

DIS000000031

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



900274792129

08/25/15--01007--025 \*\*350.00

TO KNOWLEDGE  
SUFFICIENCY OF FILING

15 AUG 25 AM 11:34

RECEIVED  
DEPARTMENT OF  
TREASURY

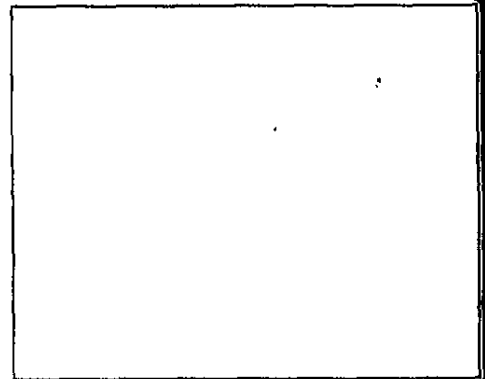
15 AUG 26 AM 8:18  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

FILED

*Long*  
*9/3*

PROCESS 1<sup>ST</sup>

FLORIDA RESEARCH & FILING SERVICES, INC.  
1211 CIRCLE DRIVE  
TALLAHASSEE, FL 32301  
PHONE (850)364-8000



OFFICE USE ONLY

WALK-IN

ENTITY NAME:

SANDIFORD FAMILY TRUST

CK# 21946 FOR \$350.00

PLEASE FILE THE ATTACHED TRUST & RETURN THE FOLLOWING:

\_\_\_ CERTIFIED COPY

XXX STAMPED COPY

\_\_\_ CERTIFICATE OF STATUS

Examiner's Initials

PROCESS 4 SI



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

August 25, 2015

FLORIDA RESEARCH

SUBJECT: SANDIFORD FAMILY TRUST  
Ref. Number: W15000056511

We have received your document for SANDIFORD FAMILY TRUST and your check(s) totaling \$350.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

PLEASE SUBMIT A COPY OF THE TRUST AGREEMENT.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6052.

Terri J Schroeder  
Regulatory Specialist II

Letter Number: 715A00017923

RE-SUBMITTING  
w/ CORRECTIONS

TO BE FILED  
SUFFICIENCY OF FILING

15 AUG 26 PM 4:32

RECEIVED  
DEPARTMENT OF STATE

**AFFIDAVIT TO THE FLORIDA SECRETARY OF STATE  
TO FILE OR QUALIFY**

**SANDIFORD FAMILY TRUST**

**AN IRREVOCABLE TRUST**

In accordance with Section 609.02 of the Florida Statutes, pertaining to Common Law Declarations of Trust, the undersigned,  
the Trustee of SANDIFORD FAMILY TRUST.

(Name of Trust)

a FLORIDA Trust hereby affirms in order to file or qualify  
SANDIFORD FAMILY TRUST, in the State

(State)

(Name of Trust)

of Florida.

1. Two or more persons are named in the Trust.

2. The principal address is 1643 Brickell Ave., Unit 2205,  
Miami, FL 33129.

3. The registered agent and street address in the State of  
Florida is:

Atrium Registered Agents, Inc., 1500 San Remo Avenue, Suite  
125, Coral Gables, FL 33146

4. Acceptance by the registered Agent: Having been named  
as registered agent to accept service of process for the above  
named Declaration of Trust at the place designated in this  
affidavit, I hereby accept the appointment as registered agent  
and agree to act in this capacity.

15 AUG 26 AM 8:18  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

FILED

Atrium Registered Agents, Inc.

By:

Robert A. Stamen

Robert A. Stamen, Vice

President

5. I certify that the attached is a true and correct copy of the Declaration of Trust under which the association proposes to conduct its business in Florida.

[Signature]

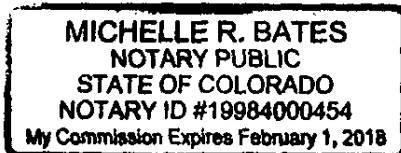
Name: James Finn, Trustee

STATE OF Colorado )

COUNTY OF Ft. Collins )

The foregoing instrument was acknowledged before me this 14 day of Aug., 2015, by James Finn as Trustee of the Sandiford Family Trust who G is personally known to me or who G has produced a driver's license or \_\_\_\_\_ (other) as identification.

(seal)  
PUBLIC



[Signature]

Signature - NOTARY

PUBLIC

Printed Name of NOTARY

FILED  
15 AUG 26 AM 8:18  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

**SANDIFORD FAMILY TRUST**

**DATED** July 28th, 2015

**FILED**

**15 AUG 26 AM 8:18**

**SECRETARY OF STATE  
TALLAHASSEE FLORIDA**

**LAW OFFICES**

**PACKMAN, NEUWAHL & ROSENBERG**

**1500 SAN REMO AVENUE, SUITE 125**

**CORAL GABLES, FLORIDA 33146**

**(305) 665-3311**

# Sandiford Family Trust

## Table of Contents

<b>Article One</b>	<b>Establishing the Trust..... 1-1</b>
Section 1.01	Identifying My Trust..... 1-1
Section 1.02	Reliance by Third Parties..... 1-1
Section 1.03	An Irrevocable Trust..... 1-2
Section 1.04	Transfers to the Trust..... 1-2
Section 1.05	Statement of My Intent..... 1-2
Section 1.06	Grantor Trust Provisions..... 1-2
<b>Article Two</b>	<b>My Beneficiaries ..... 2-1</b>
<b>Article Three</b>	<b>Trustee Succession Provisions..... 3-1</b>
Section 3.01	Resignation of a Trustee ..... 3-1
Section 3.02	Trustee Succession..... 3-1
Section 3.03	Notice of Removal and Appointment ..... 3-2
Section 3.04	Appointment of a Cotrustee ..... 3-2
Section 3.05	Corporate Fiduciaries..... 3-2
Section 3.06	Incapacity of a Trustee..... 3-2
Section 3.07	Appointment of Independent Special Trustee..... 3-3
Section 3.08	Rights and Obligations of Successor Trustees..... 3-3
<b>Article Four</b>	<b>Administration During My Lifetime ..... 4-1</b>
Section 4.01	Trust Beneficiaries..... 4-1
Section 4.02	Allocation of Distributions to Beneficiaries ..... 4-1
Section 4.03	Distribution of Income and Principal..... 4-1
Section 4.04	Administration Upon My Death ..... 4-2
<b>Article Five</b>	<b>Administration of Remaining Trust Property Upon Settlor's Death ..... 5-1</b>
Section 5.01	Distribution of Remaining Trust Property ..... 5-1
<b>Article Six</b>	<b>Remote Contingent Distribution..... 6-1</b>
<b>Article Seven</b>	<b>Trust Administration ..... 7-1</b>
Section 7.01	Distributions to Beneficiaries ..... 7-1
Section 7.02	Trust Decanting; Power to Appoint in Further Trust..... 7-1
Section 7.03	Beneficiary's Status ..... 7-2
Section 7.04	No Court Proceedings..... 7-2
Section 7.05	No Bond..... 7-2

Section 7.06	Exoneration of My Trustee .....	7-3
Section 7.07	Limitations on Trustee Liability .....	7-3
Section 7.08	Trustee Compensation .....	7-4
Section 7.09	Employment of Professionals .....	7-4
Section 7.10	Determination of Principal and Income .....	7-5
Section 7.11	Trust Accounting .....	7-5
Section 7.12	Information to Beneficiaries .....	7-5
Section 7.13	Action of Trustees and Delegation of Trustee Authority.....	7-6
Section 7.14	Trustee May Disclaim or Release Any Power .....	7-6
Section 7.15	Trustee May Execute a Power of Attorney .....	7-6
Section 7.16	Additions to Trusts.....	7-6
Section 7.17	Authority to Merge or Sever Trusts .....	7-7
Section 7.18	Authority to Terminate Trusts .....	7-7
Section 7.19	Merger of Corporate Fiduciary .....	7-7
Section 7.20	Payment of Death Taxes .....	7-8

## **Article Eight**

	<b>My Trustee's Powers .....</b>	<b>8-1</b>
Section 8.01	Introduction to Trustee's Powers .....	8-1
Section 8.02	Execution of Documents by My Trustee .....	8-1
Section 8.03	Investment Powers in General .....	8-1
Section 8.04	Banking Powers .....	8-2
Section 8.05	Business Powers.....	8-2
Section 8.06	Contract Powers .....	8-4
Section 8.07	Common Investments .....	8-5
Section 8.08	Environmental Powers .....	8-5
Section 8.09	Farming and Ranching Operations .....	8-5
Section 8.10	Loans and Borrowing Powers .....	8-7
Section 8.11	Nominee Powers .....	8-7
Section 8.12	Oil, Gas and Mineral Interests .....	8-7
Section 8.13	Payment of Taxes and Expenses.....	8-8
Section 8.14	Purchase of Assets from and Loans to My Probate Estate.....	8-8
Section 8.15	Qualified Tuition Programs .....	8-8
Section 8.16	Real Estate Powers.....	8-9
Section 8.17	Residences and Tangible Personal Property .....	8-9
Section 8.18	Retention and Abandonment of Trust Property .....	8-10
Section 8.19	Securities, Brokerage and Margin Powers.....	8-10
Section 8.20	Settlement Powers.....	8-11
Section 8.21	Limitation on My Trustee's Powers .....	8-11

## **Article Nine**

	<b>General Provisions .....</b>	<b>9-1</b>
Section 9.01	Maximum Term for Trusts.....	9-1
Section 9.02	Spendthrift Provision .....	9-1



Section 9.03	Changing the Governing Law and Situs of Administration .....	9-1
Section 9.04	Definitions.....	9-2
Section 9.05	General Provisions and Rules of Construction .....	9-6
<b>Article Ten</b>	<b>Special Provisions .....</b>	<b>10-1</b>
Section 10.01	Provision for Liabilities .....	10-1
Section 10.02	Indemnification .....	10-1
Section 10.03	Reimbursement .....	10-1
Section 10.04	Discharge and Release of Trustee by Beneficiaries.....	10-2
Section 10.05	Exercise of Discretion.....	10-3
Section 10.06	Discretionary Powers .....	10-4
Section 10.07	Nonjudicial Modification.....	10-4
Section 10.08	Allocation of Receipts and Disbursements .....	10-4
Section 10.09	Florida Trust Code .....	10-5
Section 10.10	Designated Representative.....	10-6
Section 10.11	Appointment of Designated Representative by Appointment Committee.....	10-6
Section 10.12	Certain Trustees' Limited Power of Amendment.....	10-7
Section 10.13	Transfer of Trust Estate to Various Types of Entities .....	10-11
Section 10.14	Allocation, Distribution, and Division of Trust Estate .....	10-12
Section 10.15	Names, Consolidation, Division and Joint Investments of Trusts .....	10-12
Section 10.16	Retirement Plan Interests and Similar Property.....	10-12
Section 10.17	Acts Necessary to Effectuate the Provisions of this Agreement.....	10-12
Section 10.18	Limitation of Powers.....	10-13
Section 10.19	Cause.....	10-13
Section 10.20	Bad Faith.....	10-13
Section 10.21	Certain Words.....	10-13
Section 10.22	Legal Age of Majority .....	10-13
Section 10.23	Florida Statutes and Constitution.....	10-13
Section 10.24	Limitation on Interested Trustee's Powers .....	10-13

# **Sandiford Family Trust**

## **Article One Establishing the Trust**

The date of this Irrevocable Trust Agreement is July 28<sup>th</sup>, 2015. The parties to the agreement are Maeve Anne C. Sandiford (the "Settlor") and James Finn (my "Trustee").

I intend that this agreement create a valid trust under the laws of Florida and under the laws of any state in which any trust created under this agreement is administered. The terms of this trust agreement prevail over any provision of Florida law, except those provisions that are mandatory and may not be waived.

I may not serve as Trustee of any trust created under this agreement at any time.

### **Section 1.01 Identifying My Trust**

My trust may be referred to as the "Sandiford Family Trust dated July 28<sup>th</sup>, 2015."

For the purpose of transferring property to my trust, or identifying my trust in any beneficiary or pay-on-death designation, any description referring to my trust will be effective if it reasonably identifies my trust. Any description that contains the date of my trust, the name of at least one initial or successor Trustee and an indication that my Trustee is holding the trust property in a fiduciary capacity will be sufficient to reasonably identify my trust.

### **Section 1.02 Reliance by Third Parties**

From time to time, third parties may require documentation to verify the existence of this agreement, or particular provisions of it, such as the name or names of my Trustee or the powers held by my Trustee. To protect the confidentiality of this agreement, my Trustee may use an affidavit or a certification of trust that identifies my Trustee and sets forth the authority of my Trustee to transact business on behalf of my trust in lieu of providing a copy of this agreement. The affidavit or certification may include pertinent pages from this agreement, such as title or signature pages.

A third party may rely upon an affidavit or certification of trust that is signed by my Trustee with respect to the representations contained in the affidavit or certification of trust. A third party relying upon an affidavit or certification of trust shall be exonerated from any liability for actions the third party takes or fails to take in reliance upon the representations contained in the affidavit or certification of trust.

A third party dealing with my Trustee shall not be required to inquire into the terms of this agreement or the authority of my Trustee, or to see to the application of funds or other property received by my Trustee. The receipt from my Trustee for any money or property paid, transferred or delivered to my Trustee will be a sufficient discharge to the person or persons paying, transferring or delivering the money or property from all liability in connection with its application. A written statement by my Trustee is conclusive evidence of my Trustee's

authority. Third parties are not liable for any loss resulting from their reliance on a written statement by my Trustee asserting my Trustee's authority or seeking to effectuate a transfer of property to or from the trust.

### **Section 1.03 An Irrevocable Trust**

This Trust is irrevocable, and I cannot alter, amend, revoke, or terminate it in any way.

### **Section 1.04 Transfers to the Trust**

I transfer to my Trustee the property listed in Schedule A, attached to this agreement, to be held on the terms and conditions set forth in this instrument. I retain no right, title or interest in the income or principal of this trust or any other incident of ownership in any trust property.

By execution of this agreement, my Trustee accepts and agrees to hold the trust property described on Schedule A. All property transferred to my trust after the date of this agreement must be acceptable to my Trustee. My Trustee may refuse to accept any property. My Trustee shall hold, administer and dispose of all trust property accepted by my Trustee for the benefit of my beneficiaries in accordance with the terms of this agreement.

### **Section 1.05 Statement of My Intent**

I am creating this trust with the intent that assets transferred to the trust be held for the benefit of my trust beneficiaries on the terms and conditions set forth in this agreement. In order to maximize the benefit to my trust beneficiaries, I give my Trustee broad discretion with respect to the management, distribution and investment of assets in my trust. My specific objectives in creating this trust include, but are not limited to, having:

Any gift made to the trust be treated as a completed gift for federal estate and gift tax purposes;

Any property contributed to the trust be treated as a gift of a present interest, if the property is subject to a beneficiary's right to withdraw as set forth in this agreement;

The assets of the trust estate be excluded for federal estate tax purposes from my gross estate and the gross estates of my trust beneficiaries except to the extent that the grant or exercise of a power of appointment is treated as a general power of appointment; and

The assets in this trust not be subject to the claims of my creditors and any beneficiary's creditors.

All provisions of this agreement are to be construed to accomplish these objectives. Any beneficiary has the right at any time to release, renounce or disclaim any right, power or interest that might be construed or deemed to defeat these objectives.

### **Section 1.06 Grantor Trust Provisions**

I intend that this trust be a grantor trust for federal income tax purposes for those periods of time during which I or any other person holds one or more of the powers described in Sections 671-

679 of the Internal Revenue Code, the effect of which is that I will be taxed on the income of the trust. To carry out this intent, the following provisions shall apply notwithstanding anything to the contrary contained herein in the administration of the trust during my lifetime.

**(a) Power to Lend to Settlor**

My Independent Trustee may, in its sole, absolute and unreviewable discretion, directly or indirectly, lend all or any part of the income and/or principal of this trust to me without any security but with adequate interest.

**(b) Power to Add Additional Beneficiaries**

My Independent Trustee, in its sole, absolute and unreviewable discretion, shall have the power to increase the class of beneficiaries of this trust to include (i) any of the descendants of my parents (other than me); (ii) charities qualified under Section 2055 of the Internal Revenue Code; and/or (iii) any one (1) or more trusts for the benefit of such persons or charities. My Trustee shall notify the beneficiary who has been added and me of the exercise of such power.

My Trustee or other power holder (as the case may be) may release any or all of the powers described in this Section at any time by delivering written instructions to my Trustee or other then serving Trustee (as the case may be). The release will be effective upon its receipt by such Trustee, unless the release instructs that it is to be effective upon a later date.

## **Article Two**

### **My Beneficiaries**

The "beneficiaries" of my trust are Catholic Charities USA of Baltimore, Maryland (or any successor organizations thereto) and Catholic Relief Services of Baltimore, Maryland (or any successor organizations thereto).

## **Article Three**

### **Trustee Succession Provisions**

#### **Section 3.01    Resignation of a Trustee**

A Trustee may resign by giving written notice to me. If I am incapacitated or deceased, a resigning Trustee shall give written notice to the Income Beneficiaries of the Trust or such separate trust created under this agreement (as the case may be) and to any other then-serving Trustee of the Trust or such separate trust hereunder (as the case may be).

#### **Section 3.02    Trustee Succession**

This Section governs the removal and replacement of the Trustees.

##### **(a)    Removal and Replacement During My Lifetime**

If, at any time, James Finn becomes unable or unwilling to serve as Trustee, I appoint Brett Finn to serve as successor Trustee.

While I am alive and not incapacitated, I may remove any then serving Trustee, with or without cause, or appoint any individual or corporate fiduciary as Trustee of my trust or any share or trust created hereunder, at any time. Any such Trustee so appointed under this subsection may not be related or subordinate to me within the meaning of Section 672(c) of the Internal Revenue Code.

If after such removal no successor Trustee is provided for herein, then a Trustee may be removed under this subsection only if, on or before the effective date of removal, the person or persons having the right of removal appoint an individual or a corporate fiduciary that simultaneously commences service as Trustee.

##### **(b)    Default of Designation**

If the office of Trustee of a trust created under this agreement is vacant and no designated Trustee is able and willing to act, I, or if I am incapacitated or deceased, the Income Beneficiaries of this trust or any share or trust created hereunder (as the case may be) may appoint an individual or corporate fiduciary that is not related or subordinate to the person or persons making the appointment within the meaning of Section 672(c) of the Internal Revenue Code to serve as successor Trustee.

Any beneficiary or the beneficiary's Legal Representative may petition a court of competent jurisdiction to appoint a successor Trustee to fill any vacancy remaining unfilled after a period of 30 days. By making the appointment, the court does not thereby acquire any jurisdiction over the trust, except to the extent necessary for making the appointment.

If there are no such individuals willing or able to appoint such successor Trustee, the resigning Trustee may appoint an individual or corporate fiduciary to serve as the successor Trustee.

I may not serve as Trustee of any trust created under this agreement at any time.

### **Section 3.03 Notice of Removal and Appointment**

Notice of removal must be in writing and delivered to the Trustee being removed, along with any other then-serving Trustees. The notice of removal will be effective in accordance with its provisions.

Notice of appointment must also be in writing and delivered to the successor Trustee and any other then-serving Trustees. The appointment will become effective at the time of acceptance by the successor Trustee. A copy of the notice should be attached to this agreement.

### **Section 3.04 Appointment of a Cotrustee**

Any individual Trustee may appoint an individual or a corporate fiduciary as a Cotrustee. A Cotrustee so named serves only as long as the Trustee who appointed such Cotrustee serves (or, if such Cotrustee was named by more than one Trustee acting together, by the last to serve of such Trustees), and such Cotrustee will not become a successor Trustee upon the death, resignation, or incapacity of the Trustee who appointed such Cotrustee, unless so appointed under the terms of this agreement. Although such Cotrustee may exercise all the powers of the appointing Trustee, the combined powers of such Cotrustee and the appointing Trustee may not exceed the powers of the appointing Trustee alone unless the Cotrustee so appointed is an Independent Trustee, in which case, such appointed Cotrustee may exercise all rights and powers granted to an Independent Trustee hereunder. The Trustee appointing a Cotrustee may revoke the appointment at any time with or without cause.

### **Section 3.05 Corporate Fiduciaries**

Any corporate fiduciary serving under this agreement as a Trustee must be a bank, trust company, or public charity that is qualified to act as a fiduciary under applicable federal and state law and that is not related or subordinate to any beneficiary within the meaning of Section 672(c) of the Internal Revenue Code.

### **Section 3.06 Incapacity of a Trustee**

If any individual Trustee becomes incapacitated, it will not be necessary for the incapacitated Trustee to resign as Trustee. A written declaration of incapacity by the Cotrustee, if any, or, if none, by the party designated to succeed the incapacitated Trustee, if supported by a written opinion of incapacity by a physician who has examined the incapacitated Trustee, will terminate the trusteeship. If the Trustee designated in the written declaration refuses to sign the necessary medical releases needed to obtain the physician's written opinion of incapacity within 60 days of a request to do so, the trusteeship will be terminated.

The provisions of Section 9.04(e) of this agreement govern the determination of a Trustee's incapacity by a physician and the Trustee's obligations to submit to examination and provide necessary releases.

### **Section 3.07 Appointment of Independent Special Trustee**

An Independent Special Trustee shall exercise all fiduciary powers expressly granted to the Independent Special Trustee under this agreement unless expressly limited elsewhere in this agreement, or those fiduciary powers expressly granted by the Trustee in the instrument appointing the Independent Special Trustee as provided in this Section.

A majority of the Interested Trustees who are not incapacitated shall appoint, in writing, a corporate fiduciary or an individual to serve as an Independent Special Trustee with respect to any trust property or any provision of this agreement as to which such Interested Trustees are unwilling or unable to act, or in the event such Trustees are unwilling or unable to appoint an Independent Special Trustee, an Independent Special Trustee shall be appointed by those beneficiaries or other individuals who otherwise have the power to appoint Trustees of this trust or of any separate trust created under this agreement. The Independent Special Trustee appointed hereunder shall not be related or subordinate to any beneficiary of the trust within the meaning of Section 672(c) of the Internal Revenue Code. Furthermore, an Independent Special Trustee may resign at any time by delivering written notice of resignation to the then serving Trustee. Notice of resignation shall be effective in accordance with the terms of the notice.

If an Independent Special Trustee is serving hereunder, such Independent Special Trustee will serve solely for the purpose of exercising any such power expressly given to such Independent Special Trustee under this agreement or by the Trustee appointing such Independent Special Trustee as provided in this Section, and the decision of such Independent Special Trustee shall control on any such matters so that the Trustees other than the Independent Special Trustee serving hereunder will be excluded from such decision. The duties of such Independent Special Trustee shall be limited as set forth herein. Accordingly, such Independent Special Trustee will not be responsible to perform any function for this trust or any other separate trust created hereunder other than to act when necessary to make the decisions expressly given to such Independent Special Trustee that may not be made by the other Trustee or Trustees hereunder, and such Independent Special Trustee will not be responsible for any other investment, administrative, or decisions, or for any other duties that may be imposed herein on fiduciaries. Furthermore, such Independent Special Trustee will have no duty or responsibility whatsoever to examine the financial or other information for this trust or any separate trust created hereunder, to examine or file any tax returns for this trust or any separate trust created hereunder, or to prepare or provide accountings to the beneficiaries of this trust or any separate trust created hereunder, other than when necessary to perform his or her limited duties as provided under this agreement. The Interested Trustee shall notify such Independent Special Trustee of any action the Interested Trustee may take which would require the action of the Independent Special Trustee or Trustees as provided under this agreement.

### **Section 3.08 Rights and Obligations of Successor Trustees**

Each successor Trustee serving under this agreement, whether corporate or individual, will have all of the title, rights, powers and privileges granted to the initial Trustee named under this agreement. In addition, each successor Trustee is subject to all of the restrictions imposed upon, as well as all obligations and duties, both discretionary and ministerial, given to the initial Trustee named under this agreement.



## **Article Four**

### **Administration During My Lifetime**

During my lifetime, my Trustee shall administer the trust as provided in this Article.

#### **Section 4.01 Trust Beneficiaries**

Subject to subsection 1.06(b) hereof, Catholic Charities USA of Baltimore, Maryland (or any successor organizations thereto) and Catholic Relief Services of Baltimore, Maryland (or any successor organizations thereto), will be the only beneficiaries of the trust during my lifetime.

#### **Section 4.02 Allocation of Distributions to Beneficiaries**

If any distribution is made to or for the benefit of a beneficiary, the amount of the distribution is to be charged against the trust as a whole, and not against any individual benefit the beneficiary may ultimately receive.

Any net income not distributed is to be accumulated and added to the principal of the trust.

#### **Section 4.03 Distribution of Income and Principal**

During my lifetime, my Trustee shall retain all property held under this agreement in the trust for the benefit of my beneficiaries. My Trustee shall administer the trust as follows:

##### **(a) Distribution of Income and Principal**

My Independent Trustee may distribute income or principal of the trust to the beneficiaries, as follows:

##### **(1) Distribution of Income and Principal to the Trust Beneficiaries**

My Independent Trustee may distribute any portion of trust property of the trust to or for the benefit of any one or more of the beneficiaries as my Independent Trustee, in its sole, absolute, and unreviewable discretion, determines advisable for any purpose. In making such distribution, my Independent Trustee may distribute net income, principal, or both. Any undistributed net income shall be accumulated and added to principal.

##### **(2) Unequal Distributions Authorized**

My Trustee may make distributions to or for the benefit of one or more of the beneficiaries to the complete exclusion of the other beneficiaries. My Trustee may make distributions to such beneficiaries in equal or unequal amounts.

Before making any distribution or allocation of income or principal to a beneficiary, my Independent Trustee may require a refunding agreement or may

withhold any portion of the distribution or allocation until final determination or release of any claim or lien against such beneficiary.

**(b) Allocation of Distributions to Beneficiaries**

If any distribution is made to or for the benefit of a beneficiary, the amount of the distribution will be charged against the trust as a whole, and not against any individual benefit such beneficiary may ultimately receive.

Any net income not distributed is to be accumulated and added to the principal of the trust.

**(c) No Discharge of a Legal Obligation**

Under no circumstances may my Independent Trustee make any distribution to any beneficiary in a manner that would discharge any of my legal obligations, or that would otherwise provide me with any monetary benefit.

**Section 4.04 Administration Upon My Death**

Upon my death, my Trustee shall administer the remainder of the trust as provided in Article Five.

**Article Five**  
**Administration of Remaining Trust Property**  
**Upon Settlor's Death**

**Section 5.01     Distribution of Remaining Trust Property**

As soon as is practicable after my death, my Trustee shall distribute the remaining trust property as follows:

- (a)**     Two-thirds (2/3) thereof to Catholic Charities USA of Baltimore, Maryland (or any successor organizations thereto); and
- (b)**     One-third (1/3) thereof to Catholic Relief Services of Baltimore, Maryland (or any successor organizations thereto).

If either of the charities named above (or successor organizations thereto) no longer exists at the time of my death, its share shall be distributed to the other charity named above (or successor organizations thereto).

If neither charity named above (or successor organizations thereto) exists at the time of my death, my Trustee shall distribute the remaining trust property to one or more charities selected by my Trustee in his sole discretion provided that such charities are qualified as tax-exempt organizations under Code Section 501(c)(3).

## **Article Six**

### **Remote Contingent Distribution**

If at any time no person or entity is qualified to receive final distribution of my trust estate or any part of it, the portion of my trust estate with respect to which the failure of qualified recipients has occurred shall be distributed outright and free of trust to my nieces and nephews, Timothy Spalding, Sophie Bond, Bridget Spalding, Matthew Spalding, and Benjamin Spalding, in equal shares, *per stirpes*; provided however, my Trustee may, in its sole, absolute, and unreviewable discretion, hold the property in trust for any one or more of such beneficiaries in accordance with the provisions of this trust.

## **Article Seven**

### **Trust Administration**

#### **Section 7.01     Distributions to Beneficiaries**

Whenever this agreement authorizes or directs my Trustee to make a distribution of net income or principal to a beneficiary, my Trustee may apply for the benefit of the beneficiary any property that otherwise could be distributed directly to the beneficiary. My Trustee is not required to inquire into the beneficiary's ultimate disposition of the distributed property unless specifically directed otherwise by this agreement.

Except as otherwise specifically provided for herein, not only the income but also the principal of the trust estate of any shares or trusts created hereunder for the benefit of the Income Beneficiaries shall be used primarily for the benefit of such beneficiaries during their lifetimes and only secondarily for any other remaindermen beneficiaries. Therefore, the Trustee is directed that in the administration and distribution of the trust estate of any shares or trusts created hereunder, and particularly in the exercise of the discretionary powers to invade principal, the usual rules of law requiring impartiality between successive beneficiaries shall not apply, and in any situation that involves or could involve a conflict between the interests of successive beneficiaries of the trust estate of any share or trust created hereunder, consideration shall primarily be given to the Income Beneficiaries of such share or trust during their lifetimes, and secondarily to any remaindermen beneficiaries of such share or trust.

My Trustee may make distributions in cash or in kind, or partly in each, in proportions and at values determined by my Trustee. My Trustee may allocate undivided interests in specific assets to a beneficiary or trust in any proportion or manner that my Trustee determines, even though the property allocated to one beneficiary may be different from that allocated to another beneficiary.

My Trustee may make these determinations without regard to the income tax attributes of the property and without the consent of any beneficiary.

#### **Section 7.02     Trust Decanting; Power to Appoint in Further Trust**

Whenever my Independent Trustee may distribute assets to or for the benefit of a beneficiary, my Trustee may appoint the property subject to the Trustee's power of distribution in trust for the benefit of one or more beneficiaries of any trust created under this agreement under the terms established by my Independent Trustee. Any trust established by my Independent Trustee and funded by the exercise of the power granted under this Section must meet the following requirements:

1. The trust must not reduce any fixed income, annuity, or unitrust right of any beneficiary, if provided by this trust agreement;
2. The trust must provide for one or more of the beneficiaries of a trust created under this agreement; and
3. The interests of remainder beneficiaries of the trust created under this agreement must not be accelerated under the terms of the new trust.

I request my Independent Trustee consider including a provision in the new trust that permits the trustee to distribute to the beneficiary as much of the principal of the trust as my Independent Trustee determines advisable so that the beneficiary's estate, upon the beneficiary's death, can utilize the basis increase allowed under Section 1014 of the Internal Revenue Code without causing an increase in the federal estate tax.

My Independent Trustee may not use the powers granted under this Section to extend the term of the new trust beyond the period of perpetuities provided under the governing law of this agreement.

Any trust created under this provision must not contain any provision which, if applicable, would cause the trust to fail to qualify for the marital deduction or charitable deduction, fail to qualify any gift to the trust for any gift, estate, or generation-skipping transfer annual exclusion, or cause the trust to cease to qualify as a qualified subchapter S corporation shareholder.

If any beneficiary holds a presently-exercisable right to withdraw property from this trust that right may not be defeated by the exercise of my Independent Trustee's powers granted under this Section.

#### **Section 7.03    Beneficiary's Status**

Until my Trustee receives notice of the incapacity, birth, marriage, death or other event upon which a beneficiary's right to receive payments may depend, my Trustee shall not be held liable for acting or failing to act with respect to the event or for disbursements made in good faith to persons whose interest may have been affected by such event. Unless otherwise provided in this agreement, the parent or Legal Representative may act on behalf of a beneficiary who is a minor or is incapacitated.

My Trustee may rely on any information provided by a beneficiary with respect to the beneficiary's assets and income. My Trustee shall have no independent duty to investigate the status of any beneficiary and shall not incur any liability for failure to do so.

#### **Section 7.04    No Court Proceedings**

My Trustee shall administer this trust expeditiously, consistent with the provisions of this agreement, free of judicial intervention, and without order, approval or action of any court. If my Trustee or another interested party institutes a legal proceeding, the court will acquire jurisdiction only to the extent jurisdiction is sought in that particular proceeding. Any proceeding to seek instructions or a court determination may only be initiated in the court having original jurisdiction over matters relating to the construction and administration of trusts. Seeking instructions or a court determination is not to be construed as subjecting this trust to the continuing jurisdiction of the court.

#### **Section 7.05    No Bond**

My Trustee is not required to furnish any bond for the faithful performance of its duties, unless required by a court of competent jurisdiction, and only if the court finds that a bond is needed to

protect the interests of the beneficiaries. No surety will be required on any bond required by any law or rule of court, unless the court specifies that a surety is necessary.

#### **Section 7.06 Exoneration of My Trustee**

No successor Trustee is obligated to examine the accounts, records or actions of any previous Trustee. No successor Trustee may be held responsible for any act, omission or forbearance by any previous Trustee.

Any Trustee may request and obtain agreements in writing from the beneficiaries or from their Legal Representatives releasing and indemnifying the Trustee from any liability that may have arisen from the Trustee's acts, omissions, or forbearances. Any agreement, if acquired from all the living beneficiaries of the trust or from their Legal Representatives, is conclusive and binding on all parties, born or unborn, who may have, or who may in the future, acquire an interest in the trust.

My Trustee may require a refunding agreement before making any distribution or allocation of trust income or principal and may withhold distribution or allocation pending determination or release of a tax lien or other lien.

#### **Section 7.07 Limitations on Trustee Liability**

I recognize that some persons or institutions may be reluctant to serve as Trustee because of a concern about potential liability. Therefore, I direct that any individual or corporate fiduciary that serves as my Trustee will not incur any liability by reason of any error of judgment, mistake of law, or action or forbearance of any kind in connection with the administration of any trust created under this agreement, if my Trustee in good faith believed that the decision was made in accordance with the provisions and intent of this agreement, unless my Trustee's decision is shown by clear and convincing evidence to have been made in bad faith.

Any individual or corporate fiduciary currently serving as my Trustee may expend any portion of the trust assets to defend any claim brought against the Trustee, unless the Trustee is shown by clear and convincing evidence to have acted in bad faith, even if the cost of the Trustee's defense would exhaust the value of the trust.

Any individual or corporate fiduciary that formerly served as my Trustee is entitled to reimbursement from the trust estate for any and all expenses, including, but not limited to, reimbursement for attorney's fees and costs of litigation, reasonably incurred to defend any claim brought against the Trustee, unless the Trustee is shown by clear and convincing evidence to have acted in bad faith, even if the cost of the Trustee's defense would exhaust the value of the trust.

In addition, a Trustee will not be held liable for any act or decision as to:

Tax matters, if the Trustee relied upon the advice of tax counsel;

Legal matters, if the Trustee relied upon the advice of legal counsel;

Life insurance matters, if the Trustee relied upon the advice of a life underwriter;

General insurance matters, if the Trustee relied upon the advice of a licensed insurance adviser; and

Valuation matters, if the Trustee relied upon the valuation opinion or report of a Qualified Appraiser.

A Trustee will not be held liable to the trust nor to any trust beneficiary for any act or decision unless it is shown by clear and convincing evidence that the transaction, action, or decision was made in bad faith.

A Trustee is not liable for any loss to the trust or to the trust beneficiaries for any decision to invest all or any part of the trust property in a partnership, limited partnership, limited liability company, or other entity which provides additional protection of the assets of the trust or which provides for the convenient management of jointly-owned family property (including property held by one or more trusts for members of my family), even if restrictions on transfer and liquidation may cause the ownership interest to have a fair market value which is less than the fair market value of the assets contributed to the entity, or if the lack of control over the interests (or lack of diversification of investments as a result of being transferred to the entity) have an adverse impact on the value of the assets.

#### **Section 7.08 Trustee Compensation**

An individual serving as Trustee is entitled to fair and reasonable compensation for the services rendered as a fiduciary. A corporate fiduciary serving as Trustee will be compensated by agreement between an individual serving as Trustee and the corporate fiduciary. In the absence of an individual Trustee or in the absence of an agreement, a corporate fiduciary will be compensated in accordance with the corporate fiduciary's published schedule of fees in effect at the time the services are rendered.

A Trustee may charge additional fees for services it provides that are beyond the ordinary scope of its duties as Trustee, such as fees for legal services, tax return preparation and corporate finance or investment banking services.

In addition to receiving compensation, a Trustee may be reimbursed for reasonable costs and expenses incurred in carrying out the Trustee's duties under this agreement.

#### **Section 7.09 Employment of Professionals**

My Trustee may appoint, employ and remove investment advisers, accountants, auditors, depositories, custodians, brokers, consultants, attorneys, advisers, agents and employees to advise or assist in the performance of my Trustee's duties. My Trustee may act on the recommendations of the persons or entities employed, with or without independent investigation.

My Trustee may reasonably compensate an individual or entity employed to assist or advise my Trustee regardless of any other relationship existing between the individual or entity and my Trustee.

My Trustee may pay the usual compensation for services contracted for under this Section out of income or principal of the trust as my Trustee deems advisable. My Trustee may pay compensation to an individual or entity employed to assist or advise my Trustee without diminishing the compensation to which the Trustee is entitled under this agreement. A Trustee who is a partner, stockholder, officer, director or corporate affiliate in any entity employed to



assist or advise my Trustee may nonetheless receive the Trustee's share of the compensation paid to the entity.

#### **Section 7.10 Determination of Principal and Income**

My Trustee shall determine how all Trustee's fees, disbursements, receipts, and wasting assets will be credited, charged, and apportioned between principal and income in a fair, equitable and practical manner. My Trustee may allocate capital gain to income rather than principal.

My Trustee may set aside from trust income reasonable reserves for taxes, assessments, insurance premiums, repairs, depreciation, obsolescence, depletion, and for the equalization of payments to or for the beneficiaries. My Trustee may select appropriate accounting periods with regard to the trust property.

#### **Section 7.11 Trust Accounting**

Except to the extent required by law, my Trustee is not required to file accountings in any jurisdiction. The annual accounting must include the receipts, expenditures, and distributions of income and principal and the assets on hand for the accounting period. A copy of the federal fiduciary tax return filed for a trust during a period for which a trust accounting is made will satisfy this reporting requirement.

In the absence of fraud or manifest error, assent by all Qualified Beneficiaries to a Trustee's accounting will make the matters disclosed in the accounting binding and conclusive upon all persons, including those living on the date of this agreement and those to be born in the future who have, or will in the future have, a vested or contingent interest in the trust property. In the case of a Qualified Beneficiary who is a minor or incapacitated, the beneficiary's natural guardian or Legal Representative may give the assent required under this Section.

In all events the Legal Representative of a beneficiary may receive any notices and take any action on behalf of the beneficiary as to an accounting. If any beneficiary's Legal Representative fails to object to any accounting in writing within 6 months after my Trustee renders the accounting, the beneficiary's Legal Representative will be deemed to assent to the accounting.

#### **Section 7.12 Information to Beneficiaries**

Privacy is an important issue to me. This section defines my Trustee's duties to inform, account, and report to beneficiaries of various trusts created under this agreement, and to other individuals during my lifetime and after my death. Except to the extent required by law, my Trustee is not required to comply with a request to furnish a copy of this trust agreement to a Qualified Beneficiary at any time, and my Trustee is not required to send annual reports or reports upon termination of the trust to any Permissible Distributee or Qualified Beneficiary who requests the report. If my Trustee decides, in my Trustee's sole, absolute and unreviewable discretion, to provide any information to a Permissible Distributee or Qualified Beneficiary, my Trustee may exclude any information that my Trustee determines is not directly applicable to the beneficiary receiving the information. Any decision by my Trustee to make information available to any beneficiary does not constitute an obligation to provide any information to any beneficiary in the future.

### **Section 7.13 Action of Trustees and Delegation of Trustee Authority**

If two Trustees are eligible to act with respect to a given matter, they must act unanimously for action to be taken unless the express terms of the Trustees' appointment provide otherwise. If more than two Trustees are eligible to act with respect to a given matter, the Trustees must act by majority for action to be taken. In addition, unless otherwise expressly provided for herein, where this agreement authorizes either the Independent Trustee or the Interested Trustee (as the case may be) to act with respect to any given matter, such Trustee will be eligible to act with respect to such matter without the consent of the other Trustee.

A nonconcurring Trustee may dissent or abstain from a decision of the majority. A Trustee will be absolved from personal liability by registering its dissent or abstention in the records of the trust. After doing so, the dissenting Trustee must then act with my other Trustees in any way necessary or appropriate to effectuate the decision of the majority.

Notwithstanding the limitations set forth in this section, unless a Trustee elects otherwise in a written instrument delivered to the other Trustees, if two or more Trustees are serving, any one Trustee may sign any checks, agreements or other documents on behalf of the trust with the same force and effect as if all Trustees had signed. Persons dealing with the signing Trustee in good faith may rely upon the signing Trustee's authority to act on behalf of the trust without inquiry as to the other Trustees' acquiescence to such action.

Subject to the limitations set forth in Section 8.21, any Trustee may, by an instrument in writing, delegate to any other Trustee the right to exercise any power, including a discretionary power, granted to my Trustee in this agreement. During the time a delegation under this Section is in effect, the Trustee to whom the delegation is made may exercise the power to the same extent as if the delegating Trustee had personally joined in the exercise of the power. The delegating Trustee may revoke the delegation at any time by giving written notice of revocation to the Trustee to whom the power was delegated.

### **Section 7.14 Trustee May Disclaim or Release Any Power**

Notwithstanding any provision of this agreement to the contrary, any Trustee may disclaim or release, in whole or in part, by an instrument in writing, any power it holds as Trustee, irrevocably or for any period of time the Trustee may specify. The Trustee may relinquish a power personally or may relinquish the power for all subsequent Trustees.

### **Section 7.15 Trustee May Execute a Power of Attorney**

My Trustee may appoint any individual or entity to serve as my Trustee's agent under a power of attorney to transact any and all business on behalf of my trust or any other trust created under this agreement.

### **Section 7.16 Additions to Trusts**

If upon the termination of any trust created under this agreement, a final distribution is to be made to a person who is a beneficiary of another trust established under this agreement, and there is no specific indication whether the distribution is to be made in trust or outright, my Trustee shall make the distribution to the second trust instead of distributing the property to the

beneficiary outright. For purposes of administration, the distribution will be treated as though it had been an original part of the second trust.

#### **Section 7.17 Authority to Merge or Sever Trusts**

My Trustee may merge and consolidate a trust created under this agreement with any other trust, if the two trusts contain substantially the same terms for the same beneficiaries.

My Trustee may administer the merged and consolidated trust as a single trust or unit. If, however, a merger or consolidation does not appear feasible, my Trustee may consolidate the assets of the trusts for purposes of investment and trust administration while retaining separate records and accounts for each respective trust.

My Trustee may sever any trust on a fractional basis into two or more separate and identical trusts or may segregate a specific amount or asset from the trust property by allocation to a separate account or trust. The separate trusts may be funded on a non *pro rata* basis provided that funding is based on the total fair market value of the assets on the date of funding. Income earned on a segregated amount or specific asset after the segregation passes with the amount or asset segregated. My Trustee shall hold and administer each separate trust upon terms and conditions substantially identical to those of the trust from which it was severed.

Subject to the terms of the trust, my Trustee may consider differences in federal tax attributes and other pertinent factors in administering the trust property of any separate account or trust, in making applicable tax elections, and in making distributions. A separate trust created by severance must be treated as a separate trust for all purposes from the date on which the severance is effective; however, the effective date of severance may be retroactive to a date before the date on which my Trustee exercises the power.

#### **Section 7.18 Authority to Terminate Trusts**

My Independent Trustee may terminate any trust created under this agreement, at any time, if my Independent Trustee, in its sole, absolute and unreviewable discretion, determines that a trust created under this agreement is no longer economical or is otherwise inadvisable to administer as a trust, or if my Independent Trustee deems it to be in the best interest of my beneficiaries. If a trust is terminated, my Trustee will distribute the trust property in the order of priority set forth below and once distributed my Trustee will have no further responsibility with respect to that trust property.

To the beneficiaries then entitled to mandatory distributions of net income of the trust, and in the same proportions; and

If none of the beneficiaries are entitled to mandatory distributions of net income, to the beneficiaries then eligible to receive discretionary distributions of net income of the trust, in such amounts and shares as my Independent Trustee may determine.

#### **Section 7.19 Merger of Corporate Fiduciary**

If any corporate fiduciary acting as the Trustee under this agreement is merged with or transfers substantially all of its trust assets to another corporation or if a corporate fiduciary changes its

name, the successor will automatically succeed to the trusteeship as if that successor had been originally named a Trustee. No document of acceptance of trusteeship will be required.

#### **Section 7.20     Payment of Death Taxes**

For the purposes of this Section, the term "death taxes" refer to any taxes imposed by reason of my death by federal, state or local authorities, including but not limited to estate, inheritance, gift, and direct-skip generation-skipping transfer taxes. For purposes of this Section, "death taxes" does not include any additional estate tax imposed by Section 2031(c)(5)(C), Section 2032A(c) or Section 2057(f) of the Internal Revenue Code or any other comparable recapture tax imposed by any taxing authority. Nor does the term include any generation-skipping transfer tax, other than a direct skip generation-skipping transfer tax.

To the extent that such amounts have not otherwise been satisfied, my Trustee is hereby directed to pay solely out of the trust estate of this trust, any and all death taxes which may be payable (pursuant to the next sentence of this Section) by reason of my death. This trust shall be liable for that portion of any death taxes equal to the full amount of death taxes, multiplied by a fraction, the numerator of which is equal to the total value (net of liabilities) of the trust estate of this trust which is includible in my gross estate for federal estate tax purposes as finally determined as of the applicable valuation date for federal estate tax purposes (the "valuation date"), and the denominator of which is equal to my entire (net of liabilities) gross estate for federal estate tax purposes as of the valuation date. In addition, my Trustee will provide for payment of all death taxes from this trust without apportionment. However, in the event more than one trust is in existence under this agreement, my Trustee shall pay the death taxes, pro rata, from each separate trust hereunder.

Death taxes will not be allocated to or paid from any assets that are not included in my gross estate for federal estate tax purposes. In addition, to the extent practicable, my Trustee will not pay any death taxes from assets that are exempt from generation-skipping transfer tax purposes.

## **Article Eight**

### **My Trustee's Powers**

#### **Section 8.01 Introduction to Trustee's Powers**

Except as otherwise specifically provided in this agreement, my Trustee may exercise the powers conferred by this agreement without prior approval from any court, including, without limitation, those powers set forth under the laws of the State of Florida or any other jurisdiction whose law applies to this trust, and the powers set forth in the Florida Trust Code are specifically incorporated into this trust agreement.

My Trustee shall exercise my Trustee's powers in the manner my Trustee determines to be in the best interests of the beneficiaries. My Trustee must not exercise any power in a manner that is inconsistent with the right of the beneficiaries to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

My Trustee may have duties and responsibilities in addition to those described in this agreement. I encourage any individual or corporate fiduciary serving as Trustee to obtain appropriate legal advice if my Trustee has any questions concerning its duties and responsibilities as Trustee.

#### **Section 8.02 Execution of Documents by My Trustee**

My Trustee may execute and deliver any and all instruments in writing that my Trustee considers necessary to carry out any of the powers granted in this agreement.

#### **Section 8.03 Investment Powers in General**

My Trustee may invest in any type of investment whether inside or outside the geographic borders of the United States of America and its possessions or territories.

My Trustee may acquire and retain investments not regarded as traditional or suitable assets for trusts, including investments that would be forbidden or would be regarded as imprudent, improper, or unlawful by the "prudent person" rule, "prudent investor" rule, or any other rule or law that restricts a fiduciary's investment flexibility. My Trustee may invest in any type of property, wherever located, including any type of security or option, improved or unimproved real property, and tangible or intangible personal property, and in any manner, including direct purchase, joint ventures, partnerships, limited partnerships, limited liability companies, corporations, mutual funds, business trusts, or any other form of participation or ownership whatsoever. In making investments, my Trustee may disregard:

Whether a particular investment, or the trust investments collectively, will produce a reasonable rate of return or result in the preservation of principal;

Whether the acquisition or retention of a particular investment or the trust investments collectively are consistent with any duty of impartiality as to the different beneficiaries;

Whether the trust is diversified;

Whether any trust investment would traditionally be classified as too risky or speculative for trusts.

I expressly waive any duty to diversify trust assets. I intend that my Trustee, and my Investment Adviser, if one is serving, to have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy.

It is my intent to modify the "prudent person" rule, "prudent investor" rule, or any other rule or law which restricts a fiduciary's ability to invest, to the extent the rule or law would prohibit an investment because of one or more factors listed above, or any other factor relating to the nature of the investment itself. I believe that it is in the best interests of the beneficiaries to give my Trustee the broadest possible discretion in managing trust assets.

My Trustee may delegate its discretion to manage trust investments to any registered investment adviser or corporate fiduciary.

#### **Section 8.04 Banking Powers**

My Trustee may establish bank accounts of any type in one or more banking institutions that my Trustee chooses. If an account is one from which my Trustee makes frequent disbursements, the account does not need to be an interest bearing account. My Trustee may authorize withdrawals from an account by check, draft, or other instrument or in any other manner.

My Trustee may open accounts in the name of my Trustee, with or without disclosing fiduciary capacity, or may open accounts in the name of the trust. When an account is in the name of the trust, checks on that account and authorized signatures need not disclose the fiduciary nature of the account or refer to any trust or Trustee.

#### **Section 8.05 Business Powers**

If the trust owns or acquires an interest in a business entity, whether as a shareholder, partner, general partner, sole proprietor, member, participant in a joint venture or otherwise, my Trustee may exercise the powers and authority provided for in this Section. The powers granted in this Section are in addition to and not in limitation of all other powers granted to my Trustee in this agreement.

##### **(a) No Duty to Diversify**

Notwithstanding any duty to diversify imposed by state law or any other provision of this agreement, my Trustee may acquire or retain indefinitely any ownership interest in or indebtedness of any closely-held or non-publicly traded entity in which the trust, myself, my descendants and the spouses of my descendants have an ownership interest (the "business interests"), and even though any business interest may constitute all or a substantial portion of the trust property. I specifically authorize my Trustee to invest or retain indefinitely all or any part of the trust property in such business interests, regardless of any resulting risk, lack of income, diversification, or marketability. I hereby waive any applicable prudent investor rule, and the Trustee's standard of care and duty to diversify with respect to the acquisition or retention of these business interests.

I recognize that the value of a non-controlling interest in a business entity may be less than the underlying value of the net assets of the entity. Nevertheless, I authorize my Trustee to acquire or retain any non-controlling business interests.

**(b) Specific Management Powers**

My Trustee has all power and authority necessary to manage and operate any business owned by the trust, whether directly or indirectly, including, without limitation, the express powers set forth in this subsection. My Trustee may participate directly in the conduct of the business, by serving as a general partner of a limited partnership, a member, manager or managing member of a limited liability company, or a shareholder of a corporation, or may employ others to serve in that capacity.

My Trustee may participate in the management of the business and delegate duties with respect to management, together with the requisite powers, to any employee, manager, partner, or associate of the business, without incurring any liability for the delegation. To the extent that the business interest held by the trust is not one that includes management powers (such as a minority stock interest, limited partnership interest, or a membership interest in a limited liability company), my Trustee has no obligation to supervise the management of the underlying assets, and no liability for the actions of those who do manage the business.

My Trustee may enter into management agreements and nominee agreements whereby my Trustee and the trust may serve as the exclusive manager or nominee of property or property interests on behalf of any limited partnership, limited liability company, or corporation.

My Trustee, individually or if my Trustee is a corporate fiduciary, then an employee of my Trustee, may act as a director, general or limited partner, associate or officer of the business.

My Trustee may participate with any other person or entity in the formation or continuation of a partnership either as a general or limited partner, or in any joint venture. My Trustee may exercise all the powers of management necessary and incidental to a membership in the partnership, limited partnership, or joint venture, including making charitable contributions.

My Trustee may reduce, expand, limit, or otherwise adjust the operation or policy of the business. My Trustee may subject the principal and income of the trust to the risks of the business for any term or period as my Trustee determines.

My Trustee may advance money or other property to any business in which the trust has an interest, make loans (subordinated or otherwise) of cash or securities to the business, and guarantee the loans of others made to the business. My Trustee may borrow money for the business, either alone or with other persons interested in the business, and may secure the loan or loans by a pledge or mortgage of any part of any trust property.

My Trustee may select and vote for directors, partners, associates, and officers of the business. My Trustee may enter into owners' agreements with a business in which the trust has an interest or with the other owners of the business.

My Trustee may execute agreements and amendments to agreements as may be necessary to the operation of the business including, but not limited to, stockholder agreements, partnership agreements, buy-sell agreements, and operating agreements for limited liability companies.

My Trustee may generally exercise any and all powers necessary for the continuation, management, sale, or dissolution of the business.

My Trustee may participate in the sale, reorganization, merger, consolidation, recapitalization, or liquidation of the business. My Trustee may sell or liquidate the business or business interest on terms as my Trustee deems advisable and in the best interests of the trust and the beneficiaries. My Trustee may sell any business interest held by the trust to one or more of the beneficiaries of this trust or to any trust in which a majority of the beneficiaries are one or more of the beneficiaries of this trust. My Trustee may make the sale in exchange for cash, a private annuity, an installment note, or any combination thereof.

My Trustee may exercise all of the business powers granted in this agreement even though my Trustee may be personally invested in or otherwise involved with the business.

**(c) Business Liabilities**

If any tort or contract liability arises in connection with the business, and if the trust is a responsible party with regard to the liability, my Trustee will satisfy the liability first from the assets of the business, and only then from other trust property as determined by my Trustee.

**(d) Trustee Compensation**

In addition to the compensation set forth in Section 7.08, my Trustee may receive additional reasonable compensation for services in connection with the operation of the business. My Trustee may receive this compensation directly from the business, from the trust or partly from both.

**(e) Conflicts of Interest**

My Trustee may exercise all of the powers granted in this trust agreement even though my Trustee may be involved with or have a personal interest in the business.

**Section 8.06 Contract Powers**

My Trustee may sell at public or private sale, transfer, exchange for other property, and otherwise dispose of trust property for consideration and upon terms and conditions that my Trustee deems advisable. My Trustee may grant options of any duration for any sales, exchanges, or transfers of trust property.



My Trustee may enter into contracts, and may deliver deeds or other instruments, that my Trustee deems appropriate.

#### **Section 8.07 Common Investments**

For purposes of convenience with regard to the administration and investment of the trust property, my Trustee may invest part or all of the trust property jointly with trust property of other trusts for which my Trustee is also serving as a Trustee. A corporate fiduciary acting as my Trustee may use common funds for investment. When trust property is managed and invested in this manner, my Trustee will maintain records that sufficiently identify that portion of the jointly invested assets that constitute the trust property of this trust.

#### **Section 8.08 Environmental Powers**

My Trustee may inspect trust property to determine compliance with or to respond to any environmental law affecting the property. For purposes of this agreement "environmental law" means any federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment or of human health.

My Trustee may refuse to accept property if my Trustee determines that the property is or may be contaminated by any hazardous substance or is or was used for any purpose involving hazardous substances that could create liability to the trust or to any Trustee.

My Trustee may use and expend trust property to (i) conduct environmental assessments, audits or site monitoring; (ii) take remedial action to contain, clean up or remove any hazardous substance including a spill, discharge or contamination; (iii) institute, contest or settle legal proceedings brought by a private litigant or any local, state, or federal agency concerned with environmental compliance; (iv) comply with any order issued by any court or by any local, state, or federal agency directing an assessment, abatement or clean-up of any hazardous substance; and (v) employ agents, consultants and legal counsel to assist my Trustee in these actions.

My Trustee is not liable for any loss or reduction in value sustained by the trust as a result of my Trustee's decision to retain property on which hazardous materials or substances requiring remedial action are discovered unless my Trustee contributed to the resulting loss or reduction in value through willful misconduct or gross negligence.

My Trustee is not liable to any beneficiary or to any other party for any decrease in the value of property as a result of my Trustee's actions to comply with any environmental law, including any reporting requirement.

My Trustee may release, relinquish or disclaim any power held by my Trustee that my Trustee determines may cause my Trustee to incur individual liability under any environmental law.

#### **Section 8.09 Farming and Ranching Operations**

If the trust owns or acquires an interest in a farm, ranch or other agricultural property or business, my Trustee may exercise the authority and discretion provided for in this Section. The powers granted in this Section are in addition to and not in limitation of all other powers granted to my Trustee in this Agreement.

**(a) Authority to Operate the Farm or Ranch**

Notwithstanding any duty to diversify imposed by state law, my Trustee may retain and continue to operate a farm or ranch even though the interest may constitute all or a substantial portion of the trust property.

My Trustee may take part in the management of the farm or ranch or hire a farm manager or a professional farm management service. My Trustee may delegate any of the powers authorized by this Section to a hired farm manager or professional farm management service.

My Trustee may purchase, sell, hold, manage, operate, lease, improve and maintain the farm or ranch, or any interests in the farm or ranch, and in general deal with and do all things necessary to operate the farm or ranch as my Trustee deems advisable.

My Trustee may buy, sell and raise livestock; plant, cultivate, harvest and sell cash crops; produce timber or forest products for sale; or lease or rent all or part of the farm or ranch for cash or a share of the crops.

My Trustee may contract with hired labor, tenants or sharecroppers.

My Trustee may construct, repair and improve farm buildings, fences and other farm or ranch structures including drainage facilities, dig and maintain wells, ponds and lagoons, and participate in cooperative agreements concerning water rights and ditch rights.

My Trustee may purchase or rent any kind of farm machinery, equipment, feed and seed necessary for the operation of the farm or ranch.

My Trustee may use approved soil conservation practices in order to conserve, improve and maintain the productivity of the soil, and may engage in timber or forest conservation practices.

My Trustee may engage and participate in any farm program sponsored by any federal, state or local governmental agency.

**(b) Business Liabilities**

If any tort or contract liability arises in connection with the farm or ranch, and if the trust is a responsible party with regard to the liability, my Trustee will satisfy the liability first from the assets of the farm or ranch, and only then from other property.

**(c) Trustee Compensation**

In addition to the compensation set forth in Section 7.08, my Trustee may receive additional reasonable compensation for services in connection with the operation of a farm or ranch. My Trustee may receive this compensation directly from the farm or ranch, from the trust or partly from both.

**(d) Conflicts of Interest**

My Trustee may exercise all of the powers granted in this agreement even though my Trustee may be involved with or have a personal interest in the farm or ranch.

**Section 8.10 Loans and Borrowing Powers**

Except as set forth in Section 1.06(a), My Trustee may make loans to any person other than me, including a beneficiary, entity, trust or estate, but not to myself, for any term or payable on demand, with or without interest and secured or unsecured.

My Trustee may encumber any trust property by mortgages, pledges, or otherwise, and may negotiate, refinance, or enter into any mortgage or other secured or unsecured financial arrangement, whether as a mortgagee or mortgagor even though the term may extend beyond the termination of the trust and beyond the period that is required for an interest created under this agreement to vest in order to be valid under the rule against perpetuities.

My Trustee may enter into, negotiate, or modify the terms of any mortgage or any other secured or unsecured agreement granted in connection with any loan entered into by me individually or by any trustee and may release or foreclose on any mortgage or security interest payable to me or to the trust.

My Trustee may borrow money at interest rates and on other terms that it deems advisable from any person, institution or other source including, in the case of a corporate fiduciary, its own banking or commercial lending department.

My Trustee may purchase, sell at public or private sale, trade, renew, modify, and extend mortgages. My Trustee may accept deeds in lieu of foreclosure.

**Section 8.11 Nominee Powers**

My Trustee may hold real estate, securities and any other property in the name of a nominee or in any other form without disclosing the existence of any trust or fiduciary capacity.

**Section 8.12 Oil, Gas and Mineral Interests**

My Trustee may acquire, maintain, develop, and exploit, either alone or jointly with others, any oil, gas, coal, minerals or other natural resource rights or interests.

My Trustee may drill, test, explore, mine, develop, extract, remove, convert, manage, retain, store, sell, and exchange any of those rights and interests on terms and for a price that my Trustee deems advisable.

My Trustee may execute leases, pooling and unitization agreements and other types of agreements in connection with oil, gas, coal, mineral, and other natural resource rights and interests even though the terms of those arrangements may extend beyond the termination of the trust.

My Trustee may execute division orders, transfer orders, releases, assignments, farm outs, and any other instruments that it deems proper.

My Trustee may employ the services of consultants and outside specialists in connection with the evaluation, management, acquisition, disposition, and development of any mineral interest, and may pay the cost of the services from the principal and income of the trust property.

### **Section 8.13 Payment of Taxes and Expenses**

Except as otherwise provided in this agreement, my Trustee may pay any property taxes, assessments, fees, charges, and other expenses incurred in the administration or protection of the trust. All payments will be a charge against the trust property and will be paid by my Trustee out of income. To the extent that the income is insufficient, then my Trustee may make any payments of taxes or expenses out of the principal of the trust property. The determination of my Trustee with respect to the payment of expenses will be conclusive on the beneficiaries.

### **Section 8.14 Purchase of Assets from and Loans to My Probate Estate**

Upon my death, my Trustee may purchase at fair market value and retain in the form received, as an addition to the trust, any property that is a part of my probate or trust estate. In addition, my Trustee may make loans, with or without security, to my probate or trust estate. My Trustee may not be held liable for any loss suffered by the trust as a result of the exercise of the powers granted in this Section.

My Trustee may not use any trust property for the benefit of my estate as defined in Section 20.2042-1(b) of Title 26 of the Code of Federal Regulations, unless the property is included in my gross estate for federal estate tax purposes.

### **Section 8.15 Qualified Tuition Programs**

My Trustee may purchase tuition credits or certificates or make contributions to an account in one or more qualified tuition programs as defined under Section 529 of the Internal Revenue Code on behalf of a beneficiary for the purpose of meeting the qualified higher education expenses of the beneficiary. With respect to an interest in any qualified tuition program, my Trustee may act as contributor (or similar designation given to the person who maintains control of an interest in the qualified tuition program) and take any and all actions to administer the interest, including, without limitation, the following:

- Designate and change the designated beneficiary of the interest in the qualified tuition program;

- Request withdrawals, both qualified and nonqualified;

- Select among investment options and to reallocate funds in the interest in the qualified tuition program among different investment options;

- Make rollovers to another qualified tuition program; and

- Determine the allocation of any tax benefits or penalties to the beneficiaries of the trust.

Notwithstanding anything in this provision to the contrary, the designated beneficiary at all times must be a beneficiary of the trust from which the funds were distributed to establish the interest

in the qualified tuition program. Investment in a qualified tuition program will not be considered a delegation of investment responsibility under any applicable statute or other law.

#### **Section 8.16 Real Estate Powers**

My Trustee may sell at public or private sale, convey, purchase, exchange, lease for any period, mortgage, manage, alter, improve and in general deal in and with real property in such manner and on such terms and conditions as my Trustee deems appropriate.

My Trustee may grant or release easements in or over, subdivide, partition, develop, raze improvements, and abandon any real property.

My Trustee may manage real estate in any manner that my Trustee deems best and may exercise all other real estate powers necessary to effectuate this purpose.

My Trustee may enter into contracts to sell real estate. My Trustee may enter into leases and grant options to lease trust property even though the term of the agreement extends beyond the termination of any trusts established under this agreement and beyond the period that is required for an interest created under this agreement to vest in order to be valid under the rule against perpetuities. My Trustee may enter into any contracts, covenants, and warranty agreements that my Trustee deems appropriate.

#### **Section 8.17 Residences and Tangible Personal Property**

My Trustee may acquire, maintain, and invest in any residence for the use and benefit of the beneficiaries, whether or not the residence is income producing and without regard to the proportion that the value of the residence may bear to the total value of the trust property even if retaining the residence involves financial risks that Trustees would not ordinarily incur. My Trustee may pay or make arrangements for others to pay all carrying costs of any residence, including, but not limited to, taxes, assessments, insurance, expenses of maintaining the residence in suitable repair, and other expenses relating to the operation of the residence for the benefit of the beneficiaries.

My Trustee may acquire, maintain, and invest in articles of tangible personal property, whether or not the property is income producing, and may pay the expenses of the repair and maintenance of the property.

My Trustee is not required to convert the property referred to in this Section to productive property except as required by other provisions of this agreement.

My Trustee may permit any Income Beneficiary of the trust to occupy any real property or use any personal property owned by the trust on terms or arrangements that my Trustee determines, including rent free or in consideration for the payment of taxes, insurance, maintenance, repairs, or other charges.

My Trustee is not liable for any depreciation or loss as a result of any decision to retain or acquire any property as authorized by this Section.

### **Section 8.18     Retention and Abandonment of Trust Property**

My Trustee may retain, without liability for depreciation or loss resulting from retention, any property constituting the trust at the time of its creation, at the time of my death or as the result of the exercise of a stock option. My Trustee may retain property, notwithstanding the fact that the property may not be of the character prescribed by law for the investment of assets held by a fiduciary, and notwithstanding the fact that retention may result in inadequate diversification under any applicable Prudent Investor Act or other applicable law.

My Trustee may hold property that is non-income producing or is otherwise nonproductive if holding the property is, in the sole and absolute discretion of my Trustee, in the best interests of the beneficiaries. On the other hand, my Trustee will invest contributions of cash and cash equivalents as soon as reasonably practicable after the assets have been acquired by the trust.

My Trustee may retain a reasonable amount in cash or money market accounts to pay anticipated expenses and other costs and to provide for anticipated distributions to or for the benefit of a beneficiary.

My Trustee may abandon any property that my Trustee deems to be of insignificant value.

### **Section 8.19     Securities, Brokerage and Margin Powers**

My Trustee may buy, sell, trade, and otherwise deal in stocks, bonds, investment companies, mutual funds, common trust funds, commodities, options, and other securities of any kind and in any amount, including short sales. My Trustee may write and purchase call or put options, and other derivative securities. My Trustee may maintain margin accounts with brokerage firms and may pledge securities to secure loans and advances made to my Trustee or to or for the benefit of a beneficiary.

My Trustee may place all or any part of the securities held by the trust in the custody of a bank or trust company. My Trustee may have all securities registered in the name of the bank or trust company or in the name of its nominee. My Trustee may appoint the bank or trust company as the agent or attorney in fact to collect, receive, receipt for, and disburse any income and generally to perform the duties and services incident to a custodian of accounts.

My Trustee may employ a broker-dealer as a custodian for securities held by the trust and may register the securities in the name of the broker-dealer or in the name of a nominee with or without the addition of words indicating that the securities are held in a fiduciary capacity. My Trustee may hold securities in bearer or uncertificated form and may use a central depository, clearing agency or book-entry system, such as The Depository Trust Company, Euroclear or the Federal Reserve Bank of New York.

My Trustee may participate in any reorganization, recapitalization, merger or similar transaction. My Trustee may exercise or sell conversion or subscription rights for securities of all kinds and description. My Trustee may give proxies or powers of attorney that may be discretionary and with or without powers of substitution, and may vote or refrain from voting as to any matter.

## **Section 8.20 Settlement Powers**

My Trustee may settle, by compromise, adjustment, arbitration or otherwise any and all claims and demands in favor of or against the trust. My Trustee may release or abandon any claim in favor of the trust.

## **Section 8.21 Limitation on My Trustee's Powers**

All powers granted to Trustees under this agreement or by applicable law are limited as set forth in this Section, unless explicitly excepted by reference to this Section.

### **(a) An Interested Trustee Limited to Ascertainable Standards**

An Interested Trustee may not exercise or participate in the exercise of discretion with respect to the distribution of income or principal, or the termination of the trust to or for the benefit of a beneficiary, to the extent that the exercise of that discretion is other than for the health, education, maintenance or support of a beneficiary as described under Sections 2041 and 2514 of the Internal Revenue Code.

### **(b) No Distributions in Discharge of Certain Legal Obligations**

My Trustee may not exercise or participate in the exercise of discretion with respect to the distribution of income or principal that would in any manner discharge a legal obligation of my Trustee, including the obligation of support.

If a beneficiary or any other person has the power to remove a Trustee and appoint a successor Trustee who is related or subordinate to such beneficiary or other person (as the case may be) within the meaning of Section 672(c) of the Internal Revenue Code, that Trustee may not exercise or participate in the exercise of discretion with respect to the distribution of income or principal that would in any manner discharge a legal obligation of the person having the power to remove the Trustee, including that person's obligation of support.

The provisions of this Section will be inapplicable and inoperative with respect to any power to distribute by a Trustee which is limited by an ascertainable standard such as health, education, maintenance, or support granted hereunder.

### **(c) Insurance Policy on the Life of My Trustee**

If the trust holds a policy that insures the life of a Trustee, that Trustee may not exercise any powers or rights with respect to the policy. A Cotrustee or an Independent Special Trustee, other than the insured Trustee, must exercise the powers and rights with respect to the policy.

If any rule of law or court decision construes the ability of the insured Trustee to name an Independent Special Trustee as an incident of ownership of the policy, then a majority of the then current Income Beneficiaries (excluding the insured Trustee if the insured Trustee is a beneficiary) will select the Independent Special Trustee.

## **Article Nine**

### **General Provisions**

#### **Section 9.01     Maximum Term for Trusts**

Notwithstanding any other provision of this agreement, unless terminated earlier under other provisions of this agreement, each trust created under this agreement will terminate upon the expiration of the longest period that property may be held in trust under this agreement without violating the applicable rule against perpetuities.

If the applicable rule against perpetuities for trusts is determined by reference to the death of the last to die among a group of individuals living on the date of this agreement, the group of individuals will consist of the descendants of my paternal and maternal grandparents who are living at the time this agreement is signed.

At that time, the remaining trust property will vest in and be distributed to the persons entitled to receive mandatory distributions of net income of the trust and in the same proportions. If none of the beneficiaries is entitled to mandatory distributions of net income, the remaining trust property will vest in and be distributed to the beneficiaries entitled to receive discretionary distributions of income of the trust, in equal shares *per stirpes*.

#### **Section 9.02     Spendthrift Provision**

Neither the income nor the principal of any trust created under this trust agreement may be assigned, anticipated, encumbered, alienated, or otherwise voluntarily transferred in any manner by any beneficiary. In addition, neither the income nor the principal of any trust created under this trust agreement is subject to attachment, bankruptcy proceedings or any other legal process, to the interference or control of creditors or others, or otherwise subject to any involuntary transfer.

This Section does not restrict a beneficiary's right to disclaim any interest or the exercise of any power of appointment granted in this agreement. In addition, this Section does not limit the ability of an Independent Trustee to appoint property in further trust for any beneficiary as provided in Section 7.02.

#### **Section 9.03     Changing the Governing Law and Situs of Administration**

My Trustee may, at any time, change the governing law of the trust, remove all or any part of the property or the situs of administration of the trust from one jurisdiction to another, or both. My Trustee may elect, by filing an instrument with the trust records, that the trust will thereafter be construed, regulated and governed as to administration by the laws of the new jurisdiction. My Trustee may take action under this Section for any purpose my Trustee deems appropriate, including the minimization of any taxes in respect of the trust or any beneficiary of such trust, and may do so with or without providing notice to any beneficiary.

If necessary, or if deemed advisable by my Trustee, my Trustee may appoint an Independent Trustee to serve as trustee in the new situs.



If necessary, and if my Trustee does not appoint an Independent Trustee within 30 days of my Trustee's action to change the governing law or situs of the trust, the beneficiaries entitled to receive distributions of net income under the trust may, by majority consent, appoint a corporate fiduciary in the new situs. If a beneficiary is a minor or is incapacitated, the parent or Legal Representative of the beneficiary may act on behalf of the beneficiary.

#### **Section 9.04 Definitions**

For purposes of this agreement, the following terms have the following meanings:

**(a) Adopted and Afterborn Persons**

A legally adopted person in any generation and his or her descendants, including adopted descendants, has the same rights and will be treated in the same manner under this agreement as natural children of the adopting parent, provided such person is legally adopted prior to attaining the age of 18 years. A person is deemed to be legally adopted if the adoption was legal in the jurisdiction in which it occurred at the time that it occurred.

A fetus in utero that is later born alive will be considered a person in being during the period of gestation.

**(b) Agreement**

The term "this agreement" means this trust agreement and includes all trusts created under the terms of this agreement.

**(c) Descendants**

The term "descendants" means any one or more persons who follow in direct descent (as opposed to collateral descent) from a person, such as a person's children, grandchildren, or other descended individuals.

**(d) Good Faith**

Except as otherwise provided in this agreement, a Trustee, though otherwise acting in a fiduciary capacity, has no liability to any party for action (or inaction) taken in good faith. For the purposes of this agreement, a Trustee has acted in good faith if its action or inaction is not a result of bad faith. Further, all parties subject to the provisions of this trust will treat any action or forbearance made in reliance on information, consent, or directions received from the Personal Representative of my estate, except for cases of bad faith on the part of a Trustee, as made in good faith for the purposes of this Section.

**(e) Incapacity**

Except as otherwise provided in this agreement, a person is deemed to be incapacitated in any of the following circumstances.

**(1) The Opinion of Two Licensed Physicians**

An individual is deemed to be incapacitated whenever, in the opinion of two licensed physicians, the individual is unable to

effectively manage his or her property or financial affairs, whether as a result of age, illness, use of prescription medications, drugs or other substances, or any other cause. If an individual whose capacity is in question refuses to provide necessary documentation or otherwise submit to examination by licensed physicians, that individual will be deemed to be incapacitated.

An individual is deemed to be restored to capacity whenever the individual's personal or attending physician provides a written opinion that the individual is able to effectively manage his or her property and financial affairs.

**(2) Court Determination**

An individual is deemed to be incapacitated if a court of competent jurisdiction has declared the individual to be disabled, incompetent or legally incapacitated.

**(3) Detention, Disappearance, or Absence**

An individual is deemed to be incapacitated whenever he or she cannot effectively manage his or her property or financial affairs due to the individual's unexplained disappearance or absence for more than 30 days, or whenever he or she is detained under duress.

An individual's disappearance or absence or detention under duress may be established by an affidavit of my Trustee, or, if no Trustee is serving, by the affidavit of any beneficiary. The affidavit must describe the circumstances of the individual's disappearance, absence or detention and may be relied upon by any third party dealing in good faith with my Trustee in reliance upon the affidavit.

**(f) Income Beneficiary**

The term "Income Beneficiary" means any beneficiary who is then entitled to receive distributions of the net income of the trust, whether mandatory or discretionary.

Unless otherwise provided in this agreement, the phrase "majority of the Income Beneficiaries" means any combination of Income Beneficiaries who, if all accrued net income were distributed on the day of a vote by the beneficiaries, would receive more than 50% of the accrued net income. For purposes of this calculation, beneficiaries who are eligible to receive discretionary distributions of net income are deemed to receive the income in equal shares.

References to a "majority" refer to a majority of the entire trust collectively until my Trustee allocates property to separate trusts or trust shares. After the allocation of property to separate trusts or trust shares, references to a "majority" refer to a majority of each separate trust or trust share.

**(g) Independent Trustee**

The term "Independent Trustee" means any Trustee who is not an Interested Trustee as defined in subsection (h) and includes an Independent Special Trustee appointed under the provisions of Section 3.07. Whenever a power or discretion is granted exclusively to my Independent Trustee then any Interested Trustee who is then serving as my Trustee is prohibited from participating in the exercise of the power or discretion. If there is no Independent Trustee serving, then an Independent Special Trustee may be appointed under the provisions of Section 3.07 to exercise the power or discretion that is exercisable only by my Independent Trustee.

**(h) Interested Trustee**

The term "Interested Trustee" means a Trustee who (1) is a transferor or beneficiary; (2) is related or subordinate to a transferor or beneficiary; (3) can be removed and replaced by a transferor with either the transferor or a party who is related or subordinate to the transferor; or (4) can be removed and replaced by a beneficiary with either the beneficiary or a party who is related or subordinate to the beneficiary.

For purposes of this subsection, (1) "transferor" means a person who transferred property to the trust, including a person whose disclaimer resulted in property passing to the trust; (2) "beneficiary" means a person who is or in the future may be eligible to receive income or principal from the trust pursuant to the terms of the trust, even if such person has only a remote contingent remainder interest in the trust, but not if the person's only interest is as a potential appointee under a power of appointment; and (3) "related or subordinate" means related or subordinate within the meaning of Section 672(c) of the Internal Revenue Code.

Whenever this agreement specifically prohibits an Interested Trustee from exercising discretion or performing an act or specifically limits discretion or the performance of an act to an Independent Trustee, then any Interested Trustee serving as my Trustee is prohibited from participating in the exercise of that discretion or performance of that act. If all Trustees serving are Interested Trustees, then an Independent Special Trustee may be appointed by such Interested Trustees under the provisions of Section 3.07 to exercise the discretion or perform the act.

**(i) Internal Revenue Code and Treasury Regulations**

References to the "Internal Revenue Code" or to its provisions are to the Internal Revenue Code of 1986, as amended from time to time, and the corresponding Treasury Regulations, if any. References to the "Treasury Regulations," are to the Treasury Regulations under the Internal Revenue Code in effect from time to time. If a particular provision of the Internal Revenue Code is renumbered, or the Internal Revenue Code is superseded by a subsequent federal tax law, any reference is deemed to be made to the renumbered provision or to the corresponding provision of the subsequent law, unless to do so would clearly be

contrary to my intent as expressed in this agreement. The same rule applies to references to the Treasury Regulations.

**(j) Legal Representative or Personal Representative**

As used in this agreement, the term "Legal Representative" or "Personal Representative" means a person's guardian, conservator, executor, administrator, Trustee, or any other person or entity personally representing a person or the person's estate. In the case of a minor beneficiary, the beneficiary's parent or another adult with custody of the beneficiary (except for any transferor) will be deemed to be the beneficiary's Legal Representative for purposes of this agreement.

**(k) Per Stirpes**

Whenever a distribution is to be made to a person's descendants *per stirpes*, the distribution will be divided into as many equal shares as there are then-living children of such person and deceased children of such person who left then-living descendants. Each then-living child shall receive one share and the share of each deceased child will be divided among such child's then-living descendants in the same manner.

**(l) Permissible Distributee**

"Permissible Distributee" means a beneficiary who is currently eligible to receive distributions of trust income or principal, whether the distribution is mandatory or discretionary.

**(m) Primary Beneficiary**

The Primary Beneficiary of a trust created under this agreement is the oldest Income Beneficiary of that trust unless some other individual is specifically designated as the Primary Beneficiary of that trust.

**(n) Qualified Appraiser**

A "Qualified Appraiser" is an appraiser who:

- Has earned an appraisal designation from a recognized professional organization or has otherwise met minimum education and experience requirements under IRS Regulations;
- Regularly performs appraisals for compensation; and
- Meets any other requirements prescribed by the Internal Revenue Service from time to time.

**(o) Qualified Beneficiary**

"Qualified Beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

- (1) is a distributee or Permissible Distributee of trust income or principal;

- (2) would be a distributee or Permissible Distributee of trust income or principal if the interests of the distributees described in subparagraph (1) terminated on that date; or
- (3) would be a distributee or Permissible Distributee of trust income or principal if the trust terminated on that date.

**(p) Settlor**

"Settlor" has the same legal meaning as "Grantor," "Trustor" or any other term referring to the maker of a trust.

**(q) Shall and May**

Unless otherwise specifically provided in this agreement or by the context in which used, I use the word "shall" in this agreement to impose a duty, command, direct or require, and the word "may" to allow or permit, but not require. In the context of my Trustee, when I use the word "shall" I intend to impose a fiduciary duty on my Trustee. When I use the word "may" I intend that my Trustee is empowered to act in its sole, absolute and unreviewable discretion unless otherwise stated in this agreement.

**(r) Trust**

The terms "this trust" or "this agreement" refers to this trust agreement and all trusts created under the terms of this agreement.

**(s) Trustee**

The term "my Trustee" or "Trustee" refers to the initial Trustee named in Article One and to any successor, substitute, replacement, or additional person, corporation, or other entity that is from time to time acting as the Trustee of any trust created under the terms of this agreement. The term "Trustee" refers to singular or plural as the context may require.

**(t) Trust Property**

The term "trust property" means all property held by a Trustee under this agreement, including all property that the Trustee may acquire from any source.

**Section 9.05 General Provisions and Rules of Construction**

The following general provisions and rules of construction apply to this agreement:

**(a) Multiple Originals; Validity of Copies**

This agreement may be executed in any number of counterparts, each of which will be deemed to be an original.

Any person may rely on a copy of this agreement that the Trustee certifies to be a true copy to the same effect as if it were an original.

**(b) Singular and Plural; Gender**

Unless the context requires otherwise, words denoting the singular may be construed as plural and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within the context. The word "or" when used in a list of more than two items may function as both a conjunction and a disjunction as the context requires or permits.

**(c) Headings of Articles, Sections, and Subsections**

The headings of Articles, Sections, and subsections used within this agreement are included solely for the convenience and reference of the reader. They have no significance in the interpretation or construction of this agreement.

**(d) Governing State Law**

This agreement is governed, construed, and administered according to the laws of Florida as from time to time amended, except as to trust property required by law to be governed by the laws of another jurisdiction and unless the situs of administration is changed as provided in Section 9.03.

**(e) Notices**

Unless otherwise stated, whenever this agreement calls for notice, the notice will be in writing and will be personally delivered with proof of delivery, or mailed postage prepaid by certified mail, return receipt requested, to the last known address of the party requiring notice. Notice will be effective on the date personally delivered or on the date of the return receipt. If a party giving notice does not receive the return receipt but has proof that he or she mailed the notice, notice will be effective on the date it would normally have been received via certified mail. If notice is required to be given to a minor or incapacitated individual, notice will be given to the parent or Legal Representative of the minor or incapacitated individual.

**(f) Severability**

The invalidity or unenforceability of any provision of this agreement does not affect the validity or enforceability of any other provision of this agreement. If a court of competent jurisdiction determines that any provision is invalid, the remaining provisions of this agreement are to be interpreted and construed as if the invalid provision had never been included in this agreement.

## **Article Ten**

### **Special Provisions**

Notwithstanding any other provision or interpretation to the contrary contained in other portions of this trust agreement, the provisions of this Article shall take precedence over any other conflicting or contrary provision contained in this trust agreement.

#### **Section 10.01 Provision for Liabilities**

The Trustee shall have the power to eliminate the liability of any beneficiary or of the Trustee (in other than the Trustee's fiduciary capacity) so that the rights or obligations created hereunder and under any contract or agreement entered into pursuant hereto shall be the obligation of such share or trust, and will not be the individual obligation of the Trustee or beneficiary.

#### **Section 10.02 Indemnification**

The Settlor, and the Settlor on behalf of all other beneficiaries hereunder, hereby indemnifies the Trustee, except to the extent covered by insurance, and holds the Trustee harmless from and against any and all claims, liabilities, losses, actions, debts, dues, sums of money, reckonings, bonds, bills, specialties, covenants, controversies, agreements, promises, variances, trespasses, judgments, suits or proceedings at law or in equity, or any other expenses, fees, charges, or costs of any character or nature including but not limited to mortgages, taxes, and assessments, which the Trustee has incurred, which the Trustee may incur, or which the Trustee may be threatened with by reason of the Trustee having acted as Trustee; and in connection therewith, to indemnify and hold harmless the Trustee against any and all expenses, including but not limited to all reasonable attorneys' fees (computed at the then current hourly rates) and accountants' fees (computed at the then current hourly rates) and the costs of defending any action, suit or proceeding or resisting any claim. For the purposes of this agreement, attorneys' fees, accountants' fees and court costs shall apply not only with respect to the court of original jurisdiction, but also with respect to all courts of appellate jurisdiction.

Notwithstanding anything to the contrary contained in this trust, this indemnification shall not operate with respect to the Trustee's breach of trust committed by gross negligence, in bad faith or with reckless indifference to the purposes of this trust or the interests of the beneficiaries.

#### **Section 10.03 Reimbursement**

The Trustee shall be reimbursed from the property of this trust or any share or trust created hereunder for all reasonable expenses incurred in the management, administration, and distribution of this trust or such share or trust created hereunder or in acting pursuant to any contract or agreement made by the Trustee on behalf of this trust or such share or trust created hereunder. In addition, the Trustee shall be reimbursed from this trust or such share or trust created hereunder for any tax, and/or interest, and/or penalty paid with respect thereto by the Trustee during the existence of this trust or such share or trust created hereunder or thereafter, and if the property of this trust or such share or trust created hereunder is insufficient, or, if this trust or such share or trust created hereunder shall then be terminated, the Trustee shall be reimbursed by the person or persons to whom the property of this trust or such share or trust created hereunder shall have been distributed to the full extent of the amount received by each

such person without regard to whether such reimbursement from such distributee is in proportion to the distributions made to all distributees.

#### **Section 10.04 Discharge and Release of Trustee by Beneficiaries**

##### **(a) Request by the Trustee**

Prior to deciding upon any one (1) or more of the items described in this Section, the Trustee may request from any one (1) or more beneficiaries satisfactory indemnifications and hold harmless agreements, waivers of objections, and releases. Such indemnities, hold harmless agreements, and waivers of objections, and releases (collectively, the "Indemnity, Waiver, and Release Documents") will, to the reasonable satisfaction of the Trustee, fully and completely release and protect the Trustee from any, every and all liabilities whatsoever that may arise in connection with the proposal described in the Indemnity, Waiver and Release Documents.

##### **(b) Subject Matter of Indemnity, Waiver, and Release Documents**

The subject matter of the Indemnity, Waiver, and Release Documents may be any one (1) or more of the following:

- i. To act or to refrain from acting in any manner whatsoever with respect to the investment of the assets of the trust estate;
- ii. To retain ownership of any or all trust assets;
- iii. To sell or dispose of any or all trust assets;
- iv. To settle the account of a deceased, incapacitated, or resigned Trustee, and to approve the accounts of and provide a release and discharge to any deceased, incapacitated, or resigned Trustee;
- v. To take action in accordance with any Trustee power hereunder;
- vi. To make distributions to any beneficiary or beneficiaries if such distribution involves the discretion of the Trustee;
- vii. To effect delivery of the trust estate to any successor Trustee; and
- viii. To take any significant action or make any significant decision for this trust to be determined by the Trustee in the Trustee's sole and absolute discretion.

##### **(c) Beneficiaries Required to Execute Indemnity, Waiver, and Release Documents**

The Trustee may request all of the adult beneficiaries to execute and deliver the Indemnity, Waiver and Release Documents. Any indemnity consent, approval, waiver, release, or discharge executed and delivered as provided herein shall be conclusively binding on all persons having any interest in any one (1) or more of the shares or trusts created hereunder to which such approval, release, or discharge relates, including each beneficiary and all of said beneficiary's minor



descendants then living or yet unborn heirs or appointees who may then have or thereafter acquire any interest in the shares or trusts in question.

**(d) Consequences of Beneficiaries' Failure to Execute and Deliver Indemnity, Waiver, and Release Documents**

**(1) Generally**

Notwithstanding anything to the contrary contained herein, but subject to the provisions of subsection (d)(iii) of this Section, unless and until the beneficiaries execute and deliver to the Trustee the requested Indemnity, Waiver, and Release Documents, the Trustee will have no obligation or responsibility to take the proposed action or to carry out a proposal to refrain from taking action, and the Trustee will not be liable or responsible for the Trustee's failure to take the proposed action, or for the Trustee's failure to carry out a proposal to refrain from taking action.

**(2) Termination of Trustee's Tenure**

In the event of the removal or resignation of the Trustee, then the Trustee will be required to promptly transfer and deliver the trust estate to any successor Trustee, provided that the Trustee may withhold funds or a portion of the trust estate in order to satisfy or secure payment of reasonable charges for the Trustee's services rendered and to be rendered through the time of the transfer of the Trustee's duties and responsibilities to the Trustee's successor Trustee, or to secure the Trustee's other rights hereunder or at law.

**(3) Title**

Provided, however, that notwithstanding anything to the contrary contained in this Section, in the event that the Trustee is a professional investment manager retained by any share or trust created hereunder pursuant to any agreement whereby said Trustee is compensated as an investment manager, the Trustee will not have the right to make a request to the beneficiaries under this Section as to any matter which comprises a duty under the said Trustee's investment management agreement.

**Section 10.05 Exercise of Discretion**

In exercising the Trustee's discretionary authority with respect to the payment of all or any part of the income or principal of any share or trust created hereunder to any beneficiary under any of the provisions herein set forth, the Trustee may take into consideration any income of the beneficiary or other means of care, maintenance, support and education available to such beneficiary from sources outside of this trust or any share or trust created hereunder that may be known to the Trustee.

#### **Section 10.06 Discretionary Powers**

Where the Trustee is permitted hereunder to exercise a power: (a) in the Trustee's sole and absolute discretion; (b) in the Trustee's sole, absolute and unreviewable discretion; or (c) as the Trustee may determine advisable for any purpose; the Settlor has intentionally not created any standard under this Section or elsewhere under this agreement as to discretionary decisions concerning distributions, including the purposes of such distributions, the timing and amount of such distributions, and [in cases where more than one (1) beneficiary is eligible to receive distributions] the beneficiary who will receive such distributions. Also, the Settlor has intentionally not created any standard under this Section or elsewhere in this agreement as to other types of decisions that are to be made by the Trustee's when exercising such discretionary powers. As a result, the exercise of such discretionary powers by the Trustee shall be final unless the Trustee shall have acted dishonestly. It is recognized and intended that an effect of this Section is to eliminate the application of a reasonableness standard to the Trustee's determinations that are to be made hereunder: (a) in the Trustee's sole and absolute discretion; (b) in the Trustee's sole, absolute and unreviewable discretion; or (c) as the Trustee may determine advisable for any purpose. In all other cases (if any) where this agreement authorizes the Trustee to exercise the Trustee's discretion, the reasonableness standard will apply to the Trustee's exercise of the Trustee's discretion hereunder.

#### **Section 10.07 Nonjudicial Modification**

Nonjudicial modification of this trust pursuant to Florida Statutes Section 736.0412 is expressly permitted.

#### **Section 10.08 Allocation of Receipts and Disbursements**

Notwithstanding anything to the contrary contained in Florida Statutes Section 736.0814(2), the Trustee shall allocate receipts and charges of the share or trust created hereunder to income and principal, subject to the requirements of this Section:

##### **(a) Expenses**

The Trustee may pay out of principal or income as the Trustee may elect, or partly out of each, in such shares as the Trustee may determine, income taxes, property taxes, other taxes, assessments, charges, attorneys' fees, Trustee's compensation and other expenses incurred in the administration or protection of the shares or trusts created hereunder. The discretion of the Trustee to pay these items from principal or income or partly from each may be exercised not only in the interest of the share or trust but for the benefit of any beneficiary. The income remaining after such expenditures and charges as the Trustee may elect to pay from or charge against income in each fiscal year of a share or trust shall constitute the net income of such share or trust for such fiscal year.

##### **(b) Reserves**

The Trustee shall have and may exercise the power to set aside from income reserves for taxes, assessments, insurance premiums, repairs, improvements,

depreciation, obsolescence, depletion, and for the equalization of payments to or for beneficiaries.

**(c) Extraordinary Dividends**

The Trustee shall have power in the Trustee's sole and absolute discretion to apportion between principal and income stock dividends and liquidating or extraordinary dividends or distributions. Without limiting the Trustee's absolute discretion, it is the desire that the same be allocated to income except to the extent that the Trustee shall determine that such allocation would result in a substantial impairment of the principal of the share or trust concerned.

**(d) Accruals on Transfer**

The Trustee shall allocate to income all income accrued on property originally placed in or subsequently added to any share or trust created hereunder at the time of its transfer to the Trustee, and dividends on shares of stock originally placed in or subsequently added to the share or trust, which are declared prior to the transfer of such shares to the Trustee, payable to stockholders of record determined as of a date which is on or subsequent to the date of such transfer. Upon the termination of any estate hereunder, income accrued but not yet due and payable on property, subject to any charges or advances against it, shall belong to the next estate.

**(e) Securities**

As securities are purchased or received at a premium or at a price in excess of the call or redemptive price or the amount payable at maturity or upon liquidation, the Trustee may in the Trustee's discretion, but shall not be required to, use any part of the income from such securities to amortize or restore to principal such premium or excess. The Trustee in addition may in the Trustee's discretion, but shall not be required to, transfer from time to time, from principal to income, a pro rata part of the discount or difference between the purchase price and the amount payable at the maturity thereof.

**(f) Valuation**

Distributions and divisions of the trust estate of any one (1) or more of the shares or trusts created hereunder shall be made using values established by the Trustee in the Trustee's sole and absolute discretion.

**Section 10.09 Florida Trust Code**

Notwithstanding anything to the contrary contained in this agreement, the provisions set forth in Florida Statutes Section 736.0105(2) shall prevail over any conflicting terms or conditions set forth in this agreement. In all other respects, the terms of this agreement shall govern the duties and powers of the Trustee, the relations among the Trustees and the rights and interests of the beneficiaries, with the Florida Trust Code (Chapter 736 of the Florida Statutes) governing the duties and powers of the Trustee, relations among the Trustees and the rights and interests of the beneficiaries to the extent not otherwise set forth in the terms and conditions of this agreement.

### **Section 10.10 Designated Representative**

During the Settlor's lifetime, while the Settlor is not under a disability, the Settlor shall have the power, exercisable at any time or times by an instrument in writing and submitted to the Trustee then in office:

- a. to appoint a designated representative or successor designated representative to act for and on behalf of any beneficiary hereunder, before or after the Settlor's death;
- b. to remove any such designated representative then serving or appointed as successor designated representative with or without cause at any time;
- c. to appoint a successor designated representative in the event of the resignation, refusal, incapacity to act, death or disability of any such designated representative; or
- d. to appoint any person or persons to serve on the appointment committee, or remove such appointed person with or without cause.

### **Section 10.11 Appointment of Designated Representative by Appointment Committee**

- a. After the Settlor's death or disability, in the event the Settlor has not appointed a designated representative as provided herein, or in the event of the resignation, refusal, incapacity to act, death or disability of a designated representative designated by me as provided herein, and no successor has been appointed thereunder by me, the appointment committee (as defined below) shall have the power exercisable at any time or times by an instrument in writing and submitted to the Trustee then in office, to appoint a successor designated representative to act for and on behalf of any beneficiary hereunder so long as the said appointment satisfies the requirements set forth in this Section. Furthermore, the appointment committee shall also have the power exercisable at any time or times by an instrument in writing and submitted to the Trustee then in office, to remove a designated representative with or without cause so long as the said appointment satisfies the requirements set forth in this Section, except that the appointment committee may not remove any designated representative or successor thereto who was appointed by me.
- b. With respect to any share or trust created hereunder, the appointment committee shall consist of the categories of individuals described below, which categories of individuals are listed below in the order of priority for serving on the appointment committee, and any such individual ordered in a higher priority of another shall serve at any time or times so long as the conditions relating to such individual's appointment are satisfied (regardless of the fact that another category of individual listed with a lesser priority may then be serving as the appointment committee before the conditions so stated have otherwise been satisfied):
  - i. Those person or persons appointed by me, failing which;

- ii. The adult Income Beneficiaries of such share or trust who are living, not disabled, and who are willing and able to serve, shall serve as the appointment committee; failing which;
- iii. Those persons authorized as provided herein to act on behalf of such beneficiaries.

The group of individuals comprising the appointment committee, as constituted from time to time, shall exercise their powers (as referred to in this Section) in accordance with the following procedure: While the appointment committee is comprised of more than two (2) individuals, a majority vote shall be required to exercise the powers referred to in this Section. While the appointment committee is comprised of two (2) individuals, both individuals by their unanimous action can exercise those powers. In the event that there shall be only one (1) individual comprising the appointment committee, such individual alone can exercise the said powers.

## **Section 10.12 Certain Trustees' Limited Power of Amendment**

### **(a) Purpose of Amendments**

In the case of each separate share or trust at any time in existence hereunder, such share or trust's then Trustee, other than certain Trustees described in this Section, from time to time may, notwithstanding any other provision of this agreement, amend or restate this agreement, including its dispositive, administrative, and other provisions of all kinds, in order to permit such Trustee(s):

- i. To cope with tax and/or other circumstantial changes that may affect such share or trust and/or its beneficiaries,
- ii. To take advantage of changed trust drafting approaches to coping with potential trust problems (or otherwise improve the clarity and administerability of the trust provisions), and/or
- iii. To remove from the governing trust instrument any provisions which are no longer operative in the ongoing administration of such share or trust due to changed circumstances with respect to:
  - (I) Such share or trust, and
  - (II) All shares or trusts that are subsequently to come into existence under this agreement to hold, part or all of assets of such share or trust ("shares or trusts that result from such shares or trusts").

### **(b) Trustees Not Having Power to Amend**

A Trustee of any share or trust created under this agreement will not have the power to amend or restate this agreement if such Trustee:

- i. Has ever made a gift transfer to such share or trust, or
- ii. Is a beneficiary of such share or trust (except in the case of any amendment which does not result in such Trustee beneficiary receiving any new or enlarged direct or indirect financial benefit

from such share or trust within that meaning of Internal Revenue Code § 2041);

**(c) Trustees' Scope of Power to Amend**

Any Trustee permitted to use such power of amendment pursuant to this agreement, may use such power in whatever way or ways, such Trustee, in the exercise of such Trustee's sole discretion, may deem appropriate in the best interests of the Income Beneficiary(ies) of such share(s) or trust(s) and of each such beneficiary's family as a whole. Such Trustee shall be guided by what, in the sole judgment of such Trustee alone, would be the Settlor's original intent hereunder in the light of the then circumstances. This power of amendment shall include, by way of example and not limitation, the power to:

- i. Grant, increase, reduce, or eliminate general (as defined in Internal Revenue Code § 2041) and special powers of appointment with respect to part or all of any property comprising part or all of the trust estate of any share or trust created hereunder (such powers may be made subject to any conditions or consents and limited to such objects as may be described in the grant or reduction of each power),
- ii. Add mandatory distribution or set aside provisions for one (1) or more beneficiaries or permissible distributees,
- iii. Provide for the creation of one (1) or more separate subtrusts or subaccounts (equivalent to a separate share or trust) in any share or trust created hereunder with respect to which subtrust or subaccount more restrictive or other administrative or dispositive provisions are made applicable in order to permit some or all of the properties or interests that may at any time be held in or allocable to that share or trust to be segregated and transferred to that subtrust or subaccount to achieve some tax or other benefit that would otherwise not be available to such property or interest or to the primary beneficiary or one (1) or more of the other Income Beneficiaries of that share or trust - such as, by way of example and not limitation, to permit:
  - (I) Such property, interest, or beneficiary to qualify for any governmental or tax benefit, United States Federal generation-skipping transfer tax exemption or Internal Revenue Code § 2032A election,
  - (II) A disclaimer to be made, or
  - (III) Shares of S corporation stock to be held in a subaccount that satisfies the statutory requirements of a qualifying stockholder; and
- iv. Restrict in any way, revocably or irrevocably, the future exercise of any power held by any beneficiary(ies) and/or Trustee(s) hereunder.

**(d) Restrictions on Amendments**

Notwithstanding anything to the contrary contained in subdivisions herein, however, under no circumstances shall any such amendment [with respect only to any share or trust already in existence hereunder (i.e., property has already been transferred to such share or trust)]:

- i. Extend the period of any such share or trust's existence beyond the already applicable rule against perpetuities limitation period specified in herein;
- ii. Diminish in any way (that is not controlled by the beneficiary) any enforceable right any beneficiary may already have (under the then terms of this agreement) to receive the income of any share or trust, currently or at any time in the future [but, to the extent that an amendment benefits or grants a power to any beneficiary of a share or trust, it may diminish the rights of one (1) or more beneficiaries to receive in the future the income of that share or trust or of any shares or trusts that result from that share or trust];
- iii. Reduce in any way the restrictions or limitations on:
  - (I) The Settlor and fiduciary actions as set forth herein,
  - (II) The Trustee's limited power of amendment under this Section, and
  - (III) Who can qualify to serve as Trustee hereunder unless as a result of some change in the federal tax laws, regulations, or rulings on which taxpayers may rely, such reduction of restrictions and/or limitations will no longer have any adverse transfer tax effect on such share or trust, any person who directly or indirectly has transferred assets to it, or any of its beneficiaries [all of such provisions, may, however, be amended, irrevocably and binding on successors, to increase such restrictions and limitations in any way such amending Trustee may deem appropriate];
- iv. Give:
  - (I) Any Trustee any powers or discretion that are either granted exclusively to a co-Trustee or from the exercise of which such Trustee is excluded for any reason, or
  - (II) Anyone acting in a nonfiduciary capacity any powers granted herein to fiduciaries.

Notwithstanding this prohibition, such persons may be granted such prohibited powers or discretion, if, in either case, as a result of a change in law, such amendment will no longer have any adverse transfer tax effect on such share or trust, any of its donors, or any of its beneficiaries;

- v. Result in any direct or indirect financial benefit (or grant any power of appointment) to any individual who is not at the time of such amendment both a member of the Settlor's family (meaning any descendant of the Settlor, any ancestor of the Settlor and any

spouse of any ancestor of the Settlor) and already a present or potential future beneficiary of such share(s) or trust(s) [other than merely through the exercise of a power of appointment], unless the amendment is to provide for afterborn or afteradopted children of any such beneficiary or the benefit that might result from the amendment requires an exercise of a power of appointment held by or granted to a person described (i) any Trustee any powers or discretion that are either granted exclusively to a co-Trustee or from the exercise of which such Trustee is excluded for any reason, or (ii) anyone acting in a nonfiduciary capacity any powers granted herein to fiduciaries.

- vi. Discriminate in any significant financial way in favor of one (1) or more siblings to the detriment of any other sibling(s) where such siblings are, under the terms of this agreement, to be treated in substantially equal fashion [for this purpose treating each sibling, his or her spouse and descendants, and their spouses as one (1) unit], nor
- vii. Make any change that would have the effect of disqualifying any such share or trust insofar as such share or trust, prior to such amendment, otherwise qualified for and was in fact already taking advantage of, while such advantage otherwise will continue:
  - (I) Any exemption from a surviving spouse's elective right or from any creditor's right to levy on any beneficiary's interest in any such share or trust, or
  - (II) Any substantial deduction, credit, exclusion, or other tax benefit including but not limited to any marital or charitable deduction, any annual gift tax exclusion, an Internal Revenue Code § 2032A election, a United States generation-skipping transfer tax exemption, the opportunity to be a stockholder in an S corporation, or a significant grandfathered status under some changed law. However, such restrictions on amendments as provided in this Section. shall not preclude any amendment that would correct any provisions of this agreement that result (or might result) in the share or trust involved being defective for any income or estate tax purposes - even if the effect of such correction might (i) be to subject the share or trust or its beneficiaries (rather than any Settlor/donor) to any type of income, estate, or other tax on that share or trust's receipts and/or assets or (ii) result in the loss of any tax benefit otherwise available to that share or trust or its beneficiaries, as long as the Trustee making such amendment reasonably believes that, under all of the circumstances, (a) such correction is necessary to properly reflect the original intent of each person who has made any



gift or other transfer to the share or trust as to the effect of the precorrection trust provisions on the taxability of the share or trust and its beneficiaries, including the consequentially effect of credits, deductions, cost basis stepups, etc. or (b) in the case of an income tax defect only, such correction would be in the general long term best interests of the share or trust involved and its beneficiaries.

**(e) Manner of Making Amendments**

Any such amendment pursuant to this Section shall be by written instrument, executed by such amending Trustee with all the formalities of a deed, setting forth the shares or trusts hereunder to which the amendment applies and the effective date of such amendment.

**(f) Exculpation**

No Trustee shall be liable for any exercise of or failure to exercise this limited power of amendment (or for a release of this power) if such Trustee acted in good faith in taking or failing to take any such action (whether or not requested to do so by any beneficiary or any beneficiary's representative).

**Section 10.13 Transfer of Trust Estate to Various Types of Entities**

The Trustee shall have the power to transfer any property which may, at any time, form a part or all of the trust estate into one (1) or more land trusts or other title-holding trusts or any other type of trust, revocable or irrevocable, domestic or foreign, testamentary or inter vivos, including but not limited to, common law trusts and "Clifford" type trusts, provided that such transferee-trust is for the benefit of the transferor-trust or of any one (1) or more beneficiaries thereof. The trustee of such transferee-trust may be the transferor-Trustee or any other person, persons, corporation, or combination thereof and the transferee-trust may be created upon such terms and conditions and may contain such powers, duties, and rights and be for such purpose and for such term as the transferor-Trustee shall determine and provide. Such powers may (but need not) include: the right from time to time to withdraw all or any portion of the property transferred to the transferee trust or the proceeds from the sale or other disposition thereof; and to revoke such transferee-trust. The Trustee will also have the powers to cause any securities, bank accounts, safety deposit boxes, vaults, or other property, real or personal, which may at any time form a part or all of the trust estate to be issued, held, registered, or recorded in the Trustee's name or an assumed name, either with or without indication of any fiduciary capacity, or in the name of a nominee, or in such form that title will pass by delivery; and to hold any and all intangible assets of any share or trust created hereunder including evidence of ownership thereof, such as stock and share certificates, securities, title deeds, and other documents at the principal place of business of the Trustee or such other place or places as it may deem desirable and such assets and evidence of ownership thereof shall be retained in an appropriate form of vault or safe reasonably believed to be protected from fire, theft, and other hazard.

#### **Section 10.14 Allocation, Distribution, and Division of Trust Estate**

The Trustee shall have the power to make any allocations, division, or distribution of the trust estate in kind, or partly in kind and partly in money, or in divided and/or undivided interests or into two (2) or more separate shares or trusts, even though various distributive shares of equal value may as a result be comprised differently, or have varying basis under Internal Revenue Code § 1014 or other applicable provisions of the Internal Revenue Code, including but not limited to by means of the purchase of an annuity contract or other property for the benefit of a beneficiary to whom a distribution is to be made, and to determine the value of property so allocated, divided, or distributed. If a trust is held as, or divided into, separate shares or trusts, at any time before any one (1) or more of such shares or trusts is combined, the Trustee may: (1) make different tax elections with respect to each separate share or trust; (2) expend the trust estate and exercise any other discretionary powers with respect to such separate shares or trusts differently; (3) invest such separate shares or trusts differently; and (4) take all other actions consistent with such shares or trusts being separate entities.

#### **Section 10.15 Names, Consolidation, Division and Joint Investments of Trusts**

The Trustee shall have the power to designate a name for any separate share or trust created hereunder and/or a collective name for any two (2) or more of such shares or trusts, and from time to time to change the name of any separate share or trust or the collective name of any two (2) or more of such shares or trusts; to merge or consolidate any two (2) or more shares or trusts which may be held hereunder by the Trustee under identical terms for identical beneficiaries and remaindermen; to divide any separate share or trust into two (2) or more equal or unequal separate shares or trusts to be held by the Trustee under the identical terms and for the identical beneficiaries and remaindermen; to allocate different kinds or disproportionate shares of property or undivided interests in property of a separate share or trust among the beneficiaries thereof, or among shares or trusts into which such share or trust shall have been divided; to determine the value thereof; to make joint investments for any separate shares or trusts hereunder or other separate shares or trusts of which the Trustee is trustee or co-trustee; to designate a name for such joint investments and to hold such joint investments as a common fund for purposes of administration, dividing the net income or losses therefrom in the same proportion as the respective interest of such shares or trusts therein.

#### **Section 10.16 Retirement Plan Interests and Similar Property**

The Trustee may exercise every and all elections, rights, and privileges that exist with respect to any retirement plan interests. This power will apply to all retirement plan interests in which any trust created hereunder has been named as a beneficiary, or in which such a trust has any financial interest. The Trustee will have similar powers with regard to other similar types of property, including interests in employee benefit plans such as deferred compensation plans that would not be classified as retirement plan interests.

#### **Section 10.17 Acts Necessary to Effectuate the Provisions of this Agreement**

The Trustee shall have the power to make any payment, to receive any money, to take any action, to make any tax election, and to make, execute, deliver, and receive any contract, deed, instrument, or other document which the Trustee deems necessary or advisable to exercise any of

the foregoing powers or to carry into effect any provision contained in this entire agreement; and to do all other acts which, in the judgment of the Trustee are necessary or desirable for the proper administration of the trust estate.

#### **Section 10.18 Limitation of Powers**

No power granted hereunder (including but not limited to any and all powers exercisable by the Trustee, the Settlor, any beneficiary, and/or by any other person pursuant hereunder may be exercised other than voluntarily, and accordingly, any exercise of a power which is made under duress, undue influence, or court order will be invalid and cannot be respected or permitted by the Trustee.

#### **Section 10.19 Cause**

For purposes hereunder, "for cause" and "with cause" shall mean: (i) misfeasance, malfeasance, or nonfeasance with regard to obligations imposed herein on the Trustee; (ii) any fraud, willful misconduct or gross negligence of the Trustee; or (iii) a breach of the Trustee's duty to act in good faith and in accordance with the terms and purposes of this trust and the interests of the beneficiaries.

#### **Section 10.20 Bad Faith**

For purposes hereunder, "bad faith" shall mean Trustee's breach of trust committed by gross negligence, in bad faith or with reckless indifference to the purposes of this trust or the interests of the beneficiaries.

#### **Section 10.21 Certain Words**

The words "hereof", "herein", "hereunder", and other similar compounds of the word "here" shall mean and refer to the entire agreement and not to any particular article, provision or paragraph.

#### **Section 10.22 Legal Age of Majority**

Except as otherwise specifically provided herein, the "legal age of majority" shall refer to the attainment by an individual of his or her eighteenth (18<sup>th</sup>) birthday, and prior to that time, such individual shall, for the purposes hereof, be deemed to be a "minor", and from and after such time such individual shall, for the purposes hereof, be deemed an "adult".

#### **Section 10.23 Florida Statutes and Constitution**

"Florida Statutes" and "Florida Constitution" mean respectively the Florida Statutes and the Constitution of the State of Florida as they exist at the time of the execution of this Instrument, and as they may be amended from time to time, including corresponding successor statutory and/or constitutional provisions.

#### **Section 10.24 Limitation on Interested Trustee's Powers**

In no event will any Interested Trustee possess or exercise any power granted hereunder to such Interested Trustee in a fiduciary capacity which would involve such Interested Trustee in any

determination of: (i) whether to make or withhold payments to or from himself or herself; or (ii) whether to make or withhold payments to or from any other Interested Trustee.

The provisions of this Section will be inapplicable and inoperative with respect to any general, special, or limited power of appointment granted hereunder, and to any power to distribute by an Interested Trustee which is limited by an ascertainable standard such as health, education, maintenance, or support granted hereunder.

In the event that any Interested Trustee is prohibited from possessing or exercising any power under this Section, then such power shall only be possessed and exercised by the remaining then serving Trustees who are Independent Trustees, or in the event no Independent Trustee is then serving, then the Interested Trustee shall appoint an Independent Special Trustee for the purpose provided in this Section, or in the event the Interested Trustee is unwilling or unable to appoint such an Independent Special Trustee, one (1) or more additional Independent Special Trustee or Trustees shall be appointed by those beneficiaries or other individuals who otherwise have the power to appoint Trustees of this trust or such share or trust created hereunder.

In the event an Independent Special Trustee or Trustees is then serving for the purpose provided in this Section, such Independent Special Trustee or Trustees will serve solely for the purpose of exercising any such power that the Interested Trustee may not exercise on his or her own behalf pursuant to the provisions of this Section, or to exercise any other power expressly given to such Independent Special Trustee herein, and the decision of such Independent Special Trustee or Trustees shall control on any such matters so that the Interested Trustees other than the Independent Special Trustees serving hereunder will be excluded from the said decision. The duties of such Independent Special Trustee shall be limited as set forth herein. As such, such Independent Special Trustee will not be responsible to perform any function for this trust or any other share or trust created hereunder other than to act when necessary to make the decisions that may not be made by the Interested Trustee hereunder, and such Independent Special Trustee will not be responsible for any other investment, administrative, or decisions to make distributions to beneficiaries other than the Interested Trustee or other duties that may be imposed herein on fiduciaries. Furthermore, such Independent Special Trustee will have no duty or responsibility whatsoever to examine the financial or other information for this trust or any share or trust created hereunder, to examine or file any tax returns for this trust or any such share or trust created hereunder, or to prepare or provide accountings to the beneficiaries of this trust or any such share or trust created hereunder, other than when necessary to perform his or her limited duties as provided under this Section. In addition, the Interested Trustee shall notify such Independent Special Trustee or Trustees of any action the Interested Trustee may take which would require the action of the Independent Special Trustee or Trustees as provided in this Section. Furthermore, any power granted to the Interested Trustee hereunder which is limited by an ascertainable standard such as health, education, maintenance, or support, may be exercised by the Interested Trustee even though an Independent Special Trustee is then appointed or is then serving for the purpose provided in this Section.

I have executed this agreement on the day and year first above written. This Irrevocable Trust Agreement shall be effective when signed by me, whether or not now signed by a Trustee.

I certify that I have read this Irrevocable Trust Agreement, that I understand it, and that it correctly states the provisions under which my trust property is to be administered and distributed by my Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Irrevocable Trust Agreement, this July 28th, 2015.

Maeve Anne Sandiford  
Maeve Anne C. Sandiford, Settlor

Accepted:

James Finn  
James Finn, Trustee

The foregoing instrument was subscribed, sealed, published and declared by Maeve Anne C. Sandiford to be the SANDIFORD FAMILY TRUST in our presence, and we, at the Settlor's request, and in the Settlor's presence, and in the presence of each other, have hereunto subscribed our names as witnesses at the place and on the date last above mentioned.

Nicole Duarte RESIDING AT 6840 NW 179 ST APT 204  
Nicole Duarte MIAMI FL 33015  
Print Name

Robert Stansen RESIDING AT 3078 AVANTAGE AVE  
ROBERT STANSEN MIAMI, FL 33138  
Print Name

I have executed this agreement on the day and year first above written. This Irrevocable Trust Agreement shall be effective when signed by me, whether or not now signed by a Trustee.

I certify that I have read this Irrevocable Trust Agreement, that I understand it, and that it correctly states the provisions under which my trust property is to be administered and distributed by my Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this Irrevocable Trust Agreement, this July 28th, 2015.

Maeve Anne Sandiford  
Maeve Anne C. Sandiford, Settlor

Accepted:

\_\_\_\_\_  
James Finn, Trustee

The foregoing instrument was subscribed, sealed, published and declared by Maeve Anne C. Sandiford to be the SANDIFORD FAMILY TRUST in our presence, and we, at the Settlor's request, and in the Settlor's presence, and in the presence of each other, have hereunto subscribed our names as witnesses at the place and on the date last above mentioned.

Nicole Duarte RESIDING AT 6840 NW 179 St apt 204  
Nicole Duarte miami FL 33015  
Print Name

Robert J. Tamm RESIDING AT 3078 AVANTAGE AVE  
ROBERT STAMM MIAMI, FL 33133  
Print Name

STATE OF FLORIDA                    )  
  ) ss.:  
COUNTY OF MIAMI-DADE        )

I, Maeve Anne C. Sandiford, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my Irrevocable Trust.

Maeve Anne Sandiford  
Maeve Anne C. Sandiford, Settlor

We, Nicole Duarte and Robert Stamen, have been sworn by the officer signing below, and declare to that officer on our oaths that the Settlor declared the instrument to be the SANDIFORD FAMILY TRUST and signed it in our presence and that we each signed the instrument as a witness in the presence of the Settlor and of each other, and that to the best knowledge of each witness, the Settlor was at that time eighteen (18) or more years of age, of sound mind and under no constraint or undue influence.

[Signature]  
WITNESS

[Signature]  
WITNESS

Acknowledged and subscribed before me by the Settlor, Maeve Anne C. Sandiford, who is personally known to me or who has produced Driver's License # S531-673-34-970 as identification, and sworn to and subscribed before me by the witnesses, Nicole Duarte who is personally known to me or who has produced Driver's License # \_\_\_\_\_ as identification, and Robert Stamen, who is personally known to me or who has produced Driver's License # \_\_\_\_\_ as identification, and subscribed by me in the presence of the Settlor and the subscribing witnesses, all on July 28, 2015.

[Seal]



[Signature]  
NOTARY PUBLIC, State of Florida

## **Schedule A**

One Hundred Dollars Cash (\$100)

w:\wpdata\hipsman\11537 san\family trust.docx