



## COMMON ESTATE PLANNING DEFINITIONS

### **Power of Attorney:**

A Power of Attorney is a legal document that is only valid during your lifetime authorizing another person known as your “Agent” (but sometimes known as your “Attorney-in-Fact”) to make legal and financial decisions on your behalf. A Power of Attorney is said to be “durable” because, provided it is not revoked, your Agent would be authorized to make decisions on your behalf even if you become unable to make such decisions yourself.

### **Executor/Executrix**

An Executor is a person who you name in your Last Will and Testament who is responsible for administering your estate at the time of your death. A female Executor is sometimes referred to as an “Executrix.”

The Executor has many responsibilities, including initially offering your Will to the Surrogate’s Court for Probate (a legal proceeding whereby the Will is accepted by the Court as valid), paying the debts of your estate, submitting various reports to the Surrogate’s Court, preparing and filing various tax returns, and carrying out your wishes as provided in your Will. The person that you nominate to serve as the Executor of your estate would continue to serve until the Estate is closed. Most Executors complete an estate administration within one year from the date that the Surrogate’s Court accepts the Will for Probate.

You may nominate more than one Executor. We usually recommend that you nominate at least one alternate Executor who will act in the event that your first choice is unable to serve. The Executor is entitled to a commission (fee) as payment for administering your Estate. The Executor is compensated for their role in administering your estate, however, the amount of compensation is based on the value of your estate at the time of your death.

## **Fiduciary**

A person who has the power and obligation to act for another (often called the beneficiary) under circumstances which require total trust, good faith, and honesty. A fiduciary must avoid “self-dealing” or “conflicts of interests” in which the potential benefit to the fiduciary is in conflict with what is best for the person who trusts him/her/it. Common examples include, trustees, executors, attorneys, guardians, and administrators of estates.

## **Health Care Proxy:**

A Health Care Proxy is a legal document authorizing another person, known as your “Health Care Agent,” to make medical decisions on your behalf in the event that you are unable to do so for yourself. The Health Care Proxy would also authorize your Health Care Agent to access your confidential medical records.

## **Living Will:**

A Living Will is a legal document which acts in conjunction with your Health Care Proxy to provide instructions to your Health Care Agent and your health care providers, such as your doctor or hospital, concerning certain extraordinary treatments you may or may not want to receive in the unfortunate event that you become gravely ill and are unable to express your wishes. “Extraordinary treatments” refers to life-saving treatments, including the use of artificial nutrition (tube feeding), resuscitation, or ventilation. The Living Will enclosed for your review is merely illustrative. You may tailor your Living Will in any manner you desire until the document accurately reflects your wishes.

## **Tangible Personal Property**

Generally, the term “tangible personal property” includes personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, but does not include any property held for use in a trade or business, ordinary currency and cash, or bullion.

## **Trustee**

A Trustee is a person who holds property rights for the benefit of another under the terms of a Trust. A Trustee usually has full management and administration rights over the property but these rights must always be exercised to the full advantage of the beneficiary. The person that you nominate to serve as Trustee of your Trust would continue to serve until the Trust no longer exists. The Trustee is entitled to a commission (fee) as payment for administering the Trust. You may appoint more than one Trustee. We usually recommend that you nominate at least one alternate Trustee who will act in the event that your first choice is unable to serve.