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Letters of Wishes: Decision-Making Guidance in a World of Infinite Possibilities

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In modern trust drafting, you are encouraged to adopt provisions that are intentionally broad to optimize flexibility for discretionary decisions. This best practice avoids rigid trusts and instead shifts towards structures that preserve optionality for future generations. This adaptability is critical, as trusts are designed to last longer (sometimes even forever) and must be designed to navigate changing times.

For many individuals, an important question arises. If your trust is designed to be so flexible, how can you clearly communicate your intentions, values, and desires? Letters of wishes are a means to guide fiduciaries and other powerholders as they navigate seemingly endless decisions.

A letter of wishes is a supplemental, non-binding document that sits alongside your estate plan. It should be prepared with the guidance of your Gresham advisory team and, in some cases, your attorney. Though the letter is non-binding, it is a powerful and effective way to clarify your intent, document your family history and values, provide insight into family dynamics, and guide for how fiduciaries and other powerholders might exercise their discretion.

Unlike your trust, which is a legally binding document, letters of wishes allow you to address any number of issues or real-life scenarios that could not, or should not, have been outlined in the trust instrument. Consider the following common scenarios:

- *Should the trustee agree to pay for your grandchild's second (or third) graduate school degree even if the trust has already paid for their prior degrees?*

- *Should the trustee assist a child who asks for funding to start a business? If so, what preparation or personal financial commitment would expect to see from that child?*

- *When you envision distributions for certain ascertainable standards (such as health, education, maintenance, and support) what categories or items are included? For example, was healthcare intended to be limited to traditional medical expenses, or could it also include expenses related to nutrition, gym memberships, health retreats, mental-health support, etc.?*

A well-drafted trust should not include this type of information. Reserving these details for a letter of wishes protects your privacy and allows you to address potentially sensitive topics candidly and confidentially without constraining your trustee's ability to adapt. As an added benefit, by preparing a letter of wishes with Gresham's, there is no concern about mounting legal fees or delaying execution of time-sensitive planning documents.

Clarifying Your Intent. Although your trust instrument includes desirable provisions (such as expansive distribution standards and broad special powers of appointment), your letter of wishes can clarify how you desire those provisions to be applied and how trust assets should be used. This can include guidance for how broadly or narrowly you intend for the trustee to interpret distribution standards. For example, you may wish for health distributions to be interpreted broadly to include things like mental health services and wellness retreats. In contrast, you may wish for education distributions to be interpreted more narrowly to prevent loved ones from collecting degrees instead of building their careers.

Articulating Your Family's Values. Your letter of wishes also provides an opportunity to outline your family history and values. You can share the origins of your family's wealth, the decisions that shaped your path and helped you or your ancestors grow and steward your legacy, and the values you hope your family will carry forward. For many families, family legacy and values are just as meaningful (if not more so) as the financial legacy. Articulating them in the letter of wishes helps future generations understand not just what they have, but why it matters.

Providing Context on Family Dynamics. Every family has its own complexities. Trusts are rarely the appropriate place to share this information, other than to establish a special needs trust or provide binding guidelines under unique circumstances. Your letter of wishes allows you to share these dynamics privately with your fiduciaries. For example, you might highlight patterns of financial behavior, substance-use concerns, past entrepreneurial efforts, or personal challenges that could inform future decisions. This additional context can be particularly helpful for corporate or professional trustees who do not have an intimate knowledge of your family.

Guiding Discretionary Decision Making. Administering a trust requires ongoing judgment, from investment decisions to the timing and nature of distributions. Letters of wishes can provide a roadmap to influence better decision making. For example, you might outline how you would prefer different trusts to be used over time or suggest ways to encourage certain

behaviors. For example, you may wish for your descendants to enter into premarital agreements. Your letter of wishes can suggest various ways to prompt this action, such as recommending that the trustee make a distribution to cover legal fees or fund the couple's honeymoon as an incentive for completing the agreement.

When used thoughtfully and prepared with the support of your advisors, a letter of wishes can add significant value to your estate plan. The letter is a powerful complement to your modern trust instruments, allowing you to preserve and feel confident in the flexibility of the structure while documenting your overall intentions for your wealth, family, and legacy.

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