my estate are to be paid from my general estate as soon as is practicable after my death at the direction of my personal representative. All inheritance, estate, and similar taxes assessed by reason of my death shall be paid in respect of all property and interest required to be included in my estate for tax purposes whether the same passes under this Will or otherwise and without contribution from any recipient of any property required to be included for tax purposes.

2.2 **Secured Debts.** I do provide, however, that any debts of mine which are secured by mortgages, deeds of trust, or other security instruments may be paid from my general estate, or such debts may be continued according to their terms and the property interest delivered to the beneficiary subject to the unpaid balance of the obligation, with the option at the discretion of my personal representative.

2.3 **Ancillary Administration.** If, at the time of my death, I own or have an interest in property located outside the state of my domicile and requiring ancillary proceedings, I authorize the payment from my domiciliary estate of the cost of ancillary and similar proceedings in other jurisdictions. To such extent as may be allowed by the laws of another jurisdiction, I authorize my personal representative to serve in the same or similar capacity, alone or with someone else, if required, and without bond unless required by law.

ARTICLE III

3.1 **Bequest of Tangible Personal Property**. In the event I should leave a memorandum with my Will setting forth my desires with respect to the disposition of certain items of tangible personal effects, it is my request that said memorandum be followed. Items of tangible personal property and personal effects not covered by said memorandum, if any, consisting generally of jewelry, wearing apparel, articles of personal adornment, books, pictures, paintings, household furniture, furnishings, and equipment, I leave to Clifford A. Holmes and Larry N. Holmes equally. This bequest shall specifically include any automobile(s) titled in my name. For such personal property items as Clifford A. Holmes and Larry N. Holmes do not want or have no need for, my personal representative shall have the authority to sell the same and add the proceeds to my residuary estate. All decisions as to distribution by my personal representative shall be final and binding on all parties.

3.2 **Bequest of Real Property.** I own the following properties currently:

1. 516 Barrywood Drive, Nashville, Tennessee 37220, which I direct my Executor to title in the name of Larry N. Holmes in fee simple as his sole and separate property.

2. 2008 Albatross Way, Gallatin, Tennessee 37066 which I direct my Executor to title in the name of The Holmes Trust in fee simple, according to the terms of the trust as set forth herein in Article V below.

If I acquire other real property, upon my death I direct my Executor to sell said property and divide the proceeds equally between Larry N. Holmes and The Holmes Trust.

ARTICLE IV.

4.1 **Residuary Bequest.** All of the rest and residue of my estate, including all bank accounts, CDs, financial instruments, or other item of value not jointly titled, shall pass equally to Larry N. Homes and the Holmes Trust as set forth in Article V below.

ARTICLE V.

5.1 **Holmes Trust.** I hereby create and establish the Holmes Trust, for the use and benefit of Clifford A. Holmes during his lifetime.

5.2 **Name of Trust.** This trust shall be known as the Holmes Trust and shall be held and administered as such.

5.3 **Beneficiaries.** The trust shall be for the benefit of Clifford A. Holmes during his lifetime. If Clifford A. Holmes should die, this trust shall continue for the benefit of Shelia Holmes during her lifetime. If Clifford A. Holmes and Shelia Holmes both die, the Trust shall be divided into equal shares for Michele Niemi, Michael Holmes, Rachel Holmes and Shannon Oney and ultimately disbursed according to Section 5.6 below.

5.4 **Income.** The Trustee shall receive assets from any source, and shall hold, manage, invest and reinvest the principal of the trust, deducting all expenses and taxes properly chargeable thereto, including reimbursement for the reasonable expenses incurred by my Trustee and reasonable compensation to him at rates customarily approved by the courts. The Trustee shall use such portion of the net income of the trust as my Trustee, in his sole discretion, deems necessary or proper for the education, maintenance, support, comfort and entertainment of the beneficiaries.

Nothing contained in this Trust shall be construed to mean that the Trustee is required to make a distribution for any reason. Distributions are entirely discretionary and in the Trustee's sole and absolute discretion.

5.5 **Encroachment.** My Trustee is authorized to encroach upon the principal of said trust to provide beneficiaries with necessary monies for their education, maintenance and support, housing, opportunities and advantages, as the Trustee, in his sole discretion, deems reasonable. The Trustee is authorized to make encroachments on the principal of the trust for any emergency need occasioned

by a casualty, health problems, or disability. It is contemplated by this provision that the entire trust balance may be expended, subject to the terms contained herein and the discretion of the Trustee, during the lifetime of Clifford A. Holmes or Shelia Homes and that the trust will be terminated under Section 5.8 below without making any payment to Michele Niemi, Michael Holmes, Shannon Oney and Rachel Holmes

5.6 **Distribution of Principal to Living Beneficiaries.** One half of the balance of the principal of the portion of this trust designated for the remaining beneficiaries of Clifford A. Holmes and Shelia Holmes and administered as a trust share shall be distributed on or about his or her Thirty (30th) birthday. The remaining balance of the principal of the portion of this trust designated for each of my beneficiaries and administered as a trust share shall be distributed to each living beneficiary on or about his or her Fortieth (40th) birthday. In the event that a beneficiary (beneficiaries) has already reached any of the Distribution Dates at my death , they shall receive the distributions that would have been made to them on those dates at the earliest convenience of the Trustee.

5.7 **Distribution of Principal to Issue of Deceased Beneficiary.** If a situation should occur wherein my Trustee is administering a trust share for the issue of a deceased beneficiary, then my Trustee is authorized to encroach upon the principal of this trust at any time .Although this will not effect the equitable distribution to the beneficiaries named earlier.

5.8 **Termination of Trust.** The trust share of each of my living beneficiaries and their issue shall be distributed as provided in paragraph 5.6 above. When all shares have been distributed, the trust shall terminate. In no case shall the trust continue beyond a time which would violate the applicable Rule Against Perpetuities in any state that has legal control over the Trust.

5.9 **Discretionary Termination of Trust.** I recognize that circumstances may arise which

may make it unwise or economically unfeasible to continue the trust or a trust share, so I hereby authorize my Trustee to terminate the trust or any trust share and distribute the remaining assets to the beneficiaries if in my Trustee's discretion continuing the trust would be impractical.

ARTICLE VI.

6.1 **Fiduciary Powers.** My personal representative and the Trustee of the trusts created herein shall have all of the powers set forth in §35-50-110, of the Tennessee Code Annotated, which are incorporated into this Will by specific reference. In the event I am not a resident of the State of Tennessee at the time of my death, or in the event of an ancillary administration, or the need to administer the Trust in another state, my personal representative and the Trustee shall have all of the powers set forth in the applicable state's probate code. In addition to the foregoing powers incorporated by reference, my personal representative and Trustee shall have the powers and duties set forth in the balance of this Article.

6.2 **Authority to Operate Business.** My personal representative shall have full and complete authority to continue the operation of any business or business interest which I may have at the time of my death without the necessity of court approval and for such time as my personal representative deems appropriate. My personal representative shall be exonerated from liability for any loss incurred in the operation of such business so long as he or she is acting in good faith and is not guilty of willful misconduct.

6.3 **Authority to Sell Real Property.** My personal representative shall have the authority and discretion to buy or to sell or lease real property or any interest in real property which I may have and to use and apply the proceeds from a sale or lease to the payment of debts, taxes, and expenses of administration of my estate.

6.4 **Powers of Appointment.** I am not aware of any powers of appointment vested in me,

but to such extent as I am allowed to do so, I authorize my personal representative to exercise or decline to exercise such powers of appointment as he or she determines to be in the best interest of my estate and the beneficiaries of my estate.

6.5 **Beginning of Payments.** Beginning immediately after my death, my personal representative may begin making payments to my beneficiaries during the administration of my estate and need not wait for the final settlement of the estate. My personal representative shall be given credit on the final settlement for all disbursements made to my beneficiaries under the provisions of this power.

6.6 **Unproductive Assets.** I authorize my personal representative and Trustee to hold unproductive assets in the absence of a specific written request to dispose of same and convert such assets to income producing property.

6.7 **Insurance Policies.** My fiduciaries are authorized to hold, own and pay premiums on life insurance policies owned by me and to continue same in force for so long as they deem appropriate.

6.8 **Disposition of Life Insurance Proceeds.** My personal representative shall distribute life insurance proceeds according to the provisions of the Holmes Trust created under this will.

6.9 **Payment of Penalties and Interest.** I authorize my personal representative to pay from my general estate any interest which may accrue on debts or taxes due from my estate. Provided also, I authorize the payment of any penalties assessed as a charge against my estate so long as they are not the result of willful dereliction of duty by my personal representative.

ARTICLE VII.

7.1 **Spendthrift Provision.** I direct that the interest of the beneficiaries hereunder shall not be subject to or liable in any manner to or for their anticipation, assignments, sales, pledges, debts,

contracts, engagements or liabilities or subject or liable to attachment and execution under any legal or equitable process.

7.2 **Disclaimer.** I give the right to all beneficiaries or their legal representatives to disclaim all or such part of a legacy or devise as the beneficiary or his legal representative may specify in writing deposited with my personal representative and filed in the Probate Court of the County in which my estate is being administered within the time prescribed by the applicable law following my death or at the time allowed after becoming entitled to receive an interest in my estate.

If a beneficiary disclaims, his or her share shall lapse and be distributed as if the beneficiary had not survived me.

IN WITNESS WHEREOF, I have executed this my Last Will at Gallatin, Tennessee this 25 day of July 2011 and request the attesting witnesses to make the Affidavit set out below.

E N Holmes Jr
E.N. Holmes, Jr.

On the date shown above, E.N. Holmes, Jr. produced to us the foregoing instrument declaring it to be his Last Will and Testament, and he signed the same in our sight and presence and we, the undersigned, at his request and in his sight and presence, and in the sight and presence of each other, have signed our names on the day and date above shown.

ATTEST TO EXECUTION OF WILL: ADDRESSES:

Witness

Witness

STATE OF TENNESSEE)
COUNTY OF SUMNER)

AFFIDAVIT OF ATTESTING WITNESSES

We, the undersigned witnesses to the foregoing Last Will and Testament to which this is attached, being more than 18 years of age and having no interest in his estate, do depose and make affidavit that E.N. Holmes, Jr. on the day and date shown produced this instrument, declared the same to be his Last Will and Testament and signed it as such in our sight and presence and we, at his request, and in his sight and presence, and in the sight and presence of each other, signed as attesting witnesses. At the time, we considered E.N. Holmes, Jr. to be of sound mind and knew him to be more than 18 years of age.

Bobby Reed

Ray Levkoff

Sworn to and subscribed before me this the 25th of July 2011

Jana S. Boner
NOTARY PUBLIC

My Commission Expires: 1-27-2015

JANA S. BONER
STATE OF TENNESSEE NOTARY PUBLIC
SUMNER COUNTY

STATE OF TENNESSEE
SUMNER COUNTY
I, Darlene D. Daughtry, Clerk & Master of said County, do hereby certify that the foregoing instrument contains a true and complete copy of Last Will & Testament as same appears of record or on the file in Book 2011 Page 934 of the records of the Chancery Court of Sumner County, Tennessee
Given under my hand and seal this 27th day of July 20 11
DARLENE D. DAUGHTRY, Clerk & Master
By _____ DC

CHANCERY

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