

## LAST WILL AND TESTAMENT OF JOHN SMITH

I, John Smith, presently of Anywhere, Florida, declare that this is my Last Will and Testament.

### PRELIMINARY DECLARATIONS

#### Prior Wills and Codicils

1. I revoke all prior Wills and Codicils.

#### Marital Status

2. I am married to Jane Smith.

#### Current Children

3. I do not have any living children.
4. The term 'child' or 'children' as used in this my Will includes the above listed children and any children of mine that are subsequently born or legally adopted.

### EXECUTOR

#### Definition

5. The expression 'my Executor' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires. The term 'executor' in this Will is synonymous with and includes the terms 'personal representative' and 'executrix'.

#### Appointment

6. I appoint my spouse, Jane Smith, as the sole Executor of this my Will, but if my spouse should predecease me, or should refuse or be unable to act or continue to act as my Executor, then I appoint Tom Jones of Anywhere, Florida to be the sole Executor of this my Will in the place of my spouse.
7. No bond or other security of any kind will be required of any Executor appointed in this my Will.

**Powers of My Executor**

8. I give and appoint to my Executor the following duties and powers with respect to my estate:
- a. To pay my legally enforceable debts, funeral expenses and all expenses in connection with the administration of my estate and the trusts created by my Will as soon as convenient after my death. If any of the real property devised in my Will remains subject to a mortgage at the time of my death, then I direct that the devisee taking that mortgaged property will take the property subject to that mortgage and that the devisee will not be entitled to have the mortgage paid out or resolved from the remaining assets of the residue of my estate;
  - b. To take all legal actions to have the probate of my Will completed as quickly and simply as possible, and as free as possible from any court supervision, under the laws of the State of Florida;
  - c. To retain, exchange, insure, repair, improve, sell or dispose of any and all personal property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;
  - d. To invest, manage, lease, rent, exchange, mortgage, sell, dispose of or give options without being limited as to term and to insure, repair, improve, or add to or otherwise deal with any and all real property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;
  - e. To purchase, maintain, convert and liquidate investments or securities, and to vote stock, or exercise any option concerning any investments or securities without liability for loss;
  - f. To open or close bank accounts;
  - g. To maintain, continue, dissolve, change or sell any business which is part of my estate, or to purchase any business if deemed necessary or beneficial to my estate by my Executor;
  - h. To maintain, settle, abandon, sue or defend, or otherwise deal with any lawsuits against my estate;

- i. To employ any lawyer, accountant or other professional; and
  - j. Except as otherwise provided in this my Will, to act as my Trustee by holding in trust the share of any minor beneficiary, and to keep such share invested, pay the income or capital or as much of either or both as my Executor considers advisable for the maintenance, education, advancement or benefit of such minor beneficiary and to pay or transfer the capital of such share or the amount remaining of that share to such beneficiary when he or she reaches the age of majority or, during the minority of such beneficiary, to pay or transfer such share to any parent or guardian of such beneficiary subject to like conditions and the receipt of any such parent or guardian discharges my Executor.
9. The above authority and powers granted to my Executor are in addition to any powers and elective rights conferred by state or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

## **DISPOSITION OF ESTATE**

### **Distribution of Residue**

10. To receive any gift or property under this Will a beneficiary must survive me for thirty (30) days. Beneficiaries of my estate residue will receive and share all of my property and assets not specifically bequeathed or otherwise required for the payment of any debts owed, including but not limited to, expenses associated with the probate of my Will, the payment of taxes, funeral expenses or any other expense resulting from the administration of my Will. The entire estate residue is to be divided between my designated beneficiaries with the beneficiaries receiving a share of the entire estate residue. All property given under this Will is subject to any encumbrances or liens attached to the property.
11. The entire residue of my estate will be transferred to my spouse, if my spouse survives me for thirty (30) full days, for their own use absolutely.

### **Wipeout Provision**

12. Should my spouse predecease me, or fail to survive me for thirty (30) full days or should my spouse die before becoming entitled to receive the whole of their share of my estate, then I direct my Executor to divide any remaining residue of my estate into one hundred (100) equal shares and to pay and transfer such shares as follows:

- a. 100 shares to Joe Smith Webster of Anywhere, USA for their own use absolutely, if they are alive.

## **TESTAMENTARY TRUST**

### **Testamentary Trust For Minor Beneficiaries**

13. It is my intent to create a testamentary trust (the "Testamentary Trust") for each minor beneficiary named in this my Will. I name my Executor(s) as trustee (the "Trustee") of any and all Testamentary Trusts required in this my Will. Any assets bequeathed, transferred, or gifted to a minor beneficiary named in this my Will are to be held in a separate trust by the Trustee until that minor beneficiary reaches the designated age. Any property left by me to any minor beneficiary in this my Will shall be given to my Executor(s) to be managed until that minor beneficiary reaches the age of majority.

### **Trust Administration**

14. The Trustee shall manage the Testamentary Trust as follows:
  - a. The assets and property will be managed for the benefit of the minor until the minor reaches the age set by me for final distribution;
  - b. Upon the minor reaching the age set by me for final distribution, all property and assets remaining in the trust will be transferred to the minor beneficiary as quickly as possible; and
  - c. Until the minor beneficiary reaches the age set by me for final distribution, my Trustee will keep the assets of the trust invested and pay the whole or such part of the net income derived therefrom and any amount or amounts out of the capital that my Trustee may deem advisable to or for the support, health, maintenance, education, or benefit of that minor beneficiary.
15. The Trustee may, in the Trustee's discretion, invest and reinvest trust funds in any kind of real or personal property and any kind of investment, provided that the Trustee acts with the care, skill, prudence and diligence, considering all financial and economic considerations, that a prudent person acting in a similar capacity and familiar with such matters would use.

16. No bond or other security of any kind will be required of any Trustee appointed in this my Will.

**Trust Termination**

17. The Testamentary Trust will end after any of the following:
- a. The minor beneficiary reaching the age set by me for final distribution;
  - b. The minor beneficiary dies; or
  - c. The assets of the trust are exhausted through distributions.

**General Trust Provisions**

18. The expression 'my Trustee' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires.

**(1) Powers of Trustee**

To carry out the terms of my Will, I give my Trustee the following powers to be used in his or her discretion at any time in the management of a trust created hereunder, namely:

- a. The power to make such expenditures as are necessary to carry out the purpose of the trust;
- b. Subject to my express direction to the contrary, the power to sell, call in and convert into money any trust property, including real property, that my Trustee in his or her discretion deems advisable;
- c. Subject to my express direction to the contrary, the power to mortgage trust property where my Trustee considers it advisable to do so;
- d. Subject to my express direction to the contrary, the power to borrow money where my Trustee considers it advisable to do so;
- e. Subject to my express direction to the contrary, the power to lend money to the trust beneficiary if my Trustee considers it is in the best interest of the beneficiary to do so;

- f. To make expenditures for the purpose of repairing, improving and rebuilding any property;
- g. To exercise all rights and options of an owner of any securities held in trust;
- h. To lease trust property, including real estate, without being limited as to term;
- i. To make investments he or she considers advisable, without being limited to those investments authorized by law for trustees;
- j. To receive additional property from any source and in any form of ownership;
- k. Instead of acting personally, to employ and pay any other person or persons, including a body corporate, to transact any business or to do any act of any nature in relation to a trust created under my Will including the receipt and payment of money, without being liable for any loss incurred. And I authorize my Trustee to appoint from time to time upon such terms as he or she may think fit any person or persons, including a body corporate, for the purpose of exercising any powers herein expressly or impliedly given to my Trustee with respect to any property belonging to the trust;
- l. Without the consent of any persons interested in trusts established hereunder, to compromise, settle or waive any claim or claims at any time due to or by the trust in such manner and to such extent as my Trustee considers to be in the best interest of the trust beneficiary, and to make an agreement with any other person, persons or corporation in respect thereof, which shall be binding upon such beneficiary;
- m. To make or not make any election, determination, designation or allocation required or permitted to be made by my Trustee (either alone or jointly with others) under any of the provisions of any local, state, federal, or other taxing statute, in such manner as my Trustee, in his or her absolute discretion, deems advisable, and each such election, determination, designation or allocation when so made shall be final and binding upon all persons concerned;
- n. To pay himself or herself a reasonable compensation out of the trust assets; and

- o. To employ and rely on the advice given by any attorney, accountant, investment advisor, or other agent to assist the Trustee in the administration of this trust and to compensate them from the trust assets.

The above authority and powers granted to my Trustee are in addition to any powers and elective rights conferred by statute or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

## **(2) Other Provisions**

- a. Subject to the terms of this my Will, I direct that my Trustee will not be liable for any loss to my estate or to any beneficiary resulting from the exercise by him or her in good faith of any discretion given him or her in this my Will;
- b. Any trust created in this Will shall be administered as independently of court supervision as possible under the laws of the State having jurisdiction over the trust; and
- c. If any trust condition is held invalid, it will not affect other provisions that can be given effect without the invalid provision.

## **GENERAL PROVISIONS**

### **Individuals Omitted From Bequests**

- 19. If I have omitted to leave property in this Will to one or more of my heirs as named above or have provided them with zero shares of a bequest, the failure to do so is intentional.

### **Insufficient Estate**

- 20. If the value of my estate is insufficient to fulfill all of the bequests described in this Will then I give my Executor full authority to decrease each bequest by a proportionate amount.

### **Additional Provisions**

- 21. I wish for my loving wife Jane Smith to enjoy any income due me after expenses from XYZ

**No Contest Provision**

- 22. If any beneficiary under this Will contests in any court any of the provisions of this Will, then each and all such persons shall not be entitled to any devises, legacies, bequests, or benefits under this Will or any codicil hereto, and such interest or share in my estate shall be disposed of as if that contesting beneficiary had not survived me.

**Severability**

- 23. If any provisions of this Will are deemed unenforceable, the remaining provisions will remain in full force and effect.

IN WITNESS WHEREOF, I have signed my name on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Anywhere, Florida, declaring and publishing this instrument as my Last Will, in the presence of the undersigned witnesses, who witnessed and subscribed this Last Will at my request, and in my presence.

\_\_\_\_\_  
John Smith (Testator) Signature

SIGNED AND DECLARED by John Smith on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ to be the Testator's Last Will, in our presence, at Anywhere, Florida, who at the Testator's request and in the presence of the Testator and of each other, all being present at the same time, have signed our names as witnesses.

\_\_\_\_\_  
Witness #1 Signature

\_\_\_\_\_  
Witness #2 Signature

\_\_\_\_\_  
Witness #1 Name (Please Print)

\_\_\_\_\_  
Witness #2 Name (Please Print)

\_\_\_\_\_  
Witness #1 Street Address

\_\_\_\_\_  
Witness #2 Street Address

\_\_\_\_\_  
Witness #1 City/State

\_\_\_\_\_  
Witness #2 City/State



**AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

I, John Smith, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my Last Will.

\_\_\_\_\_  
Testator

We, \_\_\_\_\_ and \_\_\_\_\_ have been sworn by the officer signing below, and declare to that officer on our oaths that the Testator declared the instrument to be the Testator's Last Will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testator and of each other.

\_\_\_\_\_  
Witness #1

\_\_\_\_\_  
Witness #2

Acknowledged and subscribed before me by the Testator, John Smith, who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and sworn to and subscribed before me by the witnesses, \_\_\_\_\_, (type or print name of first witness) who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and \_\_\_\_\_, (type or print name of second witness) who is personally known to me or who has produced \_\_\_\_\_ (state type of identification) as identification, and subscribed by me in the presence of the Testator and the subscribing witnesses, all on this \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

(Seal)  
(Signature of Officer) \_\_\_\_\_

\_\_\_\_\_  
(Print, type, or stamp commissioned name and affix official seal)