A-

**Administration** – The process during which the executor, personal representative, or trustee collects the decedent’s assets, pays all debts and claims, and distributes the residue of the estate according to the will, trust, or the state law intestacy rules (when there is no will or trust).

**Administrator** – The individual or corporate fiduciary appointed by the court to manage an estate if no executor or personal representative has been appointed or if the named executor or personal representative is unable or unwilling to serve.

**Advance Health Care Directive** – A document that appoints an individual (an “agent”) to make health care decisions when the grantor of the power is incapacitated or cannot otherwise make their own health care decisions.

**Attorney-in-Fact** – The person named as agent under a power of attorney to handle the financial affairs of another.

B-

**Beneficiary**– One for whose benefit a trust or will is created and funded.

C-

**Community Property** – A form of ownership in certain states, known as community property states, under which property acquired during a marriage is presumed to be owned jointly.  California is a community property State.

**Conservator** – An individual or a corporate fiduciary appointed by a court to care for and manage the property of an incapacitated person, in the same way a guardian cares for and manages the property of a minor.

D-

**Decedent** – An individual who has died.

**Descendants** – An individual’s children, grandchildren, and more remote persons who are related by blood or because of legal adoption. An individual’s spouse, stepchildren, parents, grandparents, brothers, or sisters are not included. The term “descendants” and “issue” have the same meaning.

**Disclaimer** – An irrevocable and unqualified refusal to accept an interest in property, made in writing before the disclaiming party has accepted the interest or any of its benefits.

**Durable Power of Attorney** – A power of attorney that does not terminate upon the incapacity of the person making the power of attorney.

E-

**Estate Planning** – A process by which an individual designs a strategy and executes a will, trust agreement, or other documents to provide for the administration of his or her assets upon his or her incapacity or death.  Tax and liquidity planning are part of this process.

**Estate Tax** – The death taxes imposed by the federal government on the transfer of assets at death. Estate taxes are generally paid by the executor or the probate estate or the trustee of a trust out of the funds of the estate.

**Executor** – A person named in a will and appointed by the court to carry out the terms of the will and to administer the decedent’s estate. May also be called a personal representative. If a female, may be referred to as the executrix.

F-

**Fiduciary** – An individual or a bank or trust company designated to manage money or property for beneficiaries and required to exercise the standard of care set forth in the governing document under which the fiduciary acts and state law. Fiduciaries include executors and trustees.

G-

**Grantor** – A person who creates or contributes property to a trust.

**Guardian** – An individual, bank or trust company appointed by a court or trust to act for a minor or incapacitated person. A guardian of the person is empowered to make personal decisions. A guardian of the estate manages the property and assets of the person.

H-

**Heir** – An individual entitled to a distribution of an asset or property interest under applicable state law. “Heir” and “beneficiary” are not synonymous, although they may refer to the same individual in a particular case.

I-

**Intestate** – When one dies without a valid will, such that the decedent’s estate is distributed in accordance with a state’s intestacy law.

**Irrevocable Trust-** A type of trust where its terms cannot be modified, amended, or terminated without permission of either the named beneficiaries or court order.

**Issue, Child, and Children-** References to "child" and "children" mean lawful blood descendants to the first degree of the parent designated. References to "issue" mean lawful blood descendants in the first, second, or any other degree of the ancestor designated. The word "children" as used in the trust usually includes legally adopted children and their lawful issue (born to married parents).

J-

**Joint Tenancy** – An ownership arrangement in which two or more persons own property, usually with rights of survivorship, which means that when one of the owners of a joint tenancy passes, the other inherits the property without a court hearing.

L-

**Living Trust** – A trust created by an individual during his or her lifetime, typically as a revocable trust. Also referred to as an “inter vivos” trust, “revocable living trust,” or “living trust.”

N-

**No-Contest Clause** – A provision in a will or trust agreement that provides that someone who sues to receive more from the estate or trust or overturn the governing document will lose any inheritance rights he or she has.  These clauses are not permissible in all instances or in all states.

P-

**Per Capita-** All members of a particular group receive an equal share of the distribution. Under per capita, the share of any beneficiary that precedes you in death is shared equally among the remaining beneficiaries.

**Personal Representative** – An executor or administrator of a decedent’s estate.

**Per Stirpes** – A Latin phrase meaning “per branch”. This is a method for distributing property according to the family tree whereby descendants take the share their deceased ancestor would have taken if the ancestor were living.

**Pour Over Will** – A will used in conjunction with a revocable trust to pass title at death to property not transferred to the trust during lifetime.

**Power of Appointment** – A power given to an individual (usually a beneficiary) under the terms of a trust to appoint property to certain persons upon termination of that individual’s interest in the trust or other specified circumstances. The individual given the power is usually referred to as a “holder” of the power. The power of appointment may be general, allowing the property to be appointed to anyone, including the holder, or limited, allowing the property to be distributed to a specified group or to anyone other than the holder.

**Power of Attorney** – Authorization, by a written document, that one individual may act in another's place as agent or attorney-in-fact with respect to some or all legal and financial matters. The scope of authority granted is specified in the document and may be limited by statute in some states. A power of attorney terminates on the death of the person granting the power (unless “coupled with an interest”) and may terminate on the subsequent disability of the person granting the power (unless the power is “durable” under the instrument or state law).

**Probate** – The court supervised process of proving the validity of a will and distributing property under the terms of the will or in accordance with a state’s intestacy law in the absence of a will.

R-

**Residue** – The property remaining in a decedent’s estate after payment of the estate’s debts, taxes, and expenses and after all specific gifts of property and sums of money have been distributed as directed by the will or trust.  Also called the residuary estate.

**Revocable Trust** – A trust created during an individual’s lifetime over which the person establishing the trust reserves the right to terminate, revoke, modify, or amend.

S-

**Settlor** – Term frequently used for one who establishes or settles a trust. Also called a “trustor” or “grantor.”

**Special Needs Trust** – Trust established for the benefit of a disabled individual that is designed to allow him or her to be eligible for government financial aid by limiting the use of trust assets for purposes other than the beneficiary’s basic care.

**Spendthrift Provision** – A trust provision restricting both voluntary and involuntary transfers of a beneficiary’s interest, frequently in order to protect assets from claims of the beneficiary’s creditors.

T-

**Tangible Personal Property** – Property that is capable of being touched and moved, such as personal effects, furniture, jewelry, and automobiles. Tangible personal property is distinguished from intangible personal property that has no physical substance but represents something of value, such as cash, stock certificates, bonds, and insurance policies. Tangible personal property also is distinguished from real property, such as land and items permanently affixed to land, such as buildings.

**Testator** – A person who signs a will. If a female, may be referred to as the testatrix.

**Trust** – An arrangement whereby property is legally owned and managed by an individual or corporate fiduciary as trustee for the benefit of another, called a beneficiary, who is the equitable owner of the property.

**Trust Instrument** – A document, including amendments thereto, executed by a grantor that contains terms under which the trust property must be managed and distributed.  Also referred to as a “trust agreement” or “declaration of trust”.

**Trustee** – The individual, bank, or trust company designated to hold and administer trust property (also generally referred to as a “fiduciary”). The term usually includes original (initial), additional, and successor trustees. A trustee has the duty to act in the best interests of the trust and its beneficiaries and in accordance with the terms of the trust instrument. A trustee must act personally (unless delegation is expressly permitted in the trust instrument), with the exception of certain administrative functions.

W-

**Will** – A writing specifying the beneficiaries who are to inherit the testator’s assets and naming a representative to administer the estate and be responsible for distributing the assets to the beneficiaries.