

|                  |         |
|------------------|---------|
| For office use   | Details |
| Reference no     |         |
| Date received    |         |
| Date complete    |         |
| Payment received |         |
| Draft            |         |
| Proof            |         |

# Client Testamentary Instruction Form

for taking client(s) Will instructions

| Please complete following details |             |                          |             |
|-----------------------------------|-------------|--------------------------|-------------|
| Consultant                        |             |                          |             |
| Company                           |             |                          |             |
| Instructions for preparing -      | Single Will | <input type="checkbox"/> | Mirror Will |
| First Testator Name               |             |                          |             |
| Second Testator Name              |             |                          |             |
| Date Submitted                    |             |                          |             |

## GIVING YOUR INSTRUCTIONS

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT US ON  
 01932 830664 OR EMAIL [wills@wardwilliams.co.uk](mailto:wills@wardwilliams.co.uk)

1. Please use BLOCK CAPITALS throughout. DO NOT use abbreviations
2. Identify ALL people by their FULL NAMES, surname last.
3. Many questions can simply be answered YES or NO or with a tick. Put a line through any sections which do not apply to you.
4. Additional legacies can be listed on a supplementary sheet. Please clearly state which section of this form will include additional information.
5. The declaration on page 20 must be signed and completed before your application can be processed.
6. Use the section on page 20 to detail advice given but not taken by the Testator(s) and give reasons why.

# Client Testamentary Instruction Form

| ESTATE VALUATION  |          | JOINT OWNED ASSETS | 1 <sup>ST</sup> TESTATOR | 2 <sup>ND</sup> TESTATOR |
|---|----------|--------------------|--------------------------|--------------------------|
| Main residence / Additional properties                  |          |                    |                          |                          |
| Foreign assets – real estate                            | Country: |                    |                          |                          |
| Life policies - not written into trust                  |          |                    |                          |                          |
| ISA's (cash)  |          |                    |                          |                          |
| ISA's (stocks and shares)                               |          |                    |                          |                          |
| Pension and Death in Service benefits                   |          |                    |                          |                          |
| Shares  |          |                    |                          |                          |
| Unit trusts / investment bonds                          |          |                    |                          |                          |
| Business assets: sole trader / husband wife partnership |          |                    |                          |                          |
| Business assets: partnerships / shareholdings           |          |                    |                          |                          |
| Bank / Building Society savings                         |          |                    |                          |                          |
| Chattels (items of personal use)                        |          |                    |                          |                          |
| Cars  |          |                    |                          |                          |
| Other   |          |                    |                          |                          |
| <b>GROSS TOTAL ESTATE VALUES</b>                        |          |                    |                          |                          |

LESS liabilities (for estimating IHT only)

|  |  |  |  |
|--|--|--|--|
| Mortgage(s)                              |  |  |  |
| Loans (including credit and store cards) |  |  |  |
| Other                                    |  |  |  |
| <b>TOTAL LIABILITIES</b>                 |  |  |  |
| <b>TOTAL ESTATE VALUE</b>                |  |  |  |
| <b>LESS TOTAL LIABILITIES</b>            |  |  |  |
| <b>NET VALUE OF ESTATE</b>               |  |  |  |

IHT For married couples and Civil Partners only

|  |     |    |
|--|-----|----|
| Could the payment of IHT be relevant to either client? (tick or circle one box)                        | YES | NO |
| Have either client been in any former marriage or civil partnership? (tick or circle one box)          | YES | NO |
| If YES, did any of these end on death? (tick or circle one box)  | YES | NO |
| T1: If YES, In respect of that marriage or CP did the deceased spouse die without using all their NRB? | YES | NO |
| T2: If YES, In respect of that marriage or CP did the deceased spouse die without using all their NRB? | YES | NO |

Where a former spouse or civil partner of the testator has died without fully using his or her NRB, this unused exemption may still be available after remarriage.

The Testator (T1 or T2) can only transfer one additional NRB to his or her spouse or CP. To ensure that the unused NRB of the former spouse is not lost, the testator should leave assets up to the value of the unused NRB to beneficiaries other than his or her spouse or to a discretionary trust.

# Client Testamentary Instruction Form

## SECTION 1 TESTATORS DETAILS

### First Testator Details (T1)

|  |  |                   |  |
|--|--|-------------------|--|
| FULL NAME  |  | DATE OF BIRTH     |  |
| Are you known by any other name?                 |  |                   |  |
| Are you able to read and sign your Will unaided? |  | If NO give reason |  |

### Second Testator Details (T2)

|  |        |                   |         |               |               |
|--|--------|-------------------|---------|---------------|---------------|
| Relationship to first testator?                  | SPOUSE |                   | PARTNER |               | CIVIL PARTNER |
| FULL NAME  |        |                   |         | DATE OF BIRTH |               |
| Are you known by any other name?                 |        |                   |         |               |               |
| Are you able to read and sign your Will unaided? |        | If NO give reason |         |               |               |

### Address

|                |  |  |           |  |  |
|----------------|--|--|-----------|--|--|
| Address Line 1 |  |  |           |  |  |
| Address Line 2 |  |  |           |  |  |
| Town / City    |  |  | Post Code |  |  |

### Marriage or civil partnership

|   |  |   |
|---|--|---|
| If unmarried would you like your wills prepared in expectation of your future marriage? |  |   |
| If YES give date?   |  | If you have an existing will may we see it? |
|   |  | Copy will supplied                          |

## SECTION 2 EXECUTORS

|  |  |  |              |
|--|--|--|--------------|
| Executor 1: Would you like your spouse or partner to be your first executor? YES / NO<br>If YES do you wish them to: |  |  |              |
| (A) Act <u>ALONE</u> in which case you should name reserve executors below (max 4)                                   |  | (B) Act <u>JOINTLY WITH OTHERS</u> in which case name the additional persons below (max 3) |              |
| Where possible after each name give relationship to each testator: e.g. T1 brother (B) T2 brother in law (BIL)       |  |  |              |
| Exec 2: Full name  |  |  | Relationship |
| Address  |  |  |              |
| Exec 3: Full name  |  |  | Relationship |
| Address  |  |  |              |
| Exec 4: Full name  |  |  | Relationship |
| Address  |  |  |              |
| Reserve Exec   |  |  | Relationship |
| Address  |  |  |              |

# Client Testamentary Instruction Form

## SECTION 3 CHILDREN

Name children of BOTH testators

|           |  |                     |  |
|-----------|--|---------------------|--|
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |

Name children of FIRST testator (T1)

|           |  |                     |  |
|-----------|--|---------------------|--|
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |

Name children of SECOND testator (T2)

|           |  |                     |  |
|-----------|--|---------------------|--|
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |
| FULL NAME |  | Age or DOB / Gender |  |

## SECTION 4 GUARDIANS

Use this section to name the person or people you would wish to bring up your children in the event of your death whilst they are still minors

|                       |  |                       |  |
|-----------------------|--|-----------------------|--|
| Name FIRST guardian   |  | Relationship to T1/T2 |  |
| Address               |  |                       |  |
| Name SECOND guardian  |  | Relationship to T1/T2 |  |
| Address               |  |                       |  |
| Name RESERVE guardian |  | Relationship to T1/T2 |  |
| Address               |  |                       |  |

Directions or instructions to guardians

Do you wish to give any directions to the guardians of your minor children such as religion; education; directions to guardians to make a will to appoint substitute guardians or other wishes?

# Client Testamentary Instruction Form

## SECTION 5 CHATTELS

Chattels are all your items of personal use such as the contents of your home and unless 'otherwise' gifted in your will (section 6) will pass firstly to your spouse or partner then on their death under their will; or if you are single as part of your general (residuary) estate.

Chattels or items of 'personal use or ornament' are best given by way of a wish list or 'Letter of Wishes'. Provided that the list does not exist at the date the will is signed the testators can leave their respective wish lists detailing what and to whom they wish their personal items to pass to. They are also free to amend the list as many times as they want. It is recommended the testator retains the list.

If this is the testators wish simply tick this box and a suitable clause (non-binding trust) will be included in the will directing the executors to locate the list

## SECTION 6 GIFTS OF PERSONAL ITEMS (Specific legacies)

NOTE: Use this section for personal gifts such as jewellery, granddads war medals etc For ease of distribution, most specific legacies, such as jewellery and items of personal use are best given on the death of the testator. If the gift is required for use by the survivor then the gift should be made on SECOND death.

From FIRST testator (T1)

|                                      |  |                                    |  |
|--------------------------------------|--|------------------------------------|--|
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |

From SECOND testator (T2)

|                                      |  |                                    |  |
|--------------------------------------|--|------------------------------------|--|
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |
| Name of beneficiary and relationship |  | Give only on 2 <sup>nd</sup> death |  |
| Details of gift or legacy            |  |                                    |  |

# Client Testamentary Instruction Form

## SECTION 7 GIFTS OF MONEY (Pecuniary legacies)

Use this section to make gifts of money to family, friends and charities. As with a specific legacy (section 6) the gift is usually best given on first death but where the gift is only to be paid ONCE on the death of the survivor then tick the box.

From FIRST testator (T1)

|   |  |                                    |  |
|---|--|------------------------------------|--|
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |

From SECOND testator (T2)

|   |  |                                    |  |
|---|--|------------------------------------|--|
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |
| Name of beneficiary and relationship or charity |  | Give only on 2 <sup>nd</sup> death |  |
| Amount in figures and words                     |  |                                    |  |

Continue on a separate sheet if necessary or list below further guidance to the draftsman as to the gifts

**Do the testator(s) wish to include a trust or trusts?**

**If yes go to Section 12 page 10**

# Client Testamentary Instruction Form

## SECTION 8 GIFTS OF RESIDUE

REVIEW: Before dealing with residue do you wish to make any further gifts or include any trusts

|  |                         |  |
|--|-------------------------|--|
| Class Gifts : e.g. gifts of money to grandchildren or nieces & nephews     | Complete section 7      |  |
| Gifts to trustees for trust purposes: e.g. Protective Property Trust (PPT) | Go to section 12 TRUSTS |  |
| Other:   |                         |  |

Distributing your residuary estate (everything that is left after all other gifts have been made)

|  |  |
|--|--|
| Do you wish for the remainder of your estate to go to your spouse or partner state YES or NO; and then on to children or other beneficiaries? If YES select either A or B (If NO go straight to section B) |  |
| TICK this box if you wish to exclude the 30 day survivorship period?   |  |

### A How would you like your residuary estate to be distributed?

|   |  |                            |  |
|---|--|----------------------------|--|
| To one person?<br>Tick box – Note if only to one person it is essential that a substitutional gift is made to prevent an intestacy occurring. Go to box D |  | Full Name and relationship |  |
|---|--|----------------------------|--|

### B To more than one person? Give their names and relationships below:

| Full name(s) of all beneficiaries<br>Continue on separate sheet if necessary | RELATIONSHIP To: |            | % SHARE OR EQUALLY |
|--|------------------|------------|--------------------|
| xx     | Testator 1       | Testator 2 | xxxxxxx            |
|  |                  |            |                    |
|  |                  |            |                    |
|  |                  |            |                    |
|  |                  |            |                    |
|  |                  |            |                    |
|  |                  |            |                    |

### C Age at which children are to inherit

|  |    |    |    |   |
|--|----|----|----|---|
| At what age are children/others to inherit?<br>Circle one alternatively:<br>Some parents may wish that children should inherit part of their inheritance at an earlier age and the balance later. If this is required simply state against each age the % required | 18 | 21 | 25 | Other age?<br>Note: there are personal tax implications for beneficiaries should the vesting age go beyond age 25.<br>If later than 25 consider use of a discretionary trust and letter of wishes See Section 12C |
|--|----|----|----|---|

# Client Testamentary Instruction Form

---

## D Default beneficiaries

Sometimes referred to as the ‘total disaster or calamity clause’; the testator needs to consider what would happen in the event of none of the above beneficiaries surviving the testator(s). By naming default beneficiaries, such as family members, nephews, nieces, charities or the church will ensure that intestacy will not occur.

Note where the testator has named their children as beneficiaries and a child predeceases their parent leaving children of their own (grandchildren), unless an alternative statement is written in the Will their children will take by substitution (s33 Wills Act 1837).

| Full name(s) of all beneficiaries<br>Continue on separate sheet if necessary | RELATIONSHIP To: |            | % SHARE<br>OR<br>EQUALLY |
|--|------------------|------------|--------------------------|
|  | Testator 1       | Testator 2 |                          |
| XX                                 |                  |            | XXXXXXXXXX               |
|  |                  |            |                          |
|  |                  |            |                          |
|  |                  |            |                          |
|  |                  |            |                          |
|  |                  |            |                          |

### Further notes concerning residue:

**Complex family arrangements** such as in second and subsequent marriages, there is a need to ensure that each of the testator’s share and interest in the estate passes as they would wish and benefits their respective children (if that is their wish). In such cases it would achieve little were the testator to simply gift all of their estate to their spouse (or partner) in the expectation that their wishes would be carried out. Such planning would fail in its entirety should the survivor remarry, cohabit or simply rewrite their will – they could of course simply spend it all!

The simplest use of a Protective Property Trust (PPT) , where there is no inheritance tax liability, and guarantees the share of the main assets, the family home is protected is the PPT (see section 12A page 11). This will ensure that whatever happens the deceased’s share is protected from future predators, and ensures that their share will pass to their named beneficiaries but also ensures that the survivor has the right to remain in the family home.

**Protecting children/beneficiaries from their own improvidence.** Where a child or other named beneficiary has problems, such as bankruptcy, divorce, drink or drugs or spendthrifts, parents should consider the use of a discretionary trust to manage their residuary estate (Section 12C page 12). Discretionary trusts are extremely powerful tools with the right appointment of trustees. The trustees of a DT can ensure that the beneficiary(ies) can be well cared for, possibly providing a home, food and ensuring bills are paid and providing a suitable income for their needs and in many cases would ensure that any benefits they receive are also protected.

One cautionary note; where the trust is being created to protect a child’s inheritance through their divorce the trustees must be clearly directed as to how they make advances from the trust. Courts have been known to count the trust as an asset in divorce cases where the beneficiary can be seen to receive regular and substantial amounts from the trust.



# Client Testamentary Instruction Form

---

## SECTION 9 EXCLUSIONS

List below the names(s) and relationships to you of anyone you are deliberately excluding from your will. The general rule is to name any one who may be financially dependent on you at the time of your death or who may have a legitimate claim on your estate. It is wise to write a letter to the court giving your reasons and storing it with your will.

|                            |  |
|----------------------------|--|
| Full name and relationship |  |
| Full name and relationship |  |
| Full name and relationship |  |

## SECTION 10 GIFT OF AN ANIMAL

|   |  |  |  |
|---|--|--|--|
| Type of animal?   |  |  |  |
| Animal to go to: PERSON: name   |  |  |  |
| Animal to go to: A CHARITY: name  |  |  |  |
| Address (if a charity please include charity number)                        |  |  |  |
| Gift to take effect only on second death?                                   |  |  |  |
| Do you wish to leave a legacy for the upkeep and maintenance of the animal? |  | If YES state amount in words and figures |  |
| Any special instruction you wish to add?                                    |  |  |  |

## SECTION 11 FUNERAL WISHES AND ORGAN DONATION

From FIRST testator (T1)

|  |  |  |  |  |
|--|--|--|--|--|
| Do you wish to specify your funeral preferences in your will?                        |  |  |  |  |
| Organ donation?  |  | Are there any organs you DO NOT wish to be used: i.e. your eyes? Specify?                          |  |  |
| Cremation? Or  |  | Do you have any special wishes such as your ashes buried or scattered?                             |  |  |
| Buried   |  | Do you have any special wishes as to where you would like your body buried? Such as a family plot? |  |  |
| Do you have any special wishes or directions for your executors, family and friends? |  |  |  |  |

From SECOND testator (T2)

|  |  |  |  |  |
|--|--|--|--|--|
| Do you wish to specify your funeral preferences in your will?                        |  |  |  |  |
| Organ donation?  |  | Are there any organs you DO NOT wish to be used: i.e. your eyes? Specify?                          |  |  |
| Cremation? Or  |  | Do you have any special wishes such as your ashes buried or scattered?                             |  |  |
| Buried?  |  | Do you have any special wishes as to where you would like your body buried? Such as a family plot? |  |  |
| Do you have any special wishes or directions for your executors, family and friends? |  |  |  |  |

# Client Testamentary Instruction Form

---

## SECTION 12 TRUSTS

From the list below select the trust that you require or the one that you think most closely meets the testator's needs and go to the relevant section to complete the information

| Trust title and description  | Section/Page           | Tick |
|--|------------------------|------|
| Protective Property Trust (PPT) – protects the deceased's share of the family home for the children from the effects of survivor remarrying, care costs and is especially effective where the testator(s) have children from previous relationships and wish them to benefit. Gives spouse or partner a life interest to live and enjoy the property during their lifetime. Not suitable for IHT planning as it is an Interest In Possession (IPDI) trust. | Section 12A<br>Page 11 |      |
| Right to occupy or reside – gives spouse, partner or child(ren) or others, right to live in the testator's property after death but unlike a life interest (PPT) the rights will end at a specific age, time or event.   | Section 12A<br>Page 11 |      |

*There are no particular tax reasons for the use of discretionary trusts since the introduction of the transferrable nil rate band. A DT gives flexibility to the trustees and control to the testator as to the final destination.*

|   |                        |  |
|---|------------------------|--|
| Discretionary trust of the NRB – family fund capped at the nil rate band. Created on first death gives flexibility over part of the testator's estate (the NRB) giving spouse access to income and capital during life repayable on death   | Section 12B<br>Page 12 |  |
| Discretionary trust of residue – can be used to ring fence assets, beneficiaries can be spouse and children or used more effectively where the testator has concerns regarding children, such as spendthrift, drink or drug problems. Can be used to protect assets for disabled beneficiaries, where there is an IHT liability use the full Disabled Persons Discretionary Trust     | Section 12C<br>Page 12 |  |
| Discretionary Trust for a Disabled Person – provided set up correctly can be tax efficient as well as providing for the needs of the disabled beneficiary. For beneficiaries who are unable to manage their own affairs by way of mental or physical disability.  | Section 12D<br>Page 13 |  |
| Gift on Life Interest – simple but effective trust where testator wants to preserve their assets but provide for spouse/partner. Life interest trust (IPDI) gives life tenant income for life. Can include express provisions for trustees to advance capital and income, on death of life tenant assets pass to named beneficiaries.   | Section 12E<br>Page 13 |  |
| FLEXIBLE LIFE INTEREST TRUST – sometimes referred to as the 'modern will'. Extremely flexible giving trustee's power to advance income and capital at their discretion. Can take ALL the testator's assets, utilises both transferrable nil rate bands and can provide the trustees with the ability to tax plan for the future whilst providing to the surviving spouse and children | Section 12F<br>Page 14 |  |
| Business Assets Trust – Referred to as a BPR trust where the testator owns business assets that are eligible for business property relief. Gives spouse a right to income without creating an IPDI whilst utilising the tax benefits available at death and passing the asset to taxable beneficiaries (the children) free of tax. No guarantees as the tax position can change.      | Section 12G<br>Page 15 |  |

For information on lifetime settlements see SECTION 14 page 18

# Client Testamentary Instruction Form

## 12A THE FAMILY HOME – Protective Property Trust (PPT)

In most cases when dealing with a couple (married or unmarried) their main asset is likely to be the family home, their principal residence. Property held as JOINT TENANTS has the advantage that it will pass on death automatically to the survivor – however the disadvantage is that it does not protect the share of the asset of the first to die should the surviving spouse or partner remarry, cohabit or require residential care.

In order to make best use of the property we need to convert the property (title) to TENANTS IN COMMON. This will ensure that both parties can decide where their respective share will pass and to whom, they can use the PPT to ensure that their children will inherit their share regardless of what the survivor does; they can make gifts over to children of a previous relationship and can protect their share should the survivor require full time residential care in the future.

|   |  |
|---|--|
| Address of property if not main residence?<br>Include post code for Land Registry search.   |  |
| Title number (if known) If title number is not known/stated a search of the Land Registry will be carried out and charged accordingly |  |
| Is the 1 <sup>st</sup> owner T1? If not name  |  |
| Is the 2 <sup>nd</sup> owner T2? If not name  |  |

Are there any other names that appear on the title to the property such as the testator's children?

If YES give names below.

|  |                               |       |                |  |                    |  |
|--|-------------------------------|-------|----------------|--|--------------------|--|
| Additional name 3  |                               |       |                |  |                    |  |
| Additional name 4  |                               |       |                |  |                    |  |
| Do you know how the property is held?  | Sole name of either T1 or T2? |       | Joint Tenants? |  | Tenants in Common? |  |
| Do you want to create a life interest (IIP) trust in both wills to allow the survivor to remain in the property for the rest of their life? With full power to move should they wish to? |                               |       |                |  |                    |  |
| ONLY if the trust is a Right to Reside or Occupy (RTO)? State YES or tick and answer line below  |                               |       |                |  |                    |  |
| In the case of RTO trust the testator needs to state when the trust/right is to end  | Time?                         |       | Age?           |  | Event?             |  |
|  |                               | Years |                |  |                    |  |
| If the property is currently held as JOINT TENANTS, then for the trust to be effective it has to be changed to TENANTS IN COMMON; is this acceptable and in equal shares?                |                               |       |                |  |                    |  |

As TENANTS IN COMMON each owner is free to will (gift) their share and interest in the property over to whoever they wish when the trust ends, usually on the death of the surviving spouse or partner. Use the following section to state how each share is to pass, to whom and in what shares.

|  |  |
|--|--|
| From FIRST testator  |  |
| From SECOND testator   |  |
| You may wish to impose conditions on the survivor such as the trust to end should they remarry or cohabit. Would the testator like a set of standard wording included to reflect this? |  |

# Client Testamentary Instruction Form

---

## 12B DISCRETIONARY TRUST – family fund capped at the nil rate band

The executors transfer the deceased's Nil Rate Band on first death (or such sum at death as can be transferred without incurring a charge to tax) to the discretionary trust any residual assets pass to surviving spouse and then to children on second death. Such a trust gives a great deal of flexibility to the trustees to make decisions after death and to use the fund most effectively, the testator retains partial control over his assets by directing the destination of the trust fund of the death of their spouse and is usually underpinned with a letter of wishes, the spouse will has access to the fund by means of a capital sum or preferably loans repayable on death

**Trust beneficiaries to include: tick the following boxes relating to beneficiaries:**

|   |  |
|---|--|
| My spouse or partner?   |  |
| My children including grandchildren (issue and remoter issue)?  |  |
| Any step children as have been named previously in this instruction?                                    |  |
| The spouses of any of my children or step children  |  |
| Name any intended beneficiary or group (class) here that is not mentioned in the instruction for above: |  |
|   |  |

NOTE : Where the trust beneficiaries are to include 'step-children' then all children benefitting will be named

NOTE: Although effective for IHT planning PRE 9 October 2007 where the estate was property rich but 'cash poor', the IOU debt/charge scheme still can be utilised where the only real asset is the family home and a trust is required to be included in the will to give flexibility (see above) for the trustees to act whilst still preserving the asset.

If you are unsure as to its effectiveness, contact the office for more information.

## 12C DISCRETIONARY TRUST OF RESIDUE

Where the beneficiaries of the trust are spouse and issue, the trust should be underpinned with a letter of wishes that give the testators guidance of how he wishes the trust to be administered. A standard LoW will state that "my trustees shall treat my wife/husbands needs in priority or paramount to all others". However the spouse may suffer financial hardship should they experience difficulty accessing funds.

The most common use for a trust of residue is to ensure that children who have problems, spendthrift, bankruptcy, drink or drug problems, learning difficulties etc are protected as the trustees in their absolute discretion can ensure their needs are provided for without giving them large sums of money.

**Trust beneficiaries to include: tick the following boxes relating to beneficiaries:**

|   |  |
|---|--|
| My spouse or partner?   |  |
| My children including grandchildren (issue and remoter issue)?  |  |
| Any step children as have been named previously in this instruction?                                    |  |
| The spouses of any of my children or step children  |  |
| Name any intended beneficiary or group (class) here that is not mentioned in the instruction for above: |  |
|   |  |

NOTE: Where the trust beneficiaries are to include 'step-children' then all children benefitting will be named:

# Client Testamentary Instruction Form

---

## 12D DISCRETIONARY TRUST FOR A DISABLED PERSON

The Finance Act 2006 brought changes to the Disabled Persons Discretionary trust. It is important that the principle beneficiary of the trust qualifies for the trust to be created. The definition of a disabled beneficiary is extended by s20 of the Act to include persons who would be entitled to attendance allowance or disability living allowance or are provided with certain types of residential accommodation. There is also a new s89a in the Act which extends to the special treatment to lifetime settlements by a person with a condition expected to lead to disability.

**Trust beneficiaries to include: tick the following boxes relating to beneficiaries:**

|   |  |
|---|--|
| Principal beneficiary (disabled person)?  |  |
| My children including grandchildren (issue and remoter issue)? Other than the principal beneficiary     |  |
| Any step children as have been named previously in this instruction?                                    |  |
| The spouses of any of my children or step children  |  |
| Name any intended beneficiary or group (class) here that is not mentioned in the instruction for above: |  |
|   |  |

NOTE: Where the trust beneficiaries are to include 'step-children' then all children benefitting will be named:

## 12E GIFT ON LIFE INTEREST

This simple but effective trust can be used where the testator wishes to preserve his/her assets (residuary estate) for other beneficiaries such as where the testators have been married before and wish any children from that marriage/relationship to benefit. Use this trust with some caution as by only providing income can cause financial hardship; testator should consider giving the trustees the discretion to advance capital as well. Particularly useful where the spouse does have a sizeable estate of their own. There are no particular tax advantages as trust is an IPDI

**Trust beneficiaries to include: tick the following boxes relating to beneficiaries:**

|   |                          |  |
|---|--------------------------|--|
| LIFE TENANT TO BE: My spouse or partner; or   |                          |  |
| OTHER: NAME?  |                          |  |
| Income only? (see note above) tick or:  | <input type="checkbox"/> | Income AND capital <span style="float: right;">tick</span> |
| And then down to:   |                          |  |
| My children including grandchildren (issue and remoter issue)?  |                          |  |
| Any step children as have been named previously in this instruction?                                    |                          |  |
| The spouses of any of my children or step children  |                          |  |
| Name any intended beneficiary or group (class) here that is not mentioned in the instruction for above: |                          |  |
|   |                          |  |

NOTE: Where the trust beneficiaries are to include 'step-children' then all children benefitting will be named:

# Client Testamentary Instruction Form

## 12F FLEXIBLE LIFE INTEREST (FLIT)

The FLIT allows for provision for the spouse or civil partner, whilst incorporating flexibility into the Will whereby other family members and beneficiaries may benefit.

The main advantages of this type of Will can be summarised as follows:

1. The FLIT Will trust created in favour of the surviving spouse or civil partner will still benefit from the transferrable IHT nil rate band introduced from October 9 2007.
2. The FLIT is flexible as it allows the trustees to grant capital as well as income to the surviving spouse or civil partner.
3. The use of a FLIT should protect the testator's estate (capital assets) from any claims made against it by the Local Authority if the surviving spouse or civil partner goes into care.
4. The FLIT will also create a situation where the testator's capital can be protected so that it eventually falls into the names of the testator's children or other named beneficiaries rather than into the pockets of a new spouse or civil partner.
5. Once the FLIT is terminated, the benefits of a discretionary trust arise which also gives a great deal of flexibility to the surviving children or other named beneficiaries who can all potentially benefit from the discretionary trust and are also likely to maintain control of the trust as named beneficiaries.

The main benefits to this situation are:

- a) If any of the children who are potential beneficiaries under the discretionary trust are the subject of matrimonial or insolvency proceedings, their interest as potential beneficiaries of the discretionary trust ensures that the funds are protected from ex-spouses and creditors.
- b) In some circumstances, the children may already have assets of their own which already exceed the NRB available to them. Under these circumstances the trustees would have the right to make loans or to make occasional benefits from the discretionary trust would be a particularly tax efficient way of utilising the trust.
- c) There may of course be occasions when the beneficiaries simply wish to receive the capital from the trust and subject to their agreement the trustees have the power to simply appoint capital to the relevant beneficiaries and close the trust.

Trust beneficiaries to include: tick the following boxes relating to beneficiaries:

|                               |                          |
|-------------------------------|--------------------------|
| LIFE TENANT TO BE: My spouse; | <input type="checkbox"/> |
|-------------------------------|--------------------------|

DISCRETIONARY/OTHER BENEFICIARIES TO BE:

|  |                          |
|--|--------------------------|
| My children including grandchildren (issue and remoter issue)?       | <input type="checkbox"/> |
| Any step children as have been named previously in this instruction? | <input type="checkbox"/> |

Default beneficiaries to be:

|   |                          |
|---|--------------------------|
| Such beneficiaries as are living at the date the trust ends (preferred)                                 | <input type="checkbox"/> |
| Other:  | <input type="checkbox"/> |
| Name any intended beneficiary or group (class) here that is not mentioned in the instruction for above: |                          |

NOTE: Where the trust beneficiaries are to include 'step-children' then all children benefitting will be named:

# Client Testamentary Instruction Form

## 12G GIFT OF BUSINESS ASSETS

|                             |  |                              |  |                               |  |
|-----------------------------|--|------------------------------|--|-------------------------------|--|
| Is the testator?            |  | A sole trader?               |  | Husband and wife partnership? |  |
| In partnership with others? |  | A limited liability company? |  | Shareholder with others?      |  |

If a sole trader or husband and wife partnership the testator(s) can leave their business assets how and to whom they like. If the testator(s) have a tax liabilities then use this section to create a trust to maximise any Business Property Relief that may be available to them. If no tax liability the testator(s) can leave their share in the business as a specific legacy (see section 7) with directions.

|   |  |  |  |  |
|---|--|--|--|--|
| Name of business?   |  |  |  |  |
| Address of business?  |  |  |  |  |
| Nature of business?   |  |  |  |  |
| Does the testator wish to appoint 'business executor(s)' separate to his previously names executors?<br>Insert name, address and if necessary occupation: i.e. my accountant                                |  |  |  |  |
| If a partnership; is there a partnership agreement in place allowing the testator to dispose of his share as he wishes? Obtain copy.  |  |  |  |  |
| If a shareholder with others; do the Articles of Association or Shareholders Agreement allow individual shareholders to dispose of their shares by will? I.e. without agreement from the other shareholders |  |  |  |  |
| Are there any life policies in place together with a cross option agreement?  |  |  |  |  |
| If able to dispose of their 'share and interest' by will, what directions does the testator wish to include, if any?  |  |  |  |  |
| Beneficiaries tick as appropriate   | My spouse?   |  |  |  |
|   | My children and grandchildren (my issue and remoter issue)?    |  |  |  |
|   | Include any step children as may be named in the instructions? |  |  |  |
|   | The spouses of any of my children, step-children etc?          |  |  |  |
|   | Other?   |  |  |  |

Standard powers to manage business will be included in the will

# Client Testamentary Instruction Form

---

## SECTION 13 FURTHER CLARIFICATION

On the terms of the above instructions, consider if any of the following needs to be clarified with the testator and advised to the will drafter:

|  |
|--|
| 1. Will any gift of real or leasehold property be charged with existing debt or is the debt to be repaid from elsewhere?   |
| 2. Discuss the age of vesting for any gifts to minors and whether parental receipts are appropriate?   |
| 3. Does s33 Wills Act 1837 (substitution of member of a class) need to apply or should it be negated for gifts to children and remoter issue?  |
| 4. Does the nature of any asset require executors or trustees exoneration/indemnity provisions and if so, has the testator considered and expressly consented?   |
| 5. Are any gifts to executors' payable if they do not accept the office?   |
| 6. Do any trusts require letter of wishes to be prepared?  |
| 7. Are the terms as proposed by the testator compatible with the actual ownership and devolution of the assets, or do you need to discuss severance of any joint ownership?  |
| 8. If severance is required, how will this be achieved? (Note: record detailed advice and agreed actions in an attendance note).   |
| 9. Is it appropriate to discuss the standard administrative provisions that you would propose and should they be amended to meet the testator's wishes?  |
| 10. If the terms proposed by the testator permit any significant risk of an I(PFD)A claim, record in a separate note full and accurate details of the advice that has been given and the testators decision (including the reasons for rejecting any advice you have given). |



## Client Testamentary Instruction Form

---

|   |
|---|
| 11. Is tax planning advice appropriate?   |
| 12. If tax planning is to be given, have terms and time-scales been agreed?   |
| 13. If tax planning is required is it appropriate to exclude the survivorship clause/period?  |
| 14. In the case of an elderly, vulnerable or sick client is tax planning likely to delay the preparation of the final Will? If YES consider a temporary will using a discretionary trust or FLIT as a safety net. |
| 15. Is a Lasting Power of Attorney needed?  |
| 16. If a Lasting Power of Attorney is to be prepared, have the terms, including registration costs and requirements, been advised and agreed?   |
| 17. Is a Living Will (Advance Directive) required?  |
| 18. Is any advice for planning for care fees appropriate?   |
| 19. If care fees advice is to be given, have terms and time scale been agreed?  |
| 20. In the case of a Trust Company being appointed as executor, has a copy of the standard terms and conditions of business been given to the testator?   |
|   |

# Client Testamentary Instruction Form

## SECTION 14 LIFETIME SETTLEMENTS - SPECIALITY TRUSTS

|  |  |
|--|--|
| <p><b>PILOT TRUSTS (SPOUSAL BY-PASS TRUSTS)</b></p> <ul style="list-style-type: none"><li>• Death in Service Pension Benefits</li><li>• Life policies not written into trust</li><li>• Protection for mortgage protection policies</li></ul>   | <p>Most final salary schemes provide for a Death in Service lump sum benefit, similar to a life insurance policy. A lump sum is normally paid to a beneficiary or beneficiaries on the death of the member. By changing the beneficiaries from the spouse to the trustees of a Pilot Trust, any potential tax on second death can be minimised.</p>  |
| <p><b>HOME PROTECTION SCHEMES</b></p> <ul style="list-style-type: none"><li>• Ideally suited for widows, widowers and single people who own assets, possibly through earlier inheritance or succession, and wish to ensure that as much of their assets can be passed to family, friends or charities of their choice. Can also be effective for couples but NOT for IHT planning.</li></ul> | <p>This type of trust planning requires careful consideration, and if the testator is in any doubt as to the suitability they should seek alternative professional advice. This planning involves putting the testator's home into a trust for their chosen beneficiaries during the testator's lifetime. It will help to reduce or even negate the need for probate in certain cases if the home is their main or only asset.</p> |

For more information and advice on the use of Lifetime Settlements (trusts created whilst the testator (the Settlor is alive) contact the office for an additional instruction form and detailed guidance as to the suitability for your client(s). NOTE: not all clients are accepted as suitable for the Home Protection Scheme.

**ADDITIONAL INFORMATION:** Use this section to detail any information you consider helpful in the drafting and completion of the Wills and other documents. (SEE ALSO PAGE 20)

# Client Testamentary Instruction Form

---

## APPENDIX - Interview Information

|   |            |            |
|---|------------|------------|
| Date, time and place  |            |            |
| Were any other persons present? If yes name and reason? (other than spouse)   |            |            |
| Is the client already known to you?   |            |            |
| Is the client satisfactorily identified by other means? ID Check?   |            |            |
| Are there any factors known which make the preparation of will(s) urgent? Age, health etc.  |            |            |
| Observation on the testator's mental capacity<br>NB details concerning specific issues or tests may require a separate attendance note. | Testator 1 | Testator 2 |
| Other comments concerning the testator(s) which may assist the drafting of the documents. Continue on a separate sheet if necessary     |            |            |

# Client Testamentary Instruction Form

---

IMPORTANT: Use this section to list or note any further information which may be relevant to the drawing up of the Will. Detail also any advice you have given but which has been rejected by the client and if possible give the reason for the rejection. This information may be used to defend any future claim brought against you or the company for negligence. MAKE SURE THE CLIENT SIGNS YOUR NOTES

Clients Signature \_\_\_\_\_

Consultants Signature \_\_\_\_\_

## DECLARATION TO BE SIGNED BY THE TESTATOR(S)

I/we confirm that I/we are over the age of eighteen years and are of sound mind. The information given on this form and to the consultant is correct and is to be used as the basis for preparing my/our Last Will and Testament (my/our Will). In addition to appointments, legacies and distribution of residue I/we agree to the executors and trustees named in my/our Will having normal powers to aid administration of my/our estate(s). I/we know of no other trusts or constraints which would prevent my/our estate being distributed as I/we have requested.

Signed First Testator -

Signed Second Testator -

Date -