

# Test Mode

**THIS IS THE LAST WILL AND TESTAMENT** of me, Daniel Smith.

## **1. REVOCATION**

I hereby revoke all Wills and Codicils that I have previously made.

## **2. APPOINTMENT OF EXECUTOR**

I appoint as my Executors, jointly, under this my Will, such of my son, Liam Smith, and my daughter, Alexandra Smith, who are alive and are able and willing to act.

Any reference in my Will to "my Executor" or "my Trustees" shall be interpreted to include such changes in number and/or gender as the context requires. In addition, the term "my Trustees" shall include, where the context permits, the Executor, Executrix, Executors, Executrices, the Estate Trustee(s) and the Personal Representative(s) for the time being, whether original, additional or substitutional.

## **3. DISPOSITION OF MY ESTATE**

I give all of my real property and all of my personal property, wherever the same may be located, including any property over which I may have a power of appointment, to my Trustees upon the following trusts.

### **i. Debts, Funeral Expenses and Taxes**

I direct my Trustees to pay, out of the residue of my estate, my just debts, funeral and testamentary expenses, income taxes and all other levies (such as estate taxes, inheritance taxes and succession duties) payable in connection with any property passing or deemed to pass upon my death and on any gift or benefit conferred by me under this my Will as well as the expenses of administering my estate.

### **ii. Gifts and Legacies**

a) \$20,000.00

I direct my Trustees to deliver the sum of twenty thousand dollars (\$20,000.00 CAD) to the Hospital for Sick Children, if they are alive at the time of my death.

b) 1952 Vincent Black Shadow Motorcycle

I direct my Trustees to deliver my 1952 Vincent Black Shadow motorcycle to my brother, Allan Smith, if he is alive at the time of my death.

c) Land And Ranching Property At 1654 Wilderness Trail, Clearwater, Ontario

I direct my Trustees to deliver my land and ranching property at 1654 Wilderness Trail,

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Clearwater, Ontario to my son, Liam Smith, if he is alive at the time of my death.

If my son, Liam Smith, is not alive at the time of my death but has left issue then alive, I direct my Trustees to divide the interest as to my gift of my land and ranching property at 1654 Wilderness Trail, Clearwater, Ontario to which my said son would have been entitled had he been alive at the time of my death among his issue then alive in equal shares per stirpes.

### **iii. Residue**

I direct my Trustees to divide the residue of my estate into a requisite amount of equal shares and deliver one (1) equal share of the residue of my estate to my son, Liam Smith, if he is then alive; and, two (2) equal shares of the residue of my estate to my daughter, Alexandra Smith, if she is then alive.

If either of my son, Liam Smith, or my daughter, Alexandra Smith, is not alive at the time of my death but has left issue then alive, I direct my Trustees to divide the interest as to the residue of my estate to which such beneficiary would have been entitled had they been alive at the time of my death among their issue then alive in equal shares per stirpes.

### **4. FUNERARY ARRANGEMENTS**

Upon my death, I request that my Trustees contact Serenity Gardens Funeral Home, with whom I have made funeral arrangements.

It is my wish that, upon my death, my body be cremated.

### **5. INTEREST OF MINORS**

If any person should become entitled to a share of my estate before the attaining the age of majority, my Trustees shall hold such share in trust and invest it for the benefit of such person.

Except as may be otherwise provided in this my Will, I authorize my Trustees to apply such amounts from the income and capital of such share as my Trustees, in their absolute discretion, consider advisable, for the care, maintenance, education, advancement in 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.

### **6. PAYMENT ON BEHALF OF MINORS**

Any payment or transfer which, pursuant to this my Will, may be made to or on behalf of a beneficiary under the age of majority, may be effected by payment or transfer to such beneficiary or to his or her parent, to his or her guardian, to such other person standing in loco parentis to such beneficiary.

## 7. SURVIVORSHIP

Where circumstances are such that I have died, a person named in or contemplated by this my Will has died, and it is unknown which of us predeceased the other, then such other person shall be deemed to have predeceased me.

If, as the result of such a deemed predecease, a double payment of a cash legacy that is mirrored in my and such person's Wills must be made, then, if I was the later born of such other person and me, such cash legacy in my Will shall not take effect and shall lapse.

## 8. JURIDICAL PERSONS

Where in my Will the language, "alive", is used in respect of a non-natural person, such as, without limitation, a corporation, trust, or charity, such language shall assume the non-biological connotation of, "remain(s) in existence, even if known by another name".

With respect to any payment or transfer which, pursuant to this my Will, may be made to a beneficiary which is a charity, such gift is general in nature and may be used for whatever purpose that such charitable beneficiary wishes.

## 9. MEMBERS OF A RELATIONSHIP CLASS

Unless otherwise specifically provided, any generalized reference in this my Will to a class of persons in terms of their relationship to another person (for example, by use of words such as "my/his/her/their issue" or "my/his/her/their children") shall not include a person born outside marriage, nor a person who comes within the description traced through another person who was born outside marriage, except that:

- i. Any person who was born outside marriage but whose natural parents subsequently married one another shall be regarded as having been born in lawful wedlock to those parents;
- ii. Any person who has been legally adopted shall be regarded as having been born in lawful wedlock to the adopting parent;
- iii. Any child, conceived but unborn, whose natural parents are then married to one another shall be regarded as having been born in lawful wedlock to those parents
- iv. If, in the unanimous opinion of my Trustees, an individual has demonstrated a settled intention to treat another as his or her child, the recipient of such treatment shall be deemed to be a child of such individual.

## 10. EXCLUSION FROM COMMUNITY OF PROPERTY

I declare that all property passing to any person, whether as a result of my death or as a result of a gift made by me during my lifetime, as well as any property into which such property can be traced, together with all income from any such property, shall not fall into the community of

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property that may exist between such beneficiary and his or her spouse, and shall remain the sole and separate property of such beneficiary, free from all matrimonial rights or controls by his or her spouse.

*DRAFT*

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IN WITNESS WHEREOF I have signed this, my Last Will and Testament, consisting of this and preceding pages of paper,

at \_\_\_\_\_, \_\_\_\_\_, on \_\_\_\_\_, \_\_\_\_\_.  
city or town province or territory month date year

SIGNED, PUBLISHED AND DECLARED

by Daniel Smith,

as their Last Will and Testament,

in the presence of both of us,

both present at the same time, who,

at their request, in their presence

and in the presence of each other, have

hereunto subscribed our names as witnesses.

\_\_\_\_\_  
DANIEL SMITH

\_\_\_\_\_  
Witness #1 (signature)

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness #2 (signature)

Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_