**WILL GUIDELINES & INSTRUCTION SHEET**

It is important for each of us, over the age of 18, to have a Will. Without one the law decides for you how your estate is to be distributed.

The following is a list of the information you need and the things you should consider. They may not all be relevant and there may be aspects that you will wish to discuss. We are happy to help and invite you to forward the completed or semi-completed form to us by email at caitlin@swanfamilylawyers.com.au or post it to us at 21 Roper Street, Adelaide SA 5000.

We will contact you when we receive the form, discuss any issues raised and the cost of preparing the Will.

Please tick: ☐New Will

 ☐Review of existing Will (please advise if we prepared your existing Will. If not, please

 provide a copy of the Will)

|  |
| --- |
| PART A |

1. **YOUR PERSONAL DETAILS**

Surname: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Given Name/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other Names known by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Can we send correspondence to the above address? ☐Yes ☐No: Please specify alternate address

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

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

Telephone No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (home) (work)

Mobile: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Preferred email address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Birth: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(You must be at least 18 to make a valid Will)

Occupation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of employer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Relationship status: ☐Single

 ☐Married

 Date of Marriage: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ☐De Facto Relationship

 Date commenced: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ☐Widowed

 Date widowed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ☐Separated

 Date separated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ☐Divorced

 Date divorced: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **YOUR SPOUSE/PARTNER**

Surname: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Given Name/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other Names party known by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Occupation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **YOUR CHILDREN**

|  |  |  |  |
| --- | --- | --- | --- |
| **Full Name** | **Address** | **Sex** | **Age** |
|  |  |  |  |
|  |  |  |  |
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|  |  |  |  |

**STEP CHILDREN** (IF APPLICABLE)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Full Name** | **Address** | **Sex** | **Age** | **Name of other parent** |
|  |  |  |  |  |
|  |  |  |  |  |
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|  |  |  |  |  |

Have any of your children predeceased you? ☐ Yes ☐No

If yes, did they leave any of their own children surviving? ☐ Yes ☐No

1. **DETAILS OF YOUR ASSETS**

We need details of your assets and liabilities so that no issues are overlooked in your Will.

1. **REAL ESTATE**
2. **Address:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name/s of registered proprietor/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Owned: ☐ Solely ☐ Joint tenants ☐ Tenants in Common

Name/s of other joint tenants or
tenants in common (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Approximate value $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mortgage/Lease? ☐No

 ☐Yes \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 To whom

 $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Amount

1. **Address:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name/s of registered proprietor/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Owned: ☐Solely ☐Joint tenants ☐Tenants in Common

Name/s of other joint tenants or
tenants in common (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Approximate value $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mortgage/Lease? ☐No

 ☐Yes \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 To whom

 $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Amount

1. **Address:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name/s of registered proprietor/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Owned: ☐Solely ☐Joint tenants ☐Tenants in Common

Name/s of other joint tenants or
tenants in common (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Approximate value $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mortgage/Lease? ☐No

 ☐Yes \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 To whom

 $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Amount

1. **BANK ACCOUNTS**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Bank** | **Branch** | **Account type** | **Estimated Value** | **Sole/Joint** **(with whom)** |  |
|  |  |  | $ |  |  |
|  |  |  | $ |  |  |
|  |  |  | $ |  |  |
|  |  |  | $ |  |  |
|  |  |  | $ |  |  |
|  |  |  | $ |  |  |

1. **SHARES/DEBENTURES:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Company** | **No. of Shares/Stock** | **Type** | **Sole/Joint** | **Estimated Value** |
|  |  |  | $ | $ |
|  |  |  | $ | $ |
|  |  |  | $ | $ |
|  |  |  | $ | $ |
|  |  |  | $ | $ |

1. **CAR, CARAVAN,BOAT:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Make & Year** | **Model** | **Registered in whose name** | **Estimated Value** |
|  |  |  | $ |
|  |  |  | $ |
|  |  |  | $ |
|  |  |  | $ |
|  |  |  | $ |

1. **VALUABLES, JEWELLERY, ANTIQUES:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Location** | **Value** | **Insurance Details**(if applicable) |
|  |  | $ |  |
|  |  | $ |  |
|  |  | $ |  |
|  |  | $ |  |
|  |  | $ |  |

1. **SUPERANNUATION, LIFE ASSURANCE:**

Significant funds may be held in superannuation but superannuation is not necessarily an asset of your estate. The trustee of the superannuation fund has discretion as to how to apply the money even if you have nominated your estate as beneficiary. To ensure the trustee is obliged to pay your death benefit in the manner you direct you need to have made a valid Binding Death Benefit Nomination.

**Please list details of your superannuation**

(NB: if it is a self managed super fund, please bring a copy of the trust deed to your appointment)

|  |  |  |
| --- | --- | --- |
| **Company/Fund Name** | **Value** | **Beneficiaries Named/Nominated** |
|  | $ |  |
|  | $ |  |
|  | $ |  |
|  | $ |  |

1. **OTHER ASSETS**

**Do you own assets overseas?** ☐Yes (provide details below) ☐No

|  |  |  |  |
| --- | --- | --- | --- |
| **Country Where Asset Owned** | **Type of asset** | **Estimated Value** | **Sole/Joint** |
|  |  | $ |  |
|  |  | $ |  |
|  |  | $ |  |

**Have you loaned monies to family members/others (to be brought into account for distribution purposes)?**

☐Yes (provide details below) ☐No

|  |  |  |  |
| --- | --- | --- | --- |
| **Full Name** | **Address** | **Relationship to You** | **Estimated Value** |
|  |  |  | $ |
|  |  |  | $ |
|  |  |  | $ |

**Have you or your spouse/partner set up any Family Discretionary Trusts? (not normally an estate asset but succession advice required)**

☐Yes (provide details below) ☐No

|  |  |  |  |
| --- | --- | --- | --- |
| **Trust Name** | **Date Established** | **Trustee** | **Appointor/Guardian** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Have you or your spouse/partner set up any private companies?**

☐Yes (provide details below) ☐No

|  |  |  |  |
| --- | --- | --- | --- |
| **Company Name** | **Does it Own Assets in its Own Right?** | **Directors** | **Shareholders** |
|  | ☐Yes ☐No |  |  |
|  | ☐Yes ☐No |  |  |
|  | ☐Yes ☐No |  |  |

**Your Business:**

1. Are you involved in any business partnership? ☐Yes ☐No
2. Do you run your own business? ☐Yes ☐No
3. If yes, are there other persons running the business with you? ☐Yes ☐No
4. Have you put in place any agreements for succession of the

business we need to be aware of? ☐Yes ☐No

Provide details briefly below if you answered yes to any of the above questions. Consideration may need to be given to these issues in your Will and we can discuss this further with you.

1. **YOUR LIABILITIES**

It is important that we know about any contingent liabilities (eg guarantees that you and/or your spouse/partner might have given for your business, members of your family, or others) as otherwise your Executors may not know of these, and this can create problems.

Mortgage debt: ☐Yes – estimated value $ \_\_\_\_\_\_\_\_\_\_\_\_ ☐No

Credit cards: ☐Yes – estimated value $ \_\_\_\_\_\_\_\_\_\_\_\_ ☐No

Personal loans: ☐Yes – estimated value $ \_\_\_\_\_\_\_\_\_\_\_\_ ☐No

Car loans: ☐Yes – estimated value $ \_\_\_\_\_\_\_\_\_\_\_\_ ☐No

Business loans: ☐Yes – estimated value $ \_\_\_\_\_\_\_\_\_\_\_\_ ☐No

List any other liabilities outstanding (including contingent liabilities eg guarantees):

1. **YOUR TAXATION/FINANCIAL AFFAIRS**

Do you have an accountant? ☐Yes – provide name and address:

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

 ☐No

Do you have a financial planner? ☐Yes – provide name and address:

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

 ☐No

|  |
| --- |
| PART B |

1. **FUNERAL**

It is advisable to let your family and executors know about preferences you have in relation to your funeral rather than rely on a clause in your Will which may only be reviewed after your funeral. If you do wish to confirm your preference in your Will however, please indicate your wishes (if any):

|  |  |
| --- | --- |
|  | ☐burial☐cremation☐use of body for medical purposes (organ donation)☐use of body for medical research purposes (donated to  research/university facilities) |

1. **EXECUTORS AND TRUSTEES**

You need to decide who you want to appoint as executor/s and trustee/s. An executor can be a beneficiary of your estate and it is sensible to appoint two at any time. It is the executor’s job to carry out your wishes set out in your will, including

1. Locating your Will and notifying the beneficiaries of your death.
2. Checking that all assets are safe and that insurances are in order.
3. Valuing the estate. This involves identifying all assets and liabilities. The value of each asset at the time of death must be ascertained by way of written confirmation from bank, financial institution, share registries, etc.
4. Obtaining Probate or Letters of Administration from the Supreme Court if necessary. The executor will usually instruct a solicitor to do this.
5. Calling in all assets, attending to payment of any liabilities and distributing the remaining assets in accordance with the Will.

Please complete who you wish to appoint as your executor(s) and substitute executor(s) ie who will take over the role in the event that your first choice fails:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Full Name | Address | Relationship to you | Occupation | Status |
|  |  |  |  | ☐Sole Executor☐Joint Executor☐Substitute |
|  |  |  |  | ☐Sole Executor☐Joint Executor☐Substitute |
|  |  |  |  | ☐Sole Executor☐Joint Executor☐Substitute |
|  |  |  |  | ☐Sole Executor☐Joint Executor☐Substitute |

1. **BENEFICIARIES**

These are the people who receive the benefit of your estate upon your death. Here are some scenarios to consider:-

1. It is common for husbands and wives to appoint each other as sole beneficiaries and sole executors. It is advisable to make provision for a “second tier” that is, what is to happen when the spouse has already died. Typically, many people then choose to give the estate to their children, if any
2. Another consideration is at what age children are to get their share – 18, 21, 25 or some other age? At the time of your death, your children may have children of their own. It is common to provide that if a child of yours has died leaving children of their own, the share of your deceased child should go to the deceased child’s children. If a child of yours dies before you leaving no children of their own, then your surviving children obtain the share.
3. **SPECIFIC GIFTS**
	1. Do you wish to leave any specific gifts?

(eg. Sum of money to a charity, jewellery or family heirlooms)

☐Yes – please provide a brief outline below (including each gift, recipients’ full names and

 addresses and relationship to you

☐No – proceed to Part 5 – Distribution of Estate

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

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* 1. Is the gift to be made even if your spouse/partner is still alive ☐Yes ☐No
	2. Do you wish to make any gift to a charity or charitable organisation? ☐Yes – provide details below

 ☐No

[Provide full details of charity and any specific purpose for which you wish the gift to be applied]

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

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1. **DISTRIBUTION OF ESTATE**
	1. Are any of your beneficiaries disabled? ☐Yes ☐No
	2. Are any of your beneficiaries currently bankrupt ☐Yes ☐No

or likely to become so?

* 1. Do any of your beneficiaries receive a pension? ☐Yes ☐No
	2. How do you wish to distribute your residuary estate? (ie. The balance of your estate after the payment of all your liabilities, funeral expenses and other duties and any specific gifts made)
		1. To your spouse/partner? ☐Yes ☐No
		2. To your child/ren equally if spouse predeceases you?
		3. At what age are your children to receive their entitlement? (please circle) 18 / 21 / 25
		4. If your child/ren predecease you and leave children of their own, ☐Yes ☐No

are those children to take by substitution?

* + 1. If you are leaving your beneficiaries considerable assets in your Will, it may be appropriate to consider including Testamentary Trusts in your Will. These have considerable income-splitting and asset protection and taxation advantages.

Would you like us to discuss this further with you? ☐Yes ☐No

1. **GUARDIANS**

If any of your children are under the age of 18, you may wish to consider who to appoint as their guardian(s). They will have the daily care and control of your children. We recommend that if more than one guardian is to be appointed that they be from the same household.

Although an indication of your wishes, the appointment of a guardian is not binding. In the event of a dispute, your executors, and if unresolved, the Family Court of Australia will decide who will be the guardian/s.

If any of your children are minors (under 18), who would you like to appoint as guardian(s)?

|  |  |  |
| --- | --- | --- |
| **Full Name** | **Address** | **Age** |
|  |  |  |
|  |  |  |

1. **GENERAL MATTERS**
	1. Do you currently have in place an Enduring Power of Attorney? ☐Yes ☐No
	2. Do you currently have in place an Advance Care Directive? ☐Yes ☐No