

ESTATE PLANNING GLOSSARY

“**Advance Health Care Directive**” or “**AHCD**” refers to the legal document whereby a person documents their health/medical choices in the event of their death or incapacity. Such choices relate to giving instructions about end-of-life decisions, pain treatment, organ donation and other health care wishes. ‘AHCD’ is also referred to as a ‘Living Will’.

“**Alternate Trustee**” means the person named in a trust document to manage the trust in the event of the incapacity or death of the ‘Initial Trustee’. Typically, an alternate trustee is the trust creator’s family member, relative or friend, but in some cases, it may also be a corporate trustee. ‘Alternate Trustee’ is also referred to as a ‘Successor Trustee’.

“**Assignment of Personal Property**” refers to the legal document which acts as a ‘catch all’ provision that collects all tangible assets (i.e., personal property or movable property) of a trust creator and puts it in his or her trust.

“**Beneficiary**” means the person who would receive the assets of a trust or a Will, as applicable, upon its creator’s death. Beneficiaries may be family members, relatives, friends, charitable or other organizations, pets, or any other persons or entities.

“**Certification of Trust**” refers to the legal document which is a summary of a trust’s provisions as they relate to (i) the trust name, (ii) date of creation of trust, (iii) names and identities of the trust creator and trustees, (iv) powers of trustees, and (v) trust title. It is a document that the trust creator is often asked to submit as ‘proof of trust’ during the trust funding process.

“**Declaration of Trust**” refers to the legal document which creates a trust. The term ‘Declaration of Trust’ is typically used when the trust creator acts as the sole ‘Initial Trustee’ and declares that such person creates a trust.

“**Durable Power of Attorney**” means a ‘Financial Power of Attorney’ which becomes active immediately upon its execution regardless of whether or not the person who created it (i.e., ‘Principal’) is incapacitated.

“**Financial Agent**” means the person named in a ‘Financial Power of Attorney’ as an agent who is authorized to access the Principal’s financial records and make financial decisions for the Principal. A ‘financial agent’ may be, but is not required to be, an accountant, banker, financial advisor or tax advisor. Typically, ‘financial agent’ is the Principal’s spouse, family member, relative or friend.

“**Financial Power of Attorney**” refers to the legal document whereby a person (i.e., ‘Principal’) appoints one or more agents who are authorized to make financial decisions for the Principal and have access to the Principal’s financial records during the Principal’s incapacity. A financial power of attorney may be structured as a ‘Durable Power of Attorney’ or a ‘Springing Power of Attorney’.

“**Grantor**” means the person who is the creator of a ‘Revocable Living Trust’. ‘Grantor’ is also referred to as a ‘Settlor’ or ‘Trustor’.

“Guardianship” refers to the legal process whereby the parent(s) of a minor child nominate other adult(s) to take legal custody of such child in the event of the parent’s death or incapacity.

“Guardianship Declaration” refers to the legal document whereby the parents of a minor child nominate permanent and temporary guardians for their minor child(ren).

“Health Care Agent” means the person named in a ‘Health Care Power of Attorney’ as an agent who is authorized to make medical decisions for the Principal but may not have access to the Principal’s medical records. A ‘health care agent’ may be, but is not required to be, a doctor or medical professional. Typically, ‘health care agent’ is the Principal’s spouse, family member, relative or friend.

“Health Care Power of Attorney” refers to the legal document whereby a person (i.e., ‘Principal’) appoints one or more agents who are authorized to make medical decisions for the Principal during the Principal’s incapacity and/or after the Principal’s death.

“HIPAA” is a federal law that deals with medical privacy. It refers to The Health Insurance Portability and Accountability Act of 1996 that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge.

“HIPAA Agent” means the person named in a ‘HIPAA Authorization’ or ‘HIPAA Release & Authorization’ as an agent who is authorized to access the Principal’s medical records but cannot make medical decisions for the Principal. Typically, ‘HIPAA agent’ is the Principal’s spouse, family member, relative or friend.

“HIPAA Authorization” or **“HIPAA Release & Authorization”** refers to the legal document whereby a person (i.e., ‘Principal’) appoints one or more agents who are authorized to have access to the Principal’s medical records during the Principal’s incapacity and/or after the Principal’s death.

“Initial Trustee” means the person initially nominated to manage a trust upon its creation. Typically, the trust creator(s) acts as the sole initial trustee(s).

“Interspousal Transfer Deed” refers to the legal document whereby either one spouse transfers all or a portion of their real estate ownership to the other spouse, or the spouses change how such title is vested in them.

“Irrevocable Living Trust” refers to a type of a trust which is deemed to be a legal entity ‘separate from the trust creator and as such, it can only be modified or terminated under limited circumstances. A ‘Special Needs Trust’ is a type of an irrevocable living trust.

“Living Will” refers to the legal document whereby a person documents their health/medical choices in the event of their death or incapacity. Such choices relate to giving instructions about end-of-life decisions, pain treatment, organ donation and other health care wishes. ‘Living Will’ is also referred to as ‘Advance Health Care Directive’ or ‘AHCD’.

“Movable Property” refers to all personal property of a trust creator, including, without limitation, motor vehicles, boats and personal watercraft, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books, clothing, jewelry or other articles of personal use or ornament, and other tangible personal property of a nature, use or classification similar to the foregoing. ‘Movable Property’ is also referred to as ‘Personal Property’ or ‘Tangible Assets’.

“Personal Property” refers to all personal property of a trust creator, including, without limitation, motor vehicles, boats and personal watercraft, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books, clothing, jewelry or other articles of personal use or ornament, and other tangible personal property of a nature, use or classification similar to the foregoing. ‘Personal Property’ is also referred to as ‘Tangible Assets’ or ‘Movable Property’.

“Personal Property Memorandum” refers to the legal document which is used only as an ‘exception document’ whereby the trust creator distributes one or more items of their personal property to person’s other than those named as trust beneficiaries or in any other manner other than as specified in the trust document.

“Pour Over Will” refers to the legal document that acts as a backup to a trust as it collects all non-trust assets of a person and ‘pours them over’ into his or her trust, if such trust is active, or distributes all assets of such person in the same manner as that mentioned in the trust, if such trust is inactive.

“Principal” means the person who is the creator of a ‘Financial Power of Attorney’, ‘Health Care Power of Attorney’, or ‘HIPAA Authorization’ or ‘HIPAA Release & Authorization’.

“Probate” refers to the legal process whereby a judge supervises and distributes the wealth of a deceased person after his or her death if such person died either: (a) without a valid Will; or (b) if such person had a valid Will (but not a trust) and their ‘gross’ estate equaled or exceeded the prevailing probate threshold (which, as of January 1, 2021 is \$166,250 in California).

“Revocable Living Trust” refers to a type of a trust which is deemed to be the ‘shadow of the trust creator’ when such person is alive and is malleable (i.e., can be modified) or terminated during the lifetime of the creator.

“Settlor” means the person who is the creator of a ‘Revocable Living Trust’. ‘Settlor’ is also referred to as a ‘Grantor’ or ‘Trustor’.

“Special Needs Trust” refers to a type of an ‘Irrevocable Living Trust’ that is set up for a developmentally disabled person.

“Springing Power of Attorney” means a ‘Financial Power of Attorney’ which becomes active only when the person who created it (i.e., ‘Principal’) is incapacitated, but not before.

“Successor Trustee” means the person named in a trust document to manage the trust in the event of the incapacity or death of the trust creator. Typically, successor trustee is the creator’s family

members, relatives and/or friends, but in some cases, it may also be a corporate trustee. ‘Successor Trustee’ is also referred to as an ‘Alternate Trustee’.

“**Tangible Assets**” refers to all personal property of a trust creator, including, without limitation, motor vehicles, boats and personal watercraft, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books, clothing, jewelry or other articles of personal use or ornament, and other tangible personal property of a nature, use or classification similar to the foregoing. ‘Tangible Assets’ is also referred to as ‘Personal Property’ or ‘Movable Property’.

“**Testator**” means the person who creates a ‘Will’.

“**Trust**” is a legal construct which primarily helps the trust creator avoid probate with respect to any assets placed in the trust.

“**Trust Administration**” refers to the process of administering a trust and distributing its wealth to the trust beneficiaries after the death of the trust creator.

“**Trust Agreement**” means the legal document which creates a trust. The term ‘Trust Agreement’ is typically used when the trust creator is not the only ‘Initial Trustee’, in which case, the creator enters into an agreement with such other person(s) to manage or co-manage the trust for the creator.

“**Trust Funding**” refers to the legal and operational process whereby the assets of the trust creator are transferred to the trust either by changing the ownership of such assets to the trust or by designating the trust as a beneficiary of such assets.

“**Trust Tax ID**” means, for a ‘Revocable Living Trust’, the SSN of the ‘Grantor’, ‘Settlor’ or ‘Trustor’ if such person is alive, or the Federal Employer’s Identification Number (i.e., EIN) issued by the IRS for such trust after the death of such person.

“**Trust Transfer Deed**” refers to the legal document whereby the trust creator transfers the title of their U.S. real estate to their trust.

“**Trustee**” means the person authorized to manage a trust during the lifetime of its creator (i.e., Grantor’, ‘Settlor’ or ‘Trustor’) and also after the death of such creator. Trustees are of two types: (i) initial trustees, and (ii) alternate or successor trustees.

“**Trustor**” means the person who is the creator of a ‘Revocable Living Trust’. ‘Trustor’ is also referred to as a ‘Grantor’ or ‘Settlor’.

“**Will**” is a wish list of a person which comes alive when the person dies. It is less formal and may be handwritten or typed on a paper and signed by the ‘Testator’ typically in the presence of two independent witnesses.