

# SAMPLE – NEW ENGLAND ESTATE PLANNING (newenglandestateplanning.com)

## General Estate Planning Interview Direction Sheet

Date: \_\_\_\_\_ 20\_\_\_\_  
Client: \_\_\_\_\_

Attorney: \_\_\_\_\_  
Case worker: \_\_\_\_\_

### WILL

#### 1. Client Information:

- For the information below, see  intake packet  see memo  and/or see below:
- Client 1 name: \_\_\_\_\_
- Client 2 name: \_\_\_\_\_
- Address: City/town: \_\_\_\_\_ County \_\_\_\_\_  
State \_\_\_\_\_
- Marital status:  married  unmarried  a widower  a widow  
 in a committed relationship with: \_\_\_\_\_
- Spousal nomenclature:  spouse  husband  wife  
 registered domestic partner  domestic partner
- Children:
  - Client 1 and 2
    - i. \_\_\_\_\_ ii. \_\_\_\_\_
    - iii. \_\_\_\_\_ iv. \_\_\_\_\_
  - v.  Additional children see  intake packet  see memo  and/or see below
  - Client 1
    - i. \_\_\_\_\_ ii. \_\_\_\_\_
    - iii. \_\_\_\_\_ iv. \_\_\_\_\_

v.  Additional children see  intake packet  see memo  and/or see below

➤ Client 2

i. \_\_\_\_\_ ii. \_\_\_\_\_

iii. \_\_\_\_\_ iv. \_\_\_\_\_

v.  Additional children see  intake packet  see memo  and/or see below

Predeceased children (if any): \_\_\_\_\_  
and their child/children \_\_\_\_\_

Additional children: \_\_\_\_\_

**2. Survivorship:**

In the case of a couple, each spouse should be deemed to have survived his/her spouse

Client \_\_\_\_ presumed to survive spouse if they die simultaneously

Client \_\_\_\_ presumed to predecease spouse if they die simultaneously

All beneficiaries other than spouse (see above) must survive by 30 days

All beneficiaries must survive by 30 days regardless of who they are

**3. Apportionment of Taxes:**

Simple apportionment (apportion all taxes)

Simple non apportionment (pay all taxes from residue)

Split apportionment (no apportionment of taxes as to property passing under Will but apportionment taxes to property passing outside Will)

Split apportionment (no apportionment as to property passing under will or which qualifies for Marital deduction; apportionment of all other taxes)

Split apportionment (no apportionment as to property passing under will or which

qualifies for Marital or Charitable deduction; apportionment of all other taxes)

Split apportionment (no apportionment as to property passing under will or which qualifies for Charitable deduction; apportionment of all other taxes)

Split apportionment (no apportionment unless caused by inclusion of spousal property in estate under Section 2044)

Other: \_\_\_\_\_

**4. Specific or General Bequests:**

- Are there any specific or general bequests?  Yes  No, skip to #5.
- If yes, how many \_\_\_\_\_? Note: Specific bequests should appear before general bequests (gifts of money from a nonspecific source).

**Tangible Personal Property**

1. \_\_\_\_\_ to  
\_\_\_\_\_

2. \_\_\_\_\_ to  
\_\_\_\_\_

3. \_\_\_\_\_ to  
\_\_\_\_\_

➤ Additional Tangible Personal Property Bequest?

Yes, *see*  intake packet  see memo  No

**Cash**

1. \_\_\_\_\_ to  
\_\_\_\_\_

2. \_\_\_\_\_ to  
\_\_\_\_\_

3. \_\_\_\_\_ to  
\_\_\_\_\_

➤ Additional Cash Bequest?

Yes, *see*  intake packet  see memo  No

**Real Estate**

➤ Description<sup>1</sup> of First Real Estate Bequest

\_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_

- Is the real estate devised to be made subject to any mortgages, encumbrances, taxes or assessments thereon?  
 Yes  No
- Does real estate come with all tangible personal property, including furniture and appliances?  Yes  No
- Include provisions regarding insurance proceeds?   
Yes  No
- Include provisions regarding ademption (i.e., if the property is no longer owned by the decedent)?   
Yes  No
- Comments: \_\_\_\_\_  
\_\_\_\_\_

➤ Description<sup>2</sup> of Second Real Estate Bequest

\_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_

- Is the real estate devised to be made subject to any mortgages, encumbrances, taxes or assessments thereon?  
 Yes  No
- Does real estate come with all tangible personal property, including furniture and appliances?  Yes  No

<sup>1</sup> Sample referencing language:

57 Cranberry Lane, Dover, New Hampshire, deed reference being made to a deed dated January 1, 2004, recorded in the Strafford County Registry of Deeds, Book 2231 and Page 45

- Include provisions regarding insurance proceeds?   
Yes  No
- Include provisions regarding ademption (i.e., if the property is no longer owned by the decedent)?  Yes   
No
- Comments: \_\_\_\_\_  
\_\_\_\_\_

➤ Additional Real Estate Bequest?

- Yes, *see*  intake packet  see memo  No

**5. Exercise or Non-Exercise of a Power of Appointment:**

- Will is to exercise POA granted.  Yes  No

- Power is a General POA
- Power is a Special or limited POA
- Granting instrument:<sup>3</sup>

\_\_\_\_\_

➤ Describe property to be distributed.

\_\_\_\_\_

\_\_\_\_\_

- Will is to state that a POA granted will **NOT** be exercised.  Yes  No

- Power is a General POA
- Power is a Special or Limited POA
- Granting instrument

\_\_\_\_\_

**6. Tangible Personal Property:**

<sup>3</sup> Sample language:  
Article or Paragraph \_\_\_\_\_ of a certain Trust Agreement dated \_\_\_\_\_, as amended, between the \_\_\_\_\_ as Donor (or Settlor), and \_\_\_\_\_ as Trustees (or \_\_\_\_\_ as Trustee) [ or Article \_\_\_\_\_ of the Last Will and Testament of \_\_\_\_\_ ]

- **Include "By Memorandum" Provision:**  Yes  No
- **General:** How the residue of the testator's Tangible Personal Property should be distributed?

- Spouse (domestic partner)
- Spouse (domestic partner) then to children in equal shares ( require survivorship;  don't require survivorship)
- Spouse (domestic partner) then to children in equal shares with protective provisions for takers who are minors
- Spouse (domestic partner) then to children with my TPP to be divided into 2 shares; one share to be sold the other to be distributed to them
- Spouse (domestic partner) but if not then living then to be sold and distributed as part of residue
- Children ( require survivorship;  don't require survivorship)
- Children with protective provisions for minors ( require survivorship;  don't require survivorship)
- To be sold and the proceeds to be distributed as part of residue
- Other : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- **Special division provisions:** How should the division of tangible personal property among children/others be made?

- In equal shares as determined by the personal representative
- In equal shares as they may agree
- Other: \_\_\_\_\_

- **Stepchildren:** With respect to the distribution of the testator's tangible personal property, are stepchildren to be included along with children?  Yes  No

7. **Residue:** How should the residue be distributed?

All to spouse (domestic partner) outright

➤  Require survivorship or  don't require survivorship

○ If spouse does not survive then to:

\_\_\_\_\_  
\_\_\_\_\_

All to spouse outright, if living, else to children in equal shares:

➤  Outright,  in trust for all  (will require additional drafting if in trust) , or  outright to all children except for \_\_\_\_\_, which share is to be held in trust (*see instructions below for terms* - will require additional drafting if in trust)

○  Require survivorship or  don't require survivorship

○ If not surviving, then to  issue  testator's issue  lapse

Other: \_\_\_\_\_

All to children in  equal shares or  as set forth below,

➤  Outright,  in trust for all  (will require additional drafting if in trust), or  outright to all children except for \_\_\_\_\_, which share is to be held in trust (*see instructions below for terms* - will require additional drafting if in trust)

○  Require survivorship or  don't require survivorship

○ If not surviving, then to  issue  testator's issue  lapse

Other: \_\_\_\_\_

SNT for spouse, then to children in equal shares:

➤  Outright,  in trust for all  (will require additional drafting if in trust), or  outright to all children except for \_\_\_\_\_, which share is to be held in trust (*see instructions below for terms* - will require additional drafting if in trust)

○  Require survivorship or  don't require survivorship

- SNT trust FBO spouse should be:  see-through with  conduit  accumulating trust provisions

All to other individuals or entities.

- Require survivorship or  don't require survivorship
  - If not surviving, then to  issue  testator's issue  lapse
  - Other: \_\_\_\_\_

Pourover to Trust

- Name of Trust Client 1: \_\_\_\_\_
  - Trustee(s):  Client 1 and/or Spouse
  - Other: \_\_\_\_\_

- Name of Trust Client 2: \_\_\_\_\_
  - Trustee(s):  Client 2 and/or Spouse
  - Other: \_\_\_\_\_

- Name of Joint Trust: \_\_\_\_\_
  - Trustee(s):  Client 1 and/or Client 2
  - Other: \_\_\_\_\_

Other: See  intake packet page \_\_\_\_\_ or  memo, or  below:

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**6. Misc. Will Provisions:**

- Provision regarding survivorship of persons in coma or veg state
- Provision regarding the Rule Against Perpetuities
- Provision regarding advancements
- Provision regarding use of tangible personal property
- Provisions disinheriting an heir



- No contest clause provision:  simple  expansive  scorched earth
  - Provision waiving exemptions and/or allowances
  - Definition of devise (means same thing as gift, give or bequest/bequeath)
  - Provision addressing ademption
  - Nonreciprocal Will provision
  - Pretermitted heirs clause
  - Digital assets
  - Provision indicating that real estate passes subject to encumbrances
  - Default special needs trust provisions
  - Power to sell real estate without notice or license
  - Require surety on bond (default is no surety on bond)
  - Require court oversight (default is no oversight)
  - Use "Executor" nomenclature
  - Other: \_\_\_\_\_, or
- See  memo  below or  intake packet for additional directions

**7. General Trust Terms & Provisions:**

- Do you want to include a contingent trust for minors?  Yes  No
  - At what age should the contingent trust terminate?  21  25  30  
 Other \_\_\_\_\_
  - Distributions in:  Trustee's discretion;  Discretionary MESH only;  
 Mandatory MESH;  Other: \_\_\_\_\_
- Do you want the Personal Representative to direct and control dispositions made to an incapacitated person?  Yes  No
- Do you want to include a calamity clause?  Yes  No
  - Split 50/50 between the intestate takers of the testator and his or her spouse
  - All to the intestate takers of the testator/testatrix

To other named beneficiaries or charities in  equal shares,

The following percentages or  shares:

➤ \_\_\_\_\_ to \_\_\_\_\_ of

\_\_\_\_\_

➤ \_\_\_\_\_ to \_\_\_\_\_ of

\_\_\_\_\_

➤ \_\_\_\_\_ to \_\_\_\_\_ of

\_\_\_\_\_

➤ See attached pages  for additional takers

**8. Personal Representative:** Select the PR scenario that most closely resembles what is desired.

One (1) initial PR

One (1) initial PR with one (1) named successor

One (1) initial PR with two (2) named successors

One (1) initial PR with three (3) named successors

Two (2) initial Co-PRs, either of whom may serve alone

Two (2) initial Co-PRs, either of whom may serve alone with one (1) named successor

Two (2) initial Co-PRs, either of whom may serve alone with two (2) named successors

Two (2) initial Co-PRs with power to appoint replacement

Two (2) initial Co-PRs with one (1) named successor

Two (2) initial Co-PRs with power to appoint replacement

Two (2) initial Co-PRs with two (2) named successors

Other: \_\_\_\_\_

Check if provisions for Client 1 and Client 2 are not the same and see memo.

➤ Who will serve as PR?

- See  intake packet for appointments  memo to file

Personal Representative:	Client #1	Client #2
Order of service: <input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> 4 <sup>th</sup> <input type="checkbox"/> 5 <sup>th</sup> <input type="checkbox"/> 6 <sup>th</sup>	Name:  City/state:	Name:  City/state:
<input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> 4 <sup>th</sup> <input type="checkbox"/> 5 <sup>th</sup> <input type="checkbox"/> 6 <sup>th</sup>	Name:  City/state:	Name:  City/state:
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- Law firm should serve in default or  Law firm should appoint PR in default.

**9. Trustee:**

- Do you want to include a Trustee appointment provisions?  Yes  No
- If yes, will the Trustee appointment be different in some respect than the PR appointment?  Yes  No, the appointments are the same and can be included in the same paragraph.

- If the Trustee appointment is different than the PR appointment, select the Trustee scenario that most closely resembles what is desired.

- One (1) initial Trustee
- One (1) initial Trustee with one (1) named successor
- One (1) initial Trustee with two (2) named successors
- One (1) initial Trustee with three (3) named successors
- Two (2) initial Co-Trustees, either of whom may serve alone
- Two (2) initial Co-Trustees, either of whom may serve alone with one (1) named successor
- Two (2) initial Co-Trustees, either of whom may serve alone with two (2) named successors
- Two (2) initial Co-Trustees with power to appoint replacement
- Two (2) initial Co-Trustees with one (1) named successor
- Two (2) initial Co-Trustees with power to appoint replacement
- Two (2) initial Co-Trustees with two (2) named successors
- Other: \_\_\_\_\_
- Check if Trustee provisions for Client 1 and Client 2 are not the same and see memo.

➤ Who will serve as Trustee?

- See  intake packet for appointments  memo to file

Trustee:	Client #1	Client #2
Order of service: <input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> 4 <sup>th</sup> <input type="checkbox"/> 5 <sup>th</sup> <input type="checkbox"/> 6 <sup>th</sup>	Name:  City/state:	Name:  City/state:
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- See  memo  below or  intake packet for additional directions
- Law firm should serve in default or  Law firm should appoint PR in default.

**10. Guardians:**

- Does a guardian need to be appointed?  Yes  No
- See client intake packet for appointments  See memo to file
- How many initial Guardians?

➤ Guardian #1:

\_\_\_\_\_ of \_\_\_\_\_

➤ Guardian #2:

\_\_\_\_\_ of \_\_\_\_\_

- Does a successor guardian need to be appointed?  Yes  No
- Who will serve as successor guardian?

➤ Successor Guardian #1:

\_\_\_\_\_ of  
\_\_\_\_\_

➤ Successor Guardian #2:

\_\_\_\_\_ of  
\_\_\_\_\_

- See  memo  below or  intake packet for additional directions

**11. Spendthrift:**

- Should the Will include a spendthrift provision?  Yes  No
- Which spendthrift protection form do you want?  Long  Short
- Should the spendthrift constitute a "material purpose". (Option is only available if using "long form".  Yes  No

**12. Definitions:**

- Select the provision regarding the definition of issue that should be Included:
  - Provision defining Child and Issue (by blood only)
  - Provision defining Child and Issue to include adopted children
  - Provision defining Child and Issue to include step and adopted children
    - If stepchildren are provided for, add them by name  Yes  No and include their descendants  Yes  No.
  - Provision defining Child and Issue to include adopted children and permitting adult adoption
  - Provision defining Child and Issue to include step and adopted children and permitting adult adoption
  - Don't include a provision defining children/issue.

How should shares be allocated among beneficiaries?  Per stirpes (default to this)  Per capita

**13. Other Comments:**

- No contest clause:  Yes  No
- Intentionally disinherits \_\_\_\_\_
  - without elaboration
  - but not due to lack of love or affection
  - because I have made other provisions
  - other: \_\_\_\_\_
- Acknowledgement by:  Notary  Attorney at Law
- Make date ready for date of execution

**Notes:**

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END OF SAMPLE