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GLOSSARY OF WILLS TERMS

Adeems A specific gift "adeems" when it is no longer available when the Testator dies.
Example: A father declares in his Will, "I leave my son my 1988 Cadillac automobile" and he no longer owns the automobile when he dies.

Administrator is an individual appointed by the Surrogate Court to administer the Estate when

- There is no Will
- No personal representative is named in a Will, or
- All of the personal representatives named in a Will are unwilling or unable to act.

Administering an Estate includes gathering an Estate in, paying the debts, funeral expenses and taxes, and distributing the Estate.

Agent is a person you appoint in a Personal Directive to make personal decisions on your behalf if you become incapacitated.

Attorney is a person you appoint in an Enduring Power of Attorney to handle your financial matters if you become incapacitated. It is not required that this person be a lawyer.

Beneficiary is a person (a person can be an individual, company, organization or charity) who receives a gift from a Will or trust, or who is designated to receive the proceeds of an insurance policy, an RRSP or RRIF, or a pension plan. A beneficiary is also a person who is entitled to benefits from a trust.

Codicil is a change or addition to your Will.

Discretionary Trust is a trust where the trustee can control the allocation of income and capital to the beneficiaries.

Donor is the person signing an Enduring Power of Attorney, thereby giving someone else the authority to handle their financial affairs if they become incapacitated (also called a principal or grantor).

Encroachment is a trustee's power to use a beneficiary's share of a trust for the benefit of the beneficiary. It is often used to access a child's share of their parent's Estate for their benefit before they are entitled to receive their share.

Enduring Power of Attorney is a signed document in which you appoint a person (your "Attorney") to make decisions on your behalf relating to your financial matters while you are alive but unable to make decisions on your own.

Estate is all the property an individual owns. It is often used to refer to the property owned by the testator at the time of their death, but it also refers to property owned during the lifetime of an individual.

Estate Planning is arranging for the well-organized transfer of property at the time of the death.

Executor and **Executrix** are the old terms for the individual or institution appointed by a Will to administer the Estate. The preferred term is now Personal Representative.

Fiduciary Duty is the legal duty (responsibility) to act in the best interests of another individual (individual includes persons, companies, organizations and charities).

Gifts There are three kinds of gifts in Wills:

- **Specific gifts** are gifts of specific items (i.e., I give my diamond ring to my daughter, Rose).
- **General gifts** are gifts that come from your general Estate (i.e., I give \$10,000.00 to my son, John).
- **Residual gifts** are gifts of what is left after everything else has been taken care of (e.g., I give all the rest of my Estate to children, in equal shares).

Guardian is the person appointed by a Will to take custody of children if their parents pass away.

Holographic Will is a Will that is completely in the handwriting of the testator and signed at the foot of the Will.

Inter Vivos Trust is a trust is created during the lifetime of the settlor.

International Will is a Will that is valid in any country that has ratified the "Convention Providing a Uniform Law on the Form of an International Will". It requires the signature of two witnesses and a lawyer to be valid.

Intestate is when a person dies without a Will. A partial intestacy occurs when a valid Will does not distribute the entire Estate.

Issue refers to all persons who are descended from a single person (also referred to as lineal descendants). It is broader than the term "children," which is limited to one generation.

Joint Tenancy is when two or more people share ownership of a single asset.

Lapse is when a gift fails to occur. For example, a specific gift in a Will would lapse if the beneficiary passed away prior to the testator passing away, and the gift would go back into the Estate.

Life Interest allows you to provide a beneficiary with the use a gift for the rest of their life. When the beneficiary dies the gift does not become part of their Estate, but instead goes to another beneficiary named in your Will. This allows you to give a gift to two beneficiaries one after the other.

Mirror Wills are an estate planning tool for families. With Mirror Wills each parent's Will provides that if one parent passes away, the other parent inherits everything owned by the deceased parent (except for any specific gifts provided for in the Will). When the surviving parent passes away, or if both parents die at the same time, the entire Estate goes to their children in equal shares in trust.

Per Capita in a per capita distribution, the residue of your Estate is usually divided equally among your children. If one of your children predeceases you, then their share goes to your other children pro rata.

Per Stirpes in a per stirpes distribution, the residue of your Estate is usually divided equally among your children. If one of your children predeceases you, then their share goes to that child's children (your grandchildren) pro rata.

Personal Directive is a signed document in which you outline your views and wishes about personal care issues and you appoint a person (your "Agent") to make decisions on your behalf relating to your personal matters while you are alive but unable to make decisions on your own (Personal matters include decisions relating to health care and where you live). A Personal Directive is similar to a Living Will.

Personal Representative is the person appointed by a Will or the Court to administer an Estate.

Probate is a procedure in Surrogate Court that certifies the validity of a Will and confirms the Personal Representatives named within the Will. It is also known as Letters Probate.

Remainderman is the person who receives an interest in property after all other interests have terminated.

Settlor is an individual who establishes a trust.

Testamentary Trust is a trust that is created in a Will and it only takes effect after death.

Testate is when a person dies with a valid Will.

Testator/Testatrix is the person who made the Will.

Trust A trust is established when a person (the “settlor”) transfers legal title to their property to a trustee to administer for the benefit of another person (the “beneficiary”). A trust may also be established in a Will.

Trustee is the person or a trust company responsible for administering assets on behalf of the beneficiary.

Will is the signed document in which you declare how you want your property distributed after you die.

Turning Point Law is a father – son Wills, Estates and Trusts law firm. Paul McLaughlin (father) and Andrew McLaughlin (son) are committed to helping our clients find peace of mind through plain language drafting of Wills, Enduring Powers of Attorney, Personal Directives and Trusts. We also assist our clients with Applications for Grants of Probate and Grants of Administration, and with the Administration of Estates.

Our office is located in Sherwood Park, Alberta, and we serve clients in Strathcona County, Fort Saskatchewan, Edmonton, St Albert, Leduc, Camrose, Tofield and Spruce Grove. We also serve clients in Red Deer and Calgary.

Please do not hesitate to contact our office with any questions you may have.