



## **Promise Law – Estate Planning Worksheet**

### **Introduction**

Congratulations! You have made the bold decision to move forward with planning to protect yourself, the ones you love, and to make sure your wishes are well-documented. At your Design Meeting™, you will discuss the following items with your attorney:

1. The estate plan type you wish to establish;
2. Whom you trust to make medical decisions during your lifetime;
3. Whom you trust to make financial decisions during your lifetime and at your death; and
4. How you want the stuff that you own distributed at your death.

Before your Design Meeting™, read through the information and questions below, so that you will be ready to discuss your decision with your attorney. Also, please have available the full name, address, and phone number of any person (or charity) you intend to name in your plan either as a beneficiary or decision maker.

### **Choosing a Plan Type**

In your Vision Meeting, you will have narrowed the plan options that best meet your goals and concerns. While your attorney can provide guidance, the final decision is yours. Your next meeting will start with you confirming the plan that best meets your needs. Reading the following summary of the plan options should help you in that task.

### **Trust Planning**

With proper re-titling of your assets, a Trust avoids the probate process and simplifies management of assets at your incapacity and administration (distribution) of assets at death. You may add protections to your Trust from your spouse's remarriage or for beneficiaries who are disabled, have creditor issues, etc. If you choose not to restrict access to assets, our Trusts include language to protect beneficiary shares in the event of unexpected disability (except for spouses), divorce, a minor inheriting, etc.

### Asset Protection Plan:

- Protection from Medicaid Long Term Care spenddown five (5) years from funding date.
- Protection from future, general creditors.
- You can live in your home and receive income from the Trust, but otherwise you do not have direct access to assets in the Trust.
- You can distribute assets at any time to a trusted beneficiary.
- You can change the trusted beneficiary, trustees, and who receives distributions at death.

### Revocable Trust Plan:

- You have direct access to assets in the Trust.
- You can change the trusted beneficiary, trustees, and distributions at death at any time.
- You can revoke the Trust.

### Both Trust Plan Options Include:

- Trust Document
- Pour Over Last Will & Testament
- Durable Property Power of Attorney
- Advance Medical Directive with Living Will
- Deed(s) for Transfer of Virginia Property
- Certification of Trust, Funding Table, and Titling Instructions

### Will Planning

A Last Will & Testament (Will) directs where assets in your name alone (i.e., with no beneficiary or joint owner) go at death. Even if you decide to use beneficiary designations or joint ownership for transfers at death, you may still need probate to transfer real estate.

### Will Plans Include:

- Last Will & Testament
- Durable Property Power of Attorney
- Advance Medical Directive with Living Will

### Medical Decisions

- Do you want the “pull the plug” language (living will) in your document?

- Whom do you trust to make health-care decisions for you if you can't do so? This is for routine decisions as well as whether to "pull the plug." Who would be the alternates?
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### **Financial Decisions**

- Whom do you trust to assume responsibility for your assets and legal matters at your incapacity? Would it be the same person at your death? Typically, we recommend at least two people be named along with one alternate. If you are married, then your spouse can be included as an option.
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### **Gifts During Your Lifetime**

If you're incapacitated, gifts for holidays, birthdays, or charities, but also larger gifts like down payments for first homes, must be authorized in your power of attorney.

- Do you want to permit gifting at all? Perhaps you only want to give this power to your spouse or certain people.
  - Should there be limits on the amount or who can receive them?
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### **Beneficiaries at Your Death**

- Are there any specific assets you want to give at your passing, e.g., stock, vacation property, or certain amounts of cash? If so, to whom?
- If your beneficiary dies before you, then what happens to the gift?
- Who gets what is left after any specific gifts are made?

- If a beneficiary predeceases you, where does that money go? To their children? Charity? Others?
  - If you outlive all of your beneficiaries, then where should your estate go? It could be to your distant blood relatives, other important people, and/or one or more charity.
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### **Special Questions for Trust Plans**

- If you are creating a trust plan, you need to decide on a name for your trust(s). The name can be your name or something creative and personal, such as a family nickname, or short meaningful phrase.
  - If you have selected a trust plan, then you can include a mechanism for determining when you can no longer handle your affairs. It is called a “disability panel,” which is a group of individuals you trust to make this important determination. Typically, we recommend a panel of no less than three and no more than five individuals who, together, would make this decision.
  - Do you want your children or beneficiaries to get their gifts immediately? Or should the assets be restricted so they are protected from the beneficiary’s creditors, nursing home costs, or divorce? If it is held in trust, should it be for their lifetime, or should the assets be distributed at a certain age, date, or event?
  - If you decide to hold gifts in trust for a beneficiary’s lifetime, do you want to give the beneficiary the ability to distribute what remains in their trust share at their death to a beneficiary of their choosing? You can give them this power in a limited way, for example, only to family, or it can be broader.
  - At what age should grandchildren or minors receive their gifts or be allowed to control their gifts?
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