The Canadian Financial Security Program

Revolutionizing Financial Thinking

Legal Canadian Will Kit

INSTRUCTIONS

The Canadian Financial Security Program Will Kit

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INTRODUCTION

IF YOU DIE WITHOUT A WILL, and you are married, what you leave behind does not automatically go to your spouse as many people think. Depending on the size of your estate, only a portion may be given to your spouse and the remainder may be divided among your children and your spouse. If you are not married, your estate usually goes to your parents or is divided among your brothers and sisters. A court will appoint an administrator who will usually receive compensation from the proceeds of the estate. Your assets may well be tied up "in Probate" for a long time and then **may not** be distributed as you might have wished. If your Will is not properly done, again, your possessions may be "tied up" in Probate and then given to someone that you **may not** have wished would receive them. **This is not what you want to happen!**

A simple Will can be filled out by **YOU** and will usually hold up quite well in court if such becomes necessary.

As with so many other financial matters many people believe that making a Will is beyond their ability. The biggest drawback to this misinformation is that most people don't bother to make out a Will at all. This publication is designed to encourage you to make a Will and to help you with the process.

The making of a Will and the other documents in this kit is a very serious undertaking. This publication and the forms provided are meant for use by those who have reasonably simple estates. When do I consider an estate "simple"? When your assets are easily identified and your ownership of those assets is unquestionable; you don't own a lot of rental real estate unless it is properly **jointly** owned where you want the person with whom you share ownership to have full possession if you die; there is little likelihood of disputes over your estate; and you're not second guessing yourself as you try to fill out your Will.

For many, where their assets are being left to a spouse and/or children or other relatives and there is reasonable harmony in the family, a self-produced Will should provide all that is necessary to see that your wishes are carried out.

However, I believe that having a Will done by a good lawyer, at least in this country, is a bargain in most cases. If you have a sizable estate or any complications, I would encourage you to spend the few hundred dollars necessary and **visit a qualified lawyer**.

This publication does provide the necessary materials and instructions to create a simple Will and the other companion documents intended. And, even if you decide after studying this book that you should go the lawyer route, knowing what to expect and preparing in advance just might save your lawyer time and you money.

So, I consider the purpose of this publication to be threefold:

1. To help you do your own Will, Enduring Power of Attorney, and Living Will if you conclude it is the wise thing to do after reading these instructions.

2. To help you understand the many possible complications in this undertaking.

3. To give you information that will be helpful even if you do decide to have these documents prepared by a lawyer.

THE THREE ESTATE PLANNING DOCUMENTS

To do a complete job of planning for the inevitable - your eventual death, or the unexpected - becoming incapacitated through an accident or illness, there are actually three documents that you should have completed. They are:

- **Last Will and Testament**
- **Enduring Power of Attorney**
- **Living Will (also referred to as a "Health Care Directive")**

We will deal with each of these documents, individually.

GLOSSARY OF TERMS

As there is some terminology used in Wills that not everyone is familiar with, let us first define some terms that you may encounter or need to use.

ADVANCE HEALTH CARE DIRECTIVE: See "Living Will".

ATTORNEY: A person named in a "Power of Attorney" or an "Enduring Power of Attorney" to have power to make certain decisions for (especially financial), and control over, the assets of the maker. In Canada, the term attorney is **not** correct in referring to a lawyer, however we hear it so often through U.S. TV, etc., where the terms lawyer and attorney **are** interchangeable that we do use it erroneously. It is important to understand that for the purpose of this publication and the discussion of Wills, an "attorney" is someone you will appoint or give power to and that **may** or **may not be** a lawyer.

BENEFICIARY: A person named in a Will, Trust, or Insurance Policy, etc. to receive assets or payments.

BEQUEATH: To give by means of a Will.

CLEARANCE CERTIFICATE: A certificate from the Income Tax Department confirming that all tax owing by the estate has been paid.

CODICIL: A written change to part of a Will that is not intended to cancel the whole Will.

ENDURING **POWER OF ATTORNEY:** A Power of Attorney that continues in effect after its maker loses mental capacity.

DEVISE: Specifically, a gift of land or the act of bequeathing land in a Will.

EXECUTOR: One who is appointed by a testator to carry out the terms of his/her Will.

EXECUTOR'S YEAR: The time assumed to be reasonable for an executor to finalize an estate.

EXECUTRIX: The feminine of "Executor". It is becoming less common in use, as the term "executor" is now acceptable for both male and female.

GUARDIAN: A person appointed in a Will to care for minor children. Also, a person appointed in a Living Will or by a court order to make health and physical care decisions for an adult who is unable to do so due to mental or physical disability.

HEIR: The same as "beneficiary" in the case of Will terminology. Also used to refer to someone who has legal right to **expect a portion** of a person's estate due to a legal relationship with that person.

HOLOGRAPH WILL: A Will entirely in the handwriting of the Will maker without signatures or witnesses.

IN KIND: To distribute an asset "in kind" is to distribute it as it is instead of selling it and converting it to cash. If you are leaving an estate which is to be divided equally between a number of people, it is important to be clear in giving your executor the directions and authority to either sell your assets and divide the "money" or to be able to put a value on items and distribute them "in kind".

INTESTATE: Dying without a Will.

JOINT WILLS: Wills that are identical and cannot be changed without the consent of both Will makers.

LAST WILL AND TESTAMENT: The most recent instructions left by a deceased as to the disposition of his/her property, which is everything that he/she owns including assets that may be **owed to** him/her.

LEGACY: A gift or bequest of any real or personal property in a Will. This would include money, property, personal items, etc.

LIVING WILL: (Also called **Advance Health Care Directive, Health Care Directive, Personal Directive, Authorization to Give Medical Consent, Continuing Power of Attorney for Personal Care,** or **Representation Agreement for Health Care**.) A document that appoints someone to make medical and health care decisions if the maker is unable to make such decisions due to a mental or physical incapacitation such as a coma, etc. This instrument should indicate what medical treatment **you desire** in the event that you are unable to communicate due to incapacitation.

PROBATE: Pertaining to making proof, especially legal proof, as of a Will. The processes of having a court certify that a Will is in fact the true last Will of the deceased.

PROBATE COURT: A court having jurisdiction of proving Wills.

PROCTOR: A lawyer, usually appointed or hired by an executor to help with the legal aspects in carrying out the terms of a Will.

PUBLIC TRUSTEE: A government official appointed under provincial jurisdiction to look after the affairs of those who have no one else to do so, either during their lifetime or after death.

TESTAMENTARY: Derived from, bequeathed by, or set forth in a Will. Appointed or provided by, or done in accordance with a Will. Pertaining to a Will, or to the administration or settlement of a Will.

TESTATE: Having made a Will before death.

TESTATOR: The maker of a Will or one who has died leaving a Will. Now acceptable for both male and female.

TESTATRIX: The feminine of "Testator". Like the word "executrix", it is no longer necessary in actual use.

PARTS OF A WILL

A Will, technically, could be written on any scrap of paper, or any suitable material for that matter, and as long as it is signed and witnessed by two people, it would usually be valid. However, there are many "forms" available today from stationary and bookstores, which are far more appropriate and easy to use. It is important to note, however, that there are a number of pieces of information that should be included in every Will, whether a proper form is used or not.

- First, you need to properly **identify yourself**. This is usually done using a statement like, *"This is the Last Will and Testament of me, John Albert Willmaker of the city of Halifax, in the County of Halifax, in the Province of Nova Scotia made this 23rd day of August 2000"*. The address is not necessary as that could change. The witnesses, of course, will further confirm the identity of the testator.

- The **date** is **extremely important**, because this Will is going to invalidate previous Wills.

- You would usually write a statement **revoking any previous** Wills.

- A direction is usually given, to **pay for** your "just debts, funeral expenses and any expenses arising from the administration" of your Will.

- You **appoint an executor** of your estate.
- You clearly identify and **bequeath your belongings** to whom you choose.
- If you have minor children you may appoint a **guardian** in your Will.
- You may wish to set up a **trust** or trusts for any minor children or for any other person or cause that you may want to provide continued support for after your death.
- Your Will **must** be witnessed by **TWO** people, who must both be present **TOGETHER** when you sign the Will.
- **YOU** must sign your Will in the **presence** of the **TWO** witnesses, and **in the province of Quebec** both you and the two witnesses must **initial each page**. Although it is not manditory in the rest of Canada, it is a good idea to have all pages initialed even if it is not a requirement.

If you are using one of the many forms available for your Will, if you see partial words like *"execut"* and *"testat"*, it is meant for you to fill in the masculine or feminine of these terms, such as executor or executrix and testator or testatrix. More modern forms have done away with this need as the terms executor and testator are now acceptable for both sexes.

PERMISSION OF EXECUTOR

Of course, you should ask anyone whom you wish to appoint as executor, if he/she is willing to accept the responsibility of the appointment before you make such a designation in your Will.

ALTERNATIVE EXECUTOR

It is a good idea to appoint an alternative executor in case your executor dies before you or with you, or is unable to act for you due to some other circumstances. Again, you should seek permission from this person before naming him/her.

THE JOB & POWERS OF AN EXECUTOR

In choosing an executor you must understand that carrying out the duties of this assignment can be a daunting task. Considering the size of your estate and the kinds of assets you own, be sure to appoint a person who is both **willing** and **capable** of this job. This "capability" issue will be even more important if there is potential for dispute. The power of the executor is very strong, especially once confirmed by a probate court.

PROPERTY OWNERSHIP

It can be very helpful in preparing to transfer the things you own, to others, to have a clear understanding of how the law sees property ownership. For this purpose we will consider **THREE** types of property or property ownership:

- Joint Assets With The Right Of Survivorship
- Designated Beneficiary Assets
- Everything else

Understanding these terms and the rights that go with them may motivate you to change how you own some things **before you die**, so when you do die, your property may go to whom you wish in a more expedient manner.

JOINT OWNERSHIP WITH THE RIGHTS OF SURVIVORSHIP, often called "joint tenancy" when referring to a house, means that each of the named individuals simultaneously owns all of the asset. So, when one joint owner dies, the surviving owner already owns all of the asset no matter what a Will might say. This is the best way to own a house or other property, a bank account (joint account), investments, etc. in the case of a secure married couple when there are no complications. This method of ownership also works well and is very commonly used where there is an aging parent and assets are owned jointly between a parent and a trusted adult child. This is, by far, the best way to pass on assets without the complications of Probate, etc. as long as there is a great degree of trust and integrity.

Joint Ownership must not be confused with another term called **"Tenancy In Common"**. This refers to property that you may own half of or part of and this property is really part of the "everything else" group for our discussion here, because when you die it forms part of your estate.

DESIGNATED BENEFICIARY ASSETS are things like life insurance policies, RRSP's, RRIF's, LIRA's, pensions, etc. that pass to a nominated survivor at your death regardless of what you may say in your Will.

EVERYTHING ELSE you own is really what you are going to deal with in your Will. Whether it is money, investments, a coin collection, your favorite vase, or your clothing, it is yours to give to whomever you wish, and such can happen **as long as your wishes are clearly known**.

GUARDIANS

It is appropriate if you have children who may not be capable of caring for themselves after your death, to appoint a "guardian" for them in your Will. Of course, this would take very careful consideration as well as the agreement of the person or persons whom you would appoint to this responsibility. In this case, you would normally instruct your executor, in your Will, to provide funds from your estate to support these children until

they reach a certain age, at which time they may receive the balance of the proceeds from your estate as set out in the Will. Such long term provision would usually be done by the use of a "trust fund". The separation of the responsibilities of a "guardian" and a "trustee" of money would give some extra protection against your trust assets being misused.

I will use an example to help you see what the potential is in a situation like this. Suppose you left a $100,000 insurance policy to your daughter and that money was left in trust to your sister who was also to be the guardian of your daughter. Although there are laws that regulate the use of trust funds, there is still little to prevent your sister from spending all the money before your daughter becomes old enough to receive the money herself. However, if you were to place the $100,000 in the hands of a trustee with instructions to invest the funds in a particular investment, which you know has had a long term record of producing an average of 14% return a year, then you could instruct the trustee to "pay to the guardian", $10,000 a year to aid in the upbringing of your child and to surrender the balance of the funds in their entirety to your daughter when she reaches the age of 19 or 25 or whatever age you wish. In this case, the guardian would be compensated for expenses relating to the upbringing of your child, and if well invested, the $100,000 "trust fund" could still be worth a substantial amount, even more than the original $100,000 when it is turned over to your daughter.

TRUSTS

As previously stated, it may be appropriate to instruct your executor to appoint a "trustee", or **you** may wish to appoint such a "trustee" in the Will, to invest a portion of the proceeds of your estate and to use the proceeds from such an investment to provide funds to a guardian, who may be caring for your children. Such a trust or trusts can also be set up for other purposes as well, such as to provide educational funds for your children or grandchildren, or any purpose that you may wish. It is your money and within the limits of the law you can dispose of it as you wish. One thing that you should note here is that a trustee may have a very different philosophy on investing than you do, and if that is a concern you can give specific instructions to the trustee in your Will as to how you wish the funds to be invested.

For example, you might give instructions like, *"The proceeds from the sale of the family home and cottage are to be invested in an established U.S. Equity Fund under the advise of John Murphy or his successor, through AAA Investment Company. Should this process not be available, be advised that it is my wish that any such investment be made through the use of a reputable Financial Company and that the actual investment focus on long term growth such as an equity mutual fund. It is important to me that such funds are NOT placed in low interest bearing investment vehicles such as Bank Accounts, GIC's or Canada Savings Bonds".*

I must emphasize here that if such directions on an "investment style" are not extremely clear, it is possible for legal interference to restrict the investments in a trust to guaranteed investments only and that could bring about results that you did not plan for. Indeed, even if your instructions are clear this can happen, so be as clear as possible.

A "trustee" can be an individual whom you trust, a lawyer, a trust company or accounting firm, etc. Keep in mind that "professional" trustees do charge fees for such services, and such fees should be clearly understood and written in a contract.

When you get into such things as "trusts", if you are not completely comfortable with your level of knowledge and understanding on this subject, it may be well worth the money to visit a good lawyer to receive advise.

WITNESSES

A legally acceptable Will must be witnessed by **TWO** people. The two witnesses must be present with you, together when you sign the document. The witnesses can be anyone who has reached the age of majority, even a close relative, **HOWEVER** a witness cannot be a beneficiary of anything in the Will. If you were to leave a sum of money to one of the witnesses, the witness could **not** claim the money, so **do not have your Will witnessed by anyone whom you may wish to leave anything to**. Also, do not use anyone who may wish to **purchase** anything from your estate.

If a Will must be "probated", that is proved by use of the courts, at least one of the witnesses will be asked to be present at that time. Because of this, it is important, if you move to another province, to update your Will accordingly, otherwise, it becomes difficult and slow to finalize your last wishes.

PROBATE

To have a Will **probated** is the act of having it certified by a legal authority that it is, indeed, the **valid** Last Will and Testament of a deceased person. **Probate Court** is the judiciary branch that deals with Wills. It is not always necessary to have a Will probated. If, in the disposition of a Will, there is any transfer of possessions from one individual to another where a transfer of "title" is necessary, such as real estate, stocks, bonds or bank accounts in the name of the deceased only, the executor may be asked by the holding institution to have the Will probated before they will allow the transfer. Probate Court is also where things end up if there is a dispute over anything in the Will. Such a dispute is called "contesting" a Will.

To lessen the chance of having your Will contested, make sure that your instructions are clear and that you have kept within the framework of the law. There are laws that provide for the "rightful claims and proper maintenance of a spouse and infant children" whom you may not be able to exclude even if you wanted to.

As already stated, the best way to avoid Probate Court is to, wherever possible, place all property jointly in the names of two or more individuals while living. This is especially helpful when a spouse dies. This would mean all bank accounts must be joint, any investments joint, all real estate in both names, etc. So, make sure when you acquire ownership of anything, that if you do wish to own it "jointly" with a spouse or someone else, make sure it is done properly so that it is, indeed, - "Joint Ownership With The **Rights Of Survivorship**". Any RRSP's should name a beneficiary just like life insurance. If you name your estate as beneficiary of your Life

Insurance you will definitely tie things up for your spouse or other heirs. If you name your estate beneficiary of your RRSP's, RRIF's or LIRA's, etc., they will be taxed before being passed on, whereas if you name a spouse or fully dependent child as beneficiary, they will pass without triggering the tax. If you have further questions, I have found the people at Probate Court, which can usually be reached quite easily by phone, to be very helpful. Although, they are not there to give legal advise, they probably know the answers better than anyone and I have found them very friendly and FREE.

THE "DEFAULT" WILL

If you die without a Will, the government has one for you, and I can pretty well guarantee you won't like it. I have heard estimates that up to 85% of Canadians have not had a proper Will made out. I would assume that figure improves as we look at an older segment of the population. Regardless, it is important to know that every province has a backup system. It is covered in the **"intestate succession law"** of each province and if you die without a proper Will, this law will direct where your assets go. It is also important to reiterate here, that this set of laws can also override certain things that you may express in a Will, in particular if you do not provide for the care and maintenance of a spouse or child for whom you have certain financial responsibilities.

MARRIAGE CANCELS A WILL

It is very important to understand that **any marriage cancels a Will**. This may be a first or subsequent marriage. So, when you marry or remarry, you need to redo your Will.

REVOKING A WILL

There are three ways to revoke or cancel a Will:

- Destroy it
- Do a new one
- Get married

SAMPLE WILL

For a sample **Last Will and Testament** with examples of statements used, see page 12.

THE ENDURING POWER OF ATTORNEY

Having witnessed the tremendous importance of this document, I would encourage you to take the need for this instrument very seriously. It is one of the easiest to do and requires only one decision - who to appoint.

For most people even that is not a hard decision; it is usually your spouse. This document allows your "attorney", to make decisions on your behalf and sign documents for you if you were to become incapacitated. Your "attorney", in this case, is the person that you appoint in the document. To make the need for this document clear, let me give you an example. Your husband or wife is injured in a car accident. He or she is in a coma. Because he or she is still living there is no Will to be called upon for directions. He or she stays in a coma for eight months. Anything that requires a signature or other approval of this person is put on hold. What usually happens in cases like this is that the one who is still trying to carry on with life must apply to a court to receive the powers to act on behalf of the incapacitated person. If the court grants such powers they are sure to have limitations in power and time and you would probably have to return to court to renew your rights if this unfortunate circumstance continued. Although the risk that you might find yourself in these circumstances is slim, the fact is that **IT DOES HAPPEN** and all this extra trouble could be avoided by signing a simple document. Be careful to note that an "enduring" power of attorney is quite different from an ordinary "power of attorney" which has many limitations. So, make sure you prepare an **"enduring"** power of attorney.

Your attorney must over 19 years of age. There is no legal necessity to have more than one witness on an Enduring Power of Attorney as there is on a Will but we have provided room for two simply because two is always better in case one is not available if, and when, this document were called into use.

SAMPLE ENDURING POWER OF ATTORNEY

For a sample **Enduring Power Of Attorney** with examples of statements used, see page 13.

THE LIVING WILL
(HEALTH CARE DIRECTIVE)

An important caution on this document is that unlike a Will, which is a legal document, the Living Will still has questionable legal validity. You have no guarantee that it will be binding upon your physician, relatives, or the hospital in which you are being cared for. What the document does do is express your wishes.

The law under which it falls is provincial and the legislation and documents carry different names in different provinces. Here are the names of the documents in most provinces. **Newfoundland** - Advance Health Care Directive; **Nova Scotia** - Authorization to Give Medical Consent; **Prince Edward Island** - Health Care Directive; **New Brunswick** - no law; **Ontario** - Continuing Power of Attorney for Personal Care; **Manitoba** - Health Care Directive; **Saskatchewan** - Health Care Directive; **Alberta** - Personal Directive; **British Columbia** - Representation Agreement for Health Care.

This document is more difficult to supply a standard "form" which will suit most people. This is a very personal document and may require just sitting down and completely typing a new document from scratch using our form as an example. Remember, what you must write in your document is exactly what **YOU** want.

SAMPLE LIVING WILL

For a sample **Living Will** with examples of statements used, see page 14.

CONCLUSION

In conclusion let me emphasize, in the case of your Will, procrastination is your worst enemy. It's so easy to put it off that the majority of Canadians just don't get it done. This is **not** a job for your deathbed. It is better to, at least, do a quick, simple Will than none at all. Of course, doing your Will is a very serious matter and should be given proper thought and time to complete properly.

If you find your Will is too complicated for you to feel comfortable doing, then, as I've said previously, see a lawyer and get it done. If you want to have it done by a lawyer and just can't afford it or don't have the time right now, then at least do a simple one yourself until you do get to a professional for help. No one knows when their Will is going to be required; don't risk the welfare of your family for a few hours work.

Last Will and Testament

This is the **Last Will and Testament** of me, John Q. Willmaker of Halifax in the Province of Nova Scotia made the 12th day of July 2001.

I REVOKE all former Wills, Codicils, or other Testamentary Dispositions by me at any time and declare this to contain my Last Will and Testament.

I APPOINT my wife, Jane C. Willmaker of Halifax in the Province of Nova Scotia to be Executor of this my Last Will and Testament.

BUT IF my said Executor should refuse to act, predecease me, or die within a period of 30 days following my death, **THEN I APPOINT** my son, Joseph A. Willmaker of Lower Sackville, Halifax County in the Province of Nova Scotia to be Executor of this my Last Will and Testament.

I DIRECT all my just debts, funeral and testamentary expenses to be paid and satisfied by my Executor as soon as conveniently may be after my death.

I give my Executor the following **POWERS**:

Full and complete power to do all things necessary to carry out my wishes as set forth in this document and the absolute power to make final decisions, settle disputes, sell assets or distribute in kind, establish values, establish trusts if necessary, and make investments. It is important to me that my executor be free to invest the assets of my estate, if such becomes necessary, in the same style of investing that I have always subscribed to, namely equity investing, without being restricted to guaranteed investments such as GIC's.

I DISTRIBUTE my assets as such:

To my son, Joseph A. Willmaker, I leave:
The sum of $25,000 and my valued collection of antique books which Joe and I have enjoyed collecting together for so many years.

To each of my two grandchildren, Catherine Willmaker and Gregory Willmaker:
I leave the sum of $10,000 in trust with my son Joseph A. Willmaker as trustee to invest on behalf of my grandchildren until he decides they should receive these funds.

To my loving wife, Jane C. Willmaker I leave the remainder of my estate to do with as she sees fit.

IN WITNESS whereof I have set my hand the day and year written above

_____

Witnessed by (print) WILLIAM K. WITNESS
Signature of Witness _____

Witnessed by (print) MARY R. PRESENT
Signature of Witness _____

Important Note: The form provided in The Canadian Financial Security Program Will Kit is designed so if there is not enough room in the section where you will distribute your assets, you can simply use a clean piece of paper to finish your instructions and insert it as another page. **Be sure to initial and date all pages and have all pages initialed by your witnesses especially if you do the guardian appointment on a separate sheet.**

Enduring Power Of Attorney

I, John Q. Willmaker of the City of Halifax in the Province of Nova Scotia state:

I REVOKE all former Enduring Powers of Attorney previously given by me.

I APPOINT my wife, Jane C. Willmaker of the City of Halifax in the Province of Nova Scotia to be my attorney.

BUT IF my said attorney should refuse to act, predecease me, or die within a period of 30 days following my death, **THEN I APPOINT** my son, William B. Willmaker of Lower Sackville in the Province of Nova Scotia to be my attorney.

This Power of Attorney will be **EFFECTIVE** only if I become mentally or physically incapable of making reasonable judgements or if I am unable to communicate my wishes due to physical incapacitation.

The decision to activate this Power of Attorney is subject to the evaluation and written declaration of Dr. A. B. Yourdoctor of the Northside Health Clinic, Halifax, Nova Scotia.

If Dr. A. B. Yourdoctor is not available to make this determination, then any two medical doctors may make this determination and give the written declaration.

My attorney has the **POWER TO** carry out the following:

My attorney has the full authority to do anything on my behalf that I may legally do by an attorney.

My attorney is **RESTRICTED FROM** the following:

No restrictions.

My attorney shall **RECEIVE PAYMENT** on the following terms:

No payment.

If this Enduring Power of Attorney is the cause of any disagreement:

I declare my attorney to have absolute power to make all decisions.

Dated at Halifax, Nova Scotia this 1st day of January, 2001.

_____
(Signature)

Witnessed by (print) WILLIAM K. WITNESS
Signature of Witness _____

Witnessed by (print) MARY R. PRESENT
Signature of Witness _____

Living Will

To my family, my physician, my cleric, my lawyer, or any medical facility or person who may become responsible for my health, welfare or affairs, let it known that:

This is the **Living Will and Medical Directive** of:
John Q. Willmaker
currently residing in the province of Nova Scotia.

A. I REVOKE all former Living Wills, Personal Directives, or Advance Medical Directives given by me at any time.

B. I hereby indemnify and hold harmless my Agent and anyone who acts in good faith at the request of my Agent to fulfill my wishes expressed in this document.

C. I APPOINT my wife, Jane C. Willmaker of the City of Halifax in the Province of Nova Scotia to be my **Agent** and to make personal and health care decisions on my behalf if, and when, I no longer have the mental or physical capacity to make such decisions myself.

D. If my appointed Agent is unwilling or unable to act on my behalf, then I appoint the first person on the following list who is able and willing to serve as my Agent.

My son, William B. Willmaker of Sackville, Nova Scotia
My brother, Sid Willmaker of Halifax, Nova Scotia
My sister, Mary Smith of Halifax, Nova Scotia

E. This directive will be **IN EFFECT** when, and only when, I am unable to make or communicate my own decisions by speaking, writing or gesturing.

F. If my spouse has been designated as an Agent or Alternative Agent in this document and if after the making of this document my spouse and I become legally separated or divorced, any legal rights or powers granted to my spouse by this document shall be revoked.

G. Any reference to Agent in this document shall also apply to an Alternative Agent.

H. I grant to my Agent the absolute power and authority to make all decisions affecting my health and welfare, and request that my Agent and all to whom he/she shall give directions in these matters follow my wishes and instructions as given herein to the best of my Agent's interpretation of my wishes. In particular, but not restricted to, I grant to my Agent the power and authority to: sign documents including releases, permissions, or waivers; to review and disclose medical records; to hire and discharge caregivers; to authorize admission to or release from medical facilities; and to consent to, refuse or withdraw consent to any form of health care.

I. It is **MY WISH** that should a situation arise that there is no reasonable expectation of my recovery and I am being kept alive by artificial or mechanical means, that I wish to be removed from life support and allowed to die in a dignified manner receiving medication only to control any pain when necessary and when my life ends under these circumstances that no effort be made to resuscitate me.

J. If it becomes necessary to appoint a Guardian of my person then I nominate my Agent who is appointed in this document to be my Guardian.

I declare when signing here that I am of sound mind, and that I understand the content of this document and the power it gives to my Agent, and I declare that this document represents my wishes.

Dated and signed this 30th day of January, 2001 in the province of Nova Scotia.

_____
(Signature)

Witness: (print) WILLIAM K. WITNESS

Signature: _____

Witness: (print) MARY R. WITNESS

Signature: _____