



# ESTATE PLANNING GUIDE and WILL WORKSHEET

Prepared for:

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**STRATHCONA LAW GROUP LLP**  
**BARRISTERS AND SOLICITORS**

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## I. WILL

A Will is a legally binding document that expresses your last wishes. It comes into effect only on your death and allows you to deal with such things as the disposition of your assets and the care of your children after your death. Everyone should have a Will in place and while a handwritten Will is accepted in certain circumstances, we believe it is best to have a formal Will prepared to ensure your personal circumstances are addressed. There are a number of legal issues which, if not taken into consideration, could have costly and potentially unfortunate results for your estate and your beneficiaries. Retaining legal counsel to assist you in preparing your Will ensures that all issues relevant to your personal situation are considered and dealt with appropriately.

The following are some basic terms you should be aware of prior to completing this questionnaire:

**Personal Representative** (also known as an Executor or Executrix):

Your personal representative administers your estate and carries out your wishes, as set out in your Will. A primary personal representative and an alternate personal representative should be appointed. Personal representatives who are appointed jointly are required to agree on all decisions pertaining to your estate. This can lead to unnecessary frustration and stress at an already difficult time. To avoid the potential of this situation, we recommend that you consider appointing a single person as your primary and alternate personal representative. Your personal representative must be at least 18 years old, and for practical and cost reasons, it is most convenient if they reside in Alberta.

**Specific Gifts:**

Certain items or specific amounts of money can be given to particular individuals.

**Loans and Advances:**

If you have loaned money or advanced property to a child or beneficiary of your estate, you should indicate if it is your intention for this loan to be considered as an advance of their inheritance and be deducted from their share of your estate.

**Joint Accounts:**

If you have a joint account with a child or other beneficiary of your estate, you should indicate if it is your intention that the joint account go to the survivor directly, separately from the Will, or if it should become a part of your estate and be distributed according to your Will.

**Residue:**

The residue of your estate is what is left after payment of debts, funeral expenses, executors fees, taxes, legal and other expenses incurred in the administration of your estate, and after any gifts of specific assets or specific sums of cash. The residue of your estate is then divided and distributed according to your directions in the Will.

**Guardians:**

If you have minor children, you will want to appoint a guardian for them. You may consider appointing a principal guardian and an alternate guardian.

**Trusts:**

A trust gives a beneficiary the benefit of certain assets, without the ownership. Trusts may be created for tax purposes, to preserve assets, for beneficiaries who are minors or who require financial guidance due to a disability.

**Special Instructions:**

You may include burial instructions in your will or instructions relating to the disposition of certain items such as your business or other personal property such as keepsakes, jewellery or artwork.

**Tax Directions:**

You may provide direction to your personal representative that allows them to take advantage of certain tax savings and benefits. It is important to address certain circumstances in your will such as a common law relationship, second marriage or dependent child.

## II. ENDURING POWER OF ATTORNEY (EPA)

While a Will is the cornerstone of a good estate plan, an EPA enables you to appoint someone you trust as your attorney (not your lawyer) to make decisions relating to your financial matters should you be unable to. An EPA only applies whilst you are still alive. This document should be drafted while you have capacity and it will come into effect if you lose your capacity to make decisions on your own. Generally, incapacity has to be determined and confirmed in writing by two medical practitioners. Should you become incapacitated without having an EPA, someone will need to apply to the Courts for an Order of Trusteeship. This procedure can be very costly, time consuming, and traumatic for

your family. If you appoint joint attorneys, they will have to agree on all decisions and this can lead to unnecessary frustration and stress. We recommend that you consider appointing a single person as your primary and alternate attorney.

### III. PERSONAL DIRECTIVE (PD)

Similar to an EPA, a PD only applies whilst you are still alive, in addition to a EPA and Will, it is wise to have a PD. This document is sometimes referred to as 'living will'. A PD allows you to appoint someone to make decisions about such things as your personal care, medical care, your residence, and your social needs should you become unable to make these types of decisions on your own. As with an EPA, if you are in a situation without a PD and one is required, an application to the courts is necessary to appoint someone to act as your guardian, and again, this is a costly, time consuming and potentially stressful undertaking for your family.

#### Next Steps

Following is a questionnaire pertaining to information used to create your Will, EPA, and PD. The questionnaire contemplates that you and your spouse, if applicable, will complete it together and that your final documents will essentially mirror each other's. Should you prefer an electronic version, the same documents are accessible online at our website at: [www.strathconalawgroup.com/wills](http://www.strathconalawgroup.com/wills). Once you have reviewed and considered the questions with your family, should you have further questions, please contact our office by phone at (780)417-9222 or email at [wills@strathconalawgroup.com](mailto:wills@strathconalawgroup.com). Once complete, please return the questionnaire to our office at your convenience. We will contact you if there are matters that require additional clarification, and then we will draft your documents and schedule an appointment for you to meet with a lawyer to review and execute them.

Note: for our current fee schedule, please refer to our website at [www.strathconalawgroup.com](http://www.strathconalawgroup.com) or contact our office at (780)417-9222. The standard fees presume documents for spouses and adult interdependent partners have mirrored provisions. Documents that require complicated trust provisions or bequests are subject to additional charges on an hourly rate basis.

### A WILL QUESTIONNAIRE AND INSTRUCTIONS

Date:

Do you have a previous will?      Yes      No (If yes, please provide a copy with this Questionnaire.)

Reason for new will: \_\_\_\_\_

#### Personal Information

Full Legal Name:	Spouse's Full Legal Name:
Other Names You Are Known By:	Other Names You Are Known By:
Date of Birth:	Date of Birth:
Place of Birth:	Place of Birth:
Citizenship:	Citizenship:
Residential Address:	Residential Address:
Phone Number:	Phone Number:
E-Mail Address:	E-Mail Address:

#### Marital Status

To ensure that your will is drafted with all current and relevant information, please submit a copy of any agreement named below that you have along with this application.

**Current Relationship Status**

**Select and Complete All That Apply**

**Select and Complete All That Apply**

<p>Single Legally Married Where and when did you marry?</p> <p>Do you have a prenuptial agreement?    Yes    No</p> <p>Widowed What is your previous spouse's name, and the date of their passing?</p> <p>Adult Interdependent Relationship (common law) Do you have an adult interdependent relationship or cohabitation agreement?    Yes    No</p> <p>Soon to be Married</p>	<p>Single Legally Married Where and when did you marry?</p> <p>Do you have a prenuptial agreement?    Yes    No</p> <p>Widowed What is your previous spouse's name, and the date of their passing?</p> <p>Adult Interdependent Relationship (common law) Do you have an adult interdependent relationship or cohabitation agreement?    Yes    No</p> <p>Soon to be Married</p>
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**Prior Relationships**

<p>Have you had a prior relationship:</p> <p>None Married Common law or Adult Interdependent Partnership</p>	<p>Have you had a prior relationship:</p> <p>None Married Common law or Adult Interdependent Partnership</p>
<p>Former Partner's Name:</p>	<p>Former Partner's Name:</p>
<p>How did the relationship end:</p> <p>Death Divorce Separation</p>	<p>How did the relationship end:</p> <p>Death Divorce Separation</p>
<p>Do you have ongoing obligations for spousal or child support, or any other limits on your ability to deal with your estate (separation agreement, minutes of settlement):</p> <p>Yes No</p> <p>If yes, please describe and provide a copy of any agreement:</p>	<p>Do you have ongoing obligations for spousal or child support, or any other limits on your ability to deal with your estate (separation agreement, minutes of settlement):</p> <p>Yes No</p> <p>If yes, please describe and provide a copy of any agreement:</p>

**Your Children**

If some of the children are yours and some are your spouse's, please identify the specific relationship to each spouse.

Name	Age	Place of Residence	Biological /Stepchild /Adopted
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Are any of your children mentally or physically incapacitated?    Yes    No  
 Have any of your children predeceased you?    Yes    No

**Other Dependants**

These are people who live with you and/or you financially support them, such as: an elderly parent, disabled sibling, grandchild etc.

Name                                      Age          Relationship

Are any of your grandchildren mentally or physically incapacitated?      Yes      No

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**Primary Personal Representative** (otherwise known as Executor/Executrix)

If your spouse is the sole beneficiary of your estate, you may wish to name them as your primary personal representative.

Name                                      Relationship                              Address

**Alternate Personal Representative**

Name                                      Relationship                              Address

Have you spoken to your personal representatives, and are they willing to act?      Yes      No

**Guardian(s) for Your Minor Children**

You may name a primary and alternate guardian.

Name                                      Relationship                              Address

Name                                      Relationship                              Address

**Distribution of Your Estate**

All to my spouse.

Yes

No (please specify your wishes below)

If your spouse predeceases you, or passes away at the same time as you, would you like your estate to:

- be divided equally among your children;
- be divided unequally among your children (specify percentages below); or
- other (specify below).

If your children predecease you, or pass away at the same time as you, would you like their share of your estate to:

- be divided equally among any of your children’s children (your grandchildren through that child);
- be divided equally among your surviving children; or
- other (specify below).

At what age would you like your children and/or grandchildren to receive their share of your estate?

In the event that your children or grandchildren are under 18, unless you instruct otherwise, your Will is drafted so that your personal representative holds each minor child’s share in trust until the age you have specified with the power to use income and capital of the trust for that child’s education, maintenance, and support. You may also direct that your children receive partial shares of your estate at particular ages, for example, 20% at 18 years, 30% at 25 years and the remainder at 30 years.

- All at 18 years
- All at 21 years
- All at 25 years
- All at      years
- Other (specify below)

**Individuals Excluded**

Is there anyone that you have intentionally excluded from your will who may believe they should be entitled to a portion of your estate? For example: an ex-spouse, estranged child, niece or nephew etc.

No

Yes (please specify who they are and provide a brief description of why you have decided to exclude them)

**Specific Gifts**

You are not required to include specific gifts in your will, but may do so if you wish. An example of a specific bequest that you may wish to give could be a family heirloom. You should also be aware that, if you dispose of the specific property during your lifetime, any gift of that property to a beneficiary in your will would fail.

Name of Beneficiary	Specific Gift
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**Disaster Clause**

In the unlikely event that all of the above beneficiaries predecease you, or survive you, but die before becoming entitled to receive their share in your estate how would you like your estate to be distributed?

50% to my parents and 50% to my spouse's parents.

All to my siblings and my spouse's siblings in equal shares,

if any of my siblings predecease me, their share is to go to their children in equal shares, or their share is to be divided in equal shares among my surviving siblings.

All to my nieces and nephews and my spouse's nieces and nephews, who are then alive, in equal shares.

To be distributed to specific relatives, friends, church, or charity as described below.

**Compensation**

Your personal representative is entitled to be paid for the time, effort and expertise they contribute to administering your estate. This can be a lump sum amount or a percentage of your estate. You may specify that they be compensated according to the usual rules, or you may specify an amount or percentage of your estate they are to receive. They will also be entitled to reimbursement for any out-of-pocket expenses they incur in administering your estate.

According to the usual rules (usually between 1% and 5% depending on how complicated the estate is, the value of the estate, the amount of responsibility handled by the personal representative and other factors)

A specified percentage of

A specific amount of \$

A specific amount of \$ /hr.

If you have more than one personal representative acting jointly, is the above compensation amount shared or is each person to receive the compensation specified?

**Additional Property and Financial Information**

The following information is optional.

The purpose of completing this section is to provide us with sufficient information to assist you in planning and to insure we provide you with appropriate advice and draft the most effective documents. If you do not provide this information, it may affect our ability to provide you with adequate advice to ensure that your estate is distributed as you wish it to be. This information is also useful to your personal representative to ensure they are able to locate your assets and carry out their responsibilities when the time comes. If there is not sufficient space to include all of your information, please use a separate paper.

**Real Estate: Principle Residence**

Municipal address:

Legal description:

Names on title:

Ownership:      Sole      Joint tenancy      Tenancy in common

Other Land:

Do you have an interest in mines and minerals?      Yes      No

Do you have mortgage insurance?      Yes      No

**Other Real Estate**

Municipal address:

Legal description:

Names on title:

Ownership:      Sole      Joint tenancy      Tenancy in common

Other Land:

Do you have an interest in mines and minerals?      Yes      No

Do you have mortgage insurance?      Yes      No

**Bank Accounts:**

Bank Name and Location      Account Holder(s)

Joint?  
(Yes/No)

**Guaranteed Investment Certificates and Term Deposits: Bank**

Name and Location      Account Holder(s)

Maturity Date

**TFSAs, RRSPs, RRIFs, and Mutual Funds:**

Type and Financial Institution      Beneficiary

Owner

**Life Insurance Policies:**

Company and Policy No.      Beneficiary

Value

**Pension Plans:**

Company      Beneficiary

**Safety Deposit Box:**

Location

Box Number Registered Name(s)

Location of Keys

**Business Interests** (private company, partnership, sole proprietorship, etc.):

Please describe:

**Shares in Public Corporations:**

Name of Corporation

Approximate Value

**Valuable Personal Property:**

Description

Location of Property

Approximate Value

**Other Assets Not Listed Above:** (disability savings plans, registered education savings, timeshare, etc.)

Describe:

**Liabilities and Miscellaneous Debts:**

Creditor

Type of liability

Amount

Do you have an interest in any assets outside Alberta?      Yes      No

Do you have an interest in any assets outside Canada?      Yes      No

Do you have any wills for assets outside Canada?      Yes      No

Have you made any loans or advances to family members or others that are to be repaid?      Yes      No

Have you made any loans or advances to family members or others that are to be forgiven?      Yes      No

If you have answered yes to any of the above questions please provide further details.



**B ENDURING POWER OF ATTORNEY QUESTIONNAIRE AND INSTRUCTIONS**

I wish to appoint the same person(s) as my attorney and personal representative in my will. If not, please complete the section to name an Attorney and Alternate below.

**Attorney**

Name	Relationship	Address
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**Alternate Attorney**

Name	Relationship	Address
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**Decision Making**

While we recommend that you appoint one attorney and an alternate to avoid the possibility of disputes preventing decisions from being made, if you wish to appoint more than one attorney to act jointly, please advise as to whether your agents must make decisions on a majority basis, or if they all have to agree on a decision:

- On a majority basis
- They all have to agree.

**Trigger for Enduring Power of Attorney**

Would you like your Power of Attorney to come into effect immediately, or only when you are incapacitated:

- Immediate: your Power of Attorney comes into effect when it is signed, and continues in effect if you become incapacitated and are unable to manage your financial affairs
- Springing: your Power of Attorney comes into effect when two (2) medical doctors agree that you are incapacitated and are unable to manage your financial affairs
- Springing: your Power of Attorney comes into effect when you are incapacitated and are unable to manage your financial affairs according to your physician and your Attorney

**Powers of Attorney**

If you wish to place any restrictions on your Attorney, or to permit them to do anything beyond what rights are automatically conferred by law, please describe below:

**Yes      No**

(i) Should your attorney be entitled to provide for the maintenance, education and support of anyone other than yourself (for example, your spouse or dependent children)?

If yes, please describe:

(ii) Should your attorney be entitled to employ agents?

If yes, please describe:

(iii) Should your attorney be entitled to make gifts on your behalf for special occasions?

If yes, please describe:

(iv) Should your attorney be entitled to make charitable donations on your behalf?

If yes, please describe:

(v) Should your attorney be entitled to pay for renovations to your home to permit you to remain in your home for longer?

If yes, please describe:

(vi) Do you wish to restrict your attorney's ability to sell any property (e.g. real estate, business or partnership interests, investments)?

If yes, please describe:

(vii) Do you wish to provide any specific direction on your attorney's authority to make investments on your behalf?

If yes, please describe:

(viii) Should your attorney be entitled to provide support for post-secondary education expenses for children who are over 18?

If yes, please describe:

(ix) Other?

If yes, please describe:

**Compensation**

My attorney should be reimbursed for out-of-pocket expenses only.

Fees should be paid in the amount of \$ \_\_\_\_\_ per month plus out-of-pocket expenses.

**Accounting**

We suggest that the Attorney be required to provide an accounting of everything they have done with your finances if there are concerns about the way the Attorney is dealing with your income and assets. If you would like to include such a provision, please provide the contact information of individual(s) who would have a right to require a detailed accounting from your Attorney:

Name	Relationship	Address
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**Notification**

If your Power of Attorney comes into effect, the Attorneys will be notified, if they are not already aware of it. Is there anyone, other than your Attorney, such as adult children or spouses, who you would wish to have notified?

If so, please provide their contact information:

Name	Relationship	Address
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**C PERSONAL DIRECTIVE QUESTIONNAIRE AND INSTRUCTIONS**

I wish to appoint the same person(s) as my agent and personal representative in my will. If not, please complete the section to name an Agent and Alternate, below.

**Agent**

Name	Relationship	Address
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**Alternate Agent**

Name	Relationship	Address
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**Decision Making**

While we recommend that you appoint one agent and an alternate to avoid the possibility of disputes preventing decisions from being made, if you wish to appoint more than one agent to act jointly, please advise as to whether your agents must make decisions on a majority basis, or if they all have to agree on a decision:

- On a majority basis
- They all have to agree.

**Determining Capacity**

In general, we suggest that you permit your agent, in consultation with a doctor or psychologist to determine when you lack capacity, and in the event of the refusal or inability of the agent to make that determination, to permit two service providers, at least one of whom is a doctor or psychologist, to determine when you lack capacity. However, you can specify who is entitled to determine when you lack capacity.

- Agent in consultation with one doctor or psychologist
- Agent in consultation with two doctors or psychologists
- One doctor
- Two doctors
- (person) together with one doctor or two doctors
- Other:

**Minor Children**

I wish to appoint the same person to care for my minor children as is appointed to be the guardian in my will. If not, please complete the section to identify a temporary guardian, below

**Guardian**

Name	Relationship	Address
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**Powers of Agent**

My agent will have the power to make all personal decisions on my behalf in the event of my incapacity.

If not, please describe any restrictions on your Agent’s authority below:

- |  |     |    |
|--|-----|----|
|  | Yes | No |
| (i) Restrict choice of accommodation (e.g. hospice, hospital, nursing home or other extended care facility, including to specify whether you would prefer reasonable care within your resources, or the best possible care, even if it depletes your resources so that you have no estate when you die)? |     |    |

If yes, please describe:

(ii) Restrict nutritional choices (such as vegetarian or other type of diet or specific type of food according to your cultural or religious beliefs)?

If yes, please describe:

(iii) Restrict hygiene choices (such as personal grooming or appearance and bathing preferences)?

If yes, please describe:

(iv) Restrict clothing choices (such as the way you are most comfortable being dressed or other your appearance, including clothing you wish to wear, particularly anything with a cultural or religious significance)?

If yes, please describe:

(v) Restrict safety choices (including use of restraints if in your best interests)?

If yes, please describe:

(vi) Restrict other? If

yes, please describe:

**Access to Medical Records**

The agent(s) that you appoint in your personal directive have full access to medical records and can discuss your medical condition and prognosis with the medical team that is caring for you. Is there anyone else that you would like to have access to the information? If so, please provide their contact information:

Name	Relationship	Address
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**Notification**

If your personal directive comes into effect, the Agents will be notified, if they are not already aware of it. Is there anyone, other than your Agent, such as adult children or spouses, who you would wish to have notified? If so, please provide their contact information:

Name	Relationship	Address
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**Medical Decisions**

In your personal directive, we direct your Agent to make decisions based on their knowledge of your wishes, beliefs and values. In order to give your Agent some direction, however, you can specifically direct certain health care decisions, or provide guidance in relation to medical decisions that your Agent may have to make:

**Yes    No**

I want my agent to be able to donate my organs for transplant .

I want my agent to donate all medically acceptable organs and/or tissues for medical research.

I want to be consulted to the extent it is feasible and in my best interests.

If I am in severe pain or distress, I want my agent to be able to consent to administration of medical to relieve my pain or distress, even if it dulls my consciousness and indirectly shortens my life.

If I am expected to regain capacity to make my own decisions, I want all treatments that can reasonably be expected to enable me to recover.

If I reach a stage where I am not expected to regain capacity to make my own decisions (**choose either A or B**):

A. I do not want my life prolonged at all costs. I do not want medical treatments that are primarily intended to prolong my life without improving chances for the cure or reversal of my condition. I wish to receive **OR** comfort care, including surgery and drugs, to relieve pain and reduce distress.

B. I want my life prolonged at all costs. I want all available treatment, including surgery, medications, CPR, ventilators, dialysis and tube feeding, and the use of extraordinary or heroic measures, to extent my life for as long as possible.

I want my agent to withdraw or withhold medical treatment to permit my life to come to an end if my death is imminent should treatment be withheld or withdrawn, I have lost the ability to interact with others, and there is no reasonable chance of regaining that ability.

I want my agent to make decisions about my participation in a reasonable trial of medical research or experimental medical treatment whether or not my agent or physician knows the extent of the potential benefit to me.