

# REDSTONE ARSENAL LEGAL ASSISTANCE ESTATE PLANNING QUESTIONNAIRE WORKSHEET

DATE: \_\_\_\_\_ PHONE NUMBERS: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_

Note: If you are married, **ONLY ONE FORM** should be completed.

E-Mail Address (that you would like a draft of your documents e-mailed to): \_\_\_\_\_

Will Signing Date (office use only – we will fill this out for you upon check-in): \_\_\_\_\_

## 1. PERSONAL INFORMATION

Marital status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated or about to divorce <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed	
Name (first, middle, last):	
Name of spouse if married or separated (first, middle, last):	U.S. Citizen? Yes or No
Current Address:	
Status: <input type="checkbox"/> Active duty <input type="checkbox"/> Spouse/AD <input type="checkbox"/> Retired Military <input type="checkbox"/> Spouse/RM <input type="checkbox"/> DoD Civilian	Rank:
Spouse's Status: <input type="checkbox"/> Active duty <input type="checkbox"/> Spouse/AD <input type="checkbox"/> Retired Military <input type="checkbox"/> Spouse/RM <input type="checkbox"/> DoD Civilian	Rank:
State of Legal Residence:	
Do you have combined assets of \$5,000,000.00 or more? (Include insurance policies that would provide for beneficiaries.) Yes   or   No	
Do you own any land or real estate? (Include a home for which you are paying a mortgage.) Yes   or   No	

## 2. FOR CLIENTS WITH CHILDREN (EVEN IF ADULTS)

Full name of child (first, middle, last)	Age	Relationship to you and to your spouse, if applicable (daughter, step-son, adopted son, etc.)		Child's gender
		You	Spouse	

\*If you have adopted children, do you want your will to state that they are to be treated under your will like natural born children?  
 yes       no       N/A

\*If you have step-children, do you want your will to state that they are to be treated under your will like natural born children?  
 yes       no       N/A

## 3. DO YOU WANT TO DISINHERIT ANYONE?   yes   no   IF SO, PLEASE LIST NAME AND RELATIONSHIP:

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Please note that if you disinherit anyone, that does not prevent him or her from contesting your will. In Alabama, you may disinherit your adult children (over the age of 19). Many states do not allow you to fully disinherit your current spouse, please discuss this issue with an attorney if you plan to disinherit your current spouse. Please note that it is not necessary to disinherit a former spouse.

**4. WHO DO YOU WANT TO TAKE CARE OF YOUR PERSONAL MATTERS AFTER YOUR DEATH?**

**Primary Personal Representative (also known as Executor) for YOU:** This person is your first choice to settle your estate. YOUR PERSONAL REPRESENTATIVE MUST BE AT LEAST 19 YEARS OF AGE.

Full name and relationship:
U.S. Citizen?

**Primary Personal Representative (also known as Executor) for your SPOUSE:** This person is your first choice to settle your estate. YOUR PERSONAL REPRESENTATIVE MUST BE AT LEAST 19 YEARS OF AGE.

Full name and relationship:
U.S. Citizen?

**Alternate Executor for YOU:** This person is your second choice to settle your estate, if your first choice dies or is unwilling to serve.

Full name and relationship:
U.S. Citizen?

**Alternate Executor for your SPOUSE:** This person is your second choice to settle your estate, if your first choice dies or is unwilling to serve.

Full name and relationship:
U.S. Citizen?

**Do you want to require your executor to post a bond to be the executor?** \_\_\_\_\_ YES \_\_\_\_\_ NO

Probate bond is designed to protect the estate in case the personal representative mismanages the estate or runs off with all of the estate assets. If bond is not waived in the Will, the probate court will require bond to cover the proposed value of your estate. If you do not waive bond, the personal representative will be required to pay a bond premium, which will depend on the personal representative's net worth and credit worthiness.

**5. WHO DO YOU WANT TO RECEIVE YOUR PROPERTY AFTER YOUR DEATH?**

A. PRIMARY BENEFICIARY or BENEFICIARIES

**All to SPOUSE, and if spouse dies (or if you are widowed or divorced), to your CHILDREN EQUALLY** (if you check this box, select 1, 2, or 3)

- 1. Per Stirpes (Most Common): If one of your children dies before you die, his/her share will be divided equally among their living children. If they have no children it will be distributed equally to your other living beneficiaries.
- 2. Per Capita with Representation: If one of your children dies before you die, that child's children (your grandchildren) now share equally with your surviving children.
- 3. Per Capita: The deceased child's share is redistributed among the living children. Your grandchildren will only inherit if ALL of your children have already died.

**OR**

**All to the following PERSONS:**

Name of person (first, middle, last)	Relationship	Percentage

**ALTERNATE BENEFICIARY OR BENEFICIARIES:** If your primary beneficiary or beneficiaries do not survive you, who do you want to receive your estate?

Name of person (first, middle, last)	Relationship	Percentage

**B. NOTES/ SPECIFIC BEQUESTS:**

**C. LETTER OF INTENT:**

*A letter of intent is a non-binding instructional memorandum **YOU** create for your executor to distribute items of high sentimental value, but low monetary value, to family and friends. The letter is for the convenience of the executor and is not legally enforceable. The letter of intent is NOT appropriate for the distribution of VALUABLE items (items in excess of \$5000 or more) or instructions you want to ABSOLUTELY happen.*

**6. WHO DO YOU WANT TO RAISE YOUR MINOR CHILDREN? Note: The age of Majority in Alabama is 19.**

**GUARDIAN OF THE PERSON:** This person will raise your children in the event of your death. Generally, a child's biological parent(s) will have the right to raise their own child unless that parent has lost his or her parental rights or is unfit to care for the child. As such, the guardian(s) you appoint below should be someone other than the child's biological parents. This guardian with whom the child lives is called the *guardian of the person*, and does not have to be the same person who manages the child's money.

**Primary Guardian:** This person is your first choice to serve as guardian.

Full name/relationship: \_\_\_\_\_

**Alternate Guardian:** This person is your second choice, if your first choice dies or is unwilling to serve.

Full name/relationship: \_\_\_\_\_

**7. LEAVING PROPERTY FOR MINOR CHILDREN** If you leave money to minor children without further instructions, the money will be placed in a guardianship *of the property*. An adult, who need not be the same person as the *guardian of the person*, will hold the money for the children until they reach the age of majority under state law, which is usually age 18, but in Alabama is 19. Money is then distributed in one lump sum. **IF YOU HAVE MINOR CHILDREN, YOU CAN:**

- 1. Give your **EXECUTOR** various options, including giving the minor's share to the Guardian (most Flexible)
- 2. Have the property put into an **UGMA ACCOUNT** (Uniform Gifts to Minors Act). You can open this kind of account at most banks. You must name a Custodian, who is permitted to make withdrawals from this account to be used for the benefit of the child. The child will receive the balance of the account in one lump sum when they reach the age of majority.

Name of Custodian: \_\_\_\_\_  
Name of Alternate Custodian: \_\_\_\_\_

- 3. Create a **TRUST** [most costly/restrictive]. A trust allows you to select an age of distribution that is older than the age of majority, or to distribute the money in more than one installment. If you do not mind the children receiving the money in one lump sum at the age of majority, you do not need to establish a trust. If you want the children to receive the money in **INSTALLMENTS** or at an age *above* the age of majority, you **MUST** establish a trust.

Money in the trust is to be distributed as follows:

- Give it to my children in ONE LUMP sum at AGE \_\_\_\_\_
- Give it to my children in installments as follows (select only one)
  - 1/2 at 21 and 1/2 at 25; **or**  1/3 at 21; 1/3 at 25; and 1/3 at 30, **or**  1/3 at 25; 1/3 at 30; 1/3 at 35
  - or**  some other type of installment arrangement.

The TRUSTEE is named as follows:

- 1. **PRIMARY** Trustee: \_\_\_\_\_ Relationship: \_\_\_\_\_
- 2. **ALTERNATE** Trustee: \_\_\_\_\_ Relationship: \_\_\_\_\_

\*\*If your assets are under \$1,000,000.00, the cost of the trust may outweigh the benefits that the trust provides.\*\*

## LIVING WILL/ HEALTHCARE POWER OF ATTORNEY

### **LIVING WILL (Please note this is the Alabama model – if you are a resident of a different state your documents may differ slightly)**

A Living Will makes your wishes known to family and doctors regarding life support and other medical decisions in the event you become terminally ill or injured with no hope for recovery. Do you want a living will? \_\_\_\_\_ YES \_\_\_\_\_ NO

**NOTE:** You will answer the following questions for an ALABAMA Living will AT THE TIME you SIGN your documents. **You do not need to make these elections at this time.** The elections and key definitions below are provided here so that you have time to think about these decisions. You will also have the opportunity to write in your own instructions at the time you sign your documents.

*(note: some states may not permit you to make these elections)*

#### **Key definitions:**

**Permanent unconsciousness:** is when my doctor and another doctor agree that within a reasonable degree of medical certainty I can no longer think, feel anything, knowingly move, or be aware of being alive. They believe this condition will last indefinitely without hope for improvement and have watched me long enough to make that decision. I understand that at least one of these doctors must be qualified to make such a diagnosis.

**Life-sustaining treatment:** Life-sustaining treatment includes drugs, machines or medical procedures that would keep me alive but would not cure me. I know that even if I choose not to have life-sustaining treatment, I will still get medicines and treatments that ease my pain and keep me comfortable.

**Terminally ill or injured:** is when my doctor and another doctor decide that I have a condition that cannot be cured where death will result in the near future without the use of artificial life-sustaining procedures.

#### **ELECTIONS:**

##### **If I become PERMANENTLY UNCONSCIOUS:**

I want to have food and water provided through a tube or an IV if I am *permanently unconscious*. Yes \_\_\_\_\_ No \_\_\_\_\_

I want to have *life-sustaining treatment* if I am *permanently unconscious*. Yes \_\_\_\_\_ No \_\_\_\_\_

##### **If I become TERMINALLY ILL OR INJURED:**

I want to have food and water provided through a tube or an IV if I am *terminally ill or injured*. Yes \_\_\_\_\_ No \_\_\_\_\_

I want to have *life-sustaining treatment* if I am *terminally ill or injured*. Yes \_\_\_\_\_ No \_\_\_\_\_

**HEALTH CARE POWER OF ATTORNEY:** This document appoints someone to make medical care decisions for you in the event that you have an illness or accident and medical professionals need someone to authorize or decline certain treatments for you because you cannot make your own medical decisions. The power of attorney for medical care gives the person you designate as your agent the authority to make a wide range of medical decisions on your behalf. It also gives your agent access to your medical information and authority to fully participate with your treating physicians in deciding the care to be provided to you. Obviously, the person you designate to be your agent should be someone you trust with life and death decisions.

Who do **YOU** wish to nominate?

<b>1<sup>st</sup> Choice:</b>	<b>2nd Choice:</b>
Full Name (First, Middle, Last)	Full Name (First, Middle, Last)
Address	Address
Phone Number	Phone Number

Who does **YOUR SPOUSE** wish to nominate?

<b>1<sup>st</sup> Choice:</b>	<b>2nd Choice:</b>
Full Name (First, Middle, Last)	Full Name (First, Middle, Last)
Address	Address
Phone Number	Phone Number

**ORGAN DONATION**

- 1. Do you want to authorize the donation of organs for transplantation? **Self:**  Yes  No **Spouse:**  Yes  No
- 2. Do you want to authorize donation of organs and tissue for medical, educational and scientific purposes (includes donating your body to science)? **Self:**  Yes  No **Spouse:**  Yes  No
- 3. If you wish to OMIT certain organs for donation please list here: **Self:** \_\_\_\_\_ **Spouse:** \_\_\_\_\_
- 4. If you are near death and the medical profession suggests hospice or indicates that there is no hope left, do you wish to express a desire to die at home or in a hospice rather than in the hospital if possible? **Self:**  Yes  No **Spouse:**  Yes  No

**POWER OF ATTORNEY**

Your will enables you to dispose of your property as you wish after your death. While you are living, you have the right to decide what happens to that property so long as you are of sound mind. But if you ever become incapacitated, whether through illness or accident, and are unable to handle your own affairs, a court order may revoke your right to manage your own money and appoint a guardian or conservator. To protect yourself from this eventuality, you can appoint an agent for yourself through a power of attorney.

A power of attorney is simply a written authorization for someone to act on your behalf, for whatever purpose you designate in writing. Ordinarily, a power of attorney expires if you become mentally disabled – the time when you need help the most. Your power of attorney can be DURABLE, which means that it survives the event of your incapacitation.

You can have a power of attorney that is ACTIVE NOW, which means that it is effective once it is signed and notarized. A SPRINGING DURABLE power of attorney can take effect when you BECOME INCAPACITATED and you are unable to manage your own personal and financial affairs. This springing durable power of attorney will last as long as you are alive or until you revoke it. As long as you are mentally competent, you can revoke a durable power of attorney whenever you like simply by destroying the document.

**If you choose to have a power of attorney, remember to name someone who you trust as your attorney-in-fact. Your attorney-in-fact will have GREAT AUTHORITY over your affairs. Not only can they keep your affairs in order, but they have the ability to abuse this document at your expense for their own gain. PLEASE NOTE: a power of attorney ceases to exist at the time of your death.**

- 1. Do you want the Power of Attorney active now, or to be springing, or active upon your incapacitation? \_\_\_\_\_ Now \_\_\_\_\_ Springing
- 2. Do you want your medical agent(s) to serve also as your agent for the Springing or Durable Power of Attorney?  Yes  No
- 3. If not, who do you wish to appoint as your agent?

**AGENT(S) FOR YOU**

<b>Agent</b>	<b>Alternate Agent</b>
<b>Name/Relationship</b>	<b>Name/Relationship</b>
<b>Address</b>	<b>Address</b>

**AGENT(S) FOR YOUR SPOUSE**

<b>Agent</b>	<b>Alternate Agent</b>
<b>Name/Relationship</b>	<b>Name/Relationship</b>
<b>Address</b>	<b>Address</b>

- 4. If you are unable to take care of yourself and a court needs to appoint a guardian or conservator to take care of you, do you want the court to appoint the person(s) named above as your guardian or conservator?  Yes  No

### COMMON QUESTIONS ARISING IN WILL PREPARATION:

What is a will? A will is a legal document which states your desires concerning the disposition of your property after your death. A will also contains other specific directives such as who is to implement your instructions and who acts as guardian for any minor children, among other matters.

Why should I make a will? If you die without a valid will, the distribution of your property will be governed by the laws of your state of legal residence and/or the laws of the state in which you die. Your wishes in such instance are usually NOT a factor.

What is Probate? Probate is the court procedure whereby your will is proven to be *VALID* or *INVALID*. Probate proceedings also address the administration of your estate, taxes due, guardianship of children, etc.

How do I determine my state of legal residence and what difference does it make to my will? Your legal residence is the state which you consider (at this particular time) as your *permanent home*. If you are active duty or an active duty family member, think of it as the place where you expect to return when you depart military service. Your legal residence is important to your will because the laws of the state of legal residence will be used in interpreting and implementing your will.

What is an Executor? The Executor (or personal representative) is the person you name to carry out your wishes expressed in your will and to actually *settle* your estate. Settlement includes paying – from your estate funds – any taxes and other legal debts you may owe. *Choose this person WITH CARE and DISCUSS THE MATTER with him or her.* Always name a person in whom you have trust and confidence to capably fulfill the responsibility. If married, your spouse would be the prime candidate for consideration.