THIS IS THE WILL of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of the (City or Town) of\_\_\_\_\_\_\_\_\_\_, and the Province of Ontario, made this \_\_ day of \_\_\_\_ 20\_\_.

# I. REVOCATION

I revoke all wills and codicils previously made by me.

# II. EXECUTOR AND TRUSTEE

I appoint my \_\_\_\_, (name) of the City (or Town) of \_\_\_\_\_\_\_\_\_\_to be the Executor and Trustee of my Will. If s/he does not survive me or otherwise is or becomes unwilling or unable to act as my Executor and Trustee before all the trusts set out in my Will have been fully performed, I appoint \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_to be the Executor and Trustee of my Will.

In my Will, I refer to the Executor and Trustee, original or substituted, as my “Estate Trustee”.

# III. TRANSFERS TO ESTATE TRUSTEE

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

# 1. Personal property

My Estate Trustee shall transfer and deliver all of my personal jewellery to my \_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the \_\_\_\_ of\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Province of\_\_\_\_\_\_\_\_\_\_\_\_\_, if he/she survives me.

# 2. Debts and death taxes

My Estate Trustee shall pay out of the capital of my estate all my just debts, including any income taxes payable for the year(s) prior to my death and in the year of my death to the date of my death, funeral and testamentary expenses, and all succession duties, estate, gift, inheritance and death taxes, whether imposed pursuant to the law of this or any other jurisdiction, otherwise payable by any beneficiary under my Will or any codicil or of any settlement made by me, by any beneficiary named by me in any insurance policy, plan or contract owned by me, or by any donee of any gift made by me.

# 3. Conversion of my assets

My Estate Trustee shall call in the assets of my estate and may sell the assets at such times, for such price, in such manner and upon such terms as my Estate Trustee in the exercise of an absolute discretion considers appropriate.

I authorize my Estate Trustee to hold any asset of my estate without liability for loss or depreciation for as long as my Estate Trustee in the exercise of an absolute discretion considers appropriate, whether or not it may be an investment in which a trustee may by law invest trust funds.

**4. Residue**

My Estate Trustee shall divide the residue of my estate into the number of equal parts required to effect the following distribution:

1. X parts shall be paid and transferred to \_\_\_\_\_\_\_\_\_ , of the \_\_\_\_\_ of \_\_\_\_\_\_\_\_\_, if she is alive on the date of my death;
2. Y parts shall be paid and transferred to \_\_\_\_\_\_\_\_\_ , \_\_\_\_\_\_\_\_\_\_of the \_\_\_\_ of \_\_\_\_\_\_\_\_, if he is alive on the date of my death;
3. (repeat as needed)
4. (add other instructions in the event that someone predeceases the testator e.g. the share should pass on to their spouse or children).

# IV. POWERS OF ESTATE TRUSTEE

In order to carry out the trusts of my Will, I give my Estate Trustee the following powers to be used in the exercise of an absolute discretion at any time:

# 1. Investments

My Estate Trustee shall make any investments for my estate that my Estate Trustee considers appropriate, without being limited to those investments authorized by law for trustees. My Estate Trustee shall not be liable for any loss that may happen to my estate as a result of any investment made by my Estate Trustee in good faith.

# 2. Selling and disposing

My Estate Trustee shall realize or dispose of the assets of my estate, subject to the trusts of my Will, in any manner and on any terms.

# 3. Retention of assets

My Estate Trustee shall hold any of my assets in the form in which they may be at the time of my death for any length of time, whether or not they might not be assets in which trustees would otherwise be entitled to invest trust moneys. Those assets so retained shall be deemed to be authorized investments.

# 4. Securities

My Estate Trustee may deal with any securities, shares or other interests of any corporation which is held by my estate, to the same extent as if I were alive. My Estate Trustee may take up new or further shares or other interests, may join in any reorganization, may exchange shares or other interests, and may give or accept and exercise options. My Estate Trustee may pay out of my estate any moneys which may be necessary for any of these purposes.

# 5. Employment of agents

If my Estate Trustee considers it necessary to engage any corporation or person to carry out some or all of the directions in my Will, my Estate Trustee may employ such corporation or person and may pay compensation out of my estate, all as my Estate Trustee considers appropriate.

# 6. Distribution in specie

My Estate Trustee shall make any division, distribution or allocation of the assets of my estate in kind and at such valuations as my Estate Trustee in the exercise of an absolute discretion considers appropriate. In determining such valuations, my Estate Trustee may consider such future expectations for such assets as my Estate Trustee in the exercise of an absolute discretion considers appropriate, including any tax liability or credit. Any decision of my Estate Trustee in this regard shall be binding on all persons concerned.

# 7. Settlement of Claims

Without the consent of any person interested under my Will, my Estate Trustee may compromise, settle or waive any claim at any time due to or by my estate and may make any agreement with any person, government or corporation which shall be binding upon all persons interested in my estate.

# 8. Tax elections

My Estate Trustee may make all such allocations, elections and distributions as my Estate Trustee shall deem in his or her absolute discretion to be in the best interests of my estate as a whole, and specifically any allocations and elections as may be necessary or advisable under the *Income Tax Act* (Canada) and the provisions thereof in force from time to time.

**V. EXCLUSIONS FROM NET FAMILY PROPERTY**

I wish to alert my beneficiaries to the potential adverse implications of inadvertently losing the benefits of the provisions below and suggest to my beneficiaries that they consult with a knowledgeable lawyer prior to receiving and dealing with any inheritance.

I declare that the income, including capital gains, arising from any interest passing to a beneficiary under my Will shall be excluded from such beneficiary’s net family property or from the value of the beneficiary’s assets on the death, divorce or separation of such beneficiary, pursuant to the *Family Law Act*, R.S.O. 1990, c. F.3, as amended from time to time.

All gifts made to a beneficiary shall be the separate property of my beneficiaries and shall not fall into any Community of Property or be subject to any other matrimonial rights of the spouses of my beneficiaries and shall not be liable for the obligations of any such spouses or Community. All such gifts shall not be subject to seizure for the payment of any debts of beneficiaries or their representatives while in the possession and control of my Estate Trustee.

# VI. COMPENSATION

I authorize my Estate Trustee to take and transfer at reasonable intervals from the income and/or capital of my estate amounts on account of the compensation which my Estate Trustee reasonably anticipates will be requested at the end of the accounting period in progress, either upon the audit of the estate accounts or on approval by the beneficiaries of my estate. If the amount subsequently awarded on Court audit or agreed to by the beneficiaries is less than the amount so taken, the excess shall be repaid to my estate without interest.

# VII. GOVERNING LAW

My Will shall be governed by and construed in accordance with the laws of the Province of Ontario.

 **IN TESTIMONY WHEREOF** I have to my Will, which is written upon this and \_\_\_\_\_\_\_\_\_\_ preceding pages of paper, subscribed my name the day and year first above written.

SIGNED BY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

as his/her Will, in the presence of us both, )

present at the same time, who at his/her )

request, in his/her presence and in the )

presence of each other have subscribed ) ●

our names as witnesses: )

WITNESSES:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Address:

Occupation:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Address:

Occupation: