

WILL OF

//1//

Dated:

[Name of firm]
[Address of firm]
[Tel no of firm]
[Fax no of firm]
Ref: *//*/*

THIS IS THE LAST WILL of me, //1// of //1a// in New South Wales, //1b//.

1. **I REVOKE** all previous wills and testamentary dispositions.
2. No gift to any person takes effect unless that person survives me by 30 days.
3. **I APPOINT** //2// of //2a// and //3// of //3a// (*my Trustees*) as executors and trustees. The expression *my Trustees* means the original trustees, the surviving trustee or a new or additional trustee.

*//4//
4. **I APPOINT** //4A// of //4b// as guardian of my minor children.*

*//5//
5. **I GIVE** //5A// of //5b// //5c// (\$//5d//).*

*//6//
6. **I GIVE** //6A// of //6b// //6c// (\$//6d//) in lieu of commission.*

*//7//
7. **I GIVE** //7A// of //7b// //7c// (\$//7d//) in addition to any commission and professional and other fees //7e// is entitled to be paid.*
8. **I GIVE** *//8// the whole *//9// the rest and residue* of my estate to my Trustees:
 - (a) to pay all debts, *//8// legacies,* funeral and testamentary expenses and any death, estate or succession duties; and

*//10//
 - (b) to hold the balance remaining on the following trusts:
 - (i) equally for such of my children who are living at my death and reach the age of 18 years provided that if any of my children fail to attain a vested interest leaving children living at my death, then equally for those children on reaching the age of 18 years as to the share which their parent would otherwise have taken; and
 - (ii) if none of my children or grandchildren attains a vested interest then for //10A// .*

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*//13// Testator *//14// Testatrix *

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(iii) to hold the balance remaining on the following trusts:

(A) for such of my children who are living at my death and reach the age of 18 years and if more than one in equal shares and I expressly negate the provisions of Section 41 of the *Succession Act 2006 (NSW)*; and

(B) if none of my children attains a vested interest then for //11A//
.*

9. My Trustees may, on such terms and for such purposes as they think appropriate, without being liable for loss:

- (a) sell;
- (b) postpone the sale of;
- (c) lease;
- (d) borrow, give a guarantee and mortgage; and
- (e) manage,

the whole or any part of my estate.

10. My Trustees may invest or re-invest any funds in:

- (a) any investment authorised by law;
- (b) any investment in which any part of my estate is invested at my death;
- (c) all or any part of any form of real estate of any tenure (including a lot within the meaning of any Strata Titles or Community Titles legislation) whether or not producing income;
- (d) shares in a company in which all the issued shares are owned by persons each of whom, because of that share ownership, has an exclusive right to occupy a part of a building on the land;
- (e) any mortgages including contributory mortgages; and

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- (f) shares, debentures, stocks, notes or similar securities in any company listed or intended to be listed on an Australian securities exchange.

11. My Trustees may:

- (a) apply for or accept bonus shares or other rights or benefits offered by a company in which my estate has an interest;
- (b) apply for the maintenance, education, advancement or benefit of a beneficiary, the whole or any part of the capital or income of that share of my estate to which that beneficiary is entitled or may in future be entitled and the receipt of the payee is an absolute discharge;
- (c) if the beneficiary is a minor, pay or apply any amount pursuant to clause 11(b) at my Trustee's discretion to or at the direction of the parent or guardian of that beneficiary without being responsible to see that the money is properly applied;
- (d) determine whether receipts and outgoings are capital or income;
- (e) retain any asset even though it is wasting, hazardous or reversionary;
- (f) maintain, repair, improve, develop, alter, renovate, pull down or erect any land and buildings; and
- (g) without the consent of any person appropriate in kind any asset in satisfaction or part satisfaction of any share or interest under this Will and without regard to differences in asset costs bases for capital gains tax purposes and, in so doing, ascertain and fix the value of any such asset as my Trustees think fit and for that purpose employ a duly qualified valuer in any case where necessary, so that any appropriation is binding on all persons entitled under this Will.

12. **I DECLARE AND DIRECT** that:

- (a) all income of my estate shall be treated as arising at the time when it is paid and shall not be apportioned to any other time or period;
- (b) bonus shares issued by a company in which any part of my estate may be invested form part of the capital of my estate and are not to be treated as income;

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- (c) where any interest of any person under this Will is subject to that person attaining a certain age or living to a certain point of time then such an interest shall until it vests in possession be a contingent interest only and shall not be deemed to be an interest which is vested subject to any defeasance;
- (d) where capital gains tax is assessed against my Trustees either consequent upon my death or upon the sale of any asset of my estate by my Trustees then (notwithstanding any other provision of this Will charging the residue of my estate with the payment of taxes) such tax shall be a charge firstly upon the asset giving rise to the tax or upon the net proceeds of sale thereof (as the case may be) and secondly, upon my residuary estate **PROVIDED ALWAYS** that where an asset forming part of my residuary estate is disposed of or deemed to be disposed of by my Trustees my Trustees shall have the power to determine from which part or parts of the capital or income of my residuary estate my Trustees will pay any income or capital gains tax liability flowing from the disposal or deemed disposal;
- (e) where a devise of real property is made in this Will, which property is charged with a debt or on which money is owing, that gift of real estate is primarily liable for the debt pursuant to Section 145 of the *Conveyancing Act 1919 (NSW)* or any statutory provision that replaces it, but to the same effect unless a contrary intention is described in this Will; and
- (f) no new Trustee of my Will shall be appointed (by a person having the power to appoint) in place of a Trustee either original or substituted and whether appointed by the Court or otherwise on the sole ground that the Trustee:
 - (i) remains out of New South Wales for more than 1 year without having properly delegated the execution of the Trust; or
 - (ii) remains out of New South Wales for more than 2 years.

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13. If any of my Trustees practises a profession or conducts a business, then he or she:

- (a) is entitled to be paid all usual professional or other fees for work done and charges made and expenses incurred (as executor or trustee or both) by that person or his or her firm or business on the same basis as if he or she were not one of my executors and trustees but employed to act on their behalf;
- (b) may in addition apply to the Court for commission for administering my estate; and

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- (c) is entitled to recover Goods and Services Tax in respect of the fees, charges, expenses and commission referred to in clauses 13(a) and 13(b).*

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*//13// Testator *//14// Testatrix *

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Witness

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Witness

Dated:

*//13//

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Signature of Testator

SIGNED by the Testator in the presence of us both being present at the same time and attested by us in the presence of him and of each other.*

*//14//

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Signature of Testatrix

SIGNED by the Testatrix in the presence of us both being present at the same time and attested by us in the presence of her and of each other.*

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Signature of Witness

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Print name of Witness in full

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Address of Witness

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Occupation of Witness

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Signature of Witness

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Print name of Witness in full

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