

In the Supreme Court of Victoria In its Probate Jurisdiction

In the Will of **CAROLYN LEIGH BIELE**

Late of 102 Newcastle Street, Newport, Victoria, Retired, deceased.

Be It Known that the Registrar of Probates orders that:

Probate of the Will (a true copy of which is annexed) of the abovenamed deceased who died on 17 September 2020 be granted to **RODNEY CARL ARMSTRONG** of Apartment 501, 73 Flinders Lane, Melbourne, Victoria, and **HUGH JAMES BASSET** of Apartment 501, 73 Flinders Lane, Melbourne, Victoria.

Date made and authenticated: 30 December 2020



Kathrine Price
REGISTRAR OF PROBATES

This Will is made by me CAROLYN LEIGH BIELE of 102 Newcastle Street, Newport in the State of Victoria.

This Will is made on the 7th day of December 2012.

PART A – GENERAL PROVISIONS

1. REVOCATION

I revoke all previous testamentary acts.

2. APPOINTMENT OF EXECUTORS AND TRUSTEES

Appointment of Executors

2.1 I appoint RODNEY CARL ARMSTRONG (“Rodney”) and HUGH JAMES BASSET (“Hugh”) both of 501 Sargood House, 73 Flinders Lane, Melbourne to be my executors.

2.2 If both Rodney and Hugh predecease me or are unable or unwilling to act or continue to act as executors, I appoint KATHRYN MARY LIDDELL Solicitor of Level 7, 555 Lonsdale Street, Melbourne (“Kathryn”) in their place.

2.3 If Kathryn refuses, is unwilling or is unable to act or continue to act as my executor or is not a legal practitioner practicing at the firm of Williams Winter or its successor at the date of my death, I appoint in her place, the senior director, principal or partner (as the


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case may be) for the time being of Williams Winter Solicitors.

2.4 For the purpose of this and the preceding subclause:

- (a) seniority shall be determined by date of appointment as a director, principal or partner;
- (b) if two (2) or more directors, principals or partners are appointed on the same day, the oldest of those directors, principals or partners shall be appointed as my Executor; and
- (c) if the firm of Williams Winter Solicitors has amalgamated with another firm or has changed its name, then the senior director, principal or director (as the case may be) of that firm shall be appointed as my Executor.

2.5 My executors shall be the trustees of any trust under this Will unless or until another trustee is appointed pursuant to this Will or any relevant statute.

3. PARTS OF WILL

This Will is in two main parts – in general terms, *Part A* sets out how my estate is to be divided and *Part B* includes general administrative provisions.

4. EXECUTOR TO HOLD ON TRUST

4.1 In the event that:


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- (a) superannuation death benefits;
- (b) the proceeds of a life insurance policy;
- (c) compensation payments; or
- (d) any other proceeds;

not required by law to be used for the payment of debts are paid to my estate in consequence of my death, I direct that my executors hold the proceeds on separate trusts on the same terms as the balance of my estate and distribute them accordingly.

4.2 Subject to the preceding subclause, my executors shall hold my estate on trust and, subject to the powers set out in this Will, after the:

- (a) selling, calling in or converting into money of any part of my estate; and
- (b) payment of all or any debts and testamentary expenses associated with my death or the administration of my estate;

shall deal with the balance of my estate as provided in the succeeding clauses of this Will.

4.3 I draw my Executors' attention to the fact that, at the time of executing this Will, I have a member account balance in my name in the ESS Superannuation Fund.


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5. GIFT OF PERSONAL CHATTELS

5.1 I give, free of all duties and encumbrances, my personal and household chattels as defined in the statute governing the administration of Wills and probate including any motor vehicle I own at the date of my death ("my chattels") to my executors to be distributed in accordance with this clause.

5.2 I give my chattels to MARGARET ANNE BIRD ("Margaret") of East Hawthorn, whose date of birth is 29 July 1964 and who resided at 102 Newcastle Street, Newport between 1983 and 1989 provided that she survives me by thirty (30) days.

5.3 If Margaret predeceases me or fails to survive me by thirty (30) days or to the extent that she does not require any of my chattels then I give the balance of my chattels to such of Rodney and Hugh as survive me by thirty (30) days and if more than one to them jointly or to be divided between them as they see fit.

6. GIFTS

6.1 I give the sum of \$50,000.00 increased from the date of this Will to the date of my death by the Consumer Price Index in accordance with the formula set out in Clause 6.3 to such of Rodney and Hugh as shall agree to act as executors of my Will and attain a Grant of Probate


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of my Will and if more than one, to them in equal shares.

6.2 The gift set out in this clause is to be paid to Rodney and Hugh in recognition of their pains and trouble in acting as my executors and in lieu of any other claim they may have for commission.

6.3 The gift payable pursuant to sub clause 6.1 shall be the sum of \$50,000.00 indexed from the date of this Will until the date of my death using the following formula:

$$"G" = \$50,000.00 \times \text{CPID}/\text{CPIW}"$$

Where

"G" means the gift payable under sub clause 6.1;

"CPID" means the Consumer Price Index Figure for the quarter preceding my date of death;

"CPIW" means the Consumer Price Index figure for the quarter preceding the date of this Will;

"Consumer Price Index" means the index published by the Australian Government Statistician under the heading "All Groups" for Melbourne or any index adopted by the Australian Government Statistician in place of the aforesaid index.


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7. DISTRIBUTION OF BALANCE OF ESTATE

Margaret Bird to be Beneficiary

7.1 If Margaret survives me by thirty (30) days, I give the balance of my estate to her absolutely.

Alternative Provisions

7.2 If Margaret does not survive me by thirty (30) days or renounces her interest under the terms of this Will then the remaining clauses of this Part apply instead of this clause.

8. DIVISION AND DISTRIBUTION OF REMAINING BALANCE OF ESTATE

8.1 My executors shall divide the balance of my estate not already dealt with under the preceding clauses of this Will ("the remaining balance") and shall hold on trust and dispose of the remaining balance as outlined in this clause.

8.2 I give 75% of the remaining balance to the OLIVIA NEWTON JOHN CANCER AND WELLNESS CENTRE of Austin Health, Burgundy Street, Heidelberg for the general purposes of the Centre.

8.3 I give 25% of the remaining balance to the CAT PROTECTION SOCIETY OF VICTORIA of 200 Elder Street, Greensborough for its general purposes.


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8.4 If either of the organisations referred to in the preceding subclauses cannot receive a gift or is not in existence at the date of my death then the provision for the relevant organisation shall instead be made to the charitable organisation in Australia that my executors in their absolute discretion consider most nearly fulfils the objects I intend to benefit.

8.5 I direct that the receipt of the Treasurer or other proper officer of the beneficiaries referred to in this clause shall be a complete discharge to my executors who shall not be bound to see to the application of such bequests.

9. NO PROVISION

9.1 I have made no provision in this Will for my brother RICHARD LEIGH BIELE as we have had minimal contact for the last thirty five (35) years and I have no obligation to make provision for him.

10. FUNERAL ARRANGEMENTS

10.1 I direct that there shall be no death or funeral notices placed in any form of media after my death.

10.2 No funeral service shall be held in my memory.

10.3 My body shall be buried at a private burial in my plot at the Altona Lawn Cemetery adjacent to the graves of my adoptive parents. Other than the required officials it



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is my wish that no one save for my executors be in attendance at the burial.

10.4 My executors shall arrange a plaque for my grave to bear the following inscription:

Carolyn Leigh Biele

3/06/1946 – DOD

“... go said the bird, human kind cannot bear very much reality”.

T S Eliot

PART B – ADMINISTRATIVE PROVISIONS

11. INTERPRETATION

In this Will:

11.1 The term:

“capital” includes the corpus of a trust;

“death benefits” in relation to superannuation has the meaning given to it by subsection 3(2) of the Superannuation (Resolution of Complaints) Act 1993;

“estate” includes both real and personal property and

“property” has a corresponding meaning;

“my executors” means my executors or legal personal representatives for the time being;

“my trustees” means my trustees for the time being;

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11.2 A reference to “clause”, “subclause”, “paragraph” or “subparagraph” in this Will is intended to refer to and include provisions illustrated by the following:

“ 1. Clause

1.1 Subclause

a) Paragraph

i) Subparagraph”

11.3 Unless the contrary is expressly provided, a reference to the singular shall include the plural and vice versa.

11.4 While headings are used as a point of reference in this Will, they shall not be taken into account in the interpretation of its clauses.


11.5 If by reason of the inclusion of any word, description or provision in this Will, all or any part of this Will would be invalid, then this Will is to be construed as if the word, description or provision were not included in this Will.

11.6 The exercise of the powers of my executors and the trustees of any trust established under this Will may not:

- (a) affect the beneficial entitlement of any beneficiary to any amount allocated for, or otherwise absolutely and irrevocably vested in, the beneficiary prior to the date of the exercise;


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- (b) infringe any applicable law, such as, but not limited to the law against perpetuities; or
- (c) have the effect of resulting in any provision in Part A of this Will becoming void.

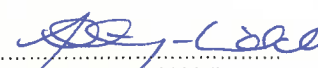
11.7 Unless expressly stated otherwise, references in this Will to any statute means a statute of the Commonwealth of Australia or of its States or Territories and includes any statutory amendment or re-enactment of a statute or any substitute statute.

12. GENERAL POWERS OF EXECUTORS AND TRUSTEES

12.1 Subject to any express requirement in this Will otherwise, my executors and the trustees of any trusts established by the terms of my Will:

- (a) shall have all the powers, authorities and discretionary powers of a natural person, including but not limited to the power to invest and change investments freely as if they were beneficially entitled to them, together with the specific powers set out in the succeeding clauses; and
- (b) in the exercise of their general and specific powers, shall not be restricted or obligated by provisions relating to trustees contained in any


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legislation of the Commonwealth of Australia or any of its States or Territories.


12.2 The specific powers set out in the succeeding clauses shall be in addition to, and shall not limit the generality of, the general powers set out in this clause.

13. OTHER SPECIFIC POWERS OF EXECUTORS AND TRUSTEES

13.1 My executors and the trustees of any trusts established by the terms of my Will shall have the following powers to:

- (a) open and to operate accounts with any bank or financial institution;
- (b) apply for the maintenance, education, advancement or benefit of a beneficiary the whole or any part of the capital and income of that part of my estate to which that beneficiary is entitled or may in the future be entitled;
- (c) sell, lease, exchange or otherwise dispose of assets in my estate on such terms as they consider expedient as if they were the absolute beneficial owner;
- (d) sell, call in and convert into money the whole or any part of my estate;


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- (e) pay all or any of the debts, taxes and funeral and testamentary expenses associated with my death, the administration of my estate, or in consequence of my death;
- (f) treat any income derived from assets held by my executors and trustees pending the satisfaction of a contingency or during a life interest, as arising at the time the income is received by the executors or trustees, and not apportioned to any other time or period;
- (g) postpone the sale and conversion of any part of my estate for so long as they think fit without being responsible for loss;
- (h) calculate net income in accordance with taxation, accounting or other definitions or concepts;
- (i) separately record, identify, pay, allocate, apply or accumulate any income, right, credit, rebate or capital and to do so by reference to any categories, source, class or other means of identification;
- (j) appropriate any asset, share or interest in an asset, including the benefit of any loan owing to me at the date of my death ("an asset") of the estate not specifically given to a beneficiary in full or partial satisfaction of a legacy or share of my



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- estate without needing to obtain the consent of any beneficiary;
- (k) use income, capital or both income and capital to pay capital gains tax levied on the disposal of an asset, and apportion liability for that tax;
 - (l) delegate in writing, the exercise of any power or discretion and to execute any powers of attorney or other instruments necessary to effect the delegation;
 - (m) nominate in writing any specific powers that are within the general or specific powers by virtue of this Will or any statute or rule of law;
 - (n) restrict in writing the temporary or permanent exercise of any of the preceding powers.

14. ENTITLEMENT TO CHARGE

14.1 Any Executor, administrator or trustee under this Will being a legal practitioner will be entitled, in connection with the trusts in this Will and including in respect of acts that an Executor, trustee or legal personal representative could have done personally as if he or she were not such an Executor, trustee or legal personal representative, to:

- (a) act in a professional capacity and shall be entitled to charge and be paid all professional


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and other charges for any business or act done by him/her or his/her firm in connection with the trusts hereof;

- (b) subject to retaining the responsibility for the management of any business or act done in relation to the administration of my Estate or My Trusts or dealing with my Superannuation Death Benefits, delegate the work done to an appropriate third party (including a member of the Executor or trustee's firm), with such work to be charged, separately to the entitlement to commission, at the hourly or other rate applicable to the person performing the work; and
- (c) charge separately at the hourly or other rate applicable to the person performing the work for the ongoing administration of any trusts created under this Will;
- (d) charge a commission in accordance with the next clause for acting as my Executor or legal personal representative provided that an Executor shall not be entitled to charge both a commission and professional charges for the same work.



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15. CALCULATION OF EXECUTOR'S COMMISSION

15.1 The commission referred to in the previous clause shall be charged on an hourly rate basis calculated as an amount equivalent to the highest hourly rate of a principal, director or partner of the firm Williams Winter Solicitors or such other firm as acts for my Executors from time to time plus thirty percent (30%) of such rate, and paid in respect of any business or act done by my Executor in respect of the administration of my Estate or dealing with any of the Funds Under Administration.

15.2 In this clause only, "Funds Under Administration" shall include the total of my estate, my superannuation fund and the assets of any proprietary limited companies of which I am a share holder in proportion to the value of my shares in those companies.

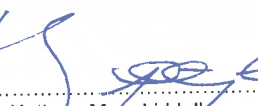
16. PAYMENT OF TAXES OR DUTIES

My executors must allocate the burden of and pay or adjust for any tax or other duty imposed by any jurisdiction on:

- (a) death benefits paid in consequence of my death;
- (b) the capital or income of my estate; or
- (c) assets forming part of my notional estate;

to the extent that is permissible, as though it were a testamentary expense.


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SIGNED AND ACKNOWLEDGED by the said CAROLYN LEIGH BIELE as and for her last Will in the presence of us both present at the same time who at her request and in her sight and presence and in the sight and presence of each other have hereunto subscribed our names as attesting witnesses



Carolyn Leigh Biele



Kathryn Mary Liddell
Level 7, 555 Lonsdale Street
Melbourne Vic 3000
Solicitor



Katie Louise McRae
53 Bayview Crescent
The Basin Vic 3154
Legal Secretary

