

**Joint Representation Waiver**

You have asked the Fort Leonard Wood Legal Assistance Office to perform estate planning services for you and your spouse. Those services will include an attorney meeting with both of you to determine your financial and estate planning objectives, and preparing various documents, which may include Wills, Powers of Attorney, Advance Medical Directives and/or other estate planning documents.

Because our attorney will be representing both of you, the rules of professional conduct require that you be informed of a potential conflict of interest that may arise, which could prevent the attorney from continuing as your lawyer in your estate planning. It is in your interest, and our ethical obligation to each of you, to ensure you fully understand the considerations involved in such "dual representation." Because the attorney will be representing both of you, you are considered one client, collectively. Accordingly, matters that one of you might discuss with the attorney may be disclosed to the other one of you. Ethical considerations will prohibit the attorney from agreeing with either of you to withhold information from the other. In this representation, the attorney will not give legal advice to either of you or make any changes in any of your estate planning documents without your mutual knowledge and consent. Of course, anything either of you discusses with the attorney is privileged from disclosure to third parties.

If during the course of your planning, the two of you have a difference of opinion, the attorney may point out the pros and cons of your respective positions. Ethical considerations prohibit the attorney, from advocating for one of you over the other. Furthermore, the attorney would not be able to advocate one of your positions versus the other if there is a dispute at any time as to your respective property rights, interests, or as to other legal issues between you. If actual conflicts of interest do arise between you of such a nature that in the attorney's judgment makes it impossible for him or her to perform within ethical obligations to both of you, it would become necessary for the attorney to withdraw as your joint lawyer.

Once documentation is executed to implement an estate plan, the attorney's engagement will be concluded and the attorney-client relationship will terminate. The attorney will not take any further action with reference to your affairs unless hearing from both of you.

After considering the foregoing, if you consent to one attorney representing both of you jointly, we request that you sign and return this letter to the Fort Leonard Wood Legal Assistance Office. If you have any questions about anything discussed in this letter, please let us know. Additionally, you should feel free to consult with another lawyer about the effect of signing this letter.

**CONSENT**

We have read the foregoing letter and understand its contents. We consent to having one attorney represent both of us, with the limitations and conditions described above. We agree that our attorney may, in his or her discretion, share with both of us any information regarding the representation that the attorney receives from either of us or any other source.

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

# Fort Leonard Wood Legal Assistance Office

316 Missouri, Ave., Building 315

Fort Leonard Wood, MO 65473

Telephone: (573)-596-0629

**NOTE: THIS WORKSHEET IS NOT A WILL**

*AN ATTORNEY MUST REVIEW YOUR WORKSHEET PRIOR TO SCHEDULING AN APPOINTMENT TO SIGN AND FINALIZE YOUR DOCUMENTS. AFTER THE INITIAL REVIEW YOUR WILL AND ANY ACCOMPANYING DOCUMENTS WILL BE PREPARED. YOU WILL REVIEW, SIGN AND FINALIZE YOUR DOCUMENTS AT A SECOND APPOINTMENT.*

### PRIVACY ACT STATEMENT

Individuals seeking legal assistance are requested to provide personal information. The authority for soliciting and maintaining this information is found in 5 U.S.C. Section 301, 10 U.S.C. Section 3013, 44 U.S.C. Section 3101, and AR 27-3. The information you provide will be used by the personnel of this legal office to assign an attorney to you, to prepare estate-planning documents, and to provide periodic workload productivity and statistical reports. The information you are asked to provide is solicited on a voluntary basis, however, failure to provide the requested information may preclude the legal assistance services requested.

This worksheet may be relied upon to prepare several documents for you: a Last Will and Testament, an Advance Medical Directive (also known as a living will or health care declaration), a Durable Medical Power of Attorney and a Durable "Financial" Power of Attorney. If you want a General or Special Power of Attorney, those documents can be prepared for you without an appointment. **Fill this worksheet out to the best of your knowledge and ability. If you have any questions ask to speak to a Legal Assistance Attorney.**

### PERSONAL INFORMATION:

1. Marital Status (select the most appropriate):		<input type="checkbox"/> Married Once and Spouse is Alive	<input type="checkbox"/> Widow/Widower	
<input type="checkbox"/> Married and Spouse is Alive, But Was Married Before (a prior spouse died or was divorced)		<input type="checkbox"/> Separated or about to divorce		
<input type="checkbox"/> Previously Married But Now Divorced		<input type="checkbox"/> Single and Never Previously Married		
<input type="checkbox"/> Party to a Same-Sex Marriage, Domestic Partnership or Civil Union				
2. Your Name (First, Middle, Last)	DOD ID Number	Last 4 of SSN		
4. Spouse's Name (First, Middle, Last)	DOD ID Number	Last 4 of SSN		
5. Home Address (Number, Street)	City	State	Zip	
6. Mailing Address If Different From Above (Number, Street)	City	State	Zip	
7. Servicemember's Home Phone	Work Phone	Cell Phone	Email Address	
(     )	(     )	(     )		
8. Spouse's Home Phone	Work Phone	Cell Phone	Email Address	
(     )	(     )	(     )		
9. Servicemember's Command/Employer/Retired	MOSC/Occupation	Rank	Branch of Service	Time in Svc
10. Spouse's Command/Employer/Retired	MOSC/Occupation	Rank	Branch of Service	Time in Svc

**RESIDENCY:** Please indicate in which states you perform the following activities using standard state abbreviations (OK, TX, etc.).

### IN WHAT STATE(S) --

- a. are you currently assigned? \_\_\_\_\_
- b. do you own real estate? \_\_\_\_\_
- c. do you file income tax? \_\_\_\_\_
- d. do you vote \_\_\_\_\_

### IN WHAT STATE(S) --

- e. do you have a current driver's license? \_\_\_\_\_
- f. is your vehicle registered? \_\_\_\_\_
- g. do you plan to retire? \_\_\_\_\_
- h. was your domicile when you joined the military? \_\_\_\_\_

**CHILDREN:**

(a) Please list **ALL** of Your Children (Minors and Adults): If you have children from a prior marriage or different relationship, you should discuss a pre-residuary trust, specific bequests, or other options with your attorney to ensure your children from prior relationships will obtain your intended gifts, and not risk the possibility that your children may not be included in your spouse's estate plan.

Full Name (First, Middle, Last) (if you need more space, attach additional pages)	Gender	Age	Status B-Biological A-Adopted S-Stepchild F-Foster	From Previous Marriage or Different Relationship?
	M F			Y N
	M F			Y N
	M F			Y N
	M F			Y N
	M F			Y N
	M F			Y N

- (b) Do you have any deceased children?  Yes  No
- (c) Are you pregnant or expecting a child?  Yes  No
- (d) Do you want to plan for future children?  Yes  No
- (e) If you have adopted children, are adopted children to be treated the same as your natural children under this estate plan?  Yes  No  N/A
- (f) If you have stepchildren, are stepchildren to be treated the same as your natural children under this estate plan?  Yes  No  N/A
- (g) Do any of your children have a physical or mental disability which makes them eligible or might make them eligible to receive need-based government benefits such as SSI or Medicaid?  Yes  No

*Please answer the following questions.* If you answer **YES** to any of the questions 1 through 8, discuss with your Legal Assistance attorney, because this may determine what type of estate planning documents you need.

- 1. Are you a resident of **Louisiana** or **Puerto Rico** or **Guam** or the **Virgin Islands** or **American Samoa**?  Yes  No
- 2. Do you own any *land, home, personal property* or *other assets* in a **foreign country**?  Yes  No
- 3. Do you own or hold a financial interest or ownership in a **business** or **farm**?  Yes  No
- 4. Do you currently benefit from a revocable or irrevocable trust?  Yes  No
- 5. Are you, your spouse, or any beneficiary a **NON-U.S. citizen**?  Yes  No
- 6. Do you have a separation agreement, prenuptial agreement, or post nuptial agreement? \*\*  Yes  No
- 7. Do you have a divorce decree that mentions pension, insurance, or other property rights? \*\*  Yes  No
- 8. Do you currently have a will, living will, living trust or durable power of attorney? \*\*  Yes  No

**\*\* Bring these documents to your appointment.**

## VALUE of YOUR ESTATE

To determine what type of will is appropriate for you, we need an estimate of the value of your estate. For this purpose, include the value of all of the property you own in your name, and if married, the value of your spouse's property. If any of your property secures a debt (for example, a mortgage on your home), include your equity in the property. Also include the value of your life insurance policies (SGLI, VGLI, etc.). Note that life insurance ordinarily does not pass according to your will; it will go to the beneficiaries you designated in the policy. The policy's face value is usually included in determining whether estate taxes will apply in your case.

Approximate value of your estate (not including life insurance): \$ \_\_\_\_\_  
Approximate value of your spouse's estate (not including life insurance): \$ \_\_\_\_\_  
Value of life insurance (self and spouse): \$ \_\_\_\_\_  
Total value of both your and your spouse's estate including life insurance: \$ \_\_\_\_\_ \*

\*Note: If you have a substantial estate, it may be subject to estate taxes. Proper planning can help you minimize estate tax. Depending on your estate, its complexity may exceed the expertise of the local DoD Legal Assistance Attorney. If so, we will assist you in finding an estate planning expert.

## YOUR PLAN OF DISTRIBUTION:

A will controls the disposition of your probate property upon your death. Probate property is property in the client's name only, with no contractual beneficiary designation, or property that would pass by intestacy if not for a will. Property is non-probate property if it passes due to some sort of beneficiary designation or by operation of law. Examples of non-probate property include life insurance policies, pay-on-death bank accounts, transfer-on-death securities, property held in trust, and jointly-held property passing under the right of survivorship.

1. **DISINHERITANCE:** Disinheritance allows you to exclude family members from receiving any property under your will. Most state laws prohibit a person from completely disinheriting a spouse and allow the spouse to elect against a will which disinherits that spouse by taking their "statutory share." You do not need to expressly disinherit a former spouse since a former spouse is deemed to have predeceased you for estate purposes once a divorce is final unless that former spouse is specifically named as a beneficiary in a will executed after the divorce. However, you should change all beneficiary designations for life insurance policies, retirement accounts, and other assets that name a former spouse as a beneficiary upon your death, because such designations are not automatically revoked by your divorce. In addition, in some states, a minor or disabled child cannot be completely disinherited.

- (a) Do you wish to disinherit (exclude) a family member?  Yes  No  
(b) If yes, please provide the following:

Full Name (First, Middle, Last)

Relationship to you

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. **SPECIFIC GIFTS:** You may make separate gifts of cash, real estate, or personal property to specific people or charities in your will. These bequests will be distributed first and reduce the amount of property left for your other beneficiaries. Specific bequests (and trusts) are appropriate methods of setting aside money and property for children of prior relationships. If you make no specific bequests, all of your property will pass to your beneficiaries listed below in paragraph 3 distributing the "remainder" of your estate. If you make a cash gift, some of your property may have to be sold off to satisfy these gifts, which will reduce the total amount given to your other beneficiaries.

Do you want to leave any specific property or make any cash gifts, before distributing the remainder of your estate?  
 Yes       No      **If yes, complete the following:**

**SPECIFIC GIFTS** (for example: wedding ring to your daughter)

Description of Gift:	Name of Beneficiary and Relationship to You (or town/city, state of residence, if no relation):	If Beneficiary dies before me, then to the Beneficiary's heirs <input type="checkbox"/> Or, gift passes with the rest of the estate <input type="checkbox"/> Or, Alternate Beneficiary, whose name is:
Description of Gift:	Name of Beneficiary and Relationship to You (or town/city, state of residence, if no relation):	If Beneficiary dies before me, then to the Beneficiary's heirs <input type="checkbox"/> Or, gift passes with the rest of the estate <input type="checkbox"/> Or, Alternate Beneficiary, whose name is:

**3. DISTRIBUTING THE REMAINDER:** Who do you want to receive the rest of your estate (after specific bequests or cash bequests, if any, are fulfilled)? Select (a) OR (b), below.

(a) All to my spouse, if my spouse survives me. If my spouse does *NOT* survive me, then to my children equally.

**If you select this box, then select ONE of the following:**

(1) If one of your children dies before you die, then that deceased child's share goes to that child's children (your grandchildren) **OR**

(2) If one of your children dies before you die, then that deceased child's share is re-distributed among only your living children with **nothing** going to your grandchildren.

(b) ALL TO PERSONS as listed below (percentages must total 100 percent):

Full Name of Person (First, Middle, Last)	Relationship to You	Percentage

**ALTERNATE BENEFICIARIES:** If the primary beneficiaries you designated predecease you or die within 30 days of you, do you wish to designate alternate beneficiaries?

Yes       No      **If yes, complete the following:**

Full Name of Person (First, Middle, Last)	Relationship to You	Percentage

**6. MINORS AND THEIR MONEY:**

If you leave your money to minor or disabled children without further instructions, the money will be placed in a guardianship or conservatorship *of the property*. It is important to appoint someone to hold and manage the money for the children until they reach adulthood or while they are incapacitated. A property guardianship or conservatorship does not provide as much flexibility for managing the funds as other options allow, and all of the money will be given to your children/grandchildren when they reach age 18.

Another option is to choose a custodianship under the Uniform Transfers/Gifts to Minors Act whereby an adult custodian is designated to manage the assets for the benefit of the minor beneficiary until the beneficiary reaches a certain age. The age at which the custodial account will terminate and the assets distributed to the beneficiary is determined by the state law governing the custodial account, usually 18 or 21 years and in a few states at age 25.

Another option is a trust. This allows the inheritance to your children to be managed by someone you appoint until the children reach the specific age you choose. The person managing the money (called a trustee) has more flexibility in deciding how to invest the money, and the trustee may use the money to provide for your children's health, education, and other needs until they reach the age at which the inheritance in trust is given to them in a lump sum. The administration of a trust can be expensive.

You may authorize your executor or personal representative discretion and flexibility in deciding whether to hold the property or distribute all or a portion to the minor or to distribute the property to a guardian or to a custodian under any gifts to minors act or transfers to minors act. **Discuss these options with your Legal Assistance attorney.**

(a) Paid at the election of the executor (the executor may pay the child some or all of the gift, at various times, as the executor sees fit, even though the child is a minor) under the Uniform Gifts to Minors Act (UGMA)

(b) Held in trust until the child is no longer a minor (or has reached the distribution age you specified

(1) What age do you want to be when the trust ends? \_\_\_\_\_

(2) Identify a U.S. citizen or lawful permanent resident or corporate trustee to manage the trust (trustee) and name an alternate. Do not name your spouse if your property first goes to your spouse and then your children/other person(s).

Primary Trustee

Full Name(First, Middle, Last)	Relationship to you	State of Residency

Alternate Trustee

Full Name(First, Middle, Last)	Relationship to you	State of Residency

A will can direct that if there are any life insurance policies in your name which name a trust as the beneficiary, the proceeds of such insurance shall held and disposed of for the benefit of the beneficiaries of the trust if they are under the age of 18 at the time of your death. This is useful if you have children from a prior marriage or relationship. It can make sure that the children from a prior relationship obtain the gift, and not risk the possibility that your spouse will neglect them in the spouse's estate plan.

Do you intend to fund a trust with your SGLI or other life insurance benefits?  Yes  No

**7. GUARDIANSHIP OF CHILDREN:**

You can name a guardian of the person to care for any minor children or disabled adult children of whom you are the legal custodian. The guardian(s) of the person will care for your minor children ONLY in the event any other legal custodian dies before you or is declared unfit by a court. You can also name a guardian/conservator of the property of minors in the event children receive property from your estate when they are minors and you elect not to establish a custodianship or trust for such property.

Special Considerations:

1. **Guardian/conservator of the property of minors should be a U. S. citizen** or a lawful permanent resident.
2. Some states **do not accept non-residents of that state** as guardians/conservators of the property and may require guardians/conservators to post bonds as a condition for appointing a non-resident.
3. Your child(ren) may be eligible for social security and military dependent benefits in addition to life insurance proceeds. The court **may not allow a non-resident alien or a foreign national** to control the minor's estate.
4. Even though named as a guardian/conservator in a will, a court has the power to appoint someone different to act as guardian/conservator based on what is in the **best interests of the child**.

**(a) GUARDIAN OF THE PERSON**

Do you wish to nominate guardian(s) for your children in the event that both of the children's parents are deceased OR if one parent is deceased and the other legal parent is declared unfit by a court to serve as guardian?  Yes  No

Primary Guardian(s)

Full Name(First, Middle, Last)	Relationship to you	State of Residency

Alternate Guardian(s)

Full Name(First, Middle, Last)	Relationship to you	State of Residency

**(b) CONSERVATOR/GUARDIAN OF THE PROPERTY**

Can the person named in 7(a) above also act as guardian (conservator) of the children's money?  Yes  No  
If NO, please provide the following information:

Primary Conservator/Guardian(s)

Full Name(First, Middle, Last)	Relationship to you	State of Residency

Alternate Conservator/Guardian(s)

Full Name(First, Middle, Last)	Relationship to you	State of Residency

**8. EXECUTOR OR PERSONAL REPRESENTATIVE (REQUIRED):**

An executor is a person you nominate in your will to serve as the business manager of your estate after your death and carry out the directions in your will. You should name an executor. If you do not, the court will appoint one. Your executor should be someone you trust, and he or she **must be at least 18 years old and should reside in the United States. Your spouse is not automatically appointed as your Executor**, but may be given priority under state law if no alternate is named. **If you want your spouse to act as your Executor, you should specifically name them in your Last Will and Testament.** Likewise, if you prefer not to name your spouse, you should specifically name your choice in your Last Will and Testament. Additionally, some states require the executor/personal representative to post a bond and/or or



**DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

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.

1. Do you want a Durable Power of Attorney for Health Care?  Yes  No **If yes, complete the following:**

Primary Agent	Second Agent
Do you want your spouse to be your primary agent? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Or, if No or N/A, complete the following:	Do you want to name a second agent? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, complete the following:
Name	Name
Relationship	Relationship
Address	Address
Phone Number	Phone Number

2. If you named a second agent, then select ONE of the following:

- (a) The second agent is to act (as successor) only if the first is incapacitated
- (b) The primary and second agent can act separately
- (c) The primary and second agent must act jointly unless one is incapacitated

3. Do you want to appoint your health care agent(s) to control the disposition of your body?  Yes  No

**ORGAN DONATION**

- 1. Do you want to authorize the donation of organs for transplantation?  Yes  No
- 2. Do you want to authorize donation of organs and tissue for medical, educational and scientific purposes?  Yes  No

**DURABLE POWER OF ATTORNEY FOR FINANCIAL MATTERS**

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 manage your own affairs, a court order may revoke your right to manage your own affairs and appoint a guardian or conservator. To protect yourself from this eventuality, you can appoint an agent for yourself through a durable power of attorney.

A power of attorney is simply a written authorization for someone to act on your behalf for whatever purposes you designate in writing. Ordinarily, a power of attorney expires if you become incapacitated or mentally incompetent – the time when you need help the most. A **durable** power of attorney, however, stays in effect even if you become incapacitated or incompetent. There are two options: (1) an **immediately effective** power of attorney becomes effective when you sign it to share decision-making authority with those you have named, and (2) a **springing** durable power of

attorney takes effect when you become unable to manage your own personal and financial affairs. A springing durable power of attorney is highly discouraged. If you do not trust your chosen agent not to abuse their power while you are competent, you should reconsider trusting them while you are incompetent. In addition, physicians are often reluctant (or unable) to certify that you are incompetent, and financial institutions will often refuse to accept springing durable powers of attorney due to a lack of physician certification or physician certification that fails to satisfy their legal review. Your 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 want by informing the persons you have appointed that their authorization is terminated, and by destroying the power of attorney documents. You should also notify any persons or businesses where your agent may have used the power of attorney that you are revoking the power of attorney.

If you choose to have a durable general 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 he or she keep your affairs in order, but he or she has the potential to abuse this document at your expense and his or her gain.

1. Do you want a Durable Power of Attorney for Financial Matters?  Yes  No **If yes, complete the following:**
2. Do you want your medical agents for the health care power of attorney to serve as your health care agent?  Yes  No
3. If **not**, who do you wish to appoint as your agent?

Primary Agent	Second Agent
Do you want your spouse to be your primary agent? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If No or N/A, complete the following:	Do you want to name a second agent? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, complete the following:
Name	Name
Relationship	Relationship
Address	Address

4. If you named a second agent, then select ONE of the following:

- (a) The second agent is to act (as successor) only if the first is incapacitated
- (b) The primary and second agent can act separately
- (c) The primary and second agent must act jointly unless one is incapacitated

5. 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 in your durable power of attorney as your guardian or conservator?

- Yes     No