

Estate Planning Precedent Template Requirements

Document

- Submit in a Word document (no PDFs or other document formats)
- **DO NOT** submit individual clauses in individual documents

Clauses

- Ensure all clauses are in the correct order
- Confirm all necessary clauses are included
- Specify which clauses you would like to be mandatory (if any)

Headings

- Headings should be included to indicate where one clause ends and a new one begins
- Make headings **RED** if you do not wish to see them in the final document. All headings in black will appear.

Variables

- Make variables stand out
- Put them in [Square Brackets]
- Highlight them
- Write what the variable should be in the brackets: **[Name of Spouse]**

Formatting

- All black text will appear in the final document
- The formatting of the provided document will be followed, unless otherwise specified, for example:
- Font style and size
- Margins

Special Instructions

- Special Instructions can appear at the beginning of the document or before the specific clause being referred to
- Include any special instructions in **BLUE**
- E.g. **leave the day in the dates blank**

Sample Document

Special Instructions

1. Leave the day blank in the date, e.g. April _____, 2017
2. Please follow the provided number formatting, font size, font style, margins, indentations, bolding and capitalizations
3. Signing is internal, include the firm information in the signing block

Last Will

I, [WILL-MAKER NAME], of [Will-Maker Address], [Will-Maker City], [Will-Maker Province], DECLARE this to be my **LAST WILL AND TESTAMENT** (hereinafter referred to as “my Will”) with respect to the disposition of all property owned by me at my death, wherever situate, which property is hereinafter referred to as “my estate”.

1. REVOCATION

1.1 I REVOKE all wills and codicils previously made by me.

2. APPOINTMENT OF EXECUTOR AND ALTERNATE

2.1 I APPOINT my [Relation], [TRUSTEE NAME] (“[First Name]”), to be the Executor of my Will but if [He/She] predeceases me, dies before the administration of my estate is completed or for any other reason is unable or unwilling to act, I APPOINT my [Relation], [ALTERNATE TRUSTEE NAME] (“[First Name]”), to be the Executor of my Will. I shall hereinafter use the term “Trustee” to refer to my Executor, whether original or substituted, and any reference to my Trustee includes all genders, and the singular or the plural as the context requires.

3. DEBTS AND TAXES

3.1 I DIRECT my Trustee to pay out of the capital of my estate all my debts, funeral and testamentary expenses, and all succession, probate, estate, inheritance, death and income taxes, duties or fees that may be payable by reason of my death. My Trustee where permitted by law shall have the power to commute or prepay or pay by instalments or otherwise determine the mode and time of payment of any taxes, duties or fees as my Trustee shall consider advisable.

4. SPECIFIC GIFTS

4.1 I GIVE \$[Amount] to my [Relation], [NAME OF RECIPIENT].

5. RESIDUE

5.1 I GIVE the residue of my estate to [NAME OF RESIDUE RECIPIENT], if [He/She] survives me.

Residue if spouse predeceases

5.2 If my [Husband/Wife], [NAME OF SPOUSE] predeceases me, I GIVE the residue of my estate to my Trustee upon the following trusts:

- (a) To divide the residue of my estate into equal shares so that there shall be one share for each child of mine who is living at the time of my death (hereinafter referred to as the “Division Date”) and one share for each child of mine who has died before the Division Date leaving a child or children (my grandchild or grandchildren) living at the Division Date.
- (b) To pay or transfer one share to each child of mine who has attained the age of 30 years at the Division Date.
- (c) To hold one share for each child of mine who is under the age of 30 years at the Division Date on the following trusts:
 - (i) To invest and keep invested the share and to pay the income therefrom or so much thereof as may be necessary or advisable in my Trustee’s discretion for my child’s maintenance, education or benefit during his or her minority (any income not so paid in any year to be added to the capital of the share) and upon my child attaining the age of majority and thereafter to pay the income to him or her.
 - (ii) To pay to or for my child from the capital of the share such amount or amounts as may be necessary or advisable in my Trustee’s discretion for my child’s maintenance, education or benefit.

- (iii) Upon my child attaining the age of 25 years, to distribute one-half (1/2) of the capital of the share to him or her. If my child should die before attaining the age of 25 years, to divide the share or the amount thereof remaining among his or her children (my grandchildren) who survive him or her in equal sub-shares and to hold the sub-share of each grandchild upon the same trusts, mutatis mutandis, as hereinbefore provided for the share of each child of mine; if my child should die before attaining the age of 25 years, leaving no child who survives him or her, to add the share or the amount thereof remaining equally to the other shares of the residue of my estate.
- (iv) Upon my child attaining the age of 30 years, to distribute the remainder of the capital of the share to him or her. If my child should die before attaining the age of 30 years, to divide the share or the amount thereof remaining among his or her children (my grandchildren) who survive him or her in equal sub-shares and to hold the sub-share of each grandchild upon the same trusts, mutatis mutandis, as hereinbefore provided for the share of each child of mine; if my child should die before attaining the age of 30 years, leaving no child who survives him or her, to add the share or the amount thereof remaining equally to the other shares of the residue of my estate.
- (d) To hold one share for the child or children (my grandchild or grandchildren) of each child of mine who has died before the Division Date and to divide the share among those grandchildren who are living at the Division Date in equal sub-shares and to hold the sub-share of each grandchild upon the same trusts, mutatis mutandis, as hereinbefore provided for the share of each child of mine.

6. FAILURE OF TRUSTS

6.1 If there should be a complete failure of the trusts of the residue of my estate as hereinbefore provided, I DIRECT my Trustee to distribute the residue of my estate or the amount thereof remaining equally between **[NAME OF COMMON DISASTER RECIPIENT 1]** and **[NAME OF COMMON DISASTER RECIPIENT 2]**, or whichever of them is alive at the date of such failure.

7. PAYMENTS TO GUARDIAN

7.1 I AUTHORIZE my Trustee to make any payments which may be required under the trusts of my Will for any person under the age of majority to his or her parent or guardian whose receipt shall be a sufficient discharge to my Trustee.

8. POWERS OF TRUSTEE

8.1 IN ADDITION to all powers conferred by law, I give my Trustee the following powers to be exercised or not exercised at my Trustee's discretion for the administration of my estate and the trusts of my Will:

- (a) To sell, call in and convert into money all or so much of my estate at such time or times, in such manner and upon such terms as my Trustee shall consider necessary or advisable.
- (b) To postpone the sale, calling in and conversion of all or any part of my estate and to retain my estate or any part thereof in the form of investment in which it may be at my death for such length of time as my Trustee shall consider advisable and my Trustee shall not be responsible for any loss that may be occasioned by reason of so doing.
- (c) To invest any monies belonging to my estate in such investments as my Trustee shall consider advisable, without being limited to investments authorized by law for investment by trustees, and to change and vary the same from time to time as my Trustee shall consider advisable.
- (d) To borrow upon such terms and conditions as my Trustee shall see fit such amount or amounts as my Trustee shall consider advisable for the payment in whole or in part of my debts, funeral and testamentary expenses or taxes, duties and fees or any legacies given by my Will or for any other purpose whatsoever and for the repayment of any amount so borrowed to mortgage, pledge, hypothecate or otherwise charge any of the assets of my estate.

- (e) To compromise, settle and waive any claim or claims at any time due to or by my estate for such consideration and upon such terms and conditions as my Trustee shall consider advisable.
- (f) To grant options or rights of first refusal to purchase or lease any part of my estate for such time and at such price and upon such terms and conditions as my Trustee shall consider advisable.
- (g) To join in or take any action, or to exercise any rights, powers and privileges which at any time may exist or arise, in connection with any investment or interest in any company or corporation to the same extent and as fully as I could if I were living; and to retain as an investment of my estate, for such length of time as my Trustee considers advisable, any asset, obligation or other interest whatsoever acquired by my Trustee by reason of the exercise of this power.
- (h) To let or lease any real or leasehold property forming part of my estate for such terms at such rent and upon such covenants and conditions as my Trustee considers advisable, to accept surrenders of leases and tenancies, to expend money on repairs and improvements and to borrow money on mortgage of the property or any part thereof for the purpose of paying for such repairs, improvements or other expenses, to renew and keep renewed or pay off any mortgage or mortgages upon the property, and generally to manage the property in such manner as my Trustee shall consider advisable.
- (i) To divide or distribute my estate or any part thereof in the form in which my estate or such part thereof exists at the time of my death or at the time such division or distribution, and to determine for the purpose of such division or distribution the value of my estate or any part thereof and any such valuation shall be final and binding upon all beneficiaries of my Will, and upon any division or distribution to appropriate specific assets in and towards satisfaction of any share in my estate.
- (j) To make any allocation, determination, election or designation required or permitted under the *Income Tax Act* (Canada) as my Trustee shall consider

advisable and any such allocation, determination, election or designation by my Trustee shall be binding upon all beneficiaries of my Will.

9. PROFESSIONAL ASSISTANCE AND AGENTS

9.1 My Trustee may retain and rely on the advice of lawyers, accountants, financial advisors, experts, agents and other similar persons as my Trustee shall deem helpful to assist him in performing his duties, including the receipt and payment of money.

9.2 My Trustee may employ a firm of accountants in matters relating to the preparation of tax returns and valuation of assets.

9.3 My Trustee may at any time retain the services of investment counsel, brokers or like investment advisors to advise him with respect to the investment of my estate.

9.4 My Trustee may delegate to such advisor any or all discretionary powers given to him with respect to the investments of my estate.

9.5 The reasonable compensation of such persons shall be paid by my Trustee and charged to the income and capital of my estate in such proportions as he determines.

9.6 My Trustee shall not be liable for any loss that may happen to my estate by reason of any such delegation or by reason of any action taken pursuant to or in reliance upon the advice of such person notwithstanding that the retainer of such person was not strictly necessary or expedient provided the person was selected and retained with reasonable care.

10. POWER TO ADMINISTER DIGITAL ASSETS

10.1 Subject to any relevant terms herein and the relevant law, my Trustee shall have full power and authority to manage, administer, sell, transact, delete, gift, and otherwise give directions for, any and all digital or electronic property, assets, or information contained in electronic form that belong to me at the time of my death, or over which I had access privileges or which contain information about me, including but not limited to such digital assets as passcodes, account information, social media webpages or websites which contain my personal information, internet domain name registrations, electronic accounts, emails and any other digital property or

information that may be stored on servers that do not belong to me but that relate to me whether directly or indirectly.

11. GUARDIANSHIP

11.1 If my [Husband/Wife], [NAME OF SPOUSE], predeceases me, I appoint [NAME OF GUARDIAN] to be the guardian of any of my children who have not reached the age of majority.

12. DISPOSITION OF REMAINS

12.1 It is my wish that my remains be cremated and that my ashes be disposed in a manner my Trustee deems appropriate after consulting with members of my family.

Execution

Always signed internally, use the firm address and Timekeepers as witnesses

IN TESTIMONY WHEREOF I have to my Will subscribed my name this [Leave Day Blank] day of April, 2017

SIGNED by the above-named Will-Maker)
[Will-Maker Name] as [His/Her] last Will)
and Testament in the presence of us, both)
present at the same time, who at [His/Her])
request and in [His/Her] presence and in the)
presence of each other have subscribed our)
names as witnesses:)

Witness (Signature)

[WILL-MAKER NAME]

[Primary Timekeeper Name]

(Print Name)

[Firm Address]

(Address)

[Primary Timekeeper Occupation]

(Occupation)

Witness (Signature)

[Secondary Timekeeper Name]

(Print Name)

[Firm Address]

(Address)

[Secondary Timekeeper Occupation]

(Occupation)