

# LAST WILL AND TESTAMENT OF GERALD WILLIAM COTTEN

THIS IS THE LAST WILL AND TESTAMENT of me, **Gerald William Cotten**, of Fall River, in the County of Halifax and Province of Nova Scotia.

## REVOCATION

1. I hereby revoke all Wills and Codicils made prior to this date.

## FAMILY

2. I declare as of the date of this my Will, my spouse is **Jennifer Kathleen Margaret Robertson**, and I have no children.

## APPOINTMENT OF EXECUTOR

3. I nominate, constitute and appoint my spouse, **Jennifer Kathleen Margaret Robertson**, sole Executrix, Personal Representative and Trustee of this my Will.
4. If **Jennifer Kathleen Margaret Robertson** should predecease me, or is otherwise unable or unwilling to act or continue acting as Executrix, then, I nominate, constitute and appoint my brother, **Bradley Scott Cotten**, and my sister-in-law, **Jessamyn Rae Leering Little**, to be the Co-Executors, Co-Personal Representatives and Co-Trustees of this my Will in the place and stead of **Jennifer Kathleen Margaret Robertson**.
5. Further, if **Bradley Scott Cotten** and **Jessamyn Rae Leering Little** should predecease me, or are otherwise unable or unwilling to act or continue acting as Co-Executors, then, I nominate, constitute and appoint my friend, **Anne Marie Lovely**, to be the Executrix, Personal Representative and Trustee of this my Will in the place and stead of the survivor of **Bradley Scott Cotten** and **Jessamyn Rae Leering Little**.
6. I hereinafter refer to my Executrix and Trustees for the time being as my "Estate Trustee". In the case of multiple Estate Trustees, I confirm the singular includes the plural as referenced by "Estate Trustee".
7. No bond or security of any kind shall be required of my Estate Trustee.

## PAYMENT OF DEBTS

8. I direct my Estate Trustee to pay out of and charge to the capital of my general estate my just debts, funeral and testamentary expenses and all estate inheritance and succession duties or taxes whether imposed by or pursuant to the law of this or any other jurisdiction as soon as conveniently possible after my death.

## INTENTION REGARDING JOINT ASSETS

9. Joint Assets with Spouse - If there is any property, real or personal, that at my death is in the joint names of myself and my spouse, **Jennifer Kathleen Margaret Robertson**, I confirm my intention that all my interests in this property shall pass to my said spouse by right of survivorship. For greater certainty, I hereby declare, and it is my intention that the beneficial interests in any joint deposit

accounts in any bank, trust company, or other financial institution authorized to accept deposits and which at my death are recorded in the names of my said spouse and myself together, or on which my spouse shall have the right to draw cheques, are to be considered joint accounts with full rights of survivorship and I hereby give to my spouse any interest I may have in such accounts for \*his/her own use absolutely.

10. **Joint Assets with Other Individuals** - If there is any property, real or personal, that at my death is in the joint names of myself and one or more other persons who survive me, I confirm my intention that all my interests in this property shall pass to the surviving person(s) by right of survivorship. For greater certainty, I hereby declare, and it is my intention that the beneficial interests in any joint deposit accounts in any bank, trust company, or other financial institution authorized to accept deposits and which at my death are recorded in the names of any individual, and myself together, or on which he or she shall have the right to draw cheques, are to be considered joint accounts with full rights of survivorship and I hereby give to him or her any interest I may have in such accounts for his or her own use absolutely.

### FREQUENT FLYER POINTS AND PATRONAGE REWARD POINTS

11. I designate my spouse, **Jennifer Kathleen Margaret Robertson**, if she survives me for a period of thirty (30) days, as beneficiary to receive the benefit of any frequent flyer points and any patronage reward points I may have at the time of my death.

### ROBERTSON NOVA PROPERTY MANAGEMENT INC.

12. Any interest I may own in Robertson Nova Property Management Inc. at the time of my death shall be given to my spouse's mother, **Carol Terry**, and her spouse, **Thomas Beazley**, jointly for their own use absolutely.

### GIFT TO SPOUSE

13. If my spouse, **Jennifer Kathleen Margaret Robertson**, is living on the 30<sup>th</sup> day following the date of my death, I give, devise and bequeath all my property, both real and personal, of every nature and kind and wheresoever situate, including any property over which I may have a general power of appointment, including all digital assets, to my spouse for her own use absolutely, including all beneficial right, title and interest that I have at the time of my death in any and all Registered Retirement Savings Plans(s) (RRSP), any Pension Plan(s), and any Registered Retirement Income Fund(s) (RRIF), including all rights to receive any refund or premiums under any plan(s) or fund(s). My spouse shall elect with my Estate Trustee to report the said funds in my spouse's name as a refund of premiums or, if my spouse chooses not to make such election, the said plan or plans shall be paid to my estate so that the tax on same may be paid from my estate and my spouse shall receive the after tax amount of the said RRSP or RRIF.

### SURVIVORSHIP

14. Every beneficiary under this my Will who fails to survive me for a period of Thirty (30) full days shall be treated for all purposes connected with the distribution of my estate as having predeceased me. This provision does not prevent an executor/trustee/estate trustee from acting from the date of death.

### ALTERNATE ESTATE DISPOSITION

15. If my spouse, **Jennifer Kathleen Margaret Robertson**, is not living on the 30<sup>th</sup> day following the date of my death, I give, devise, and bequeath all my property, both real and personal, of every nature and

kind and wheresoever situate, including any property over which I may have a general power of appointment, to my said Estate Trustee upon the following trusts and I direct my Estate Trustee as follows:

16. Household Furnishings and Personal Effects

To gift my personal effects and household furnishings to my mother. If there are any residual personal effects and household furnishings, divide my personal effects and household furnishings in such manner as you, my Estate Trustee, in the exercise of absolute discretion considers appropriate being guided by any memorandum I may leave about this division. My Estate Trustee shall have the ability to donate items that have no significant value to any charity of his or her choice.

17. 1021 Lamont Lane, Kelowna, British Columbia

I direct that my property located at 1021 Lamont Lane, Kelowna, British Columbia be conveyed to my brother, **Bradley Cotten**, and my sister-in-law, **Jessamyn Little**, jointly or to the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

18. 74 Somerglen Close, Calgary, Alberta

I direct that the lien on 74 Somerglen Close, Calgary, Alberta owed by Anne Marie Lovely and Alexander Lovely shall be forgiven and considered paid in full on my passing. I confirm that all reasonable costs to remove the lien shall be borne by my estate.

19. Trust for Nitro and Gully

I direct that my pet chihuahuas, Nitro and Gully, and/or any successor dog that I may own, go jointly to my father-in-law, **Dale Griffith**, and **Deborah Zinck (Griffith)** of Halifax, Nova Scotia, along with One Hundred Thousand dollars (\$100,000.00) to be used for Nitro and Gully, or any successor dog's care and maintenance for the remainder of their lives.

20. 71 Kinross Court

I direct that my property located at 71 Kinross Court in Nova Scotia be conveyed to my father-in-law, **Dale Griffith** and **Deborah Zinck (Griffith)**, jointly or to the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

21. 511 and 512 Ringling Court

I direct that my property located at 511 Ringling Court and 512 Ringling Court in Nova Scotia be conveyed to my father-in-law, **Dale Griffith**, and **Deborah Zinck (Griffith)**, jointly or to the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

22. Engagement Ring and Jewelry

I direct that my wife's diamond engagement ring and any of Jennifer's jewelry that Alyson selects go to **Alyson Marie Eisan (Thomson)**, for her own use absolutely.

23. 2015 MINI Cooper Convertible

I direct that my wife's 2015 MINI Cooper Convertible go to **Alyson Marie Eisan (Thomson)** for her own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

24. 2017 Lexus and Airplane

I direct my 2017 Lexus and airplane go jointly to my brother, **Bradley Cotten**, and my sister-in-law, **Jessamyn Little**, or the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

25. Motor Vehicles

I direct that all remaining motor vehicles in my possession at the time of my passing, not provided for otherwise in my Will, shall go to my brother-in-law, **Adam Smith** and sister-in-law, **Kimberly Smith**, as they may agree, or failing agreement as my Trustee shall determine, and all reasonable costs associated with the transfers shall be paid by my Estate.

26. Jeanneau 51 Sailboat

I direct my Jeanneau 51 sailboat go jointly to my father, **Bruce Cotten**, and my mother, **Cheryl Cotten**, or the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

27. 34 Little Islands and Seaview Drive Property, Western Shore

I direct that my properties located at 34 Little Islands and Seaview Drive in Nova Scotia be conveyed to **Cheryl Cotten** and **Bruce Cotten**, jointly or to the survivor thereof, for their own use absolutely, and all reasonable costs associated with the transfer be paid by my Estate.

28. Bank of Montreal Account and Canadian Tire Account

I direct that the value of my cash accounts remaining at the time of my death be distributed as follows:

- a) Fifty percent (50%) jointly to **Cheryl Cotten** and **Bruce Cotten** or the survivor thereof, for their own use absolutely and if they predecease me to their issue, *per stirpes*;
- b) Fifty percent (50%) to **Bradley Cotten**, for his own use absolutely and if he predeceases me, to his issue in equal shares, *per stirpes*.

29. Jennifer's Motive Financial Account, East Coast Credit Union Account and Scotiabank Account

I direct that the value of Jennifer's cash accounts at Motive Financial, East Coast Credit Union and Scotiabank remaining at the time of my death be distributed as follows:

- a) Fifty percent (50%) jointly to **Deborah Zinck (Griffith)** and **Dale Griffith** or the survivor thereof, for their own use absolutely and if they predecease me to their issue, *per stirpes*;
- b) Fifty percent (50%) jointly to **Adam Smith** and **Kimberly Smith**, or the survivor thereof, for their own use absolutely and if they predecease me to their issue, *per stirpes*.

30. Residue

If there remains any part of my estate undistributed as a result of there being no beneficiary to receive such amount as defined in the preceding paragraphs, I direct my Estate Trustee to my brother, **Bradley Cotten**, for his own use absolutely.

**ADOPTED CHILDREN**

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

## ADDITIONAL ESTATE TRUSTEE'S POWERS

32. In addition to all other powers vested in executors and trustees by law or statute, my Estate Trustee is authorized generally to act with the fullest and most unrestricted powers in the administration of my estate and the trusts hereof, it being my intention that my Estate Trustee shall have the same power to deal with the assets of my estate as I would have if I were alive and competent and without in any way restricting the generality of the foregoing, my Estate Trustee shall have and may from time to time exercise the following powers:

- (a) SALE: To sell any real and personal property in my estate at such price and in any manner as my Estate Trustee considers advisable and to execute and deliver to the purchasers any deeds and other documents that may be necessary. Further, and notwithstanding any requirement in the *Probate Act* of Nova Scotia or any successor legislation to obtain consent to sell, transfer, lease or mortgage real property forming part of my estate, my Estate Trustee may sell, transfer, mortgage or lease, for any term, my real property forming part of my estate without the consent of any person who may be beneficially entitled to such real property or the proceeds thereof, whether or not such interest may not yet be vested or may be contingent.
- (b) PROPERTY LEASING: So long as any real or leasehold property forming part of my estate remains unsold, my Estate Trustee may let or lease that property from month to month, from year to year, or for any term of years, at such rent and subject to such covenants and conditions as they think fit, may accept surrenders of leases and tenancies, may expend money in repairs and improvements, and generally may manage the property, and my Estate Trustee may also renew and keep renewed any mortgage or mortgages upon any of my real estate or borrow money on any of my real estate upon any mortgage or mortgages for any purpose of my estate and pay off any mortgages in existence at the time of my death or any renewal thereof.
- (c) BORROW: My Estate Trustee, from time to time and at all times for any of the purposes hereinafter named, may borrow money from any person, firm, or corporation, including but without limiting the generality of the foregoing, from my Estate Trustee themselves or from any bank, on the credit of my estate, and may limit or increase the amount to be borrowed; may charge, hypothecate, mortgage, assign and pledge all or any part of my real or personal property; may give promises and agreements to give security to secure any money borrowed by me or my Estate Trustee under the provisions hereof; may give additional security at any time for money borrowed or remaining due by me or by my Estate Trustee as such; may execute all such charges, hypothecations, mortgages, assignments, and pledges of any part of my real or personal property not hereinbefore specifically devised or bequeathed in such form as my Estate Trustee from time to time determines; and may secure repayment of any money raised or borrowed for the purposes hereinafter set forth.

The purposes for which my Estate Trustee may borrow money as aforesaid are:

- i. to pay any debts payable by me at the time of my death or incurred by my Estate Trustee on behalf of my estate under the provisions of this my Will;
- ii. to pay estate taxes, succession duties, estate duties, and inheritance taxes payable hereunder by my Estate Trustee; and/or
- iii. for such other purposes as my Estate Trustee considers necessary or advisable for advancement of the interests of my estate.

No person, firm, or corporation lending money to my Estate Trustee under the provisions of this my Will shall be concerned to see to the application of the proceeds of the loan.

- (d) RETAIN INVESTMENTS: To retain any portion of my estate in the form in which it may be at my death (even though it may not be of an investment) in which my Estate Trustee is authorized by law to invest trust funds and whether or not there is any liability attached to it for such length of time as my Estate Trustee considers advisable, and I relieve my Estate Trustee from all liability and responsibility for any loss that may be occasioned to my estate by my Estate Trustee doing so.
- (e) POSTPONE CONVERSION: To postpone for such time as my Estate Trustee considers advisable the conversion of all or any part of my estate and I relieve and exonerate my Estate Trustee from all liability and responsibility for any loss that may be occasioned to my estate by my Estate Trustee doing so.
- (f) MAKE INVESTMENTS: To make such investments as a prudent trustee would make, and I relieve and exonerate my Estate Trustee from all liability and responsibility for any loss that may be occasioned to my estate by my Estate Trustee doing so. I authorize my Estate Trustee to invest in mutual, pooled or managed funds.
- (g) RRSP CONTRIBUTIONS: To make such contributions to any Registered Retirement Savings Plans as they may consider advisable in the best interests of my estate as a whole.
- (h) DEAL WITH STOCKS: To deal with any stock bonus, stock dividend, stock subscription rights or any other privileges of a similar nature accruing to any securities held by my Estate Trustee for my estate, in such manner as my Estate Trustee considers advisable.
- (i) OBTAIN PROFESSIONAL ASSISTANCE: To employ and pay for such professional and other assistance as my Estate Trustee considers advisable and to act on the opinion or advice of or information obtained from any lawyer, broker, or other expert, but without obligation to act upon such opinion or advice, and to pay proper compensation for all such legal or other advice or assistance obtained.
- (j) ESTATE MANAGEMENT AGENT: To appoint a trust company authorized to carry on business in the Province of Nova Scotia to act as my Estate Trustee's agent for the management of my estate or any trust defined herein and from time to time to terminate any such appointment and to make another and to fix the remuneration to be paid to the trust company provided that the remuneration is to be taken into account and deducted from the compensation to which my Estate Trustee would from time to time be otherwise entitled and in making any such arrangements to place the investments comprising my estate or any of them in the custody of the trust company, to transfer the investments or any of them into the name of the trust company or any nominee thereof, and to delegate to the trust company any or all of the discretionary powers which my Estate Trustee has with respect to investments.
- (k) INVESTMENT COUNSELLOR: To retain the services of an investment counsellor to advise my Estate Trustee with respect to investments for my estate and to delegate to the investment counsellor any or all of the discretionary powers which my Estate Trustee has with respect to investments and to fix the remuneration to be paid to the investment counsellor provided that the remuneration is to be taken into account and deducted from the compensation to which my Estate Trustee would from time to time be otherwise entitled.
- (l) OPTIONS: To grant options for not exceeding six (6) months in respect of any real or personal property forming part of my estate.
- (m) SETTLE CLAIMS: To compromise, settle and adjust all claims or demands in favour of or against my estate upon such terms as my Estate Trustee considers advisable.



- (u) SELL TO FAMILY: To sell to any member of my family any part or parts of my estate, real or personal, either at public auction or by private contract notwithstanding that such member of my family may be my Estate Trustee, such sale to be at such a price or prices and subject to such terms and conditions, and either for cash or credit or for part cash or for part credit, as my Estate Trustee considers fair and reasonable.
- (v) PAYMENTS AND DISTRIBUTION TO PERSONS UNDER AGE 25: Except as otherwise provided, in the event any person should become entitled to a share of my estate before attaining the age of Twenty-five (25) years, I direct my Estate Trustee to hold such amount in trust for such person and my Estate Trustee shall pay the whole or such part of the net income derived therefrom and any amount or amounts out of the capital that my Estate Trustee may consider advisable, for the maintenance, welfare, health, education and benefit of that child until he or she attains the age of Twenty-five (25) years, with any unpaid and accumulated income not so paid and applied in any year to be added to the capital and to be dealt with as part thereof. Upon that child attaining the age of Twenty-five (25) years, the balance of the share of that child in the rest and residue of my estate, held in trust on his or her behalf, shall be distributed to that child.

If the child should die before full distribution from his or her trust, I direct that any amount remaining shall be divided equally amongst his or her children who are alive at the death of such child, if any, and if none, to his or her siblings (who are also my issue) in equal shares per capita.

Any monies or the transfer of any assets which may be payable or transferrable to or for the benefit of any beneficiary during his or her minority may be payable either to the guardian or one of the parents of the beneficiary, whichever my Estate Trustee deems advisable, and the receipt of the guardian or parent shall be a discharge to my Estate Trustee for all payments and transfers.

- (w) TRUST FOR A MINOR BY A PARENT: Except as otherwise provided, should any child be under the age of majority at the time of my death, then the gifts provided for herein may be paid to the parent or guardian of the child if my Estate Trustee, in their discretion, determines it to be advisable. I confirm that my Estate Trustee may accept the receipt of the parent or guardian of the child as a sufficient discharge therefor and my Estate Trustee shall not be required to inquire into the disposition of the funds given to the parent or guardian.
- (x) 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 his or her compensation which my Estate Trustee reasonably anticipates will be requested at the end of the account 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.
- (y) DIGITAL ASSETS: I authorize my Estate Trustee to access, handle, distribute, and dispose of my electronic and digital assets and they shall have the power to obtain access, modify, delete, and control my passwords and other electronic credentials associated with my digital assets. For the purpose of this paragraph, the term "digital assets" includes the following:
  - i. files stored on my digital devices, including but not limited to, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones and any similar digital device which currently exists or may exist as technology develops; and

- ii. emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, brokerage, stock or other trading accounts, banking accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts and similar digital items which currently exist or may exist as technology develops, regardless of the ownership of the physical device upon which the digital item is stored.
- (z) CHARITABLE GIFTS: For charitable gifts, my Estate Trustee may accept the receipt of the Treasurer or Secretary of the charitable organization at the time, which will be a sufficient discharge to them. If a charity has ceased to exist or carry out its objects or has amalgamated with another charity or changed its name or if the exact name of the charity is not the same as the name I have given, a gift to the charity shall not fail. Instead, my Estate Trustee shall pay it to the charity which they consider most nearly fulfills the objects that I intend to benefit. I authorize my Estate Trustee to use their power, in their discretion, to divide the assets of my estate in kind to effect any charitable gifts in this Will by way of the transfer of marketable securities where possible.
- (aa) FORMATION OF CORPORATIONS: Without in any way restricting the generality of any other provision of this my Will, my Estate Trustee, in their discretion, may form one or more corporations or holding companies to hold some or all of the funds of my estate and may invest in the common or preferred shares or other securities thereof such of the funds of my estate, including any funds held by my Estate Trustee in any trust described in my Will, as my Estate Trustee in their discretion considers desirable having regard to the welfare of and impact of taxation upon the various persons interested in my estate.
- (bb) COMPANY SHARES: Without in any way restricting any other power herein granted to my Estate Trustee, my Estate Trustee may take up any rights that from time to time are issued by any company in which my Estate Trustee holds shares, and any additional shares so acquired shall be deemed to be investments authorized for the investment of the funds of my estate.
- (cc) CARRY ON BUSINESS: To continue and carry on any business which I may own or in which I may be interested at my death, either alone or in partnership with any person or persons, for such length of time as my Estate Trustee considers to be in the best interests of my estate, and to do all deeds, acts, matters, or things that my Estate Trustee considers advisable for the carrying on of the business.
- (dd) REORGANIZE CORPORATIONS: To consent to the reorganization of any corporation in which I or my estate from time to time may hold shares and/or bonds or debentures and to accept shares and/or bonds or debentures of any such company or of any other company formed as a result of such reorganization on such terms as my Estate Trustee considers advisable.
- (ee) GUARANTEES: To renew from time to time any endorsements, guarantees or surety contracts made by me and in force at the time of my death.
- (ff) DISTRIBUTION PRIOR TO CLEARANCE CERTIFICATE: I authorize my Estate Trustee to make one or more distributions of assets according to the terms of my Will if in the opinion of my Estate Trustee there is no further liability to the Minister of National Revenue even though my Estate Trustee has not obtained a Certificate as provided by Section 159(2) of the *Income Tax Act* (Canada) or any provision substituted therefor. My Estate Trustee may, if my Estate Trustee considers advisable, make any such distribution, and as a condition for so doing,



**SIGNATURES**

**IN TESTIMONY WHEREOF** I, the said **Gerald William Cotten**, have to this my Last Will and Testament written upon this and upon the preceding pages of paper subscribed my name this 27th day of November, A.D., 2018.

SIGNED, PUBLISHED AND DECLARED )  
by the said Testator, **Gerald William Cotten**, )  
as for his Last Will and Testament and in the )  
presence of us, both present at the same time, )  
who at his request and in his presence, and in )  
the presence of each other have hereunto )  
subscribed our names as witnesses, and also the )  
said Testator in the presence of us both, present )  
at the same time, signed this and the preceding )  
pages as being part of his Last Will and )  
Testament and we, at his request, and in his )  
presence, and in the presence of each other have )  
hereunto subscribed our names as witnesses )

  
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Gerald William Cotten

  
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Witness – Dianna K. Burns )

Address – 200-7075 Bayers Road, Halifax, NS )

  
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Witness – Patty Snider )

Address – 200-7075 Bayers Road, Halifax, NS )  
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