**ENGAGEMENT LETTER: alternate clauses -**

**estate administration**

**Scope of Engagement.** Our representation will be limited to the specific matters described in this paragraph. During the course of our representation, we will address such issues relating to the administration of the estate as you, the personal representative, may direct. Our services will include the following:

1. Initial estate administration matters so that the estate administration can be initiated, including probate of the will and qualification of you as personal representative;

2. Preparation of all court inventories and accountings;

3. Assistance and coordination in collection, appraising, administering, and distributing all estate assets;

4. Any matters relating to the interpretation of the provisions of the will and the resolution of the same;

5. Serving as counsel to the personal representative; and

6. Publication of notice to creditors and mailing to known creditors.

Of course, you may direct us to address other issues that may arise during the course of administration if that becomes necessary, and you may direct that some services listed above be handled by yourself or by others.

The estate’s Inventory of Assets listing all of the estate’s probate assets and their fair market values must be filed within three (3) months after you qualify as personal representative. The estate’s Annual Accounting for the Estate will be due with the Clerk one (1) year from the date of your qualification as personal representative. Once the estate administration is complete, a Final Accounting must be filed with the Clerk prior to closing of the estate.

**Investment Advice Clause**. An important power you hold as personal representative is the power to invest the estate assets. You have wide discretion in the choice of investments, but in exercising that discretion, you have a duty to exercise “prudent judgment” in managing the estate assets. We are not investment advisors and cannot give an opinion regarding the choice of one investment over another, so I suggest that you discuss the estate’s investment objectives with an investment advisor.

**[SELECT AS APPROPRIATE FOR YOUR REPRESENTATION]**

Option 1: **Tax Filing Requirements Where the Estate is Not Subject to Federal Estate Tax**. The tax aspects of estate administration will include preparing and filing various tax returns:

**SELECT APPROPRIATE OPTION FOR PARAGRAPH A (depending on whether Decedent was survived by a spouse):**

A. **Federal Estate Tax Return**: Since [Decedent’s] taxable estate is less than the current federal exemption and he/she was not survived by a spouse, you will not need to file a federal estate tax return with the Internal Revenue Service, and no estate tax will be due.

OR

A. **Federal Estate Tax Return**: Since [Decedent’s] taxable estate is less than the current federal exemption, you are not required to file a federal estate tax return with the Internal Revenue Service, and no estate tax will be due. However, I strongly recommend that you consider filing a federal estate tax return in order to preserve [Decedent]’s unused estate tax exclusion. Under current law, to the extent that the [Decedent]’s available federal estate tax exclusion is not used for his estate, the unused exclusion is “portable” and passes to the surviving spouse. In order to preserve the unused exclusion, an estate tax return must be filed by the Executor. The federal estate tax return is due nine (9) months after the date of death of [the Decedent]. A six (6) month extension is available if requested prior to the due date of the return. Unless you direct our firm otherwise in writing, we are not responsible for preparing or filing the federal estate tax return to preserve portability of the unused exclusion. In any case, I recommend that you consult with a tax professional before making your decision about whether to file the return.

B. **North Carolina Estate Tax Return**: You will file a NC estate tax certificate in the probate court. **Our firm will prepare this filing.**

C. **Gift Tax Returns**: As personal representative of [Decedent’s] estate, you must file a final gift tax return to evidence any gifts made by [Decedent] during the year prior to his/her death. **Please let me know if you are aware of any gifts in excess of $13,000 per year that [Decedent] may have made in the year prior to [Decedent’s] death.**

D. **Income Tax Returns**: You are also responsible for filing [the Decedent’s] final federal and state income tax returns covering the period [s]he lived during 2012, as well as the fiduciary returns for the estate (as discussed in the paragraph below).

You must file federal and state fiduciary income tax returns to report the income earned from the date of [the Decedent’s] death until the estate assets are finally distributed to the beneficiaries. If all of the income received by the estate is distributed to the beneficiaries, the income received by each beneficiary will flow out of the estate and will be taxed to him. However, if no distributions are made during the tax year of the estate, the income will be taxed at the estate level. The fiduciary income tax returns are due within 3 ½ months after the end of the estate’s taxable year. **Please confirm whether our firm will prepare the income tax filings on your behalf.**

OR

Option 2: **Tax Filing Requirements Where the Estate is Subject to Federal Estate Tax.** If the estate is subject to federal estate tax, the federal estate tax return is due nine (9) months after the date of death of [the Decedent]. A six (6) month extension is available if requested prior to the due date of the return.

**SELECT APPROPRIATE OPTION BASED ON FIRM’S PREPARATION AND FILING RESPONSIBILITY OF THE ESTATE’S FEDERAL TAX RETURN (only use if Option 2 above is selected):**

Option 1: **Not Responsible for Preparation or Filing of Federal Estate Tax Returns.** We are not responsible for preparing or filing estate tax returns and we are not responsible for any deadlines associated with the filing of such returns and the payment of any estate taxes. You should immediately retain a qualified tax professional to handle these matters.

Option 2: **Not Responsible for Preparation of Federal Estate Tax Returns, but Responsible for Filing Federal Estate Tax Returns.** We are not responsible for preparation of estate tax returns but will file such tax returns if delivered to us properly completed in a reasonable time prior to the filing date with proper instructions to us from the tax preparer that include the required filing date and any other deadlines associated with the estate tax returns.

Option 3: **Responsible for Preparation and Filing of Federal Estate Tax Returns.** We will prepare and file the estate tax return and will obtain any extensions necessary for filing.

*Note: This is a sample form only and is written for the general purposes of facilitating clear expectations and avoiding misunderstandings between an attorney and client. It is not intended as legal advice or opinion and will not provide absolute protection against a malpractice action.*