Will Instruction Questionnaire

FOR

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WILL INSTRUCTION QUESTIONNAIRE

We ask that you complete as much as possible of this form before we meet because it will provide us with essential information and help us to identify the items we should discuss with you. Please call us if you have any questions.

The questionnaire is divided into four parts. The first part asks for information about you and your family. The second part asks for information about your assets. The third part of the questionnaire is intended to assist you to decide what should be in your Will. While you may not be able to answer all the questions in Part 3, you will at least have an opportunity to think about them before we meet. The fourth part is for our use.

The form may not elicit from you all the information you wish to give us or which we will wish to obtain from you. Please make note of all additional information concerning you, your family, assets, and liabilities you feel may be necessary or helpful to us in advising you.

Please note that the questionnaire assumes that only British Columbia law applies to you. If this situation is not the case, it may be necessary for you to consult a lawyer in another jurisdiction about your Will. We would be pleased to assist you with that. Unless expressly requested to do so, we will not check the names of the registered owners of assets but will rely on the information you give us.

PART 1—CLIENT INFORMATION

1. **INFORMATION ABOUT YOU**
   Name (full)

   Other names you are or have been known by
   (*for example, your name is Shaun but you use "Sandy"*)

Address	
Occupation (*if retired, also include former occupation*)	
Date of birth *[dd/mm/yy]*	Place of birth *[city/province/country*]
Marital status (*including plans to marry*)	
Citizenship: ✍ Canadian ✍ other:	
Telephone no. *[home]*	Telephone no. [*work*]
Fax	Telephone before faxing? ✍ yes ✍ no
Correspondence to be sent to: ✍ home ✍ other:	

2. INFORMATION ABOUT YOUR SPOUSE OR PARTNER

Full name of spouse/partner

Other names your spouse/partner is or has been known by

Occupation (*if retired, also include former occupation*)	
Date of birth *[dd/mm/yy]*	Place of birth *[city/province/country*]

Citizenship: ✍ Canadian ✍ other:

3. YOUR MARRIAGE

Date of marriage Place of marriage

Country and province/state of residence when you married?

Have you signed a marriage agreement? ✍ yes ✍ no

If we do not have a copy, please provide us with one so that we may determine your estate's obligations (if any) under it.

Have you signed a separation agreement? ✍ yes ✍ no

If we do not have a copy, please provide us with one so that we may determine your estate's obligations (if any) under it.

Have any family law proceedings taken place or been commenced?

✍ yes ✍ no

4. PRIOR MARRIAGE(S)

Have you been previously married? ✍ yes ✍ no

Name(s) of former spouses(s)?

Do you have to pay maintenance to your children or former spouse? ✍ yes ✍ no

If we do not have a copy of the agreement or court order regarding maintenance provisions, please provide us with one so that we may determine your estate's obligations (if any) under it.

5. OTHER PERSONAL RELATIONS

Are you now cohabiting with someone other than a spouse named above? ✍ yes ✍ no

Name

If you are not married, but cohabiting with someone, he or she may have a claim for maintenance or an interest in wealth acquired during your relationship.

Have you signed a cohabitation agreement? ✍ yes ✍ no

If we do not have a copy, please provide us with one so that we may determine your estate's obligations (if any) under it.

Have you recently ceased cohabiting with someone? ✍ yes ✍ no

6. YOUR CHILDREN

The word "child" includes a child of your marriage, a child born outside of marriage, and an adopted child. Please provide the following information for each of your children and your spouse or partner's children.

Full name	**Birthday**	**Is the child hers? His? Or from this marriage?**	**Does the child reside with you?**

Please mark with a "*" if the child has a disability and a "**" if the child is deceased.

7. OTHER DEPENDANTS

Is there someone dependent upon you for financial support for whom you wish to provide, such as an elderly parent? ✍ yes ✍ no

If yes, please complete the following:

Full name	Address	Relationship

8. OTHER RESPONSIBILITIES

Are you now serving as the legal guardian for a person under age 19 (other than your own children?) ✍ yes ✍ no

If yes, full name, address and relationship to you?

Full name	Address	Relationship

Are you now serving as the committee or other legal guardian for a disabled or incapacitated adult? ✍ yes ✍ no

If yes, full name, address, and relationship to you?

Are you now serving as executor of an estate of someone who has died? ✍ yes ✍ no

Whom do you want to appoint to act in your place if you die before you complete the administration of the estate?

Full name, address, occupation, and relationship to you?

Have you been appointed as the executor for anyone who is still living? ✍ yes ✍ no

Are you entitled to appoint someone to act in your place if you die before this person? ✍ yes ✍ no

Whom do you want to appoint?

Full name, address, occupation, and relationship to you?

Full name	**Address**	**Relationship**

PART 2—FINANCIAL INFORMATION

ASSETS

Please record the assets you have and provide the requested information. If you have additional assets, please attach a separate listing.

1. REAL ESTATE

Residence	**In your name**	**In spouse/ partner's name**	**In joint names ✍ joint tenants ✍ tenants in common**
Street address			
Legal description, if known			
Estimated value			

Estimated mortgage balance			
Is mortgage life insured?	✍ yes ✍ no	✍ yes ✍ no	✍ yes ✍ no
Acquisition date			
Acquisition cost			

Recreational real estate	**In your name**	**In spouse/ partner's name**	**In joint names** ✍ **joint tenants** ✍ **tenants in common**
Street address			
Legal description, if known			
Estimated value			
Estimated mortgage balance			
Is mortgage life insured?	✍ yes ✍ no	✍ yes ✍ no	✍ yes ✍ no
Acquisition date			
Acquisition cost			

Investment real estate	**In your name**	**In spouse/ partner's name**	**In joint names** ✍ **joint tenants** ✍ **tenants in common**
Street address			
Legal description, if known			
Estimated value			
Estimated mortgage balance			
Is mortgage life insured?	✍ yes ✍ no	✍ yes ✍ no	✍ yes ✍ no
Acquisition date			
Acquisition cost			

Other interests in real estate

Have you granted any option to anyone to buy your real estate? ✍ yes ✍ no

If yes, details:

Do you have any options to buy any other real estate? ✍ yes ✍ no

If yes, details:

Do you have a life interest or long-term lease on any property? ✍ yes ✍ no

If yes, details:

Have you sold any property by way of an ongoing agreement for sale? ✍ yes ✍ no

If yes, details:

Other:

2. BUSINESS INTERESTS

Interest in a proprietorship (unincorporated business)

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated net value			
Estimated original cost (or adjusted cost base)			

Interest in a partnership
Please attach a copy of your partnership agreement.

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated net value			

Estimated original cost (or adjusted cost base)			
Is your partnership interest life insured? ✍ yes ✍ no			

Interest in private company(ies)

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated net value			
Estimated original cost (or adjusted cost base)			
Location of certificates:			
Is there a shareholders' agreement or a buy-sell agreement, or any other restriction on sale? ✍ yes ✍ no Please attach a copy of the most recent financial statements and any shareholders' agreement or buy-sell agreement.			
Is there life insurance to buy out your interest on your death? ✍ yes ✍ no			
If you are the only director, do you want to appoint an additional director? ✍ yes ✍ no			
Have you used your capital gains exemption (if shares qualify)? ✍ yes ✍ no			

3. PERSONAL PROPERTY

Bank accounts & term deposits

	In your name	**In spouse/ partner's name**	**In joint names**
Financial institution name			

Account no.			
Amount			

Securities/bonds/shares

(please note any restrictions on sale or trade)

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Location			
Value			
Acquisition date			
Acquisition cost			

Life insurance

	On your life	**On spouse/ partner's life**	**On joint lives**
Insurance company			
Policy no.			
Owner			
Designated beneficiary			
Amount			

Pension plans & annuities

	In your name	**In spouse/ partner's name**	**In joint names**
Plan issuer			
Terms			
Beneficiary			
Amount			

RRSPs & RRIFs

	In your name	**In spouse/ partner's name**	**In joint names**

Plan issuer			
Account no.			
Designated beneficiary			
Amount			

Collectibles & other valuables

(*indicate if items are not located in or at your home*)

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated value			

Personal effects (including furniture, automobiles, boats, etc.)

(*indicate if items are not located in or at your home*)

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated value			

Other substantial assets

For example, does someone owe you money? Do you have a valuable club membership?

	In your name	**In spouse/ partner's name**	**In joint names**
Description			
Estimated value			

Interests in any existing estates or trusts

If you have interests in any existing estates or trusts, provide their description and location:

Foreign assets

Are any of your assets located outside British Columbia? ✍ yes ✍ no

What and where:

LIABILITIES

4. SPECIFIC LIABILITIES

Do you have any of the following liabilities?

Loans payable? ✍ yes ✍ no

	In your name	**In spouse/ partner's name**	**In joint names**
Name of creditor			
Amount owing			
Life insured?			

Guarantees? ✍ yes ✍ no

	In your name	**In spouse/ partner's name**	**In joint names**
Name of creditor			
Amount owing			
Life insured?			

Indemnities? ✍ yes ✍ no

	In your name	**In spouse/ partner's name**	**In joint names**
Name of creditor			
Amount owing			
Life insured?			

Other? ✍ yes ✍ no

	In your name	**In spouse/ partner's name**	**In joint names**
Name of creditor			
Amount owing			
Life insured?			

Have you given any security agreements for any amounts owed by you? ✍ yes ✍ no

If yes, please provide details:

Have you agreed to buy any property? ✍ yes ✍ no

If yes, please provide details:

5. ENVIRONMENTAL ISSUES

"Industrial Activity" means chemical, construction, dry-cleaning, electrical, electronic, laboratory, machinery, metal fabrication, photo development, printing or publishing, service stations, textiles and wood preservation, vehicle maintenance or transportation, and like activities.

Are you now or have you ever in the past been involved in a business (as an owner or operator) that carried on an Industrial Activity? ✍ yes ✍ no

Do you now own, or have you ever in the past owned, land on which an Industrial Activity was carried on? ✍ yes ✍ no

Are you aware of any environmental contamination on land or buildings you now own or you owned in the past? ✍ yes ✍ no

6. ESTIMATED NET VALUE OF ESTATE

	Your name	**Spouse/ partner's name**	**Joint names**
Total assets			
Less total debts			
Less estimated tax			
Total net value of estate	_____	_____	_____

PART 3—WILL INSTRUCTIONS

1. EXECUTOR/TRUSTEES

Whom do you want to appoint as your executor(s) and trustee(s)? If appointing more than one person, please indicate whether primary, alternate, or joint.

	Person 1	**Person 2**	**Person 3**
Full name			
Address			
Occupation			
Relationship to you			
	Primary ✝ Joint with others named ✝ Alternative ✝	Primary ✝ Joint with others named ✝ Alternative ✝	Primary ✝ Joint with others named ✝ Alternative ✝

Do you wish a majority of your trustees to be able to make decisions? ✍ yes ✍ no

2. PERSONAL EFFECTS

Personal effects include clothing, jewellery, household goods, furniture, automobiles, boats, and art. Do you want to leave a particular personal effect to anyone? ✍ yes ✍ no

If yes, please complete the following:

Full name	**Address**	**Relationship to you**	**Description of item**

3. CASH LEGACY

Do you want to give a cash gift to anyone? ✍ yes ✍ no

If yes, please complete the following:

Full name	**Address**	**Relationship to you**	**Amount**

4. CHARITABLE GIFTS

Do you want to give cash or another gift to charity? ✍ yes ✍ no

If yes, please complete the following:

Name of charity	Address	Cash amount/ specific assets

We recommend that you contact the charity to confirm that you have the charity's correct name, that it is a Revenue Canada registered charity, and, if the gift is for a particular charitable purpose, that the charity in fact carries on that purpose. Note that gifts of appreciated shares in publicly traded companies to a charity may be very tax effective.

5. GIFT OF RRSP OR RRIF

Have you filed a designation of beneficiary with the plan issuer(s)?

✍ No/Don't know, but I want _____ to be the beneficiary.

✍ Yes, but I want to change the beneficiary to _____ _____ __.

Please check with the plan issuer as to the plan's requirements for making a valid designation. Some plans require a prescribed form to be filed with them. Others do not permit a designation to be made by Will.

If your RRSP/RRIF beneficiary is not the beneficiary of your estate, you should know that the estate (not the RRSP beneficiary) may be responsible for the income taxes payable on your death with respect to your RRSP.

6. GIFT OF PENSION PLAN

Legislation applicable to your pension plan, such as the B.C. *Pension Benefits Standards Act*, may require that your pension benefits be paid to your spouse. Have you filed a designation of beneficiary with the plan administrator(s)?

- ✍ No/Don't know, but I want _____ to be the beneficiary.
- ✍ Yes, but I want to change the beneficiary to _____ _____ __.

Please check with the pension plan administrator as to the plan's requirements for making a valid designation. Some plans require a prescribed form to be filed with them. Others do not permit a designation to be made by Will.

7. LIFE INSURANCE POLICIES

If you have already designated a beneficiary with the insurance company, you do not have to duplicate the designation in your Will.

Do you want to designate a beneficiary or change the beneficiary of your insurance policy(ies?) ✍ yes ✍ no

Which policies? ✍ all ✍ some

List the insurance company(ies) and policy no(s).:

Beneficiary's full name and relationship to you?

We recommend that you file a designation of beneficiary with the insurance company. If you change your designation by Will, do not file any further documents with the insurance company without consulting your lawyer.

8. SPECIFIC GIFTS—OTHER

Do you want to leave a particular asset such as real estate, shares of a family business, or a club membership to a particular person? ✍ yes ✍ no

Assets	Beneficiary's name, address, and relationship to you

If the gift is of real estate:

(a) Is there an existing mortgage on the property? ✍ yes ✍ no

(b) If yes, do you want

- ✝ the beneficiary to assume the mortgage?
  or
- ✝ your estate to pay off the mortgage?

(c) Who is to pay any Property Transfer Tax on the transfer?
✍ recipient ✍ residue of your estate

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9. TRUST FUND

Do you want to set aside a fund for the support of a dependant such as a parent or child with a disability during his or her lifetime? ✍ yes ✍ no

Dependant's full name and relationship to you?

Amount to be put in trust fund (or share of residue of your estate—see section 10):

Is he or she currently receiving disability benefit, or other income subject to a means test? ✍ yes ✍ no

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10. RESIDUE OF YOUR ESTATE

The residue of your estate consists of the assets remaining in your estate after payment of liabilities, or partner taxes, specific gifts, legacies, and so on. If you want the residue of your estate to go to your spouse or partner and children, please complete A and B below. If you want it to go to someone else, please skip to section 11 below.

A. Provision for spouse or partner

Select one option:

✍ **Outright gift**: My spouse or partner is to receive 100% of the residue of my estate if he or she survives me for 30 days.

✍ **Spouse or partner trust**: My executor is to invest my Estate and pay my spouse or partner 100% of the net annual income produced by the residue of my estate during my spouse's lifetime.

May your executor use capital for the benefit of your spouse or partner if your executor thinks it is necessary? ✍ yes ✍ no

On the death of my spouse or partner, the remainder is to be distributed to my children or others per B (below)

✍ **Other provision for spouse or partner** (*please describe*)

✍ **None** (*why*?)

If your spouse is not happy with what you leave him or her, your spouse can make a claim under the B.C. *Wills Variation Act* for a larger share of your estate. If your common law spouse/partner is not happy with what you leave him or her, he or she may have some claim against your estate at common law. Please prepare and give us a copy of a draft memorandum setting out in as much detail as possible the reasons for excluding or limiting the gifts to your spouse or partner or why he or she is neither in need or deserving.

B. Provision for children

What provision do you want to make for your children after any prior provisions for your spouse or partner?
Select one option:

✍ My estate is to be divided equally among all my children. If a child predeceases me, his or her share of my estate is to go to his or her children.

✍ My estate is to be divided equally among all my children but they are not to receive their inheritance until the following age(s):
_____% at age _____, then _____% at age _____, then balance at age _____.

Before then, my executor can use a child's inheritance for his/her benefit if my executor thinks it is necessary. If a child dies before receiving 100% of his or her share of my estate, what is left is to go to his or her children.

✍ Other provision for children (*please describe*)
(*if unequal, why*?)

✍ None (*why*?)

If any of your children are not happy with what you leave them, any of them can make a claim under the B.C. *Wills Variation Act* for a larger share of your estate. Please prepare and give us a copy of a draft memorandum setting out in as much detail as possible the reasons for excluding or limiting the gifts to a child or why he or she is neither in need or deserving.

C. Alternate Beneficiaries

Whom do you want to receive your estate if none of your primary intended beneficiaries (that is, spouse/partner, children, grandchildren) lives to inherit?

Full name	Address	Relationship	Portion of residue

Please provide dates of birth for any minors.

11. RESIDUE OF ESTATE—OTHER PROVISIONS

If you do not have a spouse/partner or children or do not want to leave your estate to them, whom do you want to receive your estate?

Full name	Address	Relationship	Portion of residue

If your client has a spouse or child but does not want to leave his or her estate to them, see the comments at section 10.

12. EXECUTOR'S POWERS

Investments

If your executor needs to invest your estate, what kind of investments can your executor invest in?

Select one option:

- ✍ unrestricted (any investment my executor thinks is appropriate)
- ✍ restricted (to be discussed with lawyer)

Provision for spouse/partner

If your estate owns shares of a private company, or an interest in a business:

Can your executor carry on that business? ✍ yes ✍ no

Can your estate make loans to the business? ✍ yes ✍ no

Can the loans be unsecured? ✍ yes ✍ no

Can the loans be interest free? ✍ yes ✍ no

Can your executor act as a director and get paid as a director? ✍ yes ✍ no

Loan to beneficiaries

Can your executor make loans to beneficiaries? ✍ yes ✍ no

Can the loans be unsecured? ✍ yes ✍ no

Can the loans be interest free? ✍ yes ✍ no

Guarantees

Can your executor renew a guarantee you gave before your death? ✍ yes ✍ no

Can your executor give new guarantees? ✍ yes ✍ no

Borrowing power

Can your executor borrow on behalf of your estate on the security of estate assets? ✍ yes ✍ no

Estate assets

Can your executor hold, as estate investments, investments you own at your death? ✍ yes ✍ no

Can your executor give a beneficiary his or her share of the estate by way of specific items or investments other than cash only? ✍ yes ✍ no

Can your executor repair assets before selling or distributing them? ✍ yes ✍ no

The general rule is that an executor cannot purchase an estate asset.

Can your executor purchase estate assets? ✍ yes ✍ no

13. GUARDIAN(S) FOR INFANT CHILDREN

Do you have a child under age or do you anticipate having children? ✍ yes ✍ no

Who is to be the guardian(s) of your children should you die before they reach age 19? Indicate whether primary, alternate, or joint.

	Person 1	**Person 2**	**Person 3**
Full name			
Address			
Occupation			
Relationship to you			
	Primary ✝ Joint with others named ✝ Alternative ✝	Primary ✝ Joint with others named ✝ Alternative ✝	Primary ✝ Joint with others named ✝ Alternative ✝

14. FUNERAL

Do you wish to be ✍ buried ✍ cremated

Do you have any specific wishes for your funeral or memorial service, and if you are to be cremated, your ashes? ✍ yes ✍ no

If yes, please describe below. Please inform your family of your wishes and request that they honour them.

Have any pre-paid arrangements been made? ✍ yes ✍ no
If yes, with whom?

15. MUTUAL WILL

If you and your spouse or partner sign Wills leaving your estates to each other, is your spouse free to change his or her Will at any time, including after your death should you die first? ✍ yes ✍ no
If no, we recommend that your estate be held in trust for your spouse/partner rather than be an outright gift. (See 10A.) Discuss this decision with your lawyer.

16. ORGAN DONOR

Have you completed an organ donor card? ✍ yes ✍ no
Please inform your family of your wishes in this regard and request that they honour them.

17. LIVING WILL

Have you signed a living will, alternate medical directive, or medical care proxy setting out your wishes for the medical care you wish to receive if you should become incapacitated?

✍ Yes (*please provide us with a copy*)

✍ No
Would you like to? ✍ yes ✍ no

If yes, please complete the separate Health Care Authorization Questionnaire.

18. NOMINATION OF COMMITTEE

Have you signed a Nomination of Committee in which you name the person or corporate trustee you would like the court to appoint as your legal guardian if you should become incapable of managing your financial affairs/your person?

✍ Yes (*please provide us with a copy*)
✍ No
Would you like to? ✍ yes ✍ no

If yes, please complete the separate Nomination of Committee Questionnaire.

19. ENDURING POWER OF ATTORNEY

Have you signed an Enduring Power of Attorney giving someone authority to look after your financial affairs if you should become incapacitated?

✍ Yes (*please provide us with a copy*)
✍ No
Would you like to? ✍ yes ✍ no
If yes, please complete the separate Power of Attorney Questionnaire.

20. ADDITIONAL COPIES

Do you want to send a copy of your Will and any other documents we prepare for you to anyone? ✍ yes ✍ no

If yes, set out name, address, and relationship to you:

We typically do not recommend giving copies to friends or relatives—only to a corporate trustee or other professional advisor who is obliged to keep the contents confidential.

21. CORPORATE EXECUTOR

If you appoint a financial institution as an original or alternate executor and trustee, may we provide to it:

- a copy of your executed Will? ✍ yes ✍ no
- information from this questionnaire? ✍ yes ✍ no

22. SPECIAL INSTRUCTIONS

Is there anything else you want included in your Will or to discuss with us about your Will or your personal circumstances?

PART 4—FOR LAW FIRM'S USE

Conflicts check complete? ✍ yes ✍ no

Date(s) of meeting with clients [*list*]

Persons present at meeting [*list*]

Languages
English read? ✍ yes ✍ no
English spoken? ✍ yes ✍ no
Translator required? ✍ yes ✍ no language:

Indian Act applicable? ✍ yes ✍ no

Testamentary capacity? ✍ yes ✍ no

Disabled beneficiaries? ✍ yes [*list*] ✍ no

Wills Variation Act/*Family Relations Act*/constructive trust/unjust enrichment issues? ✍ yes *[list]* ✍ no

Foreign issues: Domicile:

Marriage in community property regime?	✍ yes ✍ no
Foreign citizenship?	✍ yes ✍ no
Assets outside British Columbia?	✍ yes ✍ no
Capacity under foreign law?	✍ yes ✍ no

Joint tenancy(ies) (in name or in fact) ✍ yes [*list*] ✍ no

Taxes on transfer of property—income tax, property transfer tax, and so on? ✍ yes [*list*] ✍ no

Saunders v. Vautier considered? ✍ yes ✍ no

Rule against perpetuities problem? ✍ yes ✍ no

Insurance declaration? ✍ yes ✍ no

Previous Will? ✍ yes ✍ no

Date?

Significant difference(s) from previous Will?

Reasons for change?

Executor's remuneration?

Other advisors ✍ investment advisor
✍ life insurance agent ✍ accountant ✍ other:
and ✍ permission to speak with them about the Will?

Business partner(s)?

Copies to? Draft/final?

Will required by: *[date]*
✍ mail ✍ courier ✍ fax (phone first?)

Estimates:

Fees	$ *[amount]*		
Taxes	$ *[amount]*		
plus	Wills Notice	✍ yes	✍ no
	photocopies/ mailing/fax	✍ yes	✍ no
Total	$ *[amount]*		

Location of executed original(s):
(*Client needs to file Wills Notice if will is not kept in lawyer's office.*)

Referral
- ✍ tax advisor
- ✍ family law advice
- ✍ other:

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I caution my readers that the information expressed in this article should in no way be construed as legal advice. If you would like further information on this or any other topic please contact me at the address below.

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