

LAST WILL & TESTAMENT OF

Joanna Doe

DATE SIGNED _____

Sample Will

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LAST WILL & TESTAMENT OF JOANNA DOE

I, Joanna Doe, a resident of Ottawa, Ontario, declare that this is my Will. I hereby revoke all my previous wills and codicils.

ARTICLE 1. EXECUTOR

1.1 Appointment of Executor(s)

I appoint Joseph Doe as the Executor of my Will and Trustee of my Estate.

If Joseph Doe is unable (by reason of death, incapacity, or any other reason) or unwilling to serve as executor and trustee, Catherine Johnson shall serve as successor Executor and Trustee in their place.

1.2 Definition

The term "Trustee" or "Trustees" shall include, where the context permits, the Executor or Executors and Trustee or Trustees and for the time being, whether original, additional or substitutional. Any reference in my Will to "Trustees" shall be interpreted to include such changes in numbers and/or gender as the context requires.

1.3 Waiver of Bond

My Trustees shall not be required to post a bond as security, even if my Trustees are not residing in Ontario when called upon to act on behalf of my estate and notwithstanding that my executor may not be resident or located within any state, province, or country in which I may own assets at the time of my death.

ARTICLE 2. DISPOSAL OF REMAINS

2.1 Burial or Cremation

It is my wish, and I so direct, that my body not be cremated, but be buried. I further desire that a memorial service be conducted as a life celebration ceremony.

ARTICLE 3. DISPOSITION OF MY ESTATE

I give all of my property of every nature and kind and wherever situate, including any property over which I may have a general power of appointment, to my Trustees, upon the following trusts, namely:

3.1 Debts, Funeral and Testamentary Expenses

I direct my Trustee to pay my just debts, funeral and testamentary expenses, and taxes, including but not limited to income taxes, and all estate, legacy, succession, or inheritance duties and taxes whether imposed pursuant to the law of Ontario or any other jurisdiction that may be payable in connection with any property passing on my death (or deemed so to pass) and on any gift or benefit conferred by me under this my Will as well as the expenses of administering my estate.

3.2 Monetary Gifts

None

3.3 Specific Gifts

None

3.4 Gift of Real Estate Property

None

3.5 Personal Effects

All my personal effects shall form part of the residue of my estate and be dealt with as part thereof.

3.6 Disposition of Residue

My Trustees shall pay and transfer the residue of my estate to my spouse, Joseph Doe, if they survives me.

If my spouse fails to survive me, then my Trustees shall divide the residue of my estate among my children in equal shares. In the event any child of mine does not survive me or dies before becoming entitled to receive all or part of their share of my estate, I direct that such deceased child's share shall be transferred equally to such deceased child's children (my "grandchild" or "grandchildren").

3.7 Testamentary Trust

Provided however that if any issue of mine should become entitled to a share of my estate before attaining the age of eighteen (18), I direct my Trustees to hold such share in trust in accordance with the following provisions:

(a) My Trustees shall set aside such share and keep it invested until such beneficiary attains age eighteen (18). Until such beneficiary attains the age of eighteen (18), my Trustees shall pay to him or her, or apply for his or her education, support, maintenance and benefit, so much of the income and capital of such share as my Trustees in their absolute discretion consider advisable from time to time. Any surplus income shall be accumulated and added to the share.

(b) When such beneficiary attains the age of eighteen (18), my Trustees shall transfer the balance of that share to such beneficiary for his or her own use absolutely.

(c) If, as a result of the death of one or more of my issue, a share of my estate passes to a surviving issue of mine in accordance with the terms of my Will, such share shall be held in trust for that surviving issue subject to the provisions of this paragraph, and if such share passes to that surviving issue of mine for whom a part of my estate is already being held in trust under my Will, that interest shall be added to the trust for that surviving issue of mine and shall be administered as part thereof.

(d) Notwithstanding any of the foregoing provisions of this paragraph of my Will, on the twentieth (20th) anniversary of the death of the last survivor of me, my spouse, and all of my issue alive at my death, any share or portion held by my Trustees in trust shall vest absolutely in possession in the individual for whose benefit the share is held, for his or her own use absolutely.

ARTICLE 4. ADMINISTRATIVE POWERS

In addition to all other powers vested in Trustees by law or otherwise, and without restricting the general powers, discretions, and authorities given to my Trustees in my Will, my Trustees have the power, discretion, and authority to deal with my estate, including any particular trust established under my Will, without the interference of any person entitled under the provisions of my Will, as follows:

4.1 Power over Digital Assets

Subject to any relevant terms herein and the relevant law, my Trustees shall have full power and authority to manage, administer, sell, transact, delete, gift, and otherwise give directions for, any and all digital assets (the "Digital Assets") that belong to me at the time of my death, or over which I had access privileges or which contain information about me, including but not limited to such digital assets as passcodes, account information, social media webpages or websites which contain my personal information, internet domain name registrations, electronic accounts, emails and any other digital property or information that may be stored on servers that do not belong to me but that related to me whether directly or indirectly.

For the purposes of this Will, the term "Digital Assets" includes, but is not limited to, the following:

- a) files stored on my digital devices, including, but not limited to, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any other digital devices which currently exist or may exist as technology develops; and
- b) emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network or social media accounts, file sharing accounts, financial accounts, banking accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts, and other digital items which currently exist or may exist as technology develops, regardless of the ownership of the physical device upon which the particular digital item is stored.

4.2 Power to Invest

My Trustees when making investments for my estate shall not be limited to investments authorized by law for Trustees but may make any investments which in their absolute discretion they consider advisable, including exercising any outstanding stock options which may be beneficial to my estate, and my Trustees shall not be liable for any loss that may happen to my estate in connection with any investment hereby authorized and made by them in good faith.

4.3 **Division or Distribution in Cash or in Kind**

In order to satisfy a pecuniary gift or to distribute or divide estate assets into shares or partial shares, the Trustees may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in-kind. Property distributed to satisfy a pecuniary gift under this Will shall be valued at its fair market value at the time of distribution.

4.4 **Sale and Retention of Assets**

My Trustees shall have the power to sell, lease, option or otherwise dispose of, or deal with, the whole or any part of my real or personal property, in such manner and upon any terms, at such time, as my Trustees in their absolute discretion may consider advisable. I authorize my Trustees to postpone the sale, calling in or conversion of any part of my estate or to retain any part of my estate in the form of which it may be at my death for such length of time as they in their absolute discretion consider advisable.

I authorize my Trustees to sell, partition, mortgage, lease, or otherwise deal with any real or leasehold property comprising part of my estate upon such terms as my Trustees, in their absolute discretion, see fit, and to make such alterations, repairs and improvements and generally manage such property as they consider necessary.

4.5 **Power to Purchase Estate Property**

Any of my Trustees may purchase in their personal capacity any assets from my estate for fair market value. My Trustees shall not be required to obtain the approval of any court for such a purchase, even if there are minor beneficiaries entitled to a share in the residue of my estate.

4.6 **Elections**

My Trustee may make all such allocations, elections, determinations, designations and distributions as my Trustees in their uncontrolled discretion shall consider to be in the best interests of my estate as a whole, and specifically any allocations and elections as may be necessary under the Income Tax Act, R.S.C. 1985 (5th Supp.), c.1, or any similar legislation of any province or other jurisdiction in force from time to time. Where any specific funds, shares or residue are created under this my Will, my Trustees shall have the absolute power of determination as to the specific assets which shall form such fund, share or residue as the case may be. Any such allocations and elections once made are not to be subject to review by anyone.

4.7 Retaining Agents and Advisors

I further authorize my Trustees to employ such other agents, appraisers, accountants, dealers, fund managers or other professional assistants as my Trustees in their absolute discretion consider necessary or advisable in the administration of my estate upon such terms as may be agreed by my Trustees from time to time (including power to delegate authority to make investment decisions to such persons) and my Trustees are hereby empowered in their absolute discretion to terminate or revoke any such appointments.

4.8 Payments Held in Trust

Except as otherwise provided herein, if any person becomes entitled to any share of my estate before attaining the age of majority, my Trustees shall hold such share in trust and invest it for the benefit of such person until he or she attains the age of majority. I authorize my Trustees to apply such amounts from income and capital of such share as my Trustees, in their absolute discretion, consider advisable for the care, maintenance, educational, medical, household expenses, extra-curricular activities, necessities of life, or other benefit of such person until he or she attains the age of majority, at which time my Trustees shall pay or transfer such share, or the part thereof remaining, to him or her. Any net income derived from such share which is not paid to or applied for the benefit of such person in any year shall be accumulated and added to the capital of such person's share. Except as otherwise provided, if my Trustees pay or transfer income or capital to or for the benefit of a beneficiary who is under the age of majority, the Trustees may make payment or transfer to such beneficiary, his or her legal parent, legal guardian, or to such other person as my Trustees, in their absolute discretion, consider appropriate, the receipt of from whom shall constitute a good and sufficient release of my Trustees.

4.9 Limitation of Liability

My Trustees shall not be liable for any loss to my estate or to any beneficiary resulting from the exercise by them in good faith of any discretion given to them in this my Will.

4.10 Indemnification of Trustees

Not Applicable

4.11 Incorporation of Purchase Terms

Not Applicable

4.12 Power to Delegate and Sub-Delegate

Not Applicable

4.13 **Power to Terminate Trusts**

Not Applicable

ARTICLE 5. NOMINATION OF GUARDIANS

5.1 **Appointment of Guardian**

If my spouse and I both die before Justine Doe has attained the age of majority, it is my wish that Catherine Johnson be appointed to have custody of such minor child of mine and to be the guardian of property of such child; and to the extent I am permitted by law so to do I appoint Catherine Johnson as such. If Catherine Johnson shall become unable or unwilling to act as guardian due to death, incapacity or refusal, I appoint Jessica Johnson to have custody of such minor child of mine and to be the guardian of property of such child, in the place and stead of Catherine Johnson; and to the extent I am permitted by law so to do I appoint Jessica Johnson as such.

ARTICLE 6. INTERPRETATION

6.1 **Exclusion from Net Family Property**

I declare that all property passing to a person, whether as a result of my death or as a result of a gift during my lifetime, as well as any property into which such property can be traced, together with all income from such property, shall not fall into the community of property that may exist between such beneficiary and his or her spouse and shall not form part of such beneficiary's net family property for the purpose of the Family Law Act, R.S.O. 1990, c. F-3, as amended, or any successor legislation or similar legislation in any other jurisdiction. All references to income contained in this paragraph of this Will shall include capital gains as well as other accretions to capital arising from a gift or benefit hereunder. This is an express statement within the meaning of section 4 (2) of the said Act and has effect to the extent permitted by that statute, any successor legislation, or any other legislation in any jurisdiction.

6.2 **Survivorship**

Any person who predeceases me or who is not alive on the 30th day following my death shall be deemed not to have survived me for all purposes of this Will.

6.3 **In equal shares per stirpes**

“In equal shares per stirpes” means a division according to the normal and general rule, whereby remoter issue shall only be entitled to a share of my estate if they stand in substitution for a deceased parent and shall not be entitled to a share in competition with or concurrently with a living parent.

6.4 **Charities**

If any charitable organization named in this Will as beneficiary is not in existence at my death, my Trustees may transfer the sum set aside for that organization to any charitable or community organization that is the successor to the named organization or that carries on similar works for the benefit of a similar group of people, as determined by my Trustees in their absolute discretion.

6.5 **Adopted Children**

If any person adopts a child, the adopted child, for all purposes of this my Will, shall be deemed to be the natural-born child of that adopting parent, and, in particular, but not so as to restrict the generality of the foregoing, the terms "child" and "issue" when used in this my Will shall be deemed to include an adopted child.

6.6 **Mediation and Arbitration**

In the event of a dispute regarding any matter involving this Will, administration of the estate under this Will or the administration of the Trusts under this Will, which cannot be resolved under the provisions of this document (a “Dispute”), the Trustee must submit the Dispute to a mediator (the “Mediator”) to try and resolve the Dispute. The parties to the Dispute will select the Mediator. If the parties to the Dispute are unable to agree on the Mediator, then the Trustee must make an application to the Ontario Superior Court of Justice for the appointment of the Mediator. No issue other than the appointment of the Mediator or Arbitrator as set out below shall be raised at the Ontario Superior Court of Justice. In the event of a dispute regarding the Will or the administration of the Trusts under this Will, which cannot otherwise be resolved under the provisions of this Will or by mediation (a “Dispute”), the Trustee must submit the Dispute to an arbitrator (the “Arbitrator”) to resolve the Dispute. The Arbitrator’s decision will be final and binding on the parties to the Dispute. The parties to the Dispute will select the Arbitrator. If the parties to the Dispute are unable to agree on the Arbitrator, then the Trustee must make an application to the Ontario Superior Court of Justice for the appointment of the Arbitrator. No issue other than the appointment of the Mediator or Arbitrator as set out above shall be raised at the Ontario Superior Court of Justice. For certainty, in no event shall a Dispute be brought to court for resolution. The affairs of my estate are to remain private and any Dispute is to be resolved in private.

[Remainder of page intentionally left blank. Signature page follows.]

Signed and executed by the testator on _____,
at _____, Ontario.

SIGNED by **Joanna Doe** as)
a Last Will and Testament in the)
presence of us, both present at the) _____
same time, and witnessed by us in) **Joanna Doe**
the presence of each other.)
)
)

Witness	Witness
Name: _____	Name: _____
Address: _____	Address: _____

Sample Will