SUPREME COURT OF QUEENSLAND

REGISTRY: *(Place)*

NUMBER:

In the [Will/Will and Codicil/Estate of] (*name of deceased including any aliases in which assets are held)* deceased

Last address: *(insert last address of deceased)*

[Address in will – if different]: *(insert address in will)*

**AFFIDAVIT TO BE USED WHEN THE WILL IS NOT DATED AND NO ONE CAN DEPOSE TO THE ACTUAL DATE OF EXECUTION**

*(Full name of deponent)* of *(residential or business address)[[1]](#endnote-1)* states on oath [or: solemnly and sincerely affirms and declares]:

1. I am the sole executor [or as the case may be] named in the document purporting to be and contain the last will of the deceased, who died at (*as per certificate of death*) on or about *(date),* a clear copy of which is exhibit # to this affidavit.
2. The will begins with the words *(insert opening words of will)* and ends with the words *(insert closing words of will)* and is signed by *(name of deceased)*.
3. I refer to the fact that the blank spaces originally left in the will for the insertion of the day and month of the date of signing have never been supplied [or that the will is without date (or as the case may be)].
4. I have made inquiry of (*name*), the solicitor of the deceased, and I have also made a diligent and careful search in all places where the deceased usually kept his/her papers of importance and in his/her place of safe custody, in order to ascertain whether the deceased had or had not left any other will. I have been unable to discover any other will.
5. I believe that the deceased died without having left any will, codicil, or testamentary paper whatsoever, later than the will a clear copy of which is exhibit # to this affidavit.

***If the affidavit extends over more than one page, at the foot of the first and every other page except the last:\****

Page 1

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| …………………………………………..Deponent/Substitute Signatory*(delete whichever is not applicable)* ***At the end of the body of the affidavit:\**** | …………………………………………..Witness |

|  |
| --- |
| **The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.****I understand that a person who makes an affidavit that the person knows is false in a material particular commits an offence.** |

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| I state that: |
| 🞏 | This affidavit was made in the form of an electronic document2 |
| 🞏 | This affidavit was electronically signed3 |
| 🞏 | This affidavit was made, signed and witnessed under part 6A of the *Oaths Act 1867*4 |
| *(tick if applicable)* |

 |
| **SWORN / AFFIRMED** by …………………………………….[insert full name of deponent] at..……………………………………...[insert place where deponent is located] *(if applicable)***Signed for and at the direction of the** **deponent by\***………………………………………………[insert full name of substitute signatory]\**\*delete if not applicable*………………………………………………[Australian legal practitioner/government legal officer/employee of the Public Trustee, as applicable]5 | **)**))))))))))))))))) | …………………………………….[signature of deponent]…………………………………….[date]…………………………………….[signature of substitute signatory]\*…………………………………….[date]\* |
| **BEFORE ME:**…………………………………….[insert full name of witness] …………………………………….[insert type of witness]6…………………………………….[witness’s place of employment/employment address/home address/telephone number/email address/law practice, as applicable]7 | )))))))))))) | ………………………………….[signature of witness]……………………………….[date] |
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| --- |
| **For SPECIAL WITNESS to complete – Tick as applicable**  |
| 🞏 | I am a special witness under the *Oaths Act 1867* (see section 12 of the *Oaths Act 1867*) |
| 🞏 | I certify that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that the person made the affidavit (see rule 433(1) *Uniform Civil Procedure Rules 1999*) |
| 🞏 | I certify that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that the person made the affidavit, but was physically incapable of signing it (see rule 433(2) *Uniform Civil Procedure Rules 1999*).  |
| 🞏 | This document was made in the form of an electronic document8 |
| 🞏 | I electronically signed this document9 |
| 🞏 | This affidavit was made, signed and witnessed under part 6A of the *Oaths Act 1867* – I understand the requirements for witnessing a document by audio visual link and have complied with those requirements10 |
|  |

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***The footnotes are to assist in the completion of this form and should be deleted once complete.\****

***\*delete instructions***

1. If more than one deponent, continue with the name, address and description of each other deponent.

2 Tick this box if you electronically signed the document, or if you physically signed the document over audio visual link and then sent a scanned copy of that document to the witness.

3 Tick this box if you or your substitute signatory electronically signed the document using an accepted method under the *Oaths Act 1867.* Do not tick this box if you signed the document on paper.

4 Tick this box if the document was made over audio visual link.

5 A person may be directed by audio visual link to sign a document for a signatory only if the person is: an Australian legal practitioner; or a government legal officer under the *Legal Profession Act 2007* (who is an Australian lawyer but not an Australian legal practitioner and witnesses documents in the course of the government work engaged in by the officer); or is an employee of the public trustee (s31P, *Oaths Act 1867).*

6 Insert the witness’s capacity that makes them eligible to witness the affidavit including under the *Oaths Act 1867*. For example, Australian legal practitioner, lawyer, justice of the peace, commissioner for declarations, notary public, a justice of the peace or commissioner for declarations approved by the Chief Executive under section 12(2) of the *Oaths Act 1867*, government legal officer, etc

7 Legal practitioners who witness this document as a special witness must include their law practice (s13E *Oaths Act 1867*). If you are not an Australian legal practitioner or an approved JP or Cdec, at least one of the following must be included on the document: *the name of your place of employment, your employment or home address, your telephone number or your email address*. If there are concerns about domestic, family or sexual violence, you should use your discretion and include the information (from the options listed) that minimises the risk of exposing the location of the signatory or other affected persons.

8 Tick this box if you electronically signed the document or if you physically signed the document and sent a scanned copy of that document to the signatory.

9 Tick this box if you electronically signed the document using an accepted method under the *Oaths Act 1867*. Do not tick this box if you signed the document on paper.

10 Tick this box if the document was made over audio visual link. [↑](#endnote-ref-1)