**Estate Planning Booklet**

# Section 1 – Pricing (GST inclusive)

Select your Will and enduring power of attorney package

*Video explaining draft documents provided with documents for viewing prior to our meeting*

|  |  |  |
| --- | --- | --- |
| **Estate planning advice and Will and enduring power of attorney documents** | **Single** | **Couple** |
| Simple family situation (no ex-partners including de-factos and no ‘frosty’ relationships with direct family) | $800   | $1,100   |
| Complex family situation (there are ex-partners including de-factos **OR** ‘frosty’ relationships with direct family members such as children, parents or siblings) | $1,350   | $1,850   |

Confirm how many structures you have

|  |  |  |
| --- | --- | --- |
| **Entity succession planning review** | **Price (per entity)** | **Number of entities** |
| Estate planning advice in relation to trust, company or self-managed superannuation fund **yet to be established** | $165 | \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Estate planning review and advice **of already established** trust, company or self-managed superannuation fund documents | $385 | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Acceptance of fixed price and meeting details

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, accept the fixed price of $\_\_\_\_\_\_\_\_\_\_\_\_(GST inclusive) *[total up the above prices]* for Pacific Law (Succession Planning VIC, SA & WA) ABN 64 621 391 553 to undertake the above work in relation to my estate plan.

I would like our meeting to be by way of online meeting/teleconference *[select which option you would like your estate planning meeting to be undertaken]* and propose the following dates and times:

|  |  |
| --- | --- |
| Proposed dates and times of online meeting/teleconference (please specify which State and note we offer after hour availability) | 1.  2. |

I confirm that that the mandatory tutorial video has been watched and acknowledge the terms of engagement located in section 4 of this booklet.

I accept that an invoice will be issued upon the draft estate planning documents and advice being provided.

Finally, I understand that I am responsible for arranging for the estate planning documents prepared to be signed and witnessed.

Date:

Signed:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Section 2 - Background information

***About you…***

|  |  |  |
| --- | --- | --- |
|  | You | Your spouse |
| Full Name  (as it appears on your ID) |  |  |
| Street Address |  | |
| Postal Address |  | |
| Best contact number |  |  |
| Email |  |  |
| Occupation |  |  |
| Date of Birth |  |  |
| Place of Birth  City/state (or country) |  |  |
| If overseas, residency status (e.g. citizen, permanent resident, temporary visa etc) |  |  |
| How is your health? |  |  |
| Relationship status and duration |  |  |
| Have you been in a previous de facto relationship or marriage? |  |  |
| If yes, have you had a formal property settlement?  (if more than one, then list out status) |  |  |

***Your Children***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Full name (as it appears on ID) | Date of birth (dd.mm.yy) | Natural, adopted, step child? | Occupation | Marital status | Special needs |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

***Your Advisers***

|  |  |
| --- | --- |
| Accountant |  |
| Financial planner |  |
| Prior lawyers |  |
| Other |  |

***About your assets…***

*Solely Held Assets (eg, held by you or your spouse personally and solely)*

|  |  |  |  |
| --- | --- | --- | --- |
| Asset | Sole Owner | Value | Debt |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| Bank accounts |  |  |  |
| Life interests in assets (could include time shares) |  |  |  |
| Investment shares |  |  |  |
| Household items (including motor vehicles) |  |  |  |

*Jointly Held Assets (eg, held by you and your spouse - or another person)*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Asset | Owners | Joint tenants or tenants in common or unsure | Value | Debt |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

*Life Insurance (you or your spouse’s life insurance held outside of Superannuation)*

|  |  |  |
| --- | --- | --- |
| Life Insured | Policy Owner (or nominated beneficiary) | Value |
|  |  |  |
|  |  |  |

***About your debts…***

|  |  |  |  |
| --- | --- | --- | --- |
| Who owes the debt | Who is it owed to | Security (eg property) | Debt |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

***About your superannuation…***

|  |  |  |  |
| --- | --- | --- | --- |
| Member | Superannuation Fund (including self-managed superannuation fund) | Life Insurance | Member Balance |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

If you have a self-managed superannuation fund, please provide:

1. Copies of the existing self-managed superannuation fund deeds;
2. Copies of any documents affecting the terms or structure of the trust self-managed superannuation fund;
3. Copies of any binding death benefit nomination made or reversionary pension (if any);
4. Copies of the most recently available financial statement of the self-managed superannuation fund (if easily available);
5. Copies of any agreements that the self-managed superannuation fund has entered into (property deeds, joint venture agreements etc.).

***About your existing trusts…***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of structure | Type (discretionary/unit) | Trustee | Appointor/ Principal/ Guardian | Date Established |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

For each trust, please provide (via email):

1. Copies of the existing trust deed;
2. Copies of any documents affecting the terms or structure of the trust (including deeds of variations and changes of trustee/appointor/principal);
3. Copies of the most recently available financial statement of the trust (if easily available);
4. Copies of any agreements that the trust has entered into (property deeds, joint venture agreements, shareholders agreements, buy sell deeds etc).

***The Trust Assets…***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Asset | Name of Trust owner | Estimated Value | Debt | Who to benefit/control? |
|  |  |  |  |  |
|  |  |  |  |  |

***About your companies…***

|  |  |  |  |
| --- | --- | --- | --- |
| Company Name | Directors | Members | Trustee of a Trust? |
|  |  |  |  |
|  |  |  |  |

For each company, please provide:

1. Copies of the existing company constitution;
2. Copies of any documents affecting the terms or structure of constitution from the most recently available company search;
3. Company search for all relevant companies you control;
4. Copies of the most recently available financial statement of the company;
5. Copies of any agreements that the company has entered into (property deeds, joint venture agreements shareholders agreements, buy sell deeds etc).

***The Company Assets (held by the Company in its own right and not as trustee for trusts)…***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Asset | Name of Company owner | Estimated Value | Debt | Who to benefit/control? |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

***Additional information…(please provide us with as much information as possible)***

|  |  |  |
| --- | --- | --- |
| *Question* | *You* | *Your spouse* |
| Have you made any personal guarantees? |  |  |
| Are you involved in any partnerships/joint ventures? |  |  |
| Do you control any entities (trusts/companies) overseas? |  |  |
| Do you own any assets overseas?  If so, please provide details |  |  |
| Do you think there are any people who may wish to challenge your estate or are dependent on you but are not intended to benefit from your estate? |  |  |
| Details (full name and relationship) about your immediate family (e.g. parents, siblings), as well as anyone you would like to benefit under your estate plan |  |  |
| Broadly, how do you want your estate to pass?  Provide us with as much information as you like. |  |  |
| Any other comments? |  |  |

# Section 3 - Estate planning instruction sheet

***Your Will***

|  |  |  |
| --- | --- | --- |
|  | You | Your Spouse |
| Full name (as they appear on id) |  |  |
| *The first role to consider in your Will, is who you would like to administer your Will. This person is called the ‘executor’ and is also commonly known as your ‘legal personal representative’ (that is, they represent your estate when you have passed away).*  *Their responsibility involves proving your Will when you pass away (the process called ‘probate’), aggregating your assets, settling debts owed by the deceased and distributing what remains pursuant to the Will.*  *Please consider who you would like to fulfil this role. Whoever you appoint does not need to prepare all the necessary documents as they can engage with professionals such as lawyers and accountants to assist them. Whoever you appoint will, however, need to execute the necessary documents, so we recommend that if you appoint more than one person to act as executor, that those persons are able to work together to administer your estate.*  *Please consider nominating backup persons to act as your executor should your initial choice/s or first backup/s be unable to act. This will reduce the need for you to consider updating your Will if nominated persons pass away.*  *You may also specify particular persons to replace a deceased executor. E.g. John and Bill are nominated to act as executors initially, however if either of John or Bill are deceased, Kate can act jointly with whoever remains.*  *\*Please note executors must act jointly* | | |
| Initial executor |  |  |
| Backup executor |  |  |
| Further backup executor |  |  |
| Additional comments in relation to how people should be appointed |  |  |
| *The next role to consider only applies for those with minor children.*  *Importantly, the question is who you would like to appoint to care for any minor children that survives you. Please note that it is standard for the surviving parent to care for any minor children, however, in circumstances where both parents are deceased, you may confirm your intentions on who you would like to care for your minor children.*  *Their responsibility can range from the day to day decision making for the raising of your minor children, to the long term planning.*  *We therefore recommend you nominate persons who are able to work together (if you would like to appoint more than one person to act as guardian at any point), and it may be preferable that they live together. That said, it is common for people nominate a respective parent from each side of the family, however, you need to be aware of the practical day to day issues when your guardians are required to make decisions.*  *Please also consider appointing additional guardians should any of your initial guardian/s or backup guardian/s be unable to act.* | | |
| Initial guardian |  |  |
| Backup guardian |  |  |
| Additional comments |  |  |
| *Likely the most important aspect of your Will. Confirming who you would like to benefit, and how.*  *Please provide us with the details on who you would like to benefit under your estate plan. You can specifically name the persons you would like to benefit if you are to pass away, as well as the proportions in which those persons can benefit, and their relationship to you in the following format:*  *Full name as appears on id including names they also go by (relationship) – proportion%.*  *For example:*   1. *Jane Elizabeth Smith (wife) – 100%; or* 2. *Benjamin Edward Douglas (father) – 50% and Mary Alice Gordon (sister) – 50%.*   *Please contemplate various scenarios such as if your initial beneficiaries predecease you, as well as if your backup beneficiaries also predecease you. Again, this will reduce the need to consistently update your Will in light of changing circumstances (in particularly due to the emotional impact a death of a loved one will inevitable have).*  *Further, if you would like to utilise a ‘testamentary trust’, please inform us in the relevant row below. There are various benefits in drafting a Will with a testamentary trust such as asset protection, succession planning and tax planning, and these will be discussed in more detail in our online meeting. In the meantime, if this is something that you believe may be relevant, please let me know below.*  *As an example, it is common for many parents to leave any inheritance to their children in a testamentary trust. This will ensure an appropriate person looks after such inheritance for the benefit of those children until a they come of age. During this time, there will be tax planning opportunities for the income generated by the inheritance, and when the children do eventually take control of the assets, there will be some asset protection against bankruptcy and potentially family law breakdowns due to the fact that the children do not own the inheritance in their name.*  *A further example can relate to spouses leaving their assets in a ‘testamentary trust’ for the survivor. This is particularly of benefit where the surviving spouse operates a business and has concerns from an asset protection perspective. Further, if there are minor children in the relationship, there will be some tax planning opportunities to best manage such income generated from the inheritance.* | | |
| Please list any specific gifts of property that must 100% go into your Will and be distributed without fail |  |  |
| Would you like to consider utilising a testamentary trust? If so, for whose benefit? |  |  |
| Persons to benefit initially (Initial Beneficiaries) |  |  |
| Persons to benefit if the Initial Beneficiaries predecease you (Backup Beneficiaries) |  |  |
| Persons to benefit if all the Initial Beneficiaries and Backup Beneficiaries predecease you |  |  |
| Other comments for our consideration |  |  |

***Enduring power of attorney documents***

*Your Will contemplate what happens if you pass away. However, as part of a holistic estate plan, we need to consider what happens if you need someone to act on your behalf while you are still alive (but either are not able to make such a decision or have lost capacity). These are governed through your enduring power of attorney documents and are discussed further below.*

*For your convenience, below is a table summarising how many attorneys are recommended to be appointed for you.*

|  |  |  |  |
| --- | --- | --- | --- |
|  | Victoria | Western Australia | South Australia |
| Financial attorney | Up to two financial attorneys.  Potentially up to four backup attorneys, but would recommend just two backup attorneys. | Up to two financial attorneys.  Up to two backup attorneys. | Up to four financial attorneys.  No backups available. |
| Personal/medical attorney | Personal attorney same as financial attorney.  Medical attorney, up to four attorneys.  We would recommend appointing the same persons to avoid any confusion between potential overlaps of duties. | Up to two personal/medical attorneys.  Up to two backup attorneys. | Up to three personal/medical attorneys.  No backups available. |

*Below is also a table for you to complete in relation to who you would like to appoint as your attorney for financial and personal/medical matters in line with the above table.*

***Important recommendation:*** *Please note we strongly recommend for couples to appoint the same persons as their**respective attorneys. For example couples should appoint the same financial attorneys and same personal/medical attorneys to reduce the likelihood of a dispute between attorneys if both have lost capacity. If different persons are appointed, then you will need to ensure all parties can work together to reduce any potential dispute.*

|  |  |  |
| --- | --- | --- |
|  | You | Your spouse |
| *Generally, financial attorneys are able to make any financial decision you can make. This is necessary if you are unable to make decisions yourself, and someone is required to make those decisions (paying the bills, or transferring money from one bank account to another) on your behalf.*  *Whilst lawyers’ preferences differ on this point. Some recommend that a financial attorney is only able to act on your behalf once you lose capacity (so your attorney cannot abuse their power). Other lawyers recommend to have this power effective immediately (having someone able to make decisions on your behalf when you can’t, for example, while you are overseas, on a cruise or ill in hospital).*  *Lawyers’ preferences also differ on whether you should include clauses to broaden the financial powers. Whilst there are some limitations on what your financial attorney can do (such as a limitation for your attorney to enter into conflict transactions), these limitations can be overridden in certain States. If your power of attorney document has a specific power, then your attorney can enter into transactions that they may not be able to enter into without specific mention.*  *We recommend you have your enduring power of attorney drafted as broad as possible, as without specific clauses broadening the scope, the person you appoint to make financial decisions on your behalf will be severely restricted in what decisions they can make.*  *You can, however, decide if you want such power to be effective from when you sign the document, or only when you lose capacity. Whilst there will be certainty that no one can make financial decisions on your behalf if it is only effective on your lose of capacity, you will be required to prepare separate power of attorney documents if you would like to nominate someone to act on your behalf while you do still have capacity (i.e. you have headed overseas to a location without internet, so you wish to appoint someone to make those financial decisions while you are overseas).*  *Ultimately, you must trust whoever you nominate to act as your financial attorney.* | | |
| Initial financial attorney (name up to 2)  Please include:   * full legal name * address * date of birth * phone number |  |  |
| If more than one, how to act?  (Together or either or) |  |  |
| Backup financial attorney (name up to 2)   * full legal name * address * date of birth * phone number |  |  |
| (Together or either or) |  |  |
| When would you like your financial attorney to commence (immediately or loss of capacity) |  |  |
| *In contrast to a power of attorney for financial decisions, personal/health matters are only effective once you lose capacity*  *They also generally relate to minor health decisions, but the matters they cover will differ from State to State.*  *There are also some other health documents called advance health directives that you should consider walking through with a medical practitioner so that there is clarity on what should happen to you if you were to be in a critical health condition. Please let me know if you would like a link to the relevant form for the advance health directives. We do not assist with preparing such a document as we strongly believe you should discuss the document with a medical practitioner.*  *Please note the terminology changes depending on the State you live in, so use the below table as an indication on who you would like to make those minor personal/health decisions on your behalf.*  *Please also note that the South Australian attorney for personal/health matters also doubles as this advance health directive, so you may insert your specific wishes into this document in relation to end of life decision making.* | | |
| Initial personal/ medical attorney (name up to 2)   * full legal name * address * date of birth * phone number |  |  |
| If more than one, how to act?  (Together or either or) |  |  |
| Backup personal/ medical attorney (name up to 2)   * full legal name * address * date of birth * phone number |  |  |
| If more than one, how to act?  (Together or either or) |  |  |

# Section 4 - Service agreement

# The terms of engagement between you and Chat Legal Pty Ltd trading as Pacific Law (Succession Planning VIC, SA & WA) ABN 64 621 391 553 (us) are outlined below if you have instructed us to undertake work. *By continuing to instruct us, you acknowledge and agree that you have read and accept the terms of this agreement*.

# Service and pricing

## The work (the **Work**) you have engaged us to undertake will be outlined in writing by completing Section 1 of this booklet (**Letter**) from time to time.

## We only work on a fixed price basis.

## Our fixed prices to undertake the Work will be provided for in the Letter.

## Our fixed prices in the Letter relate to our professional fees only.

## Unless otherwise stated, the prices **will not** be inclusive of disbursements or other expenses which includes but is not limited to lodgement fees, taxes or stamp duty.

## We will seek your authority prior to incurring any disbursements for you.

## We will only undertake the Work once we have received written approval that a fixed price has been accepted.

## We will confirm with you in writing of any fixed prices that have been varied due to changes in your circumstances or instructions.

## If you instruct us to undertake additional work not originally contemplated under the original Letter, we will communicate with you in writing of any further fixed prices or disbursements prior to proceeding.

## You agree that should your circumstances or our instructions change to a degree that our engagement is terminated, we will mutually agree to a reasonable price for the work we have undertaken.

# Disbursements

## We may incur costs as your agent. If requested, we will give you the tax invoice from the relevant supplier.

## To the extent any disbursements are incurred by us with your authority, you agree to pay us the amount we incur on your behalf provided we have obtained your prior consent.

# Payment

## We will not issue you with an invoice unless a fixed price has been agreed.

## For instructions received between 27 March 2020 and 31 May 2020, we will issue you with an invoice once you have accepted a fixed price.

## For all other instructions, we will issue you with an invoice upon drafting of the draft estate planning documents and advice.

## The terms of payment of the tax invoice is **7 (SEVEN) days** from the date of issue. We can charge interest on overdue accounts at the rate equal to the Cash Rate Target set by the Reserve Bank of Australia (as at the date on the tax invoice) plus 3.5%.

# Legal rights

## You have the right to:

### Negotiate a costs agreement with us;

### Receive a bill of costs from us;

### Request an itemised bill of costs after receiving a lump sum bill from us;

### Request written reports about the progress of your matter and the costs incurred in your matter;

### Apply for costs to be assessed within 12 months if you are unhappy with our costs;

### Apply for the costs agreement to be set aside;

### Accept or reject any offer we make for an interstate costs law to apply to your matter;

### Notify us that you require an interstate costs law to apply to your matter;

### Be notified of any substantial change in the matters disclosed in this notice.

## This document provides you with the information about our legal services, the costs of those services and your rights. For more information about your rights, please read the fact sheet titled Legal Costs – Your Right to Know. You can ask us for a copy or obtain it from the Queensland Law Society or download it from their website.

# Agent

## You authorise us to liaise with any advisor you appoint as your agent by way of letter (**Agent**), to complete the work until you tell us otherwise.

## You agree the Agent is acting on your instructions and has your authority to:

### Communicate with us about the work;

### Give us instructions and receive our advice about the work;

### Receive notices from us on your behalf; and

### Give comments and material to us, solely to assist us perform the work and provide our legal advice to you.

# Disputes

## The following avenues are open to you under the terms of the *Legal Profession Act 2007* (Qld). In the event of a dispute in relation to legal costs:

### To apply for a costs assessment within 12 months of delivery of a bill or request for payment or such extended time as may be permitted by the court or costs assessor after considering the reason for the delay; and

### To apply to set aside the costs agreement within six years or other times as the law permits.

# Multiple clients

## When acting for more than one person in undertaking the work, we will endeavour to act in the best interests of each person.

## If we are unable to act in the best interest of each person, we will advise each of you to seek separate advice.

## Any instruction we receive from one of you may be taken to be instructions from all of you.

## All persons are jointly and severally responsible for paying the price and disbursements.

# Qualified advice

## If the advice given by us to you is based on assumptions, qualifications or both, those assumptions or qualifications will be set out in the advice.

## Once the advice is given, we are not liable for any part of the advice that is then found to be incorrect due to a later change in events, further information being given, further assumptions being made or assumptions on which the advice was based proving incorrect.

# Reliance

## Our advice is given exclusively to you and we are not responsible to anyone else for any loss or damage they suffer as a result of them relying on our advice.

## You acknowledge you are advised, and have had the opportunity, to seek independent advice about this document.

# Retention of files

## We do not maintain physical files. All of our files are stored electronically.

## You understand that we do not store any documents in secure storage.

## You authorise us to destroy your file after seven years from completion of the Work and retain an electronic copy of your file if you request the file from us.

# Recordings

## Recordings may be made of telephone conversations and meetings (either online or in person) for our records.

## We will obtain your consent (whether written or verbally) prior to undertaking any recording.

## The recording will be stored on your electronic file for quality and assurance purposes and may be provided to another person or software for transcription.

# Confidentiality

## We will keep all confidential information received from you in the course of the work, and persons performing work for you confidential.

## Our use of this information is subject to our Privacy Policy that can be found on our website.

## We confirm that legal professional privilege may apply to such confidential information and our Privacy Policy is subject to ensuring legal professional privilege is maintained between our communications.

## You understand and accept that our obligation to you with respect to giving you information is restricted by these provisions. Only our law practice’s personnel working for you will have an obligation to give advice only to you.

## We may transfer material to our internal databases for learning and knowledge purposes. Before doing so, we will make reasonable efforts to ensure that confidential information is neither disclosed outside the law practice nor otherwise used inconsistently with the obligations referred to above.

# Privacy

## The *Privacy Act 1988* (Cth) and other privacy legislation (such as potentially the General Data Protection Regulations for EU citizens) applies when we collect, use and disclose information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion (**personal information**).

## You agree that we may manage your personal information in accordance with our Privacy Policy available on our website as amended from time to time.

## You consent to us to act as agent in instructing other legal firms in drafting any documents which we are instructed to assist with.

# Termination

## You may terminate this document at any time by giving written notice to us, however you may remain liable for the legal costs up until that time.

## If you do not pay monies in accordance with this document, we may suspend work and cease acting for you.

## We have a general lien over any documents and property we hold at any time for you, as security for payment of invoices we have issued or may issue. This lien continues even after termination of our engagement.

## We may terminate this document by giving at least seven days written notice to you for any reason.

# Questions or concerns

## If you have a problem with the performance of the work, service of the lawyer or wish to discuss legal costs, please contact Darius Hii, Director, on 0403 923 374 or darius.hii@pacificlaw.com.au.

## If you are still not satisfied with the way your concern has been resolved, you may contact the Queensland Law Society on +61 7 3842 5842 or GPO Box 1785, Brisbane, Queensland 4001, Australia.

# General

## The law of Queensland will apply to this document.

## You have the right to enter into a costs agreement with us on the basis that a similar law of another state or territory is applicable, for instance where our services are being primarily provide din another state or territory or where the matter has a substantial connection with that other state or territory.

## Further you have the right in certain circumstances to notify us in writing in accordance with the time limits of the corresponding law that you require the law of another jurisdiction to apply.