LOGO

**LAST WILL**

**OF**

**${TESTATORFULLNAME}**

**THIS IS THE LAST WILL AND TESTAMENT** **OF** **${TESTATORFULLNAME}**

**INCLUDING TESTAMENTARY TRUST PROVISIONS**

1. **REVOCATION OF EARLIER WILLS** 
   1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_
   3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. **SURVIVAL OF BENEFICIARIES** 
   1. I direct that to share in my property a person must survive me for thirty (30) days and the word “survive” is to be read accordingly.
   2. In this will any gift which depends on the beneficiary surviving me by a specified period or attaining an age does not vest unless the beneficiary so survives or attains the age specified. Income produced by the gift after my death and before vesting accumulates to the gift, unless otherwise stated.
3. **APPOINTMENT OF EXECUTOR AND TRUSTEE**
   1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. Whoever is my Executor and Trustee for the time being of my Will whether original, surviving, substituted or additionally appointed (whether one or more persons), is referred to in this Will as “my Trustee” and I direct that providing one trustee remains other trustees may retire without being replaced.
   3. The retirement, death or inability of one of my Executors and Trustees will not invalidate or terminate the appointment of any other Executor and Trustee.
   4. In the event my Initial Executors and Trusteesare unable or unwilling to act or continue to act as my Executor and Trustee then as my Substitute Executor/s, ${SubExecAppointment}.
   5. In the event my Initial Substitute Executors appointed in clause 4.4 above are unable or unwilling to act, or do not survive me, then as Further Substitute Executors,
   6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. **BURIAL**
   1. ${Burial}
   2. ${Funeralwishes}
5. **TESTAMENTARY GUARDIAN**
   1. ${GuardianNeeded}
6. **HOUSEKEEPING PROVISIONS**
   1. Unless specifically stated to the contrary, I direct that any gift by this Will or any codicil is conditional upon the recipient surviving me for thirty days.
   2. I understand section 33N *Succession Act 1981* (Qld) provides an automatic gift over to the children of any issue who fail to survive me. ${GiftOver}
   3. If a recipient of a specific item or a pecuniary legacy is under eighteen years at the date of death then I direct that my trustees have power to deliver to a parent or a guardian of the beneficiary the subject of the bequest. I declare that the receipt by that parent or guardian is a full release to my trustees.
   4. I direct that the words ‘grandchild’, ‘grandson’ and ‘granddaughter’ or the plural, and references to children of my children mean in this will and any codicil only those children who are the biological and/or adopted children of my children.
   5. Any capital gains tax payable upon the disposition of any asset in the course of administration of my estate shall be charged upon the beneficial entitlement to such asset. If applicable, any capital gains tax payable upon the disposition in any one year of more than one asset shall be apportioned by my trustee against the entitlements of those beneficiaries entitled and any such reasonable and practical apportionment by my trustee shall be final and binding upon those beneficiaries.
   6. For the avoidance of doubt, any specific gift in the will or codicil carries with it the income, gain and benefit as at and from the day following my death, subject to the recipient assuming responsibility from that date of all outgoings or proportion of outgoings for which I or my estate is liable in respect of the subject of the gift (such income and outgoings to be apportioned at the date of my death to achieve the result whereby my estate is entitled/responsible up to and including the date of death and the beneficiaries entitled/responsible thereafter).
   7. For the avoidance of doubt, should any specific gift be the subject of any contract or option to purchase at the date of my death, regardless of whether the option to purchase could have been exercised before or after this will or my death, the specific gift will not be adeemed by such conversion but the net proceeds of sale shall be given to the beneficiary thereof in substitution.
   8. ${FamilyTrust}
   9. If on my death I have an entitlement as a member of a superannuation fund, or an amount payable under any policy of insurance taken out as part of my membership and entitlement (superannuation benefits), then I ask the trustees of any fund to liaise with the trustees of this Will and my spouse (if I have one at the time of my death); and if practicable and applicable, with reference to my spouse’s financial position and wishes, pay the superannuation benefits to the trustees of my Will for distribution under it.
   10. The perpetuity period for a gift under this will is eighty years.
   11. The word ‘spouse’ means both the lawfully married spouse of a person and also a person who is a recognised defacto partner and that status extends past the death of the person when the spouse is then a widow/widower.
   12. If I die having an asset in a jurisdiction which is liable to death, probate or succession duty, then that asset, regardless of anything else said in the will, is charged with the payment of the duty and any costs in the administration of that asset, apportioned by my trustees if necessary.
   13. I express the wish that the trustees of any trust created under this will, before making any in specie distribution of real or personal property from my estate assess the potential taxation consequences (if any) that may arise on the immediate subsequent sale or disposal of the property by the recipient of it; and as far as is reasonably practicable, inform the beneficiary, or trustees for any beneficiary, to whom such a distribution is to be made of these potential taxation consequences.
   14. If all or part of a provision of this will (‘the offending provision’) would result in all or part of this will being invalid or unlawful in a jurisdiction, then this will shall be construed in that jurisdiction as if the offending provision were not included.
7. **DIVISION OF MY ESTATE**
   1. I give the whole of my estate, including all of my property whatsoever and wherever located to my Trustee on trust to pay my just debts, funeral expense and the expenses of the administration of my estate, and to distribute any Specific Gifts or Bequests, then to distribute the balance remaining to my Primary Beneficiaries who survive me and who attain or have attained the age of ${AgeofReceipt} for their use absolutely. My Primary Beneficiaries include:

| **Primary Beneficiary Name** | **Relationship to me** | **Portion of residual estate to be received** |
| --- | --- | --- |
| ${PrimBenef1FullName} | ${PrimBen1Relation} | ${PrimBen1Percent} |
| ${PrimBenef2FullName} | ${PrimBen2Relation} | ${PrimBen2Percent} |
| ${PrimBenef3FullName} | ${PrimBen3Relation} | ${PrimBen3Percent} |

* 1. In the event any of my Primary Beneficiaries fail to survive me and fail to leave a child that survives me, then I give their share of my residual estate whole of my estate, including all of my property whatsoever and wherever located to my Trustee on trust to pay my just debts, funeral expense and the expenses of the administration of my estate and to divide the balance then remaining between such of my children who survive me and who attain or have attained ${AgeofReceipt} years of age and to my Secondary Beneficiaries who survive me and who attain or have attained the age of ${AgeofReceipt} and if more than one, in equal shares absolutely. My Secondary Beneficiaries include:

| **Secondary Beneficiary Name** | **Relationship to me** | **Portion of residual estate to be received** |
| --- | --- | --- |
| ${2ndBenef1FullName} | ${2ndBen1Relation} | ${2ndBen1Percent} |
| ${2ndBenef2FullName} | ${2ndBen2Relation} | ${2ndBen2Percent} |
| ${2ndBenef3FullName} | ${2ndBen3Relation} | ${2ndBen3Percent} |

* 1. If any of my beneficiaries fail to survive me or die before reaching ${AgeofReceipt} but leave a child or children who survive me and who attain or have attained the age of ${AgeofReceipt}, then such child or children shall take their parent’s share and if more than one, in equal shares absolutely.

1. **SPECIFIC GIFTS (GIVING SPECIFIC ITEMS)**
   1. ${SpecificChattels}
2. **BEQUESTS (GIVING SUMS OF MONEY)**
   1. ${SpecificBequests}
3. **ANNUITIES (GIVING INCOME FROM ASSETS/POLICIES)**
   1. ${Annuities}
4. **LIFE INTERESTS & SPECIFIC GIFTING OF PROPERTY**
   1. ${LifeInterests}
   2. ${GiftSpecificProperty}
5. **REPAYMENT OF ANY DEBTS OWED TO ME**
   1. I DIRECT my trustees to include in my residuary estate for distribution purposes any sums of money which may be due to me at the date of my death by the beneficiaries entitled to my residuary estate. I release each of my said beneficiaries and their estates from any liability to pay such debts but each of my said beneficiaries or their issue, whomsoever attain a vested interest in a share of my residuary estate, shall bring such debts into hotchpot upon the division of my residuary estate. Further, I direct that each of the said beneficiaries, their estates, and their issue, whomsoever attains a vested interest in the share of my residuary estate, shall bring into hotchpot upon the division of my residuary estate, any sums of money which exceed in each case **${MaxGifting}** which I may have gifted to any of the beneficiaries **${PeriodofGifting}**.
6. **TESTAMENTARY TRUST**
   1. All gifts and benefit provided to any beneficiary under this Will is done via a testamentary trust for that beneficiary, and my Executors are to act as Trustees for the Trusts unless otherwise provided in this Will.
   2. My Trustees may in their discretion:
   3. To sell, call in or convert into money any part of my estate and pay all or any debts, funeral and testamentary expenses and any death, estate or succession duties associated with my death or the administration of my estate;
   4. To give the rest and residue of my estate to a discretionary trust that I hereby establish on the terms set out below equally between family discretionary trusts that I hereby establish for each of my children (child trusts);
   5. In the event that a child of mine does not survive me but leaves a child who does survive me then a testamentary trust for each such child that I hereby establish on the terms set out below (grandchild trust) shall take by substitution in equal shares the share in my estate which the child trust for their parent would otherwise have taken;
   6. The terms of the testamentary trusts I hereby establish for each of my beneficiaries shall apply to the part of my estate given to the trust together with such capital and income as is accumulated or added from time to time to pay all or part of the income and all or part of the capital of the fund to the beneficiaries as follows:
      1. For a spouse trust, my spouse and remoter issue and any company or trust in which any of them hold any office or have any interest including an interest as a discretionary beneficiary, in the shares and amounts and at the times the trustee in their discretion thinks fit without any obligation to make payments for all of them or to ensure equality among those to whom payments are made;
      2. For a child trust, my children and remoter issue and the spouses of my children and remoter issue and any company or trust in which any of them hold any office or have any interest including an interest as a discretionary beneficiary, in the shares and amounts and at the times the trustee in their discretion thinks fit without any obligation to make payments for all of them or to ensure equality among those to whom payments are made;
      3. For a grandchild trust, my grandchildren and remoter issue and the spouses of my grandchildren and remoter issue and any company or trust in which any of them hold any office or have any interest including an interest as a discretionary beneficiary, in the shares and amounts and at the times the trustee in their discretion thinks fit without any obligation to make payments for all of them or to ensure equality among those to whom payments are made;
      4. For any other beneficiary trust, that specific beneficiary and remoter issue and any company or trust in which any of them hold any office or have any interest including an interest as a discretionary beneficiary, in the shares and amounts and at the times the trustee in their discretion thinks fit without any obligation to make payments for all of them or to ensure equality among those to whom payments are made;
   7. I appoint as trustee for a child trust, the child for whom the trust is established; for a grandchild trust, the grandchild for whom the trust is established and for any other beneficiary trust, the beneficiary for whom the trust is established. Provided however that, if any intended trustee shall be a minor, I appoint instead my executor as trustee until the intended trustee attains their majority;
   8. In the event that any of the named trustees of the testamentary discretionary trusts do not survive me by 30 days then I grant the power to appoint a new trustee to my executor; and
   9. The following provisions shall apply to each of the testamentary trusts created hereby and they may be separately documented as certified copies for the purpose of lodgement with advisors and responsible authorities:
      1. In this trust words importing the singular number shall include the plural number and vice versa and words importing a gender shall include all genders and reference to persons shall include corporations and vice versa;
      2. A trustee, other than my executor acting during the minority of the intended trustee, shall have the power to appoint any new or additional trustees at any time and from time to time including making such appointment by their will to operate after the trustee’s death. Should the trustee die without appointing a new trustee, I appoint the legal personal representative of the trustee as the new trustee from the date of death of the trustee;
      3. A person or corporation may be appointed a new trustee or an additional trustee notwithstanding the fact that they are resident or incorporated out of Australia and on any such appointment the retiring trustee shall be entitled to pay or deliver to the new trustee or as the new trustee directs the whole of the trust fund notwithstanding that such payment or delivery involves the taking or sending out of the jurisdiction of any court the whole or any part of the trust fund;
      4. The number of trustees may at any time and from time to time be one but shall never at any time be more than four;
      5. Registration of changes of trustees according to applicable legislation is not required;
      6. The specified class means those beneficiaries referred to and such other persons, corporations or trusts nominated by the trustee from time to time in writing at any time during the continuance of this trust provided there are no adverse tax or duty consequences;
      7. The vesting day means the day seventy nine (79) years after the date this trust commences, or such later or other date as permitted or required by law, or such earlier date as the trustee may at any time in writing or by oral declaration appoint to be the vesting day;
      8. Year means any financial year commencing on the 1st July in any year and ending on the 30th June the following year and in respect of any broken period occurring at the commencement or termination of this settlement or trusts hereby created means the portion of the financial year running in the case of such commencement as aforesaid from the date hereof to the 30th day of June next and in the case of such termination as aforesaid from the 1st day of July last preceding such termination to the date of such termination;
      9. Until the vesting day the trustee shall hold the income of the trust fund upon trust, as far as they have not decided to accumulate it, to distribute it within a reasonable time at the end of each financial year, as the trustee thinks fit among one or more of the specified class, in any shares and proportions which the trustee may in their absolute discretion think appropriate, and may decide to pay a class of income to one or more of them. The trustee may make distributions from gross income before deducting expenses and may apply expenses to such classes of income as the trustee deems appropriate;
      10. The trustee in lieu of paying income in cash may discharge their obligations in relation to such income by transferring any property of like value forming part of the trust fund to the person or persons entitled thereto in whole or in part satisfaction thereof and for the purposes of this clause the trustee may conclusively determine the value of any property to be transferred and any entries in the trustee's books of account relating to the trust shall be and shall be deemed to be a good and sufficient determination of value for such purposes;
      11. The trustee shall stand possessed of the trust fund upon the vesting day in trust for the specified class or such one or more of them exclusively of the others in such shares and proportions as the trustee in their absolute discretion may determine before the vesting day and in default of such determination as aforesaid by the trustee upon trust for the specified class for the time being in equal shares;
      12. The trustee may invest the trust funds as authorised hereby or by law;
      13. The trustee may in their absolute discretion:
          1. Exercise any powers given to them by law;
          2. Apply for the maintenance, education, including travel to broaden the mind, advancement or benefit of a beneficiary the whole or any part of the capital and income of the trust;
          3. Make a payment or payments to the parent or guardian or a person with whom the beneficiary resides of a minor beneficiary or a beneficiary with a legal disability and accept the receipt of that payee as an absolute discharge;
          4. Make loans to beneficiaries on whatever terms;
          5. Acquire or lease property for occupation, use or enjoyment by a beneficiary, whether alone or with some other person or persons;
          6. Exercise any powers given to them by law;
          7. Farm, develop, joint venture, subdivide, sell, lease, exchange, transfer to a beneficiary or enter into any other transaction or arrangement relating to property in the trust on terms they consider expedient as though they were the absolute beneficial owners thereof;
          8. Determine whether any receipt, profit or gain or payment, loss, or outgoing or any sum of money or investment however characterised is or is not to be treated as being on income or capital account and further whether the income of the trust fund is to be calculated as including any actual or deemed capital gain arising during that period under the provisions of the Income Tax Assessment Act;
          9. Determine that any income, however characterised, whether it be franked or unfranked dividends, capital gains, trading revenue, interest, royalties, foreign income or any other kind of income, is a separate class of income for the purposes of this trust and divide that income into different parts including differences in the nature or character or source of that income. When dealing with the income of the trust fund in parts only or differently between or amongst parts of it the trustee may in their absolute discretion:
             1. Pay, apply, place to the credit in the books of account of the trust fund or otherwise deal with the whole or any part of income of any nature, character or source in such a manner as to preserve and pass on the nature, character or source of the income for the purposes of the Income Tax Assessment Act to, for or towards the maintenance, advancement or benefit of all or such one or more of the specified class then living or in existence as to the trustee in their absolute discretion may determine and in such shares and proportions that the trustee in their absolute discretion may determine, whether to the exclusion of any one or more of them or otherwise;
             2. Determine how the outgoings and allowable deductions of the trust fund shall be applied or apportioned in calculating the income of any such nature, character or source;
             3. Determine how tax credits, inclusive of foreign tax credits and franked dividend credits as applies under the Income Tax Assessment Act, shall be applied or apportioned; and
             4. Determine in their absolute discretion, in the event of my trustee disposing of or being deemed to have disposed of an asset, what part or parts of the capital or income of the fund will be resorted to in payment of any tax liability flowing from the disposal or deemed disposal;
          10. Do all such acts and things in relation to the affairs of any company in which the trust is or may become interested or concerned as the trustee sees fit without any obligation to attend meetings personally or by proxy or do any other act or thing in relation to the affairs of the company;
          11. Borrow money, either with or without giving security, on such terms as the trustee deems fit and enter into any mortgage, charge, security agreement, lien or security over any part of the trust fund;
          12. Maintain, repair, improve, develop, alter, renovate, pull down, erect or re-erect any part of the trust assets;
          13. Maintain, take out or participate in any policy of insurance or superannuation scheme;
          14. For any reason set aside out of the trust a fund sufficient to meet all debts, charges, taxes and other liabilities of the trust;
          15. Carry on, either alone or in partnership with any person corporation or trust the whole or part of any business;
          16. Employ professional advisers to assist in the administration of the trust;
          17. Give a receipt for money or other property received which shall operate as a full discharge to the person making the payment or delivering the property from seeing to the application thereof;
          18. Compromise, settle on terms, release or compound any debt owing to the trust;
          19. Appropriate and partition any property to or towards the share of any beneficiary on the vesting date hereunder at a value as the trustee determines and to charge such share with such sum by way of equality of partition as the trustee determines; and
          20. Give guarantees or indemnities or undertaking for the payment of money in relation to the purchase or acquisition of investments for the trust fund;
      14. No trustee purporting to act in the execution of the trusts shall be liable for any loss not attributable to their dishonesty or to the wilful commission or omission by them of any act known by them to be a breach of trust and in particular they shall not be bound to take any proceedings against a co-trustee for any breach or alleged breach of trust committed by such co-trustee;
      15. The beneficiaries hereunder shall not be liable to the trustee or their legal personal representatives in any manner whatsoever in relation to any matters arising out of this trust;
      16. The trustee is entitled to be indemnified out of the trust fund against any liabilities whatsoever arising in connection with the trust; and
      17. In the event that at any time the trustee is also a beneficiary then the trustee may confer on themselves any benefit to the exclusion of any other beneficiary and can in any other way deal with themselves as if they were any other beneficiary.

Dated the       day of 2020

**Testator’s Signature**

The testator signed **in the presence of both of us** being present at the same time, and we attested their signature in the presence of them and of each other.

|  | |  |  | |
| --- | --- | --- | --- | --- |
| Witness | |  | Witness | |
| Full name: |  |  | Full name: |  |
| Occupation: |  |  | Occupation: |  |
| Address: |  |  | Address: |  |
|  |  |  |  |  |