



**ESTATE PLANNING QUESTIONNAIRE**  
(for dual representation of married couple setting up a Trust)

SANTERRE & VANDE KROL, LTD.  
7920 E. Thompson Peak Parkway, #150  
Scottsdale, Arizona 85255  
Telephone: (480) 991-3990  
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CLIENTS' FULL LEGAL NAMES:

HUSBAND: \_\_\_\_\_

WIFE: \_\_\_\_\_

HOME ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

Home Telephone No.: \_\_\_\_\_  
Husband's Cell phone #: \_\_\_\_\_  
Wife's Cell phone #: \_\_\_\_\_  
Home Fax No.: \_\_\_\_\_  
E-Mail address: \_\_\_\_\_

EMPLOYMENT INFORMATION:

HUSBAND'S EMPLOYER: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Business Telephone No.: \_\_\_\_\_

WIFE'S EMPLOYER: \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_

Business Telephone No.: \_\_\_\_\_



**CHILDREN OF PREVIOUS MARRIAGES:**

**HUSBAND'S:**      **Name (and Address, please):**

**Date of Birth:**

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**WIFE'S:**      **Name (and Address, please):**

**Date of Birth:**

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List any **Deceased** Children:

**Name:**

**Date of Birth:**

**Date of Death:**

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List any Children of Deceased Children:

**Name and Address:**

**Date of Birth:**

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Have either of you given up your parental rights to any child? Yes \_\_\_\_\_ No \_\_\_\_\_

Was the adopting person the spouse of the child's other natural parent? Yes \_\_\_\_\_ No \_\_\_\_\_

Do you want the child to inherit any share of your estate? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes: Child's current name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_

\* \* \*

**Please list members of the Estate Planning Team with whom you currently work:**

Accountant: \_\_\_\_\_

Life Insurance Agent: \_\_\_\_\_

Trust Officer: \_\_\_\_\_

Stock Broker: \_\_\_\_\_

Real Estate Broker: \_\_\_\_\_

Investment Adviser: \_\_\_\_\_

Financial Planner: \_\_\_\_\_

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

Have you previously executed a Will? Yes \_\_\_\_\_ No \_\_\_\_\_

Have you previously executed a Trust? Yes \_\_\_\_\_ No \_\_\_\_\_

**ASSET PLANNING**

If you moved to Arizona from another state, please list that state and the date:

Husband \_\_\_\_\_ Date \_\_\_\_\_

Wife \_\_\_\_\_ Date \_\_\_\_\_

Has either spouse received any significant gifts or inheritance after your marriage? If so, please describe.

At the present time, do you have any expectations of receiving any large gifts or inheritances? If so, please describe.

Does either spouse have separate property from prior to your marriage that has not been commingled and/or otherwise converted into community property? If so, please describe

Have either of you made lifetime taxable gifts?

Husband: Yes \_\_\_\_\_ No \_\_\_\_\_  
Wife: Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please provide us with copies of the Gift Tax Returns which were filed to reflect these gifts.

Are you confident of your ability to manage money and investments?

Yes \_\_\_\_\_ No \_\_\_\_\_

Are any of the above children dependent upon you for financial support at the present time? If so, please list their names.

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Are there special family problems which your Estate Plan should consider? If so, please discuss.

Upon your demise, to whom and when do you wish your Estate distributed?

## TRUST PROVISIONS

**DISTRIBUTIONS TO SURVIVING SPOUSE.** If you are establishing a trust to avoid and/or minimize estate taxes, upon the first spouse's death, the deceased spouse's assets which qualify for the unified credit from estate taxes (the "Bypass Amount" of assets) are allocated to a "Bypass Trust", and the balance of the deceased spouse's assets, if any, will be allocated to a "QTIP Trust" or the "Survivor's Trust" (which holds all of the surviving spouse's assets).

**NOTE** - As a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), the Bypass Amount is \$3,500,000, and in 2010 the entire estate tax is eliminated. Unless Congress amends the law prior to January 1, 2011, the estate tax will again become applicable and the Bypass Amount will fall back to \$1 million on that date (adjusted for CPI increases). Until the recent economic events, we were fairly confident that Congress would act to freeze the Bypass Amount at \$3.5 million or, perhaps, increase the exemption even further. With the recent economic events, this action is less certain.

**Upon the first spouse's death, should the surviving spouse have the ability to modify the provisions for distributions of shares to children?** Upon the first spouse's death, the provisions of the Trust Agreement which pertain to the deceased spouse's share of the assets in the Trust would be considered "irrevocable" and "unamendable". You may wish to give the surviving spouse the ability to change the distribution scheme of the deceased spouse's assets among the deceased spouse's descendants. For example, if your trust says that upon both spouse's deaths the remaining assets will be divided into equal shares for your children, and the surviving spouse, during the surviving spouse's lifetime, wants to be able to "distribute" some of your trust assets "early" to your children (i.e., before the surviving spouse's death), or in a different manner upon the surviving spouse's death, do you want the surviving spouse to be able to do that, even if the surviving spouse can distribute those funds at earlier or later ages to the children, in unequal shares among the children, or all to one child to the exclusion of other children?

YES \_\_\_\_\_

NO \_\_\_\_\_

If you are setting up a Trust which will benefit your children, how do you wish the children's shares to be distributed to them:

A. If you have young children, you might wish the assets to be initially held in a "pool" for the benefit of all the children until the youngest child reaches a specific age, at which time the assets would split into separate shares for each child. In this manner, the education and other expenses of raising all of the children will be paid out of the "pool" of assets. When would you like the Trust Estate to split into shares:

\_\_\_\_\_ When the youngest child reaches age \_\_\_\_\_; or

\_\_\_\_\_ Immediately upon the death of the surviving spouse.

B. When dividing the trust assets into shares for your children, do you want each child to receive an equal share of the assets:

\_\_\_\_\_ YES

\_\_\_\_\_ NO - We want shares split as follows: \_\_\_\_\_

\_\_\_\_\_

C. After the Trust splits into shares, do you want the children to be entitled to withdraw the **principal** of their respective shares at certain ages, i.e. 1/3 at age 25; 1/3 at age 30; 1/3 at age 35. The Trust Agreement can provide for these increments to work in any way you wish, or it can provide that the children may withdraw all assets of their share immediately. However, if your beneficiaries have the right to "withdraw" the assets from their shares, the assets are NOT protected from the creditors of that beneficiary after the right of withdrawal is effective. A better approach may be to make all distributions to the beneficiary totally discretionary on the part of the trustee(s). This approach provides some level of creditor protection to the assets held in each child's share, even if the child is the trustee of his/her share.

\_\_\_\_\_ YES: Right of Withdrawal in the following manner: \_\_\_\_\_

\_\_\_\_\_ NO: Don't give the children the right to withdraw.

Other than your spouse and children, are there other individuals or charities you wish to consider as beneficiaries of your Estate? If so, please list.

Name

Item

Default Distribution: Our Trust Agreement form currently provides that if all of the beneficiaries named in your Trust should die before full distribution of the Trust's assets, and no other provision is made for the disposition of those remaining assets, the remaining assets will pass one-half (1/2) to each of your respective heirs-at-law (i.e., parents if living; otherwise to brothers and sisters and/or descendants of deceased brothers and sisters). If after 6 months no heirs can then be located, the remaining assets will be distributed to charitable organizations to be chosen by the then acting Trustee. If you would like some other form of "default distribution", please list the individuals and/or charities you would like to receive your estate the balance of the assets, and in what percentages.

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

## ARIZONA TRUST CODE ("ATC") PROVISIONS

The ATC is effective in Arizona as of January 1, 2009, and (except for certain notice provisions relating to irrevocable trusts which are created **prior** to January 1, 2009) will apply to all trusts, revocable and irrevocable.

**NOTICES TO BENEFICIARIES:** The ATC provides that the trustee of an irrevocable trust must give notice to "qualified beneficiaries" (hereafter called the "ATC Notice") within (i) 60 days after the date an irrevocable trust is first established, or (ii) 60 days after the date a revocable trust becomes irrevocable of: (a) the existence of the trust; (b) the identity of the trustor or trustors; (c) the trustee's name, address and telephone number; and (d) the beneficiary's right to request a copy of the relevant portions of the trust instrument, and a trustee's report of the assets, liabilities, income and disbursements, etc., at least annually.

In general, qualified beneficiaries are the beneficiaries who are currently entitled to receive income and/or principal, as well as those remainder beneficiaries who would be entitled to receive a trust distribution following the death of the current beneficiaries, or if the trust terminated. As an example, in most joint A/B or QTIP trusts, following the death of the first spouse, the qualified beneficiaries are the surviving spouse (who is generally the current beneficiary) and the children (who are generally the remainder beneficiaries). Following the deaths of both spouses, the qualified beneficiaries are the children (who are generally the current beneficiaries) and the grandchildren (who are generally the remainder beneficiaries).

The ATC Notice provision is not mandatory, i.e., it can be overridden by the provisions of the trust itself.

### **DO YOU WANT TO INCLUDE A PROVISION IN YOUR TRUST THAT THE ATC NOTICE WILL NOT BE GIVEN?**

\_\_\_\_\_ **YES**    \_\_\_\_\_ **NO**

**NOTE:** Even if the ATC Notice is not required by the terms of the Trust Agreement to be provided to beneficiaries of the trust, a beneficiary (including a remainder beneficiary) has the right to request a copy of the trust and a Trustee's report of the administration of the Trust's assets.

**BENEFICIARY'S ABILITY TO CHANGE TRUST PROVISIONS.** In order to provide some flexibility in amending and terminating irrevocable trusts, the ATC contains several provisions liberalizing trust modification and termination law. Specifically, without the consent of the trustor(s) but with the consent of all beneficiaries, irrevocable trusts may be (i) modified if the court concludes that the modification is not inconsistent with a "material purpose" of the trust, and (ii) terminated if the court concludes that continuance of the trust is not necessary to achieve any "material purpose." When such modifications or terminations are requested by beneficiaries, the purposes of the trust and the trustor's intentions for establishing the trust will be important considerations.

**DO YOU WANT YOUR TRUST TO INCLUDE PROVISIONS TO CONFIRM THAT THE PROVISIONS CONTAINED IN THE TRUST FOR THE BENEFICIARIES FOLLOWING THE DEATH OF THE DECEASED SPOUSE, THE SPENDTHRIFT AND THE SUCCESSOR TRUSTEE PROVISIONS ARE MATERIAL PURPOSES OF THE TRUST AND SHOULD NOT BE CHANGED BY THE BENEFICIARIES:**

\_\_\_\_\_ YES      \_\_\_\_\_ NO

**PAYMENT OF ESTATE TAXES**

If you have a taxable estate, you must decide who will bear the burden of the estate taxes. In most cases, the tax is simply paid by the residual estate, and therefore all of the residual beneficiaries share the burden of the tax on a prorata basis. However, your taxable estate may include items which are not included in your residual estate, such as life insurance death benefits, retirement accounts and property held with the right of survivorship. To the extent these non-residual assets pass to a beneficiary other than a spouse or charity, the residual beneficiaries may be required to pay the estate taxes attributable to these non-residual assets. If your entire estate, including these non-residual assets, all goes to the same beneficiaries (i.e. to your children equally), then it may be okay for your residual estate to pay the entire estate tax burden. However, if you have assets which will eventually pass to beneficiaries other than your residual beneficiaries, you may want to have the recipients of those non-residual bequests pay a prorata portion of the estate tax burden.

Based on your desired disposition of your estate, do you want the estate taxes paid from the residual estate?

\_\_\_\_\_ YES      - **OR** -

If your desired disposition provides for certain assets to pass to recipients other than a spouse, charity or the beneficiaries of your residual estate, do you want the recipient of these non-residual assets to bear a prorata portion of your estate taxes?      \_\_\_\_\_ YES

For your information, the recipients of any specific bequests do not normally share in the estate tax burden unless the trust document specifically provides otherwise.

**APPOINTING PERSONAL REPRESENTATIVES OF YOUR ESTATES**

Upon your demise, please list a first and alternate choice as to whom you desire to be the supervisor of your Estate Administration (the "Personal Representative" or "Executor" of your Estate)?

HUSBAND's choices:

WIFE's choices:

1st SPOUSE  
2nd \_\_\_\_\_  
3rd \_\_\_\_\_

1st SPOUSE  
2nd \_\_\_\_\_  
3rd \_\_\_\_\_

**APPOINTING GUARDIANS FOR YOUR MINOR CHILDREN**

If you have minor children, then upon both of your deaths, please list a first and second choice as to who you wish to serve as Guardian for those children. **\*\*SEE NOTE.**

1st \_\_\_\_\_  
2nd \_\_\_\_\_

**\*\* NOTE.** In order to regulate certain persons who provide fiduciary services for a fee, the Arizona Legislature has adopted a certification process whereby the Court will not appoint a "Private Fiduciary" unless that person has been certified (education requirements, training course, background check, post bond, etc.). A "Private Fiduciary" is defined as a person who for a fee serves as a court appointed guardian or conservator for one or more children who are unrelated to the Fiduciary ("unrelated", in general, means a person who is not associated to such children as a grandparent, great grandparent, sibling, nephew or niece, grand nephew or grand niece, uncle or aunt, great uncle or great aunt, first cousin or first cousin once removed.) In choosing the individual(s) you wish to appoint to serve as guardian(s) for your minor children, you should consider that any person you appoint who meets the foregoing definition of "unrelated" will have to waive any fees for his/her services in order to be appointed as Guardian (unless such individual(s) meet the education requirements and complete the certification process for a Private Fiduciary.)

**APPOINTING SUCCESSOR TRUSTEES OF YOUR TRUST**

Upon your demise, please list a first and second choice as to whom you desire to be the supervisor of your Trust (the "Trustee" or "Successor Trustees" of your Trust).

1st SURVIVING SPOUSE, acting alone  
2nd \_\_\_\_\_  
3rd \_\_\_\_\_

Upon the death or incapacity of the first spouse, do you each agree that the other spouse should have the power to change the appointment of Successor Trustees of the Trust?

Husband:    Yes \_\_\_\_\_    No \_\_\_\_\_  
Wife:        Yes \_\_\_\_\_    No \_\_\_\_\_

If you are establishing a Trust which will create shares for your children upon both deaths, do you want each child to serve as a Co-Trustee, or as the sole Trustee, of his/her own separate share when the child reaches a certain age?

Yes as to all children \_\_\_\_\_

No as to all children \_\_\_\_\_

YES as to these specific children: \_\_\_\_\_; and NO as to the other children

If yes: At what age should the child commence to serve as a Co-Trustee \_\_\_\_\_

At what age should the child commence to serve as sole Trustee \_\_\_\_\_

### APPOINTING MEDICAL AGENTS

We will prepare Health Care Directives for each of you. This document is a combination of a Health Care Power of Attorney and a Living Will.

The Health Care Power of Attorney portion of the Directive appoints an individual who will make medical decisions for you if you are unable to communicate directly and coherently with your doctors.

In the event you are unable to communicate directly and coherently with your doctors, the Living Will portion of the Directive provides guidelines to your Agent for making medical decisions on your behalf.

If you are disabled, who do you want to make medical decisions for you:

HUSBAND's choices:

WIFE's choices:

1st SPOUSE

1st SPOUSE

2nd \_\_\_\_\_

2nd \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

3rd \_\_\_\_\_

3rd \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**APPOINTING ATTORNEYS-IN-FACT FOR FINANCIAL MATTERS**

We will be preparing Powers of Attorney for each of you which will appoint another individual (an "Attorney-in-Fact" or "Agent") to act on your behalf for the purpose of handling your **personal** financial matters.

Please list a first (**which we presume will be the spouse**) and second choice as to whom you wish to appoint as your "Attorney-in-Fact" to handle these financial matters for you:

HUSBAND's choices:

1st SPOUSE

2nd \_\_\_\_\_

WIFE's choices:

1st SPOUSE

2nd \_\_\_\_\_

Do you wish the form of Power of Attorney to be:

\_\_\_\_\_ A General Power of Attorney (this will give your Attorney-in-Fact the power to act on your behalf in all matters, whether or not you are incapacitated);

\_\_\_\_\_ A Springing Power of Attorney (this will give your Attorney-in-Fact the power to act on your behalf, **if you are incapacitated or missing**). NOTE - due to federal health care privacy regulations, this form of Power of Attorney may not be effective during periods of incapacity unless your Attorney-in-Fact is also the Agent acting under a Medical Power of Attorney, as your Attorney-in-Fact must have access to your medical records in order to prove your incapacity.

\_\_\_\_\_ A Limited Power of Attorney (this will give your Attorney-in-Fact the power to act on your behalf, **whether or not you are incapacitated**, for the specific purpose of transferring assets to your Trust as a means of providing for your support during an incapacity and/or avoiding probate of your estate upon your death).

Note: All forms of this Power of Attorney contain provisions whereby your Attorney-in-Fact may make gifts to your spouse and/or issue under certain conditions, act on your behalf regarding Social Security, Medicare and like benefits, and change the designated beneficiaries on life insurance policies and/or retirement assets.

**ASSETS**

Please list bank accounts you hold:

Name of financial institution <u>where account held</u>	How account titled (i.e., sole name, <u>joint tenancy, or payable upon death</u> )	Approximate <u>balance</u>
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Please list any notes, mortgages, or receivables due you by name of the payor who owes you the funds, nature of debt, secured or unsecured, present amount owed and when due.

Please list valuable items of tangible personal property that would be important in your estate planning, such as coin collections, art collections, valuable household furnishings and effects, and stamp collections. Give the approximate present market value of said items.

If you own stocks, bonds, mutual fund shares, etc., please list by name of company, ownership (your name alone or joint tenancy), number of shares, date of purchase or acquisition, cost basis, and present market value. If stocks and/or bonds are held in a Brokerage Account, please provide us with a copy of a current account statement.

**COLLEGE SAVINGS ACCOUNTS**

Are you the owner of one of more Section 529 College Savings Accounts? \_\_\_\_\_

If so, please provide copies of the documents.

**BENEFICIARY DEEDS**

Have you signed Beneficiary Deeds for any real estate you currently own? \_\_\_\_\_

If so, please provide copies of the Deeds.



**PARTNERSHIP AND/OR LIMITED LIABILITY COMPANY INTERESTS**

Please list all interests you hold in partnerships and/or in limited liability companies.

<u>Name of Entity</u>	<u>Percentage Owned</u>	<u>Cost Basis</u>	<u>Present Market Value</u>	<u>How Interest Held, (i.e. sole, J/T, Trust)</u>
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**RETIREMENT ACCOUNTS**

Do you have Retirement Plan assets (i.e., IRA accounts, 401(k) Accounts or employer sponsored retirement plan and/or profit sharing plan benefits?) If so, please describe (or bring in copies of latest account statements):

	<u>Type of Account</u>	<u>Where Held</u>	<u>Approx. Value</u>
<b><u>Husband's Accounts</u></b>	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
<b><u>Wife's Accounts</u></b>	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

In what year will the husband turn 70-1/2? \_\_\_\_\_  
 In what year will the wife turn 70-1/2? \_\_\_\_\_

**LIFE INSURANCE COVERAGE**

Please list life insurance provided by your employers as follows:

<u>Carrier's Name</u>	<u>Insured</u>	<u>Policy #</u>	<u>Face Amount</u>	<u>Cash Value (net of loans)</u>	<u>Beneficiary</u>
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Please list all other life insurance coverage you carry:

<u>Carrier's Name</u>	<u>Insured</u>	<u>Policy #</u>	<u>Face Amount</u>	<u>Cash Value (net of loans)</u>	<u>Beneficiary</u>
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## SAFE DEPOSIT BOX

If you have a safety deposit box or boxes:

1. Where is it located: \_\_\_\_\_
2. What is the box number: \_\_\_\_\_
3. In whose name is the box held? \_\_\_\_\_
4. Where are the keys to the box: \_\_\_\_\_
5. What items do you normally keep in the box (i.e., birth certificates, marriage certificates, insurance policies, etc.??):

## AVOIDING PROBATE OF YOUR ESTATES UPON YOUR DEATHS

Arizona law currently provides that if an individual holds assets in his/her name at the time of death and (i) those assets consist of intangible assets that exceed a total value of \$50,000, or (ii) those assets consist of both intangible assets and interests in real property that exceed a total value of \$75,000, the deceased person's estate is subject to "probate". Probate is a court proceeding whereby a Personal Representative will be appointed for the purpose of distributing a deceased person's assets upon his/her death in accordance with the provisions of his/her Will.

In order to avoid the probate of your estates upon your deaths, then all of your assets should (1) be titled in the name of the Trust; (2) be the type of assets which pass according to a beneficiary designation, such as annuities, IRA accounts, retirement plan benefits and/or life insurance policy proceeds, or (3) be titled in joint tenancy or community property with the right of survivorship, or be designated as "payable on death" to a named beneficiary.

### **DO YOU WANT TO AVOID PROBATE ????**

**YES** \_\_\_\_\_\*\*      **NO** \_\_\_\_\_

**\*\* PLEASE NOTE**, if you require our assistance in this regard, whether for changing titles to assets (such as preparing a Deed for real property, or completing Change of Beneficiary forms for insurance policies and/or retirement plan accounts), **an additional fee will be charged** (over and above any fee quote given for the "package" of estate plan documents we will prepare for you) based upon the actual time expended on these matters, plus certain out-of-pocket costs which the firm may incur in connection with your matter (such as recording fees, postage, and photocopy charges).

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**COPIES OF THE FOLLOWING DOCUMENTS SHOULD BE BROUGHT WITH YOU TO YOUR INITIAL CONSULTATION WITH, AND/OR PROVIDED TO, SANTERRE & VANDE KROL AS SOON THEREAFTER AS POSSIBLE:**

1. **A current financial statement** (this is especially important in order to properly determine the type of estate plan best suited for your needs).
2. Your current Wills and Trust Agreement, if any.
3. Deeds to all real estate you own
4. Copies of Pre-nuptial or Post-nuptial agreements, if any. **THIS IS REQUIRED !!**
5. If either spouse has been previously married and then divorced, a copy of the divorce decree showing full terms of the divorce settlement (or if a separation agreement is incorporated into the divorce decree, a copy of that separation agreement as well). **THIS IS REQUIRED !!**

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**DELIVERY BY SANTERRE & VANDE KROL TO YOU  
OF YOUR ORIGINAL SIGNED DOCUMENTS**

After your estate plan documents are signed, we will need a few days to make copies of the documents for our records and to prepare a Notebook for you which will contain conformed copies of your documents. You may keep this Notebook in your home for your quick reference.

**We will also provide you with the original documents**, and we strongly recommend that you place them in a safe deposit box, vault, fireproof safe, etc. to protect them from being inadvertently lost or destroyed. When we are ready to release the signed original documents to you, would you prefer:

\_\_\_\_\_ We mail them to you by registered mail (the cost of this mailing fee, which is approximately \$16.00, will be billed to you over and above any fee quote given for the "package" of estate plan documents we will prepare for you); or

\_\_\_\_\_ We call you when the documents are ready, and you will then pick them up.

DATED: \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
HUSBAND'S SIGNATURE

\_\_\_\_\_  
WIFE'S SIGNATURE