



Adapt. Chart new markets.

LAST WILL AND TESTAMENT

of

:= CAPTAIN CICERO

.....
:= Captain Cicero

.....
First witness

.....
Second witness

CONTENTS

1. **Last will and testament** 3

2. **Definitions and interpretation** 3

3. **Executor** 7

4. **Payment of debts and expenses** 8

5. **Eligibility criteria and substitution of Beneficiaries** 9

6. **Whole estate** 11

7. **Personal items** 11

8. **Beneficiary Support Trusts** 11

9. **Rights of Occupancy** 14

10. **Testamentary discretionary trusts** 16

11. **Adjustment of entitlements** 18

12. **Powers of Executors** 19

13. **Controlled Trusts** 21

14. **Funeral directions** 21

15. **Excluded persons** 21

16. **General** 22

SCHEDULE 1 | **Index of Beneficiaries** 23

SCHEDULE 2 | **Beneficiary Support Trusts** 24

SCHEDULE 3 | **Rights of Occupancy** 25

SCHEDULE 4 | **Cremation directions** 26

SCHEDULE 5 | **Excluded persons** 27

EXECUTION PAGE 28

ANNEXURE 1 - Model Testamentary Discretionary Trust Terms

1. Last will and testament

- 1.1 I, ::= Captain Cicero presently of C/- Work Club, L8/99 Elizabeth Street, Opp. NSW Supreme Court, Sydney NSW 2000, Free, Friendly + Helpful Chatbot (*I, me* or the *Testatrix*) hereby:
- (a) revoke any and all prior wills and other testamentary acts previously made by me; and
 - (b) declare this to be my last will and testament.
- 1.2 This will is made in contemplation of marriage generally and shall not be revoked or voided in the event of my subsequent marriage (whether solemnised or not) to any person.

2. Definitions and interpretation

Index of Beneficiaries

- 2.1 An index of Beneficiaries is provided in Schedule 1. In this will, a reference to a term set out in column 1 of the table in Part 1 or Part 2 of Schedule 1 is a reference to the corresponding person named in column 2 of that table respectively (subject to the operation of clause 5, which sets out the eligibility criteria and substitution mechanics for Beneficiaries).

Definitions

- 2.2 The following definitions apply in this will:

Beneficiary means, subject to clause 5, in respect of each Gift prescribed by this will, each person, class of persons, or individual within a class of persons, expressly specified in this will (and/or in any list in relation to my Personal Chattels created for the purposes of clause 7.1) as a recipient of that Gift and, for the avoidance of doubt, includes Reserve Beneficiaries and Substitute Beneficiaries and excludes all Excluded Persons.

Beneficiary Support Trust has the meaning given in clause 8.1.

Child means, in respect of a particular person, any:

- (a) biological child:
 - (i) including any:
 - (A) child born as a result of artificial conception procedures and/or under surrogacy arrangements; and/or
 - (B) posthumously conceived child, provided that affirmative consent to posthumous conception was given by either biological parent; and
 - (ii) excluding any child conceived from donated sperm in respect of the donor thereof unless the donor by deed poll expressly declares that child to be his “Child” for the purposes of this will; and
- (b) legally adopted child,

of that person (whether born or adopted before or after the date of this will and including any child conceived but not yet born at the date of my death), and includes any step-child or child under the foster care of that person.

Controlled Trust means any trust existing at the time of my death (for the avoidance of doubt, not including any trust constituted by this will) in which I held, at that time, a Position of Control.

Death Benefits Dependant has the meaning given in section 302-195 of the *Income Tax Assessment Act 1997* (Cth).

Directly means, in respect of the receipt of any Gift, or share of a Gift, by a Beneficiary, the direct receipt thereof by that Beneficiary free from any TDT.

Digital Assets means:

- (a) all digital files and information (including emails, digital music, digital photographs, digital videos, software licenses, social networking accounts, online banking/financial accounts, domain registrations, web hosting accounts, etc) that I own or control, regardless of the ownership of the physical digital devices (such as computers, tablets, smartphones, servers, etc) on which they are stored or through which they may be accessed;
- (b) all such digital devices that I own or control; and
- (c) all passwords and other credentials for accessing such digital files, information and devices.

Excluded Person means each person set out in column 1 of the table in Schedule 5.

Executor means an executor and trustee of my estate from time to time as appointed under clauses 3.1 and 3.2.

Family Law means the *Family Law Act 1975* (Cth), the *Family Law Regulations 1984* (Cth), the *Family Law Rules 2004* (Cth), the *Family Court Act 1997* (WA), Chapter 2 of the *Federal Circuit Court Rules 2001* (Cth) and related common law.

Gift means any allocation of assets (for the avoidance of doubt, including a proportionate share of any assets) made, given or granted by the Testatrix pursuant to the operation of this will, whether monetary or non-monetary and whether relating to any specific asset and/or the whole estate or the residual estate generally:

- (a) excluding any beneficiary support trust, right of residence or life interest but including the reversion or future reversion of the remainder of any beneficiary support trust, right of residence or life interest; and
- (b) for the avoidance of doubt, including any allocation of assets to any Substitute Beneficiary.

Household Chattels means furniture, curtains, blinds, drapes, carpets, linen, crockery, glassware, ornaments, domestic appliances and utensils, garden appliances, utensils and effects and other chattels of ordinary household use or decoration, excluding:

- (a) liquors, wines and consumable stores;
- (b) domestic animals and racing animals;
- (c) motor vehicles, boats and aircrafts;
- (d) original paintings and other original works of art; and
- (e) trophies, clothing, jewellery and other chattels of a personal nature.

Insolvency Event means, in respect of a particular person, the occurrence of any one or more of the following events in relation to that person:

- (a) a bankruptcy notice is issued against the person;
- (b) a receiver or a trustee for creditors or in bankruptcy is appointed to any of the person's property;
- (c) the person proposes or enters into an arrangement or composition with, or an assignment for the benefit of, any of the person's creditors;
- (d) the person proposes or effects a moratorium involving any of the person's creditors;
- (e) the person stops or suspends, or threatens to stop or suspend, the payment of all or a class of its debts;
- (f) the person is unable to pay all of the person's debts as they fall due or is presumed to be insolvent under any applicable law;
- (g) the person becomes an "insolvent under administration" as defined in section 9 of the *Corporations Act 2001* (Cth); or
- (h) anything having a substantially similar effect to any of the events specified in paragraphs (a) to (g) of this definition happens to the person under the law of any jurisdiction.

Lineal Descendants means, in respect of a particular Beneficiary, any and all lineal descendants (including Children, grand-children, great-grandchildren, etc) of that Beneficiary but excluding all Excluded Persons.

Model Testamentary Discretionary Trust Terms means the form of testamentary discretionary trust terms set out in Annexure 1 to this will and signed by me for the purposes of identification.

Occupancy Beneficiary has the meaning given in clause 9.1.

Personal Chattels means:

- (a) Household Chattels;
- (b) liquors, wines and consumable stores;
- (c) domestic animals and racing animals;
- (d) motor vehicles, boats and aircrafts;
- (e) original paintings and other original works of art; and
- (f) trophies, clothing, jewellery and other chattels of a personal nature.

Position of Control means, in respect of any trust, any position (including any position held by way of being a shareholder and/or director of any associated company, if applicable) whereby:

- (a) the person from time to time holding that position has the power to appoint, remove or replace the appointor, guardian or trustee of that trust; or
- (b) the consent of the person from time to time holding that position is required before the trustee of that trust may make any determination, including a determination as to the distribution of income or capital from that trust.

Protected Proceeds means the proceeds of any superannuation accounts and/or life insurance policies and any other property or benefits not mandatorily required by law to be used for the payment of debts of the estate.

Registered Charity means an entity that is registered as a charity with the Australian Charities and Not-for-profits Commission (or any regulatory body that replaces it) and which is endorsed, as an organisation as a whole, as a deductible gift recipient by the Australian Taxation Office.

Reserve Beneficiaries means the persons set out or described in Part 3 of Schedule 1.

Right of Occupancy has the meaning given in clause 9.1.

Substitute Beneficiary means any person to whom a Gift is allocated in accordance with the operation of clause 5.

Supported Beneficiary has the meaning given in clause 8.1.

Superannuation Death Benefits means payments or proceeds from any superannuation fund or similar regulated investment account arising from my death.

TDT means a testamentary discretionary trust created or arising under or pursuant to this will in accordance with clause 10.

References to "estate"

- 2.3 Subject to clauses 11.1 and 11.2, in this will, unless the context otherwise requires, a reference to my "estate" is to be read as meaning so much of it as remains after:
- (a) the payment pursuant to clause 4 of all debts, expenses and taxes payable in relation to the estate; and
 - (b) any specific allocations of Personal Chattels made pursuant to clause 7.

Australian assets only

- 2.4 This will applies only to the assets of my estate which, at the time of my death, are situated within the jurisdiction of the courts of Australia and not elsewhere and, unless the context requires otherwise, any reference in this will to my estate or to any assets of my estate is a reference to such Australian assets only.

References to family relationships

- 2.5 In this will, unless the context requires otherwise, a reference to a:
- (a) relationship of lineal descendency (eg, "*parent*", "*father*", "*mother*", "*grandchild*", "*great-grandchild*", etc) and/or sibling relationship (eg, "*sibling*", "*brother*", "*sister*", etc) shall have a meaning that corresponds to the definition of the term "Child" in clause 2.2; and
 - (b) marital, domestic or family relationship includes a relationship that comes into existence after the date of this will.

Other rules of interpretation

- 2.6 The following rules of interpretation apply in this will unless the context requires otherwise:
- (a) headings in this will are for convenience only and do not affect its interpretation or construction;

- (b) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (c) a reference to a document (including this will) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;
- (d) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this will;
- (e) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (f) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any governmental agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
- (g) a reference to a person includes a person who is born or that comes into existence after the date of this will;
- (h) a reference to writing includes any communication sent by post, facsimile or email;
- (i) all monetary amounts are in Australian currency;
- (j) a reference to "*allocation*" of a Gift, or share of a Gift, to a particular Beneficiary includes a reference to the relevant assets being directed to be placed into a TDT for the benefit of that Beneficiary;
- (k) a reference to time refers to time in Melbourne, Victoria and time is of the essence;
- (l) the meaning of general words is not limited by specific examples introduced by "*include*", "*includes*", "*including*", "*for example*", "*in particular*", "*such as*" or similar expressions;
- (m) a reference to any thing is a reference to the whole and each part of it;
- (n) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (o) words in the singular include the plural and vice versa; and
- (p) a reference to one gender includes a reference to the other genders.

3. Executor

Appointment of Executor

3.1 I hereby appoint as the executor and trustee of my estate my friend, Donald Duck presently of C/- Fox Studios, Sydney NSW 2000.

Substitute Executors

3.2 If: