USER’S GUIDE
FOR THE
FORE! TRUST SOFTWARE
TRUSTS AND WILLS TEMPLATE SET

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Fore! Trust Software
1028 San Carlos Road
Pebble Beach, CA  93953
(888) 563-1147
4support@4trustsoftware.com

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ANSWERS. The answer given for any question ("variable") for a client can be held in file which can be saved and re-used. These answers can be used for any template (even from a different library). This powerful feature eliminates the need for repetitive entry. See Answer File below.

Assembly. The process of answering the variables contained in a template. The assembled template is sent to your word processor for final editing.

Database. A program (such as Microsoft Access, Time Matters, Amicus, etc.) which holds client information. This information can be accessed by HotDocs and imported into the interview process through the HotDocs Database Connection add-on.

Dialogs. A Dialog is a grouping of questions which are asked in a particular order. A Dialog and/or a question may or not be asked depending on the answers given to previously asked questions; sometimes the question may be blanked-out (hidden) or the question can be seen but not answered (grayed-out).

Dialog Ladder. The listing of all dialogs being asked in a particular template as displayed on the Entry Screen. The icon next to each dialog will reflect if the dialog is unanswered, partially answered or completely answered. You can also maneuver through the template by clicking on a dialog (useful for going back to prior dialog to check on an answer or to make a change).

Entry Screen. When a template is being assembled, this is the screen which is displayed. If not done automatically, you should make this “full screen” (click on the middle icon at the top right). The entry screen consists of three parts: the left half is the Dialog ladder, the top right is the Input screen and the bottom right is the Resource screen.

Input Screen. The working area of the Entry screen. This is the portion of the screen where the actual answers to the variables are made.

Library. The listing of the templates contained in a template set. Each template set will have its own library.
Library Screen. The opening screen for the program (see Picture). The library is the grouping of all of the templates included in the template set. There are three possible template sets from Fore! Trust Software: Trusts and Wills, Estate Planning and Estate Administration. HotDocs also includes a Tutorial set. The library can be switched between the available sets by going to OPEN and selecting the appropriate library. The listing under FILE shows the libraries previously opened and is an easy way to switch.

Path. The path points the Library item to the location of the actual template. Since this reference can be different on each computer which uses the same Library (e.g., the templates are located on the C Drive on a computer but that Drive on another computer has been mapped to be the “M Drive”). HotDocs has a Path Reference option which permits the correct reference on each individual computer using the same Library.

Repeating Input. Many of the input screens for different classes of assets are created as a repeating screen; that is, a new blank screen will appear after you have completed the previous data entry and have clicked on the “Next” button. To exit the Repeating Input and go to the next dialog (which may be another Repeating Input for a different class of asset), click on the “Next” button when you are on the blank input screen at the end of the data entry for that class of assets. Note: you cannot enter any information or the program will treat that as a new input. If you need to delete an input entry, you can right-click on the item in the left Dialog ladder and select “Delete Repetition”.

Resource Screen. The help information screen. This is found on the bottom portion of the Entry Screen. This screen should be expanded to approximately half way up the Entry Screen (place the cursor on the top border of the Resource screen [i.e., the line below “Next”] and the cursor will change to double lines, holding down on the left mouse button, drag the cursor up until it is in the desired location, then release the button).

Template. The document being prepared. The template contains the text, the variables and may incorporate other templates.

Template Set. A related group of templates. Each template set has a separate library. Fore! Trust Software offers three template sets: “Trusts and Wills”, “Estate Planning” and “Trust Administration”.

Variables. The questions asked during the assembly of a template. Usually (but not required) asked as part of a dialog. The answers to these questions are then stored in the Answer File for that client. Variables can be in several different forms:

Variable: Computation. The answer is a result of a computation of other variables.
Variable: Date. The answer is to be inserted as a date in the document. The entry can be in any format (e.g., “jan 11 05” or 1/5/05”), because the answer is automatically formatted in the document (usually as MM DD, YYYY)

Variable: Multiple Choice. A variable which give the possible answers; many times the variable will also give the option of “Other” or a “write-in”. Often one choice is the defaulted answer but it can always be changed.

Variable: Number. The answer is to be inserted as a number in the document and can also be used as part of a computation variable.

Variable: Personal Information. One-time entry of information about you and your firm. In the program this is done under the OFFICE SET-UP entry screen (found at the bottom of the Library) and can be changed or edited under TOOLS, OPTIONS, PERSONAL INFORMATION.

Variable: Text. The most common variable. When making the entry, please refer to the Resource screen to see if there is a FORMAT direction. Many times (e.g., the client’s name), the answer is automatically formatted when inserted into the document (e.g., automatically converted to all capital letters); other times, you will be instructed to enter some text in lower case and some text in all caps.

SET-UP INFORMATION

Install HotDocs on each workstation which will use the Fore! Trust Software program (the “program”). During the set-up process, you will have the option to select the word processing program to use for editing and printing of the assembled documents; DO NOT select any WordPerfect product (the template sets are only configured for Microsoft Word. Although you may normally use WordPerfect, since the trust and/or will package is fully formatted after assembly, it only requires minimal editing (if any); accordingly, using Word should not be a major issue even for the “diehard” WordPerfect user). If no Microsoft Word product is listed, please go to the following section: No MS Word Processor is Listed

Single Workstation

For a single workstation installation (i.e., there will not be another computer using the program):

1. If you are installing with HotDocs Player from our download site, click on the installation file and, when asked, select OPEN. When prompted, select the “Typical” installation. If you receive a warning that a template will be over-written, select “Overwrite All”.

2. If you have a HotDocs CD (for User or Developer Editions only), insert the CD and select the “Typical” installation. After HotDocs has installed itself, go to the Fore! Trust Software download site as shown in your Email and click on the installation file and, when asked, select OPEN. If you receive a warning that a template will be over-written, select “Overwrite All”.

3. After the template set install program finishes, HotDocs will automatically open the Trusts and Wills library; if you need to change any of the personal information entered during the set-up, at the top menu bar, go to TOOLS, OPTIONS, PERSONAL INFORMATION, select the item to change and then EDIT.

4. If you do not have a desktop icon for the Fore! Trusts and Wills library (there may only be shortcuts for the User's Guide and the Tutorial), go to START/ALL PROGRAMS and look
for the Fore! Trust Software program group. When you put the cursor on this group, all of the items will be shown in a sub-menu; look for the Fore! Trusts and Wills link. Right click on this link; select “Send To”; and, left click on “Desktop (create a shortcut)’. You will now have the Desktop shortcut for the program.

(5) If you use the Windows “Quick Launch” toolbar (see the section on Quick Launch in the Specific Issues portion of this Guide for instructions on activating the toolbar), drag the icon (Fore! Trust and Wills) from the desktop onto the toolbar. At any time, you can double-click the icon to launch the HotDocs program and load the Trusts and Wills library. Click on the Full Screen icon (it is always a good idea to run at Full Screen to provide the maximum area for the Resource Screen).

Multiple Computers (no network)

If you want to use the software at multiple locations (e.g., office workstation, laptop, home computer, etc.) which are not part of a network, you must download and install the software on each of the different computers. However, the installation of the program on a new computer does not automatically transfer your previously created client answer files to that new computer; in order to work on the same client at the different locations (without having to re-enter the information), you will need to access the client's answer file (e.g. “doe, john and mary.anx”) on the computer initially creating the file (the default location is "MY DOCUMENTS/HOTDOCS/ANSWERS") from each of the other computers. Although you can use a USB drive or e-mail the file to yourself as an attachment, the best option when working from different locations is to create the folder to hold the client answer files on a “cloud drive” (e.g., Dropbox, iCloud, etc.). After the answer file folder has been created on the cloud drive, you can move all of the existing answer files to that new folder. Then, on each computer, go to TOOLS, OPTIONS, FILE LOCATIONS and select the Answer File path and click on EDIT; browse to the folder location on the cloud drive being used and when this location is highlighted, click OK to set the new location. Please note, any answer files created on another computer will not appear in the "drop-down" list; you will need to use the "Open Answers" icon located just to the right of the drop-down arrow (this icon opens the actual answer file folder). Once you have opened an answer file (or created a new one) on a computer, that answer file will then show in the drop-down list on that computer.

Multiple Computers (on a network)

A. For a multiple workstation network installation with each location having its own copy of the Template Set (Note: this is the simplest installation):

(1) Begin on the workstation with the hard disk to be used as the Server. Go to our download site, click on the installation button and follow the installation instructions. Accept the “typical” installation for HotDocs Player. Please review the information below on the Office Set-Up for the proper configuration of the workstation names. If you receive a warning that a template will be over-written, select “Overwrite All”.

(2) After the initial installation, install the software on each additional workstation in the same manner as above. On each workstation, after the installation, go to TOOLS, OPTIONS, FILE LOCATIONS; select the Answer File location and click on EDIT, browse to the workstation being used as the Server and go to “Users\[Name]\My Documents\HotDocs\Answers” (on a computer running Windows XP, the path would be
“Documents and Settings\[Name]\My Documents\HotDocs\Answers”). When this location is highlighted, click OK to set the new location.

B. For a multiple workstation network installation with a single instance of the Template Set (although this is a more complicated installation, this will make it easier to update the Template Set when revisions are published):

(1) Begin on the workstation with the hard disk to be used as the Server (if you have a remote Server drive, you must first create a HotDocs folder on the Server with the following subfolders: “Answers” and “Templates” and then follow the specific instructions for “Remote”).

(a) Go to our download site, click on the installation button and follow the installation instructions. Accept the “typical” installation for HotDocs Player (Remote: select the “Templates” subfolder on the server for the location of both the Library files and the Template Sets). Please review the information below on the Office Set-Up for the proper configuration of the workstation names. If you receive a warning that a template will be over-written, select “Overwrite All”.

(b) Remote: When the HotDocs opens to the library screen, go to TOOLS, OPTIONS, FILE LOCATIONS, select the Answer File location and click on EDIT, browse to the Server and go to the answer file folder on the server (e.g., “\HotDocs\Answers”). When this location is highlighted, click OK to set the new location.

(2) After the initial installation, go to each additional workstation:

(a) Return to the download page. Individually click on the options to install HotDocs Player, configure the Office Set-up and load the User's Guide (Note: you may have to temporarily disable your firewall to download these files).

(b) After HotDocs Player starts (it should be an empty library screen), go to TOOLS, OPTIONS, FILE LOCATIONS and make the following changes:

(i) Select the Answer File location and click on EDIT, browse to the Server and go to the answer file folder on the server (the default location is “Users\[Name]\My Documents\HotDocs\Answers” (on a computer running Windows XP, the path would be “Documents and Settings\[Name]\My Documents\HotDocs\Answers”); however if this was a Remote installation, the location should be “\HotDocs\Answers”). When this location is highlighted, click OK to set the new location.

(ii) Similarly, select the Template Sets location and click on EDIT, browse to the Server and go to the template folder on the server [the default location is “Users\Public\Public Documents\HotDocs\Templates” (if running Windows XP, the path would be “Documents and Settings\All Users\Documents\HotDocs\Templates”); for the Remote installation it will be “\HotDocs\Templates”]. When this location is highlighted, click OK to set the new location.
(iii) You must set the file path to find the Fore! Trust Software templates on the Server; at REFERENCE PATHS, select ADD, then type “FORE! Trusts and Wills” as the **Keyword**, in **Path** use the browse button to set the path to the same location as the Template Sets folder (e.g., “Z:Users\Public\Public Documents\HotDocs\Templates”). Note, set the path only to the folder which holds the templates folder, not to the actual folder (e.g., “Z:Users\Public\Public Documents\HotDocs\Templates” **not** to “Z:Users\Public\Public Documents\HotDocs\Templates\FORE! Trusts and Wills”).

(c) Finally, you need to open the Library located on the Server. To do this, click on the **OPEN** icon on the Library screen (or go to **FILE, OPEN LIBRARY**) and browse to the location on the server where you saved the Template Set (for example: “Z:Users\Public\Public Documents\HotDocs\Templates”); select the “FORE! Trusts and Wills.hdl” file and right-click, go to “SEND TO” and select “Desktop (create a shortcut)”. This will create a shortcut link on the Desktop of the workstation which will start the program in the correct library.

**Office Set-Up**

After the program is installed, if you ever need to change your personal and/or office information, go to **TOOLS, OPTIONS, PERSONAL INFORMATION** at the Library Screen (the main program page). Please note that all “YES OR “NO” answers MUST be completed in uppercase.

(1) For a non **Law Office** set-up, “LAWYER?” will be “NO” and for a **Law Office** set-up, “LAWYER?” will be “YES”.

(2) **If** you have purchased extra licenses for the software, enter the code you were provided in the “License” field and then following the instructions below for a multiple user set-up. Otherwise, for a single workstation set-up, there is no separate code and “NAME” and “ATTORNEY” will always be the same. For a multiple user (multiple license) workstation set-ups, “NAME” and “ATTORNEY” must always be the same on the computer for the primary user who is to be designated first and, if a multiple license set-up, the designations of “ATTORNEY”, “ATTORNEY2” and (if used) “ATTORNEY3”, “ATTORNEY4” and “ATTORNEY5” must be in the same order on each workstation (e.g., on attorney Frank J. Smith’s computer, his name will be used for “NAME” and “ATTORNEY” and attorney Mary Jones’ name will be used for “ATTORNEY2”; on Mary Jones’ computer, her name will be used for “NAME” and “ATTORNEY2” and FRANK J. SMITH’s name will still be used for “ATTORNEY”, and on secretary Sally Smith’s computer, her name will be used for “NAME”, Frank J. Smith’s name for “ATTORNEY” and Mary Jones’ name for “ATTORNEY2”).

(3) If you are a member of a registered network, please enter your provided code in the “NETWORK” field.

(4) “ADDRESS1” is the first line of your street and/or mailing address **only** (do NOT enter the city, state or ZIP at this time).

(5) “ADDRESS2” is the second line of your street or mailing address **only** (do NOT enter the city, state or ZIP at this time). For example, a Suite Number or a Post Office Box number. If you do not use a second line in your address, check the “No Answer” box.
(6) “STATE” requires the full state name to be typed out (i.e., do NOT use your state's abbreviation). For Washington, D.C., please enter “District of Columbia”

(7) “Settlor/Trustor” determines your preferred title for the creator of a trust. Use either “Settlor” or “Trustor” (do NOT use “Grantor”).

(8) “CONCLUSION” is your preferred ending for a letter by the user of the computer. Examples are, “Sincerely”, Sincerely yours”, “Very truly yours”, etc. Do not include the ending comma (the program will automatically insert the comma after the appropriate conclusion.

(9) “WITNESS1” and “WITNESS2” gives you the option to set the names (if known) of the “default” witnesses for wills and (in most states) the health care powers. If you do not have the same regular witnesses, check the “No Answer” box. Whether you enter a name or check the “No Answer” box, for each package prepared for a client, you will still have the opportunity to change or delete the names of the witnesses (if the variable is empty, a blank line will be inserted in the document).

(10) If available, “NOTARY” gives you the option to set the name (if known) of the “default” Notary Public. If you do not have the same regular notary, check the “No Answer” box. Whether you enter a name or check the ‘No Answer” box, for each package prepared for a client, you will still have the opportunity to change or delete the name of the notary (if the variable is empty, a blank line will be inserted in the document).

(11) “ORIGINALS?” tells the program if your normal office procedure is to hold the original estate planning documents after completion; you will have the option for individual clients to indicate that you will not be holding the originals for that client. Answer “NO” only if you never keep the original documents.

(12) “SCHEDULE OF INITIAL FUNDING?” tells the program what your usual trust procedure is with regards to the initial funding of the living trust. If you answer “YES”, the trust recital will say that the trust is initially funded with the assets shown on Schedule “A”; the program will automatically copy over the assets entered during the transfer process to the Schedule. If you answer “NO”, the trust recital will say that the trust is initially funded with $10.00 and no schedule of assets will be prepared.

(13) “INITIALS?” tells the program to add a line for the client’s initial at the bottom of each page of the trust and/or Wills. Answer “NO” to not include the lines.

(14) “SECTIONS?” will cause the trust to start a new page at each new Article [the footer will reflect the Article number as well as the page number within that article (e.g., “page 3-1”)]. Answer “YES” to have the page break at each Article; answer “NO” to not insert the page breaks and to have the trust number each page consecutively.

(15) “POWERS?” tells the program where to put the Trustee’s Powers. Answer “YES” to have the Powers referenced in the Trust but actually listed in an attached Exhibit to the Trust; answer “NO” to have the powers included in the body of the Trust (Article IV).
SPECIFIC ISSUES

No MS Word Processor is listed

If you are using a version of Word prior to Word 2003 or if you are using a “click to run” version of Word (such as Microsoft Office 365), you will not see any Microsoft Word option highlighted in the word processor installation screen during set-up, in this case, “skip” the selection by clicking on “Continue”. After the software opens, go to TOOLS/OPTIONS and expand (i.e., click on the “+”) the “Interviews and Dialogs” option; then click on “End of Interview”. The “Finish Interview Action” should both be set to the second option (i.e., “Proceed to the Document/Form Preview tab”) and only the following “End of Interview Buttons” options should be checked:

- Go to the first unanswered question in the interview
- Save the assemble document in a file
- Choose which buttons are displayed on the End of Interview dialog

Now when you are working on an interview and are finished, click on the “Last” navigation button rather than the “Finish” button. On the last page, check the “close this window” box and then click on the “Save the assembled document in a file…” icon. This will give you the option to save the assembled documents to a file; I would suggest saving the file as a “.rtf” type and as the same “generic” filename on your desktop (i.e., use the same filename each time so the file will be over-written). You can now “right-click” on the file and open for editing and printing with Word. After editing, you should save the file as a “.docx” file like any other client file (i.e., use your normal file location and naming conventions).

Distribution Paragraphs

If you need to change and/or add a distribution provision, rather than re-assembling the entire document, it is very easy to create the new provision as a separate document and then “cut and paste” the new paragraph into your existing trust package. To do this, simply expand the templates under the “Distribution” folder in your library (i.e., click on the “+” next to Distribution). Find the appropriate template (you can always check the sample paragraphs in the appendix to this User's Guide), highlight and click on ASSEMBLE (or simply double-click on the template). Use the answer file for the client and complete any questions/options as they are asked. When finished, click on FINISHED and the new paragraph will be sent to your word processor. From there, simply “select all” (Cntrl-A), copy and then insert in the appropriate location in the original trust saved for that client (Note, you may need to renumber the paragraphs as appropriate). Close the document created for the new paragraph (you don't need to save it) and you are ready to print the trust (if this is a reprint, just select the pages from the inserted paragraph to the end of the trust).

Remember that, if you add distribution paragraphs other than just the residual distribution, you must renumber the subparagraphs. The automatic paragraph numbering does not work with inserted paragraphs. You may have several subparagraphs numbered as “(2)” which must be changed to “(2)”, “(3)”, “(4)”, etc. In Word, you can right-click on the number and select “Continue Numbering”.

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Letterhead

The letterhead included in the program defaults to a centered style incorporating the information contained in the Personal Information part of HotDocs (see any of the letters in the Appendix for an example of the default letterhead). If you desire to use your own letterhead, it is very simple to do if you have a “stand-alone” version of HotDocs (either Developer LE or the Developer Editions – Player or User do not let you edit):

Open an existing file which contains your letterhead and copy. At the Library Screen, expand CORRESPONDENCE, highlight LETTERHEAD and click on the EDIT icon. Highlight the default text and then paste your letterhead. When completed, click on the HotDocs CLOSE TEMPLATE icon (Note: this is not the standard Word save or close, but is an icon in the HotDocs toolbar which is automatically opened when you edit a HotDocs template. It looks like a Door with a red arrow.). You can test your change by double-clicking any of the letters in the Correspondence Directory; don’t worry about answering any of the question, just click on finish to send the letter (with your letterhead) to Word. If the text is too close to your letterhead, go back into the Letterhead file and insert one or two line breaks after your letterhead information. Close the template and retest. Once the Letterhead file is completed to your satisfaction, it is a good idea to make a back-up of the file (this way, if an updated template set overwrites your modified file, you can simply replace the file). To do this, go to MY COMPUTER and go to the directory containing your template files (usually, c:/HotDocs/ Templates/PUBFore! Trusts and Wills). Highlight the file letterhead.rtf, right click with your mouse and select copy. On the top toolbar, click on the up arrow which will take you up a level to HotDocs/Templates and right click on the mouse and select paste. A copy of the revised file is now in the new directory and will not be overwritten.

Modifying Text

If you have a “stand-alone” version of HotDocs (either Developer LE or the Developer Editions – Player or User do not let you edit), you can edit any of the document templates to modify the text. Find the template by expanding (click on the “+” next to the main topic), highlight the template and click on the EDIT icon. Make your changes. When completed, click on the HotDocs SAVE & CLOSE icon (Note: this is not the standard Word save or close, but is an icon in the HotDocs toolbar which is automatically opened when you edit a HotDocs template.). It is a good idea to make a back-up of the modified template (this way, if an updated template set overwrites the existing template set, including your modified template, you can simply replace the new template with your modified one). To make a back-up of a template file, use Windows Explorer and go to the template set folder (the FORE! Trust and Wills folder in the Templates folder in HotDocs), find the template you have modified (“filename.rtf” or “filename.wpt”), right click, select copy (or use the “Copy this File” command which appears on the left side of the screen) and then copy the template to the Templates folder (i.e., up one level); make sure you copy the template, not move it. Please note, that if that particular template is actually changed in any later update and you replace it with the back-up of your modified template, the replaced template will not have the updated changes IF any changes were made to that specific template. Therefore, it is recommended that you review the Revision Notes to see if the template has been changed before replacing it. Further, please be careful with changing or deleting any portion of the template with a HotDocs command or variable (normally bracketed with “« »”). Feel free to send any suggestion for a modification to 4support@4trustsoftware.com; if the change is appropriate for the other users or
corrects a state specific issue, we can incorporate the modification into the template and make the modification permanent.

**Multiple Office Set-ups**

If you need multiple Office Set-ups (e.g., to use different letterheads or to have different firms/companies shown in the documents) and do not want to re-enter the information each time, it is necessary to create a registration import file for each set-up configuration (i.e., you need to save the Office Set-up information stored in the Personal Information section of HotDocs [accessed under TOOLS/OPTIONS/PERSONAL INFORMATION]); this can be easily done as follows

1. Go to START/SEARCH PROGRAMS AND FILES (for Windows XP, START/RUN;
2. Type “regedit.edit” in the box; hit the “enter” key;
3. Expand HKEY_CURRENT_USER;
4. Expand “Software”;
5. Expand “HotDocs”;
6. Expand “HotDocs”;
7. Right click on “Personal” and select “Export”;
8. When the “Export Registry File” box opens, click on the “My Documents” folder and then click on the “Create New Folder” icon;
9. Create a new folder named “Registration Files”;
10. In the “File name” box, type the name of the person whose set-up file is being copied and click on “Save”;
11. Close the Registry Editor.

To switch the Personal Information in HotDocs (i.e., change the Office Set-up), go to the Registration Files folder and select the appropriate “.reg” file and double-click; accept the warning. Note, it is not necessary to close HotDocs before changing the information (i.e., it can be done “on-the-fly”).

**Multiple Use Forms**

There are several included templates which are actually non-client specific forms which can be printed, photocopied and then used or given to each client as needed (a copy of each of these forms can be found in the Appendix to this User’s Guide).

1. Click on TRUST FUNDING INSTRUCTIONS, click on ASSEMBLE, and then click on “Finish”. When the document opens in Word, save the document. You can make any modifications to the document to reflect your own instructions if you desire and then print. After printing, make copies of the Instructions to give to each trust client. If you normally give the client the copies of the client’s final documents in some form of a binder which is side punched, you may want to change the left margin of the document to 1.5” and the right margin to .8”; this will keep the holes from interfering with the text.

2. Click on each of the DATA SHEETS, click on ASSEMBLE, and then click on “Finish”. When each form is open in Word, save the document and then print. After printing, make copies
of the Data Sheets to give to each trust or will client (Note: you can also save the Data Sheets as a “.pdf” file to email to the client prior to the office visit).

(3) Click on each of the WORKSHEETS, click on ASSEMBLE, and then click on “Finish”. When each form opens in Word, save the document and then print. After printing, make copies of the Worksheets for the interviewing user to follow for each trust or will client.

**Paragraph Formatting**

When an assembled trust or a stand-alone will is sent to Word, it is important to check the second level paragraph numbering [generally the “(#)” level] in the Distribution Paragraph. Microsoft Word has a difficult time properly auto-formatting inserted paragraphs. We have tried to make it as simple as possible but if there are multiple distribution subparagraphs, you may need to toggle the format command. To do this, if there is a paragraph which is numbered out of sequence, simply place the cursor on the number (the cursor mark will be on the right side of the number and the tab), right click the mouse and select “Continue Numbering”. Repeat for any subsequent paragraphs in the distribution portion of the document. All other paragraph numbering in the trust or will (as well as the other templates) will be correctly formatted without any user intervention. If, for any reason, you cannot get the proper numbering through auto-format, simply delete the number field and type in the appropriate subparagraph number and insert a tab.

**Quick Launch Toolbar**

If you do not have your Windows Quick Launch toolbar activated and would like to do so, right-click on the clock area of your toolbar (usually on the bottom right); uncheck “Lock Toolbar” and then select “Toolbars”; click on “Quick Launch”. You can then drag any program icons from your desktop or the program folders into the Quick Launch area (which can be sized by the horizontal bar; you can also vertically size the entire toolbar by left-clicking, hold and drag on the top border). To start a program, just click on its icon.

**Restated Amendments**

To create a Restated Amendment, select DRAFT DOCUMENTS; at the “Documents to be Prepared” dialog, SELECT “Trust Agreement” and the “Check to prepare a Restated Amendment” option. Do not select “Amendment”. The Restated Amendment actually creates a new trust; usually the related documents (i.e., pour-over will, certificate, powers of attorney, etc.) are also selected at the same time.

**Saving Answer Files**

When saving an answer file, it is best to have a common naming procedure in place; typically, the answer file is named “Client Last Name, Client First Name”. Remember that the answer file is *client specific* (as compared to the documents sent to the word processor which are *matter specific*). The answer file will be used for every document prepared for that client.
Switching Libraries

If you have multiple libraries (e.g., any Lexis/Nexis form sets such as Judicial Counsel Forms, or Fore! Trust Software modules such as Irrevocable Trusts or Trust Administration), or if you want to run the HotDocs tutorials (available with a “stand-alone version of HotDocs), it will be necessary to switch between the different libraries within HotDocs. HotDocs will automatically open with the last library (unless you use a specific program icon to start HotDocs, such as the Fore! Trust Software icon). Switching is very easy once the different libraries have been opened once; simply go to the FILE menu and all recent libraries will be listed in the order they were last accessed (the active library is always the first listed). Merely click on the library you wish to open and HotDocs will switch to that library; to return, just repeat the process. To open a library for the first time, click on the “Open Library” icon (or FILE, OPEN LIBRARY) and find the folder with the correct library file (“*.hdl”); the library file for most templates sets (such as Fore! Trust Software) will be found in the “Templates” folder in which the template set is a subfolder and the tutorial library files will be found in the “Library” folder in the “HotDocs” folder. Once the correct library file has been located, just click on “Open”.

Unanswered Questions

Prior to sending your assembled documents to your word processor, the program will alert you to any unanswered questions. By clicking on the 1st unanswered icon, you will be automatically taken to the appropriate dialog and question. You will have the opportunity to answer the question if it was overlooked. If you do not answer a question which is required in the document, a marker of “###[VariableName]###” will be inserted in the assembled document; further, an unanswered true/false question will default to false. Sometimes, an unanswered question will prevent the program from knowing what text to insert or what dialog to ask. Questions which are not critical to the assembly process will not cause an unanswered question alert.

Updates

One of the great advantages of our program is ease of updating the templates or this User’s Guide as changes are made. As a current subscriber, you can update the template set(s), or re-install the software (e.g., a computer “crash” or to a new computer) whenever you need to do so (“24/7”) by going to the appropriate “Subscriber’s Area” tab (e.g., “Trusts & Wills Subscriber’s Area”) on your page of the User Account Center (a link to the UAC can be found in the upper left of our website). This page will show you the latest version of the template set available for download (the current version of your template set can be checked by high-lighting “Trusts and Wills” in the left column on the starting page; then look in the right window under “Template Properties”). The right-hand column on the page has all of the revisions since the last major update.

When a major update has been published, you will still receive an e-mail directing you to the User Account Center. This email will include the complete Revision Notes since the previous major update.

NOTE: If you have modified any of the templates (e.g., the Letterhead template), you must first back-up those files before starting the update process (otherwise the modified template will be overwritten). See the section on Modifying Text above.
User’s Guide Shortcut

To permit quick access to this Guide, you may want to place a shortcut icon on your Desktop and your Windows Quick Launch toolbar. To do this, go to START, MY DOCUMENTS, find the file (i.e., user guide.pdf) and right-click; select SEND TO, then DESKTOP. Go to the Desktop and drag the Shortcut icon to the appropriate place in your Quick Launch toolbar (e.g., next to the icon.)
NOTE: The following are only a cross-sampling of the templates included in the Trusts and Wills module. For most of the included documents or clauses, there are multiple variations depending on the options chosen at the time the documents are being prepared. Except where noted, the attached are created for a single client living in California; the same documents/clauses (plus additional ones not shown here) exist for a married couple with the necessary changes in language, as well as for residents of the other 48 states (sorry Louisiana) and the District of Columbia. The Health Care powers, will attestations and notary language are specific for each state.

Trust Documents:

Trust Agreement (single grantor with out-right distribution to children)

THE FRANK J. SMITH LIVING TRUST

THIS TRUST AGREEMENT is entered into by FRANK J SMITH, also known as Frank James Smith, as Settlor, and FRANK J SMITH, as Trustee. For all purposes hereunder, the words “I”, “me”, “my”, “mine”, and similar pronouns, shall refer to Settlor FRANK J SMITH and shall be construed as the possessive when the context would so indicate.

ARTICLE I

RECITALS AND CONVEYANCE

WHEREAS, I, FRANK J SMITH, desire to establish a trust of which, during my lifetime, I am the sole life beneficiary and the exclusive recipient of the economic benefits;

WHEREAS, this trust shall be initially funded with the assets described in the attached Schedule “A” entitled “INITIAL TRUST FUNDING”; these assets and any assets later added to the trust shall be known as the “trust fund” and shall be held, administered and distributed as provided in this document and any subsequent amendments to this document;

NOW, THEREFORE, the Trustee acknowledges receipt of the trust fund and shall hold the same in trust under the following terms, conditions and provisions:

ARTICLE II

DECLARATIONS

2.A. Trust Name. This trust shall be known as THE FRANK J. SMITH LIVING TRUST.
2.B. **Family.** I am a widower. I have three children now living; their names and dates of birth are:

JOHN SMITH, born October 28, 1976  
WAYNE SMITH, born March 5, 1982  
SALLY SMITH, born September 22, 1984

2.C. **Successor Trustees.** If I should cease to act as the Trustee for any reason, I shall be succeeded by my children JOHN SMITH, WAYNE SMITH and SALLY SMITH as successor co-Trustees. If a co-Trustee fails to qualify or ceases to act, the other co-Trustees or co-Trustee shall continue to act. While co-Trustees are acting, only one signature shall be required to conduct business with respect to property and/or assets held or owned by the trust. Any third party dealing with the trust may rely upon this singular authority without any further evidence. Any trust asset may be titled to reflect this authority, including the designation “and/or”.

2.D. **Trust Fund.** I, and/or any other person, may add to the principal of the trust by deed, will, or otherwise.

2.E. **Definitions.** For any interpretation of this Trust Agreement, the following definitions shall apply:

1. **Beneficiary.** The term “beneficiary” or “beneficiaries” shall mean any person and/or entity then eligible to receive current income or whose right to receive assets from the estate is currently vested;

2. **Code.** Any reference to the “Code” shall refer to The Internal Revenue Code of 1986, as amended, and to any regulations pertaining to the referenced sections;

3. **Education.** As used in this Trust Agreement, the term “education” or “educational purposes” shall include any course of study or instruction which may, in the Trustee's discretion, be useful in preparing a beneficiary for any vocation consistent with such beneficiary's abilities and interests. Distributions for education may include tuition, fees, books, supplies, living expenses, travel and spending money to the extent that they are reasonable and necessary, again in the Trustee's absolute discretion;

4. **Incapacity.**

   a. In the case of a question or dispute, incapacitation of a Trustee (whether such Trustee shall be me or a designated successor) shall be evidenced by written certification of two (2) physicians;

   b. If there is no question or dispute, incapacitation of a Trustee shall be established by the written declaration of only one doctor;

5. **Issue.** The term “issue” shall refer to lineal descendants of all degrees and shall include adopted persons; provided however, that such term shall refer only to the issue of
lawful marriages and illegitimate children only if a parent/child relationship existed between such child and his or her parent, living or deceased, as determined under California law. A child in gestation which is later born alive and survives for thirty (30) days shall be considered as issue in being throughout the period of gestation;

(6) Majority. The term “majority” shall mean more than one-half (1/2), and, in the event of a deadlock, shall be determined in accordance with the laws of the State of California relating to inter-vivos trusts;

(7) Principal and Income. The determination by the Trustee in all matters as to what shall constitute principal of the trust, gross income therefrom and distributable net income under the terms of the trust shall be governed by the provisions of the Principal and Income Act of the State of California, except as to any of such matters as may otherwise be provided for in this instrument. In the event and to the extent that any of such matters relating to what constitutes principal or income of the trust and in the allocation of receipts and disbursements between these accounts is not provided for either in this Trust Agreement or in such Principal and Income Act, the Trustee has full power and authority to determine such matters;

(8) Pronouns and Gender. In this Trust Agreement, the feminine, masculine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates;

(9) Request in Writing. When I am acting as the Trustee or as a co-Trustee, the requirement of a writing to be signed by me as Settlor and/or beneficiary and delivered to me as the Trustee shall be waived;

(10) Right of Representation. Whenever a distribution is to be made by “right of representation”, the assets are to be divided into as many shares as there are then-living children and deceased children who left living descendants. Each living child shall receive one share and each deceased child's share shall be divided among such deceased child's then-living descendants in the same manner; and,

(11) Trustee. Any reference to “Trustee” shall be deemed to refer to whichever individual (including myself), individuals or corporation shall then be acting as the Trustee.

2.F. Governing Law. This Trust Agreement is a California contract and creates a California trust; all of the terms and provisions hereof shall be interpreted according to the laws of the State of California relating to inter-vivos trusts, except as shall be specifically modified herein.

2.G. Restrictions. The interest of any beneficiary (whether entitled to current income or possessing only a future interest) in either the income or principal of the trust fund or any part of it shall not be alienated or in any other manner assigned or transferred by such beneficiary; and such interest shall be exempt from execution, attachment and other legal process which may be instituted by or on behalf of any creditor or assignee of such beneficiary; nor shall any part of such interest be liable for the debts or obligations (including spousal and/or child support, except as
required under California law) of any such beneficiary. This paragraph is intended to impose a “Spendthrift Trust” on all interests held for any beneficiary.

2.H. **Maximum Duration of Trusts.** Regardless of any other provision herein, the Maximum Duration for Trusts is the longest period that property may be held in trust under this Agreement under the applicable rules of the State of California governing perpetuities, vesting, accumulations, the suspension of alienation and the like (including any applicable period in gross such as twenty-one (21) years or ninety (90) years). If, under those rules, the Maximum Duration for Trusts shall be determined (or alternatively determined) with reference to the death of the last survivor of a group of individuals alive upon my death, or at such other time that the application of such rules limiting the maximum duration of trusts is deemed to begin, those individuals shall consist of all beneficiaries (including future and/or contingent) of this trust (as hereinafter named) alive at my death. Any trust created hereunder must end immediately prior to such maximum duration and, thereupon, the Trustee shall pay over the principal, free from such trust, to the person or persons then entitled to receive the net income.

2.I. **No-Contest Provision.** To the extent permitted under the laws of the State of California, in the event any beneficiary under this trust shall, singly or in conjunction with any other person or persons, contest in any court the validity of this Trust Agreement and/or my last Will, or shall seek to obtain an adjudication in any proceeding in any court that this Trust Agreement or any of its provisions and/or that such Will or any of its provisions are void, or seek otherwise to set aside this Trust Agreement or any of its dispositive provisions, then the right of that person to take any interest given him or her by this Trust Agreement shall be determined as it would have been determined had the person predeceased me without being survived by issue. The Trustee is hereby authorized to defend, at the expense of the trust fund, any contest or other attack of any nature on this Trust Agreement or any of its provisions.

2.J. **Presumptions.** Any beneficiary who shall not be living thirty (30) days after my death shall be deemed not to have survived me.

2.K. **Special Distributions.** If any income and/or principal of any trust hereunder ever vests outright under the provisions of this Trust Agreement in a person not yet twenty-one (21), or a person who suffers from substance abuse, or a person who the Trustee determines is incompetent, or a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee’s discretion and without supervision of any court, shall hold or distribute such property (subsequently referred to in this Paragraph as the “protected property”) in accordance with the following provisions:

1. The Trustee may hold any protected property in a separate trust for each such beneficiary, exercising as the Trustee of such trust all the administrative powers conferred in this Trust Agreement. The Trustee may accumulate or distribute to or for such beneficiary in accordance with subparagraph (2), as hereinbelow set forth, such amount or amounts of income and/or principal of the trust as the Trustee determines from time to time during the term of the trust to be appropriate. This separate trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21) if the beneficiary's age was the basis for the separate trust, dies, when the trust assets are exhausted by discretionary
distributions, or the reason for the separate trust no longer exists in the Trustee's discretion. At such termination, the Trustee shall distribute the protected property then on hand in trust to the beneficiary or to the beneficiary's estate if the trust terminated at the beneficiary's death.

(2) The Trustee may distribute any protected property to or for the benefit of such beneficiary: (a) directly to the beneficiary; (b) on behalf of the beneficiary for the beneficiary's exclusive benefit; (c) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a form reserving title, management and custody of such account to a suitable person for the use of such beneficiary; (d) in any form of an annuity; and, (e) in all ways provided by law dealing with gifts or distributions to or for minors or persons under incapacity. The receipt for distributions by any such person shall fully discharge the Trustee.

(3) In determining whether to make distributions, the Trustee may consider other resources of the beneficiary, any governmental entitlements and the future needs of the beneficiary during the term of the trust. The protected property shall, at all times, remain free of all claims by any governmental agency and/or creditors of the beneficiary.

(4) Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction. Finally, nothing herein shall prevent a distribution mandated by the provisions hereinabove set forth relating to the Maximum Duration of Trusts.

2.L. **Conflict Resolution.** Any controversy between any interested parties concerning the construction, application or interpretation of any provision of this Trust Agreement or of the Trustee's actions shall be settled by arbitration in accordance with the laws of the State of California (if no such laws then exist, in accordance with the then current rules of the American Arbitration Association) and the findings of such arbitration may be enforced by any Court having jurisdiction thereof.

2.M. **Uneconomical Administration.** No other provision of this trust to the contrary, if at any time a share or trust being administered for any income beneficiary or group of income beneficiaries has such fair market value as to make the continued administration of the share or trust uneconomical as determined by the Trustee, in the Trustee's sole discretion, the Trustee may pay the entire balance of such share or trust to the person or persons then entitled to the income therefrom, in proportion to their interests therein.

**ARTICLE III**

**TRUSTEESHIP**

3.A. **Successor Trustees.** I may appoint individuals or corporations as co-Trustees or successor Trustees by a written instrument (other than a Will) delivered to the then-acting Trustee.
3.B. **Appointment of Trustee.** If there is no Trustee acting hereunder, then a majority of the beneficiaries shall appoint a successor Trustee or co-Trustees by an instrument in writing, which appointment must be effective upon the date the last Trustee fails to qualify or ceases to act.

3.C. **Resignation.** Any Trustee may resign at any time by giving written notice to me, if I am then living, and thereafter to the other Trustees, if any, and, if not, to all the beneficiaries. Any such notice shall become effective as agreed by me or the majority of the beneficiaries, but no later than thirty (30) days after such written notice. Notwithstanding the foregoing, the Trustee may, at the expense of any trust created hereunder, secure the appointment of a successor Trustee of such trust by a court of competent jurisdiction.

3.D. **Liability.** No successor Trustee shall be under any obligation to examine the accounts of any prior trustee, and a successor Trustee shall be exonerated from all liability arising from any prior Trustee’s acts or negligence. It is my intention that any Trustee serving hereunder shall be accountable only from the date such Trustee receives the assets of the trust.

3.E. **Bond.** No bond shall be required of any person or institution named in this Trust Agreement as the Trustee.

3.F. **Compensation.** A Trustee shall be entitled to receive, out of the income and principal of the trust fund, compensation for its services hereunder to be determined, if a corporate Trustee, by the application of the current rates then charged by the Trustee for trusts of a similar size and character, and, if the Trustee shall be an individual, such compensation shall be the average of the current rates then charged by corporate fiduciaries doing trust business in the county of my residence for trusts of a similar size and character. The Trustee shall also be entitled to reimbursement for all travel and other necessary expenses incurred in the discharge of the Trustee's duties. The Trustee may impose any Trustee fees or other expenses of the trust against the principal or income of the trust fund without any duty to seek reimbursement from the interest not charged.

3.G. **Reports.** While I am living and if I am not acting as the Trustee or co-Trustee, the then-acting Trustee shall render an accounting at least annually to me unless I have waived such accounting. After my death, the Trustee shall render an annual accounting to each beneficiary, except as such reporting shall be waived by such beneficiary. If beneficiaries entitled to an accounting are minors, their accounting shall be delivered to their parents or guardian. If beneficiaries entitled to an accounting are incapacitated, their accounting shall be delivered to such beneficiary's legal representative. Unless the accounting is objected to in writing within one hundred and eighty (180) days after mailing to the persons to whom the accounting is to be rendered, the account shall be deemed final and conclusive in respect to all transactions disclosed in the accounting. The accounting shall be binding on all persons interested in the trust, including beneficiaries who are not known or who are not yet born. The records of the Trustee shall be open at all reasonable times to such inspections. The Trustee shall not be required to make any reports or accountings to the courts; however, nothing herein stated shall be deemed to restrict the Trustee from seeking judicial approval of the Trustee’s accounts.
3.H. Payments to Beneficiaries.

(1) The Trustee shall pay the net income of any trust hereunder to the beneficiary to whom such income is directed to be paid, at such times and in such manner as shall be convenient to such beneficiary and agreed to by the Trustee;

(2) Any income and/or principal of any trust hereunder to which any beneficiary may be entitled may, without regard to any order or assignment purporting to transfer the same to any other person, be paid or distributed by the Trustee, in the Trustee’s sole discretion, into the hands of such beneficiary, or to the guardian of the person of such beneficiary, or be mailed to such beneficiary’s last known address, or deposited to the account of such beneficiary in a bank or trust company of good standing, or be applied for the benefit of such beneficiary and his or her dependents directly by the Trustee; and the receipt for any payment or distribution or evidence of the application of any income or principal made in conformity with the foregoing shall discharge the Trustee from any further liability therefor; and,

(3) Unless the Trustee shall have received actual written notice of the occurrence of an event affecting the beneficial interests of this Trust Agreement, the Trustee shall not be liable to any beneficiary of this Trust Agreement for distribution made as though the event had not occurred.

3.I. Division of Trust Fund. There shall be no requirement for the physical segregation or division of any trusts created hereunder except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

3.J. Trustee Authority.

(1) Any Trustee may appoint an “Attorney-in-Fact” and delegate to such agent the exercise of all or any of the powers conferred upon a Trustee and may at pleasure revoke such appointment. Any such appointment shall be made by a written, acknowledged instrument.

(2) No purchaser from or other person dealing with the Trustee shall be responsible for the application of any purchase money or thing of value paid or delivered to such the Trustee, and the receipt by the Trustee shall be a full discharge; and no purchaser or other person dealing with the Trustee and no issuer, or transfer agent, or other agent of any issuer of any securities to which any dealings with the Trustee should relate, shall be under any obligation to ascertain or inquire into the power of the Trustee to purchase, sell, exchange, transfer, mortgage, pledge, lease, distribute or otherwise in any manner dispose of or deal with any security or any other property held by the Trustee or comprised in the trust fund.

(3) Prior to delivering the trust fund to a successor Trustee or to making any partial or complete distribution of principal hereunder (other than a distribution that is made in the exercise of the Trustee’s discretion and does not terminate the trust), the Trustee may
require an approval of the Trustee’s accounts and a release and discharge from all beneficiaries having an interest in the distribution. If any beneficiary or beneficiaries shall refuse to provide a requested release and discharge, the Trustee may require court settlement of such accounts; all of the Trustee’s fees and expenses (including attorneys’ fees) attributable to court approval of such accounts shall be paid by the trust involved to the extent that the accounts are approved.

(4) The certificate of a Trustee and/or Attorney-in-Fact that such Trustee and/or agent is acting according to the terms of this Trust Agreement shall fully protect all persons dealing with such Trustee and/or agent.

(5) At any time and from time to time, a Trustee may delegate to any co-Trustee any or all of the delegating Trustee’s powers and authorities conferred upon such Trustee by law or by this Trust Agreement; provided however, that a power or authority which is specifically conferred upon a Trustee (to the exclusion of any other Trustee or any other person or entity) shall not be delegated. The delegating Trustee may at pleasure revoke such delegation. Any delegation or revocation shall be made by a written, acknowledged instrument which shall be delivered to the person or entity to whom the delegation is made. So long as any such delegation is in effect, any power or authority hereby delegated may be exercised by the person or entity to whom such delegation was made and any action may be taken by such person or entity to whom such delegation was made with the same force and effect as if the Trustee delegating such power or authority had itself joined in the exercise of such power or authority in the taking of such action.

(6) If co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion, the determination of the majority shall be binding, but the dissenting Trustee or co-Trustees shall bear no liability or accountability for any act or transaction entered into as a result of the enforcement of the majority rule if such Trustee or co-Trustees shall have dissented in writing in advance of such act or transaction. If only two co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion on which they cannot agree, such conflict shall be settled by arbitration in accordance with the laws of the State of California (if no such laws then exist, in accordance with the then current rules of the American Arbitration Association) and the findings of such arbitration may be enforced by any Court having jurisdiction thereof. However, prior to submitting any such conflict to arbitration, the co-Trustees must first attempt to resolve the conflict through formal mediation. Notwithstanding any power of individual signature contained in this Trust Agreement or hereafter conferred on the Trustees, no one co-Trustee shall have the right, power or authority to make any unilateral decision affecting the trust, other than of a purely ministerial nature.

3.K. Release of Healthcare Information, including HIPAA Authority. I intend for the Trustee to be treated as I would regarding the use and disclosure of my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 USC 1320d and 45 CFR 160-164. I authorize any physician, healthcare professional, dentist, health plan,
hospital, clinic, laboratory, pharmacy or other covered health provider, any insurance company and medical information bureau or other health care clearinghouse that has provided treatment or services or that has paid for or is seeking payment from me for such services to give, disclose, and release, either orally or in writing, to the Trustee or Trustees, without restriction, all of my individually identifiable health information and medical records regarding any past, present or future medical or mental health condition.

The authority given to the Trustee shall supersede any prior agreement that I have made with my health care provider to restrict access to or disclosure of my individually identifiable health information. The authority given to the Trustee has no expiration date and shall expire only in the event that I revoke the authority in writing and delivers such revocation to my health care providers.

3.L. **Life Insurance.** Upon my death, the Trustee shall proceed immediately to collect the net proceeds of policies, if any, on my life which are then payable to this Trust and shall hold such proceeds for the purposes and upon the trusts provided in Article VI of this Trust Agreement. Payment to the Trustee by an insurance company of the proceeds of such policies and receipt of such proceeds by the Trustee shall be a full discharge of the liability of such insurance company with respect to such proceeds, and no insurance company need inquire into or take notice of this Trust Agreement or see to the application of such payments. The Trustee may prosecute and maintain any litigation necessary to enforce payment of such policies.

3.M. **Retirement Accounts.** To the extent any trust hereunder is the beneficiary of a Retirement Account (as hereinafter defined) the Trustee shall draw the benefits from the Retirement Account in amounts sufficient to meet the minimum distribution requirements of §401(a)(9) of the Code and the regulations thereunder (the “Required Minimum Distribution”). Notwithstanding any provision of the trust to the contrary, the Required Minimum Distribution shall be paid to or applied for the benefit of the person or persons then entitled to receive or have the benefit of the income from such trust, or if there is more than one income beneficiary, the Trustee shall make such distribution to such income beneficiaries in the proportion in which they are beneficiaries or if no proportion is designated in equal shares to such beneficiaries.

“Retirement Account” means amounts held in or payable pursuant to a plan (of whatever type) qualified under Code §401, or an individual retirement arrangement under Code §408, or a Roth IRA under Code §408A, or a tax-sheltered annuity under Code §403 or any other benefit subject to the distribution rules of Code §401(a)(9), or the corresponding provisions of any subsequent federal tax law. It is my intention that this trust qualify as a “conduit trust” under Code §401(a)(9) so that the trust’s beneficiaries shall be considered designated beneficiaries for purposes of the minimum distribution rules, and that distributions may therefore be taken over the trust beneficiary’s life expectancy (or the life expectancy of the oldest trust beneficiary).

The Retirement Accounts shall not be subject to the claims of any creditor of my estate and they shall not be applied to the payment of my debts, taxes or other claims or charges against my estate unless and until all other assets available for such purposes have been exhausted, and even then only to the minimum extent that would be required under applicable law in the absence of any specific provision on this subject in this Trust.
3.N. Release of Powers. Each Trustee shall have the power to release or to restrict the scope of any power that such Trustee may hold in connection with any trust created under this Trust Agreement, whether said power is expressly granted in this Trust Agreement or implied by law. The Trustee shall exercise this release in a written instrument specifying the powers to be released or restricted and the nature of any such restriction. Any released power shall pass to and be exercised by the other then-acting Trustees.

ARTICLE IV

TRUSTEE'S POWERS

Subject to the provisions and limitations set forth expressly herein, the Trustee shall have, in general, the power to do and perform any and all necessary acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon the Trustee be exhausted by the use thereof, but each shall be continuing. In addition to the above, the Trustee shall have all of the powers authorized by §§16220, et. seq., of the California Probate Code (as though such powers were set forth herein) and, in addition, the Trustee is specifically authorized and empowered to exercise those powers hereinafter set forth in Exhibit “A” (attached hereto and incorporated herein by reference as though fully set forth).

ARTICLE V

MY RETAINED POWERS

5.A. Revocation. During my lifetime, this Trust Agreement may be revoked in whole or in part by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.B. Amendment. I may at any time during my lifetime amend any of the terms of this Trust Agreement by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.C. Powers Terminate on Death. On my death, this Trust Agreement may not be amended, revoked, or terminated (except as hereinafter provided in Article VI).

5.D. Powers Personal to Me. My powers to revoke or amend this Trust Agreement are personal to me and shall not be exercisable on my behalf by any conservator and/or guardian or other person, except that revocation or amendment may be authorized, after notice to the Trustee, by the Court that appointed the conservator and/or guardian. Notwithstanding the previous sentence, my power to amend this Trust Agreement may be exercised by my attorney-in-fact to the extent that the document appointing the attorney-in-fact expressly so authorizes the power to amend with an express reference to this Trust Agreement.
5.E. **Tangible Personal Property.** While I am living, I reserve the right to retain the control, use and possession of any or all of the tangible personal property included in the trust fund. I expressly limit the Trustee's responsibility with respect to the property so retained to the Trustee’s function as the holder of legal title until I surrender my right to the use and possession of any such property or until my death. In addition, I shall have the right, exercisable by written notice to the Trustee on terms specified by me, to direct the sale, transfer, gift or other disposition of any such property, with or without consideration, and the Trustee shall take all actions necessary to comply with the terms of such notice. In the event I surrender any property to the Trustee, or upon my death, the Trustee shall take possession, preserve and maintain such property. The Trustee shall be responsible and accountable only for that tangible personal property which is actually in the Trustee’s possession or control or, if retained by me, is found by application of reasonable diligence at my death or at such time that the Trustee asserts control.

5.F. **Real Property.** I reserve the right to have complete and unlimited use and control of any real property which may ever constitute an asset of the trust estate and which is occupied by me for residential purposes; such use and control shall be without rent or other accountability to the Trustee. As part of such use and control, I, and not the Trustee, shall have the responsibility to manage such property, pay taxes, insurance, utilities and all other charges against the property, and may, at my option, charge such expenses to the trust fund, or may request reimbursement for any advances made for such purposes.

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**ARTICLE VI**

**DISPOSITION OF TRUST FUND**

6.A. **Trustee's Basic Duties.** During the term of this Trust Agreement, the Trustee shall hold, manage, invest and reinvest the trust fund, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this Article VI.

6.B. **Disposition During My Lifetime.** During my lifetime, the Trustee shall pay the net income of the trust fund as I shall direct. The Trustee shall also pay over to me, or to any person as directed by me, so much of the principal thereof as I shall request at any time or times during the remainder of my life.

6.C. **Disposition During My Incapacity.** If at any time, in the Trustee's discretion, I have become physically or mentally incapacitated, whether or not a court of any jurisdiction has declared me in need of a conservator and/or a guardian, the Trustee shall pay over or apply the net income and/or the principal of the trust fund to my support, maintenance, comfort, and/or well-being and/or to the payment of any taxes, bills or other obligations for which I may be liable, in such amounts and to such extent as the Trustee, in its sole judgment and discretion, shall deem to be in my best interests; and the Trustee shall accumulate any of the net income not so paid over and/or applied and shall add the same to the principal of the trust fund, and shall thenceforth hold, administer and distribute the same as a part thereof. As a guide to the Trustee, it is my intent that I shall remain in my primary residence as long as it is medically reasonable and, if I should ever need convalescent care, that I be able to return home as soon as it is medically reasonable; the expense of home care shall be of secondary importance.
6.D. Deferral of Division or Distribution. Whenever the Trustee is directed to make a distribution of trust assets or a division of trust assets into separate trusts or shares on my death, the Trustee may, in the Trustee's discretion, defer such distribution or division up to six (6) months after my death. When the Trustee defers distribution or division of the trust assets, the deferred division or distribution shall be made as if it had taken place at the time prescribed in this Trust Agreement in the absence of this Paragraph and all rights given to the beneficiaries of such trust assets under other provisions of this Trust Agreement shall be deemed to have accrued and vested as of such prescribed time; further, the beneficiaries of such trust assets shall be entitled to receive interest on the delayed distribution pursuant to California law (if there is no provision expressly applicable to trusts, then interest shall be paid pursuant to California law applicable to decedents’ estates).

6.E. Authorized Actions at My Death. After my death, the Trustee is authorized and directed to pay over to my executor, administrator, or personal representative so much of the trust fund as such representative shall state in writing is necessary or desirable to provide my estate with funds with which to pay my funeral expenses, debts, cost of administration of my estate and/or the taxes on my taxable estate, including transfer, estate and inheritance taxes which may be imposed upon the probate estate, upon the trust fund and/or upon any property or interest in property, legal or equitable, which is included in the taxable estate, and any such statement of such personal representative (regardless of the nature or extent of the assets held in my estate) shall be binding and conclusive upon the Trustee and upon all persons having any interest in the trust fund.

(1) If such personal representative fails to furnish any such directions or if no such representative is appointed, the Trustee may, in its discretion, pay in whole or in part all debts which are due and enforceable against my estate, the expenses of the last illness, funeral, and administration and all death taxes and other governmental charges imposed under the laws of the United States or of any state or country by reason of my death.

(2) Any federal and/or state death taxes imposed on any trust assets, or on any assets included in my taxable estate not part of the trust fund (or not added to the trust fund following my death) shall be paid from the residue of the Trust Estate (i.e., after any specific distributions) and shall not be pro-rated among the beneficiaries and/or trusts who actually receive such property. Provided however:

(a) No death taxes shall be apportioned to, charged against or paid from any gift made to a charitable organization that qualifies for a charitable deduction under §2055 of the Code.

(b) No death taxes shall be apportioned to, charged against or paid from any property qualifying for the marital deduction under §2056 of the Code.

(c) No death taxes shall be apportioned to, charged against or paid from any other property excluded from the imposition of death taxes by reason of any exemption, exclusion, or deduction applicable to the property, or because of (i) provisions of my Will or this Trust Agreement that expressly exclude
the property from taxation; (ii) the relationship between me and the beneficiary of the property; or (iii) the character of the property. All such property shall pass free of death taxes.

(d) All death taxes imposed on property includible in my gross taxable estate under §2041 of the Code by reason of a general power of appointment held by me shall be charged to and paid from the property subject to the power. Further, I direct that the amount of the general power of appointment property equal to the death taxes attributable to the value of the property shall be paid to the Trustee, to be held in this trust and used to pay death taxes. The amount of death taxes attributable to the property shall equal (i) the amount of all death taxes imposed on my taxable estate (including the value of the general power of appointment property), less (ii) the amount of all death taxes that would have been imposed on my taxable estate excluding the value of the general power of appointment property. The rules promulgated under §2207 of the Code shall apply in determining the amount of the incremental tax to be paid from the general power of appointment property.

(e) Any increment in death taxes attributable to other property in which I had a life interest or a term interest that did not end prior to my death (including a life estate or life income interest) and which is included in my gross taxable estate shall be borne by the holder or recipient of that property.

(f) Notwithstanding the general language of this subparagraph 6.E., the state inheritance tax, if any, based on the relationship of the beneficiary to me shall be paid by each beneficiary who has received a distribution of the Trust Estate which gives rise to such tax.

(3) Such authorized payments shall specifically exclude the payment of any generation-skipping transfer tax which shall be specifically borne by the asset(s) giving rise to such tax.

6.F. Distribution at My Death. On my death, the Trustee shall hold, administer and distribute the trust fund, as then constituted, plus any additions thereto as a result of my death (all of which is hereafter referred to as the “Trust Estate”) as follows:

(1) The Trustee shall distribute, free of trust, such items of my tangible personal property as may then be included in the Trust Estate in accordance with any written instructions left by me and the remainder of such personal property, or all of it if no such instructions are left, to my children in equal shares as they shall agree.

(2) The Trustee shall divide the rest, remainder and residue of the Trust Estate into as many equal shares as there are children of mine then living and children of mine then deceased with issue then living. The Trustee shall allocate one (1) such share to each then-living child and one (1) such share to each group composed of the then-living issue of a
deceased child. Each such share shall be distributed, or retained in trust, as hereafter provided:

(a) As to each share set aside for any of my then-living children, the Trustee shall distribute the principal of the share, plus the accrued income of such share, to the child for whom such share shall be allocated.

(b) For any share allocated to the issue of a deceased child, such share shall be distributed by right of representation. The Trustee shall hold, administer and distribute any such beneficiary's share in the following manner:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(iii) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters, if any, and if none to my then-living issue, by right of representation.

(2) If no issue of mine shall be living at my death or prior to the distribution of the whole of the Trust Estate, the Trustee shall distribute such part of the Trust Estate as shall then be held in trust hereunder to my heirs; the identities and respective shares of such heirs to be determined according to the laws of the State of California in effect at the date of execution of this Trust Agreement.

Executed on ________________, 20___, in Monterey County, California.
FRANK J SMITH,  
Settlor

I hereby acknowledge receipt of the trust fund, accept the terms of THE FRANK J. SMITH LIVING TRUST, and covenant that I will execute the trust with all due fidelity.

FRANK J SMITH,  
Trustee

STATE OF CALIFORNIA  )
COUNTY OF MONTEREY  )

On this ____ day of __________, 20___, before me, _______________________________, a Notary Public, personally appeared FRANK J SMITH, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. [SEAL]

_______________________________
Signature of Notary Public
EXHIBIT “A”
OF
THE FRANK J. SMITH LIVING TRUST

STANDARD TRUSTEE POWERS

1. **Agreements.** To carry out the terms of any valid agreements which Settlor may have entered into during Settlor’s lifetime regarding property owned by the trust;

2. **Asset Title.** To hold securities or other property in the Trustee's name as trustee, or in “street name”, or in bearer form;

3. **Bank Accounts.** To open and maintain bank accounts in the name of the Trustee with any bank, trust company or savings and loan association authorized and doing business in any State of the United States of America. If more than one Trustee shall be acting, the Trustees may designate one or more of them to conduct banking activities and to make deposits, withdrawals and endorsements upon giving written notice of such designation to the bank, trust company, or savings and loan association in question; and such bank, trust company or savings and loan association shall be protected in relying upon such designation;

4. **Contracts.** To enter into contracts which are reasonably incident to the administration of the trust;

5. **Deal with Fiduciaries.** To buy from, sell to, and generally deal with the Trustee individually and as a fiduciary;

6. **Depreciation Reserve.** The Trustee shall not be required to establish any reserve for depreciation or to make any charge for depreciation against any portion of the income of the trust fund;

7. **Divisions and Distributions.** In any case in which the Trustee is required to divide any trust assets into shares for the purpose of distribution (or otherwise), such division may be in kind, including undivided interests in any real property, or partly in kind and partly in money. For such purposes, the Trustee may make such sales of trust assets as the Trustee may deem necessary on such terms and conditions as the Trustee shall deem fit, and to determine the relative value of the securities or other assets so allotted or distributed; the Trustee’s determination of values and of the property for such distribution shall be conclusive. The decision of the Trustee in distributing assets in reliance on this paragraph shall be binding, and shall not be subject to challenge by any beneficiary;

8. **Indebtedness.** With respect to any indebtedness owed to the trust, secured or unsecured:
   
   (a) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as the Trustee deems advisable; and,

   (b) To foreclose any security for such indebtedness, to purchase any property securing such indebtedness and to acquire any property by conveyance from the debtor in lieu of foreclosure;

9. **Invest and Reinvest.** To invest, reinvest, change investments and keep the trust fund invested in any kind of property, real, personal, or mixed, including by way of illustration but not limitation, oil and gas royalties and interests; precious metals; common and preferred stocks of any corporation; bonds; notes;
debentures; trust deeds; mutual funds or common trust funds, including such funds administered by a Trustee; interests in partnerships, whether limited or general and as a limited or general partner; intending hereby to authorize the Trustee to act in such manner as the Trustee shall believe to be in the best interests of the trust fund and the beneficiaries thereof. The Trustee is specifically vested with the power and authority to open, operate and maintain securities brokerage accounts wherein any securities may be bought and/or sold on margin, and to hypothecate, borrow upon, purchase and/or sell existing securities in such account as the Trustee shall deem appropriate or useful and, further, while Settlor is acting as a Trustee, such account(s) may deal in commodities, options, futures contracts, hedges, puts, calls and/or straddles (whether or not covered by like securities held in the brokerage account). These powers shall be construed as expanding the standards of the prudent investor rule as set forth in the Uniform Prudent Investor Act;

10. **Loans.** To borrow for the trust fund from any person, corporation or other entity, including the Trustee, at such rates and upon such terms and conditions as the Trustee shall deem advisable, and to pledge as security any of the assets of the trust fund for the benefit of which such loan is made; to execute, acknowledge and deliver mortgages, deeds of trust or other documents incidental thereto; to lend money upon such terms and such conditions as the Trustee deems to be in the best interests of the trust fund and the beneficiaries thereof, including the lending of money from one trust to any other trust created hereunder and to borrow on behalf of one trust from any other trust created hereunder, and further including the right to lend money to the probate estate (if any) of Settlor but in such event such loans shall be adequately secured and shall bear the then prevailing rate of interest for loans to such persons or entities for the purposes contemplated;

11. **Manage and Control.** To manage, control, sell at public or private sale, convey, exchange, partition, divide, subdivide, improve, repair; to grant options and to sell upon deferred payments; to pledge or encumber by mortgage or deed of trust or any other form of hypothecation; to otherwise dispose of the whole or any part of the trust fund on such terms and for such property or cash or credit, or any combination thereof, as the Trustee may deem best; to lease for terms within or extending beyond the duration of the trust fund for any purposes; to create restrictions, easements, to compromise, arbitrate, or otherwise adjust claims in favor of or against the trust fund; to institute, compromise and defend actions and proceedings with respect to the trust fund; and to secure such insurance, at the expense of the trust fund, as the Trustee may deem advisable;

12. **Professional Assistance.** To employ and compensate agents, investment managers, attorneys, accountants, and other professionals deemed by the Trustee to be reasonably necessary for the administration of the trust fund, and the Trustee shall not be liable for any losses occasioned by the good faith employment of such professionals, nor shall the Trustee be liable for any losses occasioned by any actions taken by the Trustee in good faith reliance upon any advice or recommendation thereof; to pay all costs, taxes, and charges in connection with the administration of the trust fund; and to be reimbursed for all reasonable expenses, including attorneys' fees, incurred in the management and protection of the trust fund and to pay such professionals a reasonable fee without court approval thereof. Any such payment by the Trustee of such fees shall be out of principal or income, as the Trustee may elect, or partially out of each. The discretion of the Trustee to pay these expenses from income or principal, or partially from each, should be subject to the Trustee's fiduciary obligation to treat income beneficiaries and remaindermen equitably;

13. **Purchase.** To purchase property at its fair market value as determined by the Trustee from the probate estate (if any) of Settlor;

14. **Receive Assets.** To receive, take possession of, sue for, recover and preserve the assets of the trust fund, both real and personal, coming to its attention or knowledge, and the rents, issues and profits arising from such assets;
15. **Securities.** With respect to any corporation or partnership, the stocks, bonds or interests in which may form a part of the trust estate, to act in the same manner and to exercise any and all powers which an individual could exercise as the legal owner of any such corporate stock or partnership interest, including the right to vote in person or in proxy, or to surrender, exchange or substitute stocks, bonds, or other securities as an incident to the merger, consolidation, re-capitalization or dissolution of any of such corporation, or to exercise any option or privilege which may be conferred upon the holders of such stocks, bonds, or other securities, either for the exchange or conversion of the same into other securities or for the purchase of additional securities, and to make any and all payments which may be required in connection therewith;

16. **Retention of Trust Property.** To retain, without liability for loss or depreciation resulting from such retention, any assets received by the Trustee or any property that may from time to time be added to the trust fund or any trust created hereunder; or any property in which the funds of any trust may from time to time be invested, for such time as the Trustee shall deem best, even though such property may represent a large percentage of the total property of the trust fund or it would otherwise be considered a speculative or inappropriate investment;

17. **Tax Consequences.** To prepare and file returns and arrange for payment with respect to all local, state, federal and foreign taxes incident to this Trust Agreement; to take any action and to make any election, in the Trustee's discretion, to minimize the tax liabilities of this Trust Agreement and its beneficiaries; and,

18. **General Powers.** To do any and all other acts necessary, proper or desirable for the benefit of the trust fund and its beneficiaries, and to effectuate the powers conferred upon the Trustee hereunder.
SCHEDULE “A”
OF
THE FRANK J. SMITH LIVING TRUST

INITIAL TRUST FUNDING

1. The real property located at 123 4th Street, Hometown, California.

2. All articles of personal and household use and ornament of every kind and description and wheresoever situated.
This Trust Amendment, entered into by Frank J. Smith, also known as Frank James Smith, as Settlor, and Frank J. Smith, as Trustee. For all purposes hereunder, the words “I”, “me”, “my”, “mine”, and similar pronouns, shall refer to Settlor Frank J. Smith and shall be construed as the possessive when the context would so indicate.

Article I
Recitals

Whereas, on June 1, 1999, I did create and execute a revocable inter-vivos trust in which I was named as the Trustee;

Whereas, said trust reserved to me the right and power to make amendments to said trust; and,

Whereas, I now desire to amend said trust and to completely restate all terms and conditions of my trust,

Now, Therefore, I do hereby fully amend all the terms and conditions of my trust and I do hereby completely restate all terms and conditions thereof:

Article II
Declarations

2.A. Trust Name. This trust has been, and shall continue to be known as The Frank J. Smith Living Trust.
CERTIFICATE OF TRUST

TO: ALL FINANCIAL INSTITUTIONS, MUTUAL FUND ADMINISTRATORS, TITLE INSURERS, TRANSFER AGENTS, AND OTHER PERSONS AND INSTITUTIONS

The undersigned desires to confirm the establishment of a revocable living trust named THE FRANK J. SMITH LIVING TRUST (hereinafter referred to as the “Trust”). The following provisions are found in said Trust and may be relied upon as a full statement of the matters covered by such provisions by anyone dealing with the original Trustee or his successors.

CREATION OF TRUST

The Trust was created concurrently herewith by a Trust Agreement executed by the undersigned as Settlor and Trustee, for the benefit of the undersigned during his lifetime and thereafter for the benefit of other successor beneficiaries in interest.

NAME OF TRUST

The name of the Trust is THE FRANK J. SMITH LIVING TRUST. Any assets held in the name of the Trust should be titled in substantially the following manner: FRANK J SMITH, as Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated ________________, 20__.

TRUSTEE

The currently acting Trustee of the Trust is FRANK J SMITH. If he should cease to act as the Trustee for any reason, he shall be succeeded by JOHN SMITH, WAYNE SMITH, and SALLY SMITH as successor co-Trustees. If a co-Trustee fails to qualify or ceases to act, the other co-Trustees or co-Trustee shall continue to act.

While co-Trustees are acting, only one signature shall be required to conduct business with respect to property and/or assets held or owned by the Trust. Any third party dealing with the Trust may rely upon this singular authority without any further evidence. Any Trust asset may be titled to reflect this authority, including the designation “and/or”.

REVOCABILITY OF TRUST

The Trust is revocable. The person holding the power to revoke or amend the Trust is FRANK J SMITH.

TAXPAYER IDENTIFICATION NUMBER

The Trust uses the Social Security number of the Settlor as its Taxpayer Identification Number.
ADDRESS OF THE TRUST

The Trust uses the address of the Settlor/Trustee as its location. This address is 123 4th Street, Hometown, California 90000.

TRUSTEE AUTHORITY

(1) A Trustee may appoint an Attorney-in-Fact (“Power of Attorney”) and delegate to such agent the exercise of all or any of the powers conferred upon a Trustee.

(2) The Settlor intends for the Trustee to be treated as he would regarding the use and disclosure of his individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 USC 1320d and 45 CFR 160-164. The Settlor authorizes any physician, healthcare professional, dentist, health plan, hospital, clinic, laboratory, pharmacy or other covered health provider, any insurance company and medical information bureau or other health care clearinghouse that has provided treatment or services or that has paid for or is seeking payment from the Settlor for such services to give, disclose, and release, either orally or in writing, to the Trustee or Trustees, without restriction, all of Settlor’s individually identifiable health information and medical records regarding any past, present or future medical or mental health condition.

The authority given to the Trustee shall supersede any prior agreement that the Settlor has made with his health care providers to restrict access to or disclosure of the Settlor’s individually identifiable health information. The authority given to the Trustee has no expiration date and shall expire only in the event that the Settlor revokes the authority in writing and delivers such revocation to his health care providers.

(3) No purchaser from or other person dealing with a Trustee shall be responsible for the application of any purchase money or thing of value paid or delivered to such Trustee, but the receipt by a Trustee shall be a full discharge; and no purchaser or other person dealing with a Trustee and no issuer, or transfer agent, or other agent of any issuer of any securities to which any dealings with a Trustee should relate, shall be under any obligation to ascertain or inquire into the power of such Trustee to purchase, sell, exchange, transfer, mortgage, pledge, lease, distribute or otherwise in any manner dispose of or deal with any security or any other property held by such Trustee or comprised in the trust fund.

(4) The certificate of a Trustee and/or the agent of a Trustee that such person is acting according to the terms of this Agreement shall fully protect all persons dealing with such Trustee and/or agent. Any person may rely upon the certification of any Trustee as to the matters which are not contained in this Certificate, including a further enumeration of the Trustee's powers.

TRUSTEE'S POWERS

The Trustee shall have, in general, the power to do and perform any and all acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property including the power to buy, sell, hold, transfer, convey, or exercise any ownership rights in any asset for the Trust by executing any appropriate document, or by an oral demand to buy or sell a security; to maintain, deposit or to withdraw from any bank, brokerage or mutual fund account (including margin accounts), and to sign checks or drafts on any such account; to purchase
or exercise rights in any life insurance or annuity contracts; and to borrow and pledge any Trust asset as security. In addition to the above, the Trustee shall have all of the powers authorized by §§16220, et seq., of the California Probate Code (as though such powers were set forth herein).

**ADMINISTRATIVE PROVISIONS**

(1) The Trust shall be administered according to the laws of the State of California relating to inter-vivos trusts, except as shall be specifically modified therein.

(2) The Trust has not been revoked, modified, or amended in any manner that would cause the representations contained in this Certificate of Trust to be incorrect.

(3) This Certificate of Trust is a true and accurate statement of the matters referred to herein concerning the Trust.

(4) This Certificate of Trust has been signed by the currently acting sole Trustee of the Trust.

(5) This Certificate of Trust is intended to comply with the provisions of §18100.5 of the California Probate Code.

(6) Reproductions of this executed original (with reproduced signatures) shall be deemed to be original counterparts of this Certificate of Trust and any person who is in possession of a photocopy of this executed Certificate may, in good faith, rely upon the information it contains and shall not be liable to the Settlor, any Trustee or beneficiary for reliance upon the information herein contained.

(7) No person shall have received notice of any event upon which the use of this Certificate of Trust depends unless said notice is in writing and until the notice is delivered to said person.

IN WITNESS WHEREOF, the undersigned declares under penalty of perjury that the foregoing is true and correct and that he has executed this Certificate of Trust on ________________, 20___, in Monterey County, California.

_____________________________________
FRANK J SMITH,
Settlor-Trustee

[NOTARY ACKNOWLEDGEMENT]
DECLARATION OF TRUST

I, FRANK J SMITH, hereby declare that all assets of every kind and description and wheresoever situated which I presently own (regardless of the means by which acquired and/or the record title in which held; including, by way of illustration and not limitation, all real property, investments, bank accounts, etc.), other than any Individual Retirement Accounts or other type of plan which is tax deferred under the Internal Revenue Code of 1986, are transferred to and the same shall be owned by:

THE FRANK J. SMITH LIVING TRUST,

being a revocable living trust, which exists under a certain trust agreement created by me concurrently herewith.

The foregoing declaration and transfer shall apply even though “record” ownership or title, in some instances, may, presently or in the future, be registered in my respective individual name, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed. This declaration may be terminated by me by written notice to the Trustee of the above-mentioned trust.

Executed on ________________, 20___, in Monterey County, California.

____________________________________
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT]
I, FRANK J. SMITH, hereby declare that all articles of personal and household use and ornament of every kind and description and wheresoever situated which I presently own or hereafter acquire (regardless of the means by which acquired and/or the record title in which held; including, by way of illustration and not limitation, all automobiles, club memberships, china, glass, clothing, jewelry, precious stones, furniture, rugs, paintings and other works of art, books, silverware, etc., and including all insurance with respect thereto) are transferred to and the same shall be owned by:

THE FRANK J. SMITH LIVING TRUST,

being a revocable living trust, which exists under a certain trust agreement executed by me as Settlor on June 1, 1999, as amended and restated concurrently herewith.

The foregoing declaration and transfer shall apply even though “record” ownership or title, in some instances, may, presently or in the future, be registered in my individual name, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed. This declaration may be terminated by me by written notice to the Trustee of the above-mentioned trust. Notwithstanding this transfer in trust, I reserve the right to the use of the aforementioned items.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
Instructions for the Distribution of Personal Property

INSTRUCTIONS FOR
THE DISTRIBUTION OF
MY PERSONAL EFFECTS

Pursuant to the terms of THE FRANK J. SMITH LIVING TRUST, I am making
the following instructions for the distribution of my tangible personal property and
personal effects at my death:

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Dated: ____________________

FRANK J. SMITH
LAST WILL AND TESTAMENT

OF

FRANK J SMITH

I, FRANK J SMITH, also known as Frank James Smith, a resident of Monterey County, California, declare that this is my Last Will and Testament, hereby revoking all prior Wills and Codicils.

ARTICLE ONE

DECLARATIONS

1.A. Family. I am a widower. I have three children now living; their names and dates of birth are:

   JOHN SMITH, born October 28, 1976
   WAYNE SMITH, born March 5, 1982
   SALLY SMITH, born September 22, 1984

   I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any other children and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

1.B. Trust Agreement. The term “TRUST AGREEMENT” as used in this Will shall refer to that certain unrecorded trust instrument known as THE FRANK J. SMITH LIVING TRUST, created by me concurrently herewith.

ARTICLE TWO

FIDUCIARIES

I nominate my children JOHN SMITH, WAYNE SMITH and SALLY SMITH as co-Executors of my Will. If a co-Executor fails to qualify or ceases to act, the other co-Executor(s) shall continue to act. The term “my Executor” as used in this Will shall include any personal representative of my estate and all named Executors shall serve without bond being required.
ARTICLE THREE

DISTRIBUTION OF ESTATE

3.A. Payment of Estate Expenses. My Executor shall pay from my estate, after consulting with the then-acting Trustee or Trustees of THE FRANK J. SMITH LIVING TRUST, all debts which are due and enforceable against my estate, the expenses of my last illness and funeral, the expenses of administering my estate, and all death taxes and governmental charges imposed and made payable under the laws of the United States or of any state or country by reason of my death. Such taxes shall include taxes imposed upon life insurance, endowment or annuity contracts upon my life, and upon all other property, whether passing under my Will or otherwise; provided that the assets, if any, over which I hold any taxable power of appointment at my death shall bear the entire increment and the burden of death taxes and other governmental charges to the extent that the total of such taxes and charges is greater than would have been imposed and made payable if I did not hold such a power of appointment, and to the extent required by law, I exercise such power of appointment in favor of the appropriate taxing authorities to discharge such taxes. Other than the above direction for the taxation of a power of appointment, the pro-ration of taxes imposed upon my estate shall be in the manner directed in said trust.

If my residuary estate is insufficient for such payments, in whole or in part, or if, in the discretion of my Executor, all or a part of such payments from my estate would prejudice the best interests of my estate, then my Executor shall direct the then-acting Trustee or Trustees of said trust to pay the appropriate amounts, either directly or to my Executor for such purposes.

3.B. Gift to Trust. I give, devise and bequeath the remainder of my estate to the then-acting Trustee or Trustees of THE FRANK J. SMITH LIVING TRUST, together with any additions or amendments thereto, to be added to the principal of that trust and to be held, administered and distributed under the Trust Agreement and any amendments to such Trust Agreement. I direct that such Trust Agreement shall not be administered under court supervision, control or accounting, and the trustee shall not be required to give bond in such capacity.

ARTICLE FOUR

ESTATE ADMINISTRATION

4.A. General Powers of Executor. Subject to any limitations stated elsewhere in this Will, my Executor shall have, in addition to all of the powers now or hereafter conferred on Executors by law (specifically including all of the powers authorized by §§9650, et. seq., of the California Probate Code, as though such powers were set forth herein), and any powers enumerated elsewhere in this Will, the power to perform any of the acts specified in this section without the necessity of court approval:

(1) To take possession or control of all of my Estate subject to disposition by this Will, and collect all debts due to me or to my Estate;
(2) To receive the rents, issues, and profits from all real and personal property in my Estate until the estate is settled or delivered over by order of court to my heirs or beneficiaries;

(3) To pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, all property in my Estate;

(4) To insure the property of my Estate against damage or loss, and insure the Executor against liability to third persons;

(5) To deposit money belonging to my Estate in an insured account in a financial institution in California;

(6) If any asset of my Estate consists of an option right, to exercise the option and to use any funds or property in my Estate to acquire the property covered by the option;

(7) To hold any securities or other property, both real and personal, in the name of the Executor, in the name of such nominee as my Executor shall select, or in the form of “street certificates,” without in any of such cases disclosing the fact that such property is held in a fiduciary capacity, and to indemnify any such nominee against any loss resulting from holding such property as nominee;

(8) To vote in person, and give proxies to exercise, any voting rights with respect to any stock, any membership in a nonprofit corporation, or any other property in my Estate, and waive notice of a meeting, give consent to the holding of a meeting, and authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners;

(9) To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plan;

(10) To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for such consideration, whether or not the highest possible consideration, and upon such terms, including credit, as the Executor shall deem advisable, and to execute, acknowledge and deliver deeds or other instruments in connection therewith. No purchaser shall be held to see to the application of the purchase money;

(11) To lease any real estate for such term or terms and upon such provisions and conditions as the Executor shall deem advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase;

(12) To borrow and to pledge or mortgage any property as collateral, and to make secured or unsecured loans. The Executor is specifically authorized to make loans
without interest to any beneficiary hereunder. No individual or entity loaning property to the Executor shall be held to see to the application of such property;

(13) To pay any and all charges reasonably incurred in connection with or incidental to the distribution of any property of my Estate, including but not limited to expenses of storage, freight, shipping, delivery, packing, and insurance; and, on any accounting, treat any such expenditures as expenses of the administration of my Estate;

(14) To dispose of or abandon tangible personal property (including donation to any charitable organization or organizations of the Executor’s choice), except tangible personal property that is a specific gift, when the cost of collecting, maintaining, and safeguarding the property would exceed its fair market value;

(15) To commence and prosecute, either individually or jointly with my heirs or beneficiaries, any action necessary or proper to quiet title to or recover possession of any real or personal property in my Estate;

(16) To pay, compromise or settle any claim, action, or proceeding by or for the benefit of, or against, me, my Estate, or the Executor, subject only to any confirmation of court that may be required by law; and,

(17) To employ others in connection with the administration of my Estate, including legal counsel, investment advisors, brokers, accountants and agents, notwithstanding the fact that the Executor may receive a direct or indirect financial benefit as a result of such employment or may otherwise be affiliated with any of them, and to pay reasonable compensation thereto in addition to that to be paid to the Executor.

4.B. **Power to Invest.** To retain for whatever period the Executor shall deem advisable any property, including property owned by me at my death, and to invest and reinvest any money of my Estate not reasonably required for the immediate administration of my Estate in any kind of property, real, personal, or mixed, and in any kind of investment, including but not limited to improved and unimproved real property, interest-bearing accounts, certificates of deposit, corporate and governmental obligations of any kind, preferred or common stocks, mutual funds (including mutual funds of the “load” and “no load” variety), investment trusts, money-market funds, taxable and tax-exempt commercial paper, repurchase and reverse repurchase agreements, and stocks, obligations, and shares or units of common trust funds of any corporate fiduciary; regardless of whether any particular investment would be proper for an Executor and regardless of the extent of diversification of the assets held hereunder.

4.C. **Power to Make Tax Elections.** To the extent permitted by law, and without regard to the resulting effect on any other provision of this Will, on any person interested in my Estate, or on the amount of taxes that may be payable, the Executor shall have the power to choose a valuation date for tax purposes; choose the methods to pay any death taxes; elect to treat or use any item for state or federal estate or income tax purposes as an income tax deduction or an estate tax deduction;
disclaim all or any portion of any interest in property passing to my Estate at or after my death; and determine when an item is to be treated as taken into income or used as a tax deduction.

4.D. **Division or Distribution in Cash or in Kind.** In order to satisfy a pecuniary gift or to distribute or divide estate assets into shares or partial shares, the Executor may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind, with or without regard to tax basis. Property distributed to satisfy a pecuniary gift under this Will shall be valued at its fair market value at the time of distribution.

4.E. **Payments to Legally Incapacitated Persons.** If at any time any beneficiary under this Will is a minor or it appears to the Executor that any beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or make intelligent or responsible use of the payments, then the Executor, in lieu of making direct payments to the beneficiary, may make payments to the beneficiary’s conservator or guardian; to the beneficiary’s custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to one or more suitable persons, as the Executor deems proper, such as a relative or a person residing with the beneficiary, to be used for the benefit of the beneficiary; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary’s assistance or benefit; or to accounts in the beneficiary’s name with financial institutions, and the receipt of the person to whom such money or property is paid shall be a full and complete discharge to the Executor.

4.F. **Liability.** Unless due to such Executor’s own willful default or gross negligence, no Executor shall be liable for such Executor’s acts or omissions or those of any co-Executor or prior Executor.

4.G. **Independent Administration of Estates Act.** My Estate may be administered under the Independent Administration of Estates Act (specifically including all of the powers authorized by §§10400, et seq., of the California Probate Code, as though such powers were set forth herein).

**ARTICLE FIVE**

**MISCELLANEOUS PROVISIONS**

5.A. **No Contest.** To the extent permitted under the laws of the State of California, if any person who is, or claims under or through a devisee, legatee or beneficiary under this Will, or any person who, if I died intestate, would be entitled to share in my estate, shall in any manner whatsoever, directly or indirectly contest this Will or attack, oppose or seek to impair or invalidate any provision hereof or of the Trust hereinabove mentioned, or seeks to succeed to any part of my Estate otherwise than in the manner specified in this Will, or conspire or cooperate with anyone attempting to do any of the acts or things aforesaid, then the right of that person to take any interest given him or her by this Will or as an heir-at-law shall be determined as it would have been determined had the person predeceased me without being survived by issue.
5.B. **Miscellaneous.**

(1) As used in this Will, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates.

(2) Article headings in this Will are inserted for convenience only, and are not to be considered in the construction of the provisions thereof.

5.C. **Period of Survivorship.** For the purposes of this Will, a beneficiary shall not be deemed to have survived me if that beneficiary dies within three (3) months after my death.

5.D. **Guardian Ad Litem.** I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained, or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

5.E **Beneficial Interests.** The interest of any beneficiary in any share or part of this Will, both as to principal and income, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

5.F. **Severability Clause.** If any provision of this Will is invalid, that provision shall be disregarded, and the remainder of this Will shall be construed as if the invalid provision had not been included.

5.G. **Governing Law.** All questions concerning the validity and interpretation of this Will, shall be governed by the laws of the State of California in effect at the time this Will is executed.

IN WITNESS WHEREOF, I have on ________________, 20___, in Monterey County, California, signed, sealed, published and declared the foregoing instrument as and for my Last Will and Testament, in the presence of each and all of the subscribing witnesses, each of whom I have requested, in the presence of each of the others, to subscribe his or her name as an attesting witness, in my presence and in the presence of the others. I am of legal age, of sound mind, and under no constraint or undue influence.

______________________________
FRANK J SMITH
On the date last above written, FRANK J SMITH declared to us, the undersigned, that the foregoing instrument was his Last Will and Testament and requested us to act as witnesses to it. To the best of our knowledge, FRANK J SMITH was of legal age, of sound mind, and under no constraint or undue influence. FRANK J SMITH thereupon signed this Will in our presence, all of us being present at the same time. We now, at his request, in his presence and in the presence of each other, subscribe our names as witnesses.

Executed on ________________, 20___, in Monterey County, California.

We declare under penalty of perjury that the foregoing is true and correct.

[signature – please print name under this line] [street address] [city, state]

[signature – please print name under this line] [street address] [city, state]

[signature – please print name under this line] [street address] [city, state]
General Power of Attorney (with “springing” provision)

DURABLE POWER OF ATTORNEY FOR MANAGEMENT OF PROPERTY AND PERSONAL AFFAIRS

I, FRANK J SMITH, as an individual and as trustee of THE FRANK J. SMITH LIVING TRUST, executed by myself concurrently herewith, intend to create a Durable Power of Attorney (herein referred to as “this Power”) pursuant to California Probate Code §4000 and following, known as the Uniform Durable Power of Attorney Act but specifically not including §4600 and following relating to health care. The powers granted to my Agents in Article II of this Power shall become effective only upon my incapacity as determined in accordance with Paragraph D of Article II of this Power. If, after being determined to be incapacitated, I should regain my capacity as determined in accordance with Paragraph E of Article II of this Power, the powers granted to my Agents in Article II of this Power shall cease.

I give my co-Agents, and the survivor of them, the powers specified in this Power with the understanding that they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity.

I. APPOINTMENT

I hereby designate and appoint my children JOHN SMITH, WAYNE SMITH and SALLY SMITH, or the survivor(s) of them, as my co-Attorney-in-Fact to jointly and individually have all of the powers hereinafter set forth (hereinafter referred to in this power of attorney as “my Agent”). During such time as co-Agents are acting, only one signature shall be required.

II. POWERS

2A. Enumerated Powers. To exercise or perform any act, power, duty, right or obligation whatsoever that I now have for property, real or personal, tangible or intangible, now owned or hereafter acquired by me, including, without limitation, the following specifically enumerated powers. I grant to my Agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that my Agent shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted:

(1) Real and Personal Property. To take any actions for the management or maintenance of any real or personal property in which I own an interest when this Power is executed, or in which I later acquire an interest, including the power to acquire, sell, and convey ownership of property; control the manner in which property is managed,
maintained, and used; change the form of title in which property is held; satisfy and grant security interests and other encumbrances on property; obtain and make claims on insurance policies covering risks of loss or damage to property; accept or remove tenants; collect proceeds generated by property; ensure that any needed repairs are made to property; exercise rights of participation in real estate syndicates or other real estate ventures; make improvements to property; and perform any other acts described in California Probate Code §§4451 and 4452.

(2) **Motor Vehicles.** To apply for a Certificate of Title upon, and endorse and transfer title thereto, for any automobile, truck, pickup, van, motorcycle or other motor vehicle, and to represent in such transfer assignment that the title to said motor vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer assignment.

(3) **Financial Institutions.** To take any actions in connection with any financial institution in which I have an account or an interest in an account when this Power is executed, or in which I later acquire an account or an interest in an account, including the power to continue, modify, or terminate existing accounts; open new accounts; draw, endorse, and deposit checks drafts and other negotiable instruments (including, but not limited to, Social Security, government and insurance checks made payable to me); prepare financial statements; borrow money; and, perform any other acts described in California Probate Code §4455. For the purposes of this paragraph, the term “financial institution” includes, but is not limited to, banks, trust companies, savings banks, commercial banks, building and loan associations, savings and loan companies or associations, credit unions, industrial loan companies, thrift companies and brokerage firms.

(4) **Safe Deposit Boxes.** To have access at any time or times to any safe deposit box rented to me, wheresoever located, and to remove all or any part of the contents thereof, and to surrender or relinquish any safe deposit box, and any institution in which any such safe deposit box may be located shall not incur any liability to me or my estate as a result of permitting my attorney to exercise this power.

(5) **Insurance and Annuities.** To take any actions with respect to any insurance or annuity contracts in which I have an interest when this Power is executed, or in which I later acquire an interest, including the power to acquire additional insurance coverage of any type or additional annuities; continue existing insurance or annuity contracts; agree to modifications in the terms of insurance or annuity contracts in which I have an interest; borrow against insurance or annuity contracts in which I have an interest, to the extent allowed under the contract terms; change beneficiaries under existing contracts and name beneficiaries under new contracts, including the power to designate my Agent as the beneficiary; receive dividends, proceeds, and other benefits generated by the contracts; transfer interests in insurance or annuity contracts to the extent permitted under the terms of those contracts; and perform any other acts described in California Probate Code §4457.

(6) **Beneficial Interests.** To take any actions with respect to any probate estate, trust, conservatorship, guardianship, escrow, custodianship, or other fund/entity in which I have
a beneficial interest when this Power is executed, or in which I later acquire an interest, including the power to accept, reject, disclaim, receive, receipt for, sell, assign, release, pledge, exchange, or consent to a reduction in or modification of a share in or payment from the fund/entity; demand or obtain by litigation or otherwise money or other things of value to which I am, may become, or claim to be entitled by reason of the fund/entity; initiate, participate in, and oppose litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting my interest; initiate, participate in, and oppose litigation to remove, substitute, or surcharge a fiduciary; conserve, invest, disburse, and use anything received for an authorized purpose; and perform any other acts described in California Probate Code §4458.

(7) Retirement Plans and Benefits. To take any actions to maintain or participate in any retirement plan in which I have an interest when this Power is executed, or in which I later acquire an interest, including the power to select the manner in which benefits under the plan are to be paid; designate beneficiaries under the plan, including the power to designate my Agent as the beneficiary; make voluntary contributions to the plan; make rollovers from one plan into another; deal in any manner necessary with regard to Medicaid; deal in any manner necessary with the Social Security Administration (including Medicare); and perform any other acts described in California Probate Code §4462.

(8) Claims and Litigation. To take any actions with respect to any claim that I may have or that has been asserted against me and with respect to any legal proceeding in which I have an interest when this Power is executed, or in which I later acquire an interest, including the power to institute, prosecute, and defend legal proceedings and claims on my behalf; file actions to determine adverse claims, seek preliminary, provisional, or intermediate relief on my behalf; apply for the enforcement or satisfaction of judgments that have been rendered in my favor; participate fully in the development of claims and proceedings; submit any dispute in which I have an interest to arbitration; submit and accept settlement offers and participate in settlement negotiations; handle all procedural aspects, such as service of process, filing of appeals, stipulations, verifications, waivers, and all other matters in any way affecting the process of any claim or litigation; satisfy judgments that have been rendered against me; and perform any other acts described in California Probate Code §4459.

(9) Tax Matters. For any tax year for which the statute of limitations has not run and to the tax year in which this durable power of attorney was executed and any subsequent tax year, to prepare and file any and all documents and take all actions that are necessary or that my Agent believes to be desirable with respect to my local, state, or federal tax liability, including the power to participate in audits; exercise my rights to protest and appeal assessments; pay amounts due to the appropriate taxing authority; execute waivers, consents, closing agreements, and similar documents related to my tax liability; participate in all procedural matters connected with my tax liability; exercise any elections that may be available to me under applicable state or federal tax laws or regulations; and perform any other acts described in California Probate Code §4463.
(10) **Personal and Family Maintenance.** To conduct my personal affairs and to discharge any and all obligations I may owe to myself and to family members and other third persons who are customarily or legally entitled to my support when this Power is executed, or that are undertaken thereafter, including the power to take steps to ensure that our customary standard of living is maintained; continue existing charge accounts, open new charge accounts, and make payments thereon; provide for transportation; maintain correspondence; prepare, maintain, and preserve personal records and documents; maintain membership in any social, religious, or professional organization and make contributions thereto; and perform any other acts described in California Probate Code §4460.

(11) **Gifts.** To make gifts, grants, or other transfers without consideration, of cash or other property, either outright or in trust, including the power to forgive indebtedness and consent to gift splitting under Internal Revenue Code §2513 or successor sections. The powers granted under this paragraph shall be exercised, if at all, in favor of my issue, any spouse of my issue and any other of my dependents, including my Agent. Any gifts made pursuant to this paragraph shall not be future interests within the meaning of Internal Revenue Code §2503, and the aggregate amount of any gifts made in any one calendar year to any one individual shall not exceed the amount that may be made free of federal gift tax. The limitations in the preceding sentence shall not apply to any gifts that incur no federal gift tax, such as, for example, gifts that qualify for the unlimited federal gift tax marital deduction or charitable deduction.

Initials of Principal

If my Agent, in my Agent's sole discretion has determined that I need nursing home or other long-term medical care and that I will receive proper medical care whether I privately pay for such care or if I am a recipient of Title XIX (Medicaid) or other public benefits, then my Agent shall have the power: (i) to take any and all steps necessary, in my Agent's judgment, to obtain and maintain my eligibility for any and all public benefits and entitlement programs, including, if necessary, creating and funding a qualified income trust or special needs trust for me or a disabled child, if any; (ii) to transfer with or without consideration my assets to the beneficiaries of the trust agreement hereinabove referenced, including my Agent; and (iii) to enter into a personal services contract for my benefit, including entering into such contract with my Agent, and even if doing so may be considered self-dealing. Such public benefits and entitlement programs shall include, but are not limited to, Social Security, Supplemental Security Income, Medicare, Medicaid and Veterans benefits.

(12) **Transfer to Trust.** To transfer and convey to the Trustee or co-Trustees of the trust agreement hereinabove referenced any or all assets now or at any time or times hereafter standing in my name or representing my interest in assets owned jointly, commonly, or otherwise with any other person or persons, including, without limitation, real estate, ownership rights in insurance policies of all kinds, cash, checks (particularly government and insurance checks), stocks, bonds, securities, and properties of all kinds; and pursuant to such purpose to terminate savings, checking, safekeeping, agency, investment advisory,
and custody accounts in my name, alone or with others, at any bank or broker, by directing that all or any part of the balance therein, including all cash, stocks, bonds, and other securities and property, subject to any indebtedness secured thereby, be transferred and delivered to said Trustee or co-Trustees.

(13) **Create an Irrevocable Trust.** To create an irrevocable trust for my benefit wherein the beneficial interests at my death shall be the same as the dispositive provisions in my Last Will and Testament in effect on the date such trust is created, to name the Trustees and successor Trustees, and to fund such trust with all or any assets of mine or other interests in property which are capable of being held in said trust, including those assets which may then be held in the revocable trust agreement hereinabove referenced. This authority includes the power to create and fund a trust which may qualify me for Medicaid. My Agent may serve as the Trustee of the trust. My Agent shall have the power to withdraw income or principal on my behalf or for my benefit, and to exercise whatever trust powers or elections which I may exercise.

2.B. **General Grant of Powers.** Except for those actions that conflict with or are limited by another provision in this Power, I give my Agent the power to act as my alter ego with respect to all matters and affairs that are not included in the other provisions in this Power, to the extent that a principal can act through an agent. This paragraph does not authorize my Agent to make health care decisions as defined in §4617 of the California Probate Code.

2.C. **Incidental Powers.** In connection with the exercise of any of the powers described in the preceding paragraphs, I give my Agent full authority, to the extent that a principal can act through an agent, to take all actions that my Agent believes necessary, proper, or convenient, to the extent that I could take such actions myself, including the power to prepare, execute, and file all documents and maintain records; enter into contracts; hire, discharge, and pay reasonable compensation to attorneys, accountants, expert witnesses, or other assistants; execute, acknowledge, seal, and deliver any instrument; and perform any other acts described in California Probate Code §4450.

2.D. **Determination of Incapacity.** For all purposes under this Power, I shall be deemed “incapacitated” if and so long as a court of competent jurisdiction has made a finding to that effect or a guardian or conservator of my person or estate duly appointed by a court of competent jurisdiction is serving, or upon certification by a physician (licensed to practice under the laws of the state of my residency) that I am unable to properly care for myself or for my person or property, which certification shall be made by such physician in a written declaration under penalty of perjury. A certified copy of the decree declaring incapacity or appointing a guardian or conservator, or the physician's certificate shall be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

2.E. **Capacity Regained.** After a determination of incapacity, I shall be deemed to have regained capacity by a finding of a court of competent jurisdiction to that effect, or when the guardianship or conservatorship for me has been judicially terminated, or upon certification by a physician (licensed to practice under the laws of the state of my residency) that I am capable of properly caring for myself or am able to manage my person or property, which certification shall
be made by such physician in a written declaration under penalty of perjury. A certified copy of
the decree declaring my regained capacity or terminating the guardianship or conservatorship, or
the physician's certificate, shall be attached to the original of this document and recorded in the
same county or counties as the original if the original is recorded.

III. AMPLIFYING PROVISIONS

3.A. Reimbursement for Costs and Expenses. My Agent shall be entitled to reimbursement
from my property for expenditures properly made in the execution of the powers conferred by me
in this Power. My Agent shall keep records of any such expenditures and reimbursement.

3.B. No Compensation. My Agent shall not be entitled to compensation for the services
rendered in the execution of any of the powers conferred by me in this Power.

3.C. Reliance by Third Parties. To induce third parties to rely upon the provisions of this
Power, I, for myself and on behalf of my heirs, successors, and assigns, hereby waive any privilege
that may attach to information requested by my Agent in the exercise of any of the powers
described herein. Moreover, on behalf of my heirs, successors, and assigns, I hereby agree to hold
harmless any third party who acts in reliance upon this Power for damages or liability incurred as
a result of that reliance.

3.D. Ratification. I ratify and confirm all that my Agent does or causes to be done under the
authority granted in this Power. All instruments of any sort entered into in any manner by my
Agent shall bind me, my estate, my heirs, successors, and assigns.

3.E. Exculpation. My Agent shall not be liable to me or any of my successors in interest for
any action taken or not taken in good faith, but shall be liable for any willful misconduct or gross
negligence.

3.F. Revocation and Amendment. I revoke all prior General Powers of Attorney that I may
have executed and I retain the right to revoke or amend this document and to substitute other
attorneys in fact in place of the Agent hereinnamed. Amendments to this document shall be made
in writing by me personally (not by my Agent) and they shall be attached to the original of this
document and recorded in the same county or counties as the original if the original is recorded.

IV. GENERAL PROVISIONS

4.A. Nomination of Conservator. If proceedings are initiated for the appointment of a
conservator of my estate, I hereby nominate my Agent as such conservator. I hereby waive the
requirement of a bond. I request that, if my Agent is so appointed as conservator of my estate, the
court make an order granting to that person all or as many of those independent powers listed in
California Probate Code §2591 as the court deems appropriate.

4.B. Photostatic Copies. Persons dealing with my Agent may rely fully on a photostatic copy
of this Power.
4.C. **Severability.** If any of the provisions of this Power are found to be invalid for any reason, such invalidity shall not affect any of the other provisions of this Power, and all invalid provisions shall be wholly disregarded.

4.D. **Governing Law.** All questions pertaining to validity, interpretation, and administration of this Power shall be determined in accordance with the laws of the State of California.

4.E. **Understanding of Document.** I understand that this Power is an important legal document: (1) this document provides my Agent with broad powers to dispose of, sell, convey, and encumber my real and personal property; (2) the powers granted in this Power will exist for an indefinite period of time unless I limit their duration by the terms of this Power or revoke this Power, and they will continue to exist notwithstanding my subsequent disability or incapacity; and (3) I have the right to revoke or terminate this Power at any time.

This Durable Power of Attorney is executed by me on ________________, 20___, in Monterey County, California.

_______________________________________
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT]
By this document, I, FRANK J SMITH, intend to create an advance health care directive under California Probate Code §4600 and following. This directive shall not be affected by my subsequent incapacity.

I. POWER OF ATTORNEY FOR HEALTH CARE

A. DESIGNATION OF HEALTH CARE AGENT. I hereby designate and appoint my son JOHN SMITH as my agent to make health care decisions for me as authorized in this document. For the purposes of this document, "health care decision" means any decision regarding any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect my physical or mental condition.

B. ALTERNATE AGENTS. If said agent is not available or becomes ineligible to act, or if I revoke this appointment or authority to act, then I designate the following persons to serve as my alternate agents to make health care decisions for me as authorized in this document:

1. First Alternate Agent: My son WAYNE SMITH
2. Second Alternate Agent: My daughter SALLY SMITH

C. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent full power and authority:

a. To make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so, including, without limitation, decisions to provide, withdraw, or otherwise affect artificial nutrition and hydration and all other forms of health care to keep me alive; and (b) to make personal care decisions for me to the same extent that I could make those decisions for myself if I had the capacity to do so, including, without limitation, determining where I will live, providing me meals, hiring household employees, providing transportation, handling mail, and arranging recreation and entertainment for me.

D. AGENT'S AUTHORITY EFFECTIVE IMMEDIATELY. My agent's authority to make health care decisions for me takes effect immediately.

E. AGENT'S OBLIGATION. My agent shall make health care decisions for me in accordance with this power of attorney, health care agents, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions consistent with the treatment, service, or procedure that I would choose if I had the capacity to do so. Wherever possible, my agent shall make decisions that will protect my quality of life.

I, FRANK J SMITH, have reviewed and executed this document on the date indicated.

[Signature]
FRANK J SMITH
Name of Principal

California Advance Health Care Directive (each state has its statutorily authorized Health Care Power)
my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

1.F. ANATOMICAL GIFTS. My agent shall have the power and authority to make a disposition of a part or parts of my body under the Uniform Anatomical Gift Act.

1.G. DISPOSITION OF REMAINS. Unless I subsequently execute a document entitled “Burial Instructions”, my agent shall have the power and authority to direct the disposition of my remains according to my agent’s discretion.

1.H. ARRANGEMENTS FOR FUNERAL OR MEMORIAL SERVICE. Unless I subsequently execute a document entitled “Burial Instructions”, my agent shall have the power and authority to arrange for my funeral or other memorial service.

II. INSTRUCTIONS FOR HEALTH CARE

2.A. END-OF-LIFE DECISIONS (“LIVING WILL”). I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, I do not want efforts made to prolong my life and I do not want life-sustaining treatment to be provided or continued: (1) if I am in an irreversible coma or persistent vegetative state; or (2) if I am terminally ill and the use of life-sustaining procedures would serve only to artificially delay the moment of my death; or (3) under any other circumstances in which the burdens of the treatment outweigh the expected benefits. In making decisions about life-sustaining treatment under provision (3) above, I want my agent to consider the relief of suffering and quality of remaining life as well as the extent of the possible prolongation of my life. I understand that if there is a conflict between my agent’s decision and this statement, this statement shall take precedence.

For purposes of this statement:

(A) “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

(B) “An irreversible coma”, means a coma from which the treating physicians have reasonably concluded I will never regain consciousness.

(C) “Persistent vegetative state” means a state of permanent unconsciousness that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, is characterized by both of the following:

(i) I am irreversibly unaware of myself and my environment, and

(ii) There is a total loss of cerebral cortical functioning, resulting in my having no capacity to experience pain or suffering.
Advance Directive of Frank J Smith

(D) “Terminal condition” means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, both of the following apply:

(i) There can be no recovery; and
(ii) Death is likely to occur within a relatively short time if life sustaining treatment is not administered.

2.B. RELIEF FROM PAIN. Notwithstanding anything herein to the contrary, I direct that treatment for alleviation of pain or discomfort be provided at all times, even if it hastens my death. Notwithstanding the preceding paragraph, if withholding or withdrawing nutrition and/or hydration will cause me to experience substantial pain or discomfort, I want to be provided with nutrition and/or hydration.

2.C. OTHER WISHES. In addition to the preceding paragraphs, I am making the following directives to my agent:

If I ever fall into a persistently vegetative state, you are directed to reduce my misery as painlessly as possible.

If I become senile, you are directed to let me die naturally and without any extraordinary medical treatment.

If I am in an irreversible coma or persistent vegetative state, I do not want any form of CPR.

If I am already in an irreversible coma or persistent vegetative state and I develop some other illness or condition for which a course of treatment would be considered, I do not want any additional treatment to be initiated (for example, if I am in an irreversible coma and it is subsequently discovered that I have cancer, I do not want chemotherapy and/or radiation).

III. INSTRUCTIONS FOR PERSONAL CARE

3.A. INDEPENDENT LIVING. I wish to live in my home for as long as that is reasonably possible without endangering my physical or mental health and safety and to receive whatever
assistance from household employees or personal care givers may be necessary to permit me to do so; provided, however, that in the event my agent determines that appropriate household employees or personal care givers are not available without putting my financial position or physical or mental health or safety at risk, then I wish to live in the least restrictive and most home-like setting deemed appropriate by my agent. I further request that I live as near as possible to my primary residence in order that I may visit with friends and neighbors to the degree my agent believes that I will benefit from such relationships. I wish to return home as soon as reasonably possible after any hospitalization or transfer to convalescent care. If my agent determines that I am no longer able to live in my home, I wish that my agent consider alternatives to convalescent care which will permit me as much privacy and autonomy as possible, including such options as placing me in an assisted living facility or board and care facility.

3.B. **SOCIAL INTERACTION.** I wish to be encouraged to maintain my social relationships and to engage in social interaction even if I am no longer able to recognize my family and friends or to fully participate in social activities.

**IV. MISCELLANEOUS MATTERS**

4.A. **INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH.** Subject to any limitations in this document, my agent has the power and authority to do all of the following:

1. Request, review, and receive, to the extent I could do so individually, any information, verbal or written, regarding my physical or mental health, including, but not limited to, my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160-164. I hereby authorize any physician, health care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy, or other covered health care provider, any insurance company, and the Medical Information Bureau, Inc., or other health care clearinghouse that has provided treatment or services to me, or that has paid for or is seeking payment from me for such services, to give, disclose, and release to my agent, without restriction, all of my individually identifiable health information and medical records regarding any past, present, or future medical or mental health condition. This authority given my agent shall supersede any other agreement which I may have made with my health care providers to restrict access to or disclosure of my individually identifiable health information. This authority given my agent shall be effective immediately, has no expiration date and shall expire only in the event that I revoke the authority in writing and deliver it to my health care provider;

2. Execute on my behalf any releases or other documents that may be required in order to obtain this information; and

3. Consent to the disclosure of this information.
4.B. SIGNING DOCUMENTS, WAIVERS, AND RELEASES. When necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

   (1) Documents titled or purporting to be a “Refusal to Permit Treatment” and “Leaving Hospital Against Medical Advice” and;

   (2) Any necessary waiver or release from liability required by a hospital or physician.

4.C. NOMINATION OF CONSERVATOR OF PERSON. If a conservator of the person is to be appointed for me, I nominate my agent to serve as such conservator:

4.D. PRIOR DESIGNATIONS REVOKED. I revoke any prior advance health care directive and any prior durable power of attorney for health care.

4.E. USE OF COPIES PERMITTED. Persons dealing with my agent may rely fully on a photocopy of this document as though the photocopy was an original.

4.F. ADVICE OF LAWYER OBTAINED. My lawyer has advised me concerning my rights in connection with this advance directive and the applicable law and the consequences of signing or not signing this advance directive.

   This Advance Health Care Directive is executed by me on ________________, 20___, in Monterey County, California.

_______________________________________  
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT OR WITNESSES]
End-of-Life Paragraphs (for California and South Dakota)

Default:

1. **END-OF-LIFE DECISIONS.** I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, I do not want efforts made to prolong my life and I do not want life-sustaining treatment to be provided or continued: (1) if I am in an irreversible coma or persistent vegetative state; or (2) if I am terminally ill and the use of life-sustaining procedures would serve only to artificially delay the moment of my death; or (3) under any other circumstances in which the burdens of the treatment outweigh the expected benefits. In making decisions about life-sustaining treatment under provision (3) above, I want my Agent to consider the relief of suffering and quality of remaining life as well as the extent of the possible prolongation of my life. I understand that if there is a conflict between my Agent's decision and this statement, this statement shall take precedence.

For purposes of this statement:

(A) “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

(B) “An irreversible coma”, means a coma from which the treating physicians have reasonably concluded I will never regain consciousness.

(C) “Persistent vegetative state” means a state of permanent unconsciousness that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, is characterized by both of the following:

(i) I am irreversibly unaware of myself and my environment, and

(ii) There is a total loss of cerebral cortical functioning, resulting in my having no capacity to experience pain or suffering.

(D) “Terminal condition” means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, both of the following apply:

(i) There can be no recovery; and

(ii) Death is likely to occur within a relatively short time if life sustaining treatment is not administered.
Agent Decides:

1. **END-OF-LIFE DECISIONS.** I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, if in my Agent's judgment the burdens of the proposed treatment outweigh the expected benefits, then I desire that all life-sustaining treatment I desire that my Agent consider relief from suffering, preservation or restoration of functioning, and the quality as well as the extent of the life being preserved when decisions are made concerning life-sustaining care, treatment, services, and procedures. I trust my Agent, who knows my desires well, and in whose judgment I have absolute faith to exercise discretionary decisions in a manner that would be satisfactory to me. “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

No Cognitive Function:

1. **END-OF-LIFE DECISIONS.** I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, if the extension of my life would result in a mere biological existence, devoid of cognitive function, with no reasonable hope for normal functioning, then I do not desire any form of life-sustaining procedures or, if life-sustaining treatment has been instituted, I desire that it be withdrawn. It is my desire that my Agent consider relief from suffering, preservation or restoration of functioning, and the quality as well as extent of the life being preserved when decisions are made concerning life-sustaining care, treatment, services, and procedures. In making the decision to withhold or remove treatment, my Agent should ask the question: “Is the proposed treatment an aid to recovery or merely a prolongation of inevitable death?” What is “reasonable,” what is “an aid to recovery,” and what is “merely a prolongation of inevitable death” shall be determined by my Agent after consulting with my attending physicians. “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

Prolong Life:

1. **END-OF-LIFE DECISIONS.** I express the desire that my life be prolonged to the greatest possible extent without regard for my physical or mental condition, chance of recovery, likelihood of suffering, or expense and authorize my Agent to consent to whatever medical procedures are necessary to accomplish this end. I trust my Agent, who knows my desires well, and in whose judgment I have absolute faith to exercise discretionary decisions in a manner that would be satisfactory to me.
Burial Instructions (Non-Prefilled)

**FINAL DISPOSITION INSTRUCTIONS**

1. At my death, I wish to be □ cremated □ buried.

2. □ I would like my ashes: __________________________________________

   __________________________________________

   __________________________________________

   □ I would like my remains interred at: ____________________________

   __________________________________________

   __________________________________________

3. I have made burial arrangements at: ____________________________

   __________________________________________

   __________________________________________

4. The authority to carry out my wishes shall be in the following order of priority:

   My son JOHN SMITH
   My son WAYNE SMITH
   My daughter SALLY SMITH

Dated: ____________________________

FRANK J SMITH
Community Property Agreement (CP States Only)

MARITAL PROPERTY AGREEMENT

THIS AGREEMENT, made and executed by and between JOHN DOE (hereinafter referred to as “Husband”) and MARY DOE (hereinafter referred to as “Wife”).

WITNESSETH:

WHEREAS, Husband and Wife are married and are residents of the State of California;

WHEREAS, concurrently herewith, Husband and Wife have created a revocable inter vivos trust known as THE DOE LIVING TRUST. All community property assets transferred to the Trustee of said trust are referred to in that agreement and in this agreement as “the community estate”.

WHEREAS, both Husband and Wife are the lifetime beneficiaries of said trust;

WHEREAS, both Husband and Wife wish to treat all of their property, regardless of previous ownership, as the property of both and have intended said property to be the community property of both parties; and,

WHEREAS, both Husband and Wife wish to enter into a comprehensive agreement concerning the status of their property and to provide for and facilitate the division of such property when the community terminates on the death of either of them.

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OTHERS, IT IS AGREED AS FOLLOWS:

(1) All joint tenancy assets now held or hereafter acquired by the parties shall be community property of the parties unless the parties specifically agree otherwise by an instrument in writing that expressly refers to and modifies this Agreement.

(2) Notwithstanding the provisions of Paragraph 1 above, the parties agree that all of the following assets that are held by them as joint tenants (whether now owned or hereafter acquired) shall be owned by them as joint tenants: (a) checking accounts at any financial institution; (b) automobiles and other motor vehicles; and (c) U.S. “Series E” savings bonds.

(3) The parties understand and agree, with respect to joint tenancy assets listed in Paragraph 2 above, that (a) each party owns an undivided one-half (1/2) interest in the asset as his or her separate property and, (b) the deceased spouse's interest in such property will pass by operation of law to the surviving joint tenant, notwithstanding anything to the contrary in the deceased spouse's will.
The parties agree that all retirement proceeds and all assets (other than the joint tenancy as set forth in Paragraph 2 above) are community property.

The parties agree that each of them owns an undivided one-half (1/2) interest in the total value of their community property estate rather than an undivided one-half (1/2) interest in each and every community property asset.

Other than the joint tenancy as set forth in Paragraph 2 above, all property owned by Husband and Wife, including all property now, or hereafter, titled in the name of said Trust shall be, and hereby is the community property of both Husband and Wife.

Following the death of the first to die of the parties, they intend to effect a division of their community estate in order to accomplish one or more of their estate planning objectives. Accordingly, the parties agree that (a) the surviving spouse will own, as a part of his or her share of the community estate, all retirement proceeds and (b) the deceased spouse's share of the community property estate shall include other community property assets equal in value to the value of such retirement proceeds. For purposes of this division, all assets shall be valued as of the date of death of the deceased spouse. This division shall be accomplished by the following:

(a) If the surviving spouse is designated as the primary beneficiary of the retirement proceeds owned by the deceased spouse, the surviving spouse agrees that the deceased spouse's interest in the community estate shall include other community property assets held in the said trust equal in value to such retirement proceeds.

(b) The surviving spouse shall be the specific legatee under the deceased spouse's Will of his or her community property interest in the retirement proceeds owned by the surviving spouse, and surviving spouse agrees that deceased spouse's interest in the community estate shall include other community property assets held under said trust equal in value to such retirement proceeds.

(c) The parties further agree that the Trustee or Trustees then in office under said trust shall select the assets that shall constitute the deceased spouse's interest in the community estate in accordance with the agreement of the parties set forth in this agreement.

(d) The parties agree that the surviving spouse shall have the unrestricted right (i) to change the beneficiary designation of the retirement proceeds and (ii) to elect a different benefit or payment option with respect to the retirement proceeds.
IN WITNESS WHEREOF, the parties have executed this agreement on ______________, 2007, in Los Angeles County, California.

______________________________________  ______________________________________
JOHN DOE  MARY DOE

[NOTARY ACKNOWLEDGEMENT]
MARITAL PROPERTY AGREEMENT

THIS AGREEMENT, made and executed by and between JOHN DOE (hereinafter referred to as “Husband”) and MARY DOE (hereinafter referred to as “Wife”).

WITNESSETH:

WHEREAS, Husband and Wife are married and are residents of the State of California;

WHEREAS, concurrently herewith, Husband and Wife have created a revocable inter vivos trust known as THE DOE LIVING TRUST. All community property assets transferred to the Trustee of said Trust are referred to in that agreement and in this agreement as “the community estate.” All separate property assets transferred to the Trustee of said Trust are referred to in that agreement and in this agreement as “the separate estate.”

WHEREAS, both Husband and Wife are the lifetime beneficiaries of said Trust;

WHEREAS, Husband and Wife own certain property, as hereinafter set forth, which it is agreed shall remain each one’s respective separate property. The undersigned agree that the property they are or will be transferring into said Trust includes both separate and community property of both parties; and,

WHEREAS, both Husband and Wife wish to enter into a comprehensive agreement concerning the status of their property and to provide for and facilitate the division of such property on the death of either of them.

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OTHERS, IT IS AGREED AS FOLLOWS:

(1) The separate assets of Husband and Wife shall remain his or her sole and separate property, notwithstanding their marriage and the creation of and transfer to said Trust, and any income or accumulations therefrom shall be his or her respective sole and separate property, unless expressly provided to the contrary in writing by Husband or Wife.

(2) Those assets which are considered the sole and separate property of Husband are those which are set forth in Schedule “A” (attached hereto and incorporated by reference as part of this Agreement) and those assets which are considered the sole and separate property of Wife are those which are set forth in Schedule “B” (attached hereto and incorporated by reference as part of this Agreement).

(3) All joint tenancy assets now held or hereafter acquired by the parties shall be community property of the parties unless the parties specifically agree otherwise by an instrument in writing that expressly refers to and modifies this Agreement.
Notwithstanding the above Paragraph, the parties agree that all of the following assets that are held by them as joint tenants (whether now owned or hereafter acquired) shall be owned by them as joint tenants: (a) checking accounts at any financial institution; (b) automobiles and other motor vehicles; and (c) U.S. “Series E” savings bonds.

The parties understand and agree, with respect to joint tenancy assets listed above, that (a) each party owns an undivided one-half (1/2) interest in the asset as his or her separate property and (b) the deceased spouse’s interest in such property will pass by operation of law to the surviving joint tenant, notwithstanding anything to the contrary in the deceased spouse’s will.

Other than set forth in the attached Schedules, the parties agree that all retirement proceeds and all other assets (other than the joint tenancy listed above) are community property.

The parties agree that each of them owns an undivided one-half (1/2) interest in the total value of their community property estate rather than an undivided one-half (1/2) interest in each and every community property asset.

Following the death of the first to die of the parties, they intend to effect a division of their community estate in order to accomplish one or more of their estate planning objectives. Accordingly, the parties agree that (a) the surviving spouse will own, as a part of his or her share of the community estate, all retirement proceeds and (b) the deceased spouse’s share of the community property estate shall include other community property assets equal in value to the value of such retirement proceeds. For purposes of this division, all assets shall be valued as of the date of death of the deceased spouse. This division shall be accomplished by the following:

(a) If the surviving spouse is designated as the primary beneficiary of the retirement proceeds owned by the deceased spouse, the surviving spouse agrees that the deceased spouse’s interest in the community estate shall include other community property assets held in the said trust equal in value to such retirement proceeds.

(b) The surviving spouse shall be the specific legatee under the deceased spouse’s Will of his or her community property interest in the retirement proceeds owned by the surviving spouse, and surviving spouse agrees that deceased spouse’s interest in the community estate shall include other community property assets held under said trust equal in value to such retirement proceeds.

(c) The parties further agree that the Trustee or Trustees then in office under said trust shall select the assets that shall constitute the deceased spouse’s interest in the community estate in accordance with the agreement of the parties set forth in this agreement.
The parties agree that the surviving spouse shall have the unrestricted right (i) to change the beneficiary designation of the retirement proceeds and (ii) to elect a different benefit or payment option with respect to the retirement proceeds.

IN WITNESS WHEREOF, the parties have executed this agreement on ________________, 2007, in Los Angeles County, California.

JOHN DOE

MARY DOE

[NOTARY ACKNOWLEDGEMENT]
SCHEDULE “A”

Separate Property of JOHN DOE

1.

________________________________________________________________________

JOHN DOE

________________________________________________________________________

MARY DOE
SCHEDULE “B”

Separate Property of MARY DOE

1.

____________________________________   ____________________________
JOHN DOE                  MARY DOE
SUMMARY OF ESTATE PLANNING PROVISIONS

LIVING TRUST:

Your revocable living trust is an agreement between the “Settlor” and the “Trustee” to hold the trust assets for the benefit of the beneficiary of the trust. The Settlor is the person setting up the trust and the Trustee is the person who manages the trust. In order to form the trust, the Settlor transfers property to the Trustee to hold in the name of the trust. Since this is your trust, you are the Settlor and you are the initial Trustee of the trust. The trust provides that, for your lifetime, you are also the sole beneficiary of the trust. These points are covered in the Recitals and in Article I of the trust.

Paragraph 2.A. designates the name of the trust. This is the name you will use to re-title your assets to the trust.

Paragraph 2.B. sets forth your family situation.

Paragraph 2.C. designates who shall act as your successor Trustee in the event you are no longer able to act; either due to your death or your incapacity. Since you have designated that co-Trustees could be acting, the trust provides that only one signature of either co-Trustee is needed to conduct business on behalf of the trust. Please see Paragraph 3.J. which requires that, notwithstanding this individual power of signature, the co-Trustees must communicate and agree before undertaking any action on behalf of the trust other than a purely ministerial matter (e.g., writing a check to pay a bill).

Paragraph 2.D. enables you (or anyone else) to add property to the trust, either during your lifetime or at death.

Paragraph 2.E. defines the terms used through the trust.

Paragraph 2.F. establishes the laws of California as the operative laws controlling this trust.

Paragraph 2.G. is often referred to as a “Spendthrift Clause” because it prevents a future beneficiary from alienating (“selling”) his or her interest in the trust (usually for pennies on the dollar); it also keeps a creditor or ex-spouse of a beneficiary from being able to reach the beneficiary's interest in the trust.

Paragraph 2.H. is the Maximum Duration of Trusts provision (it is also known as the “Rule Against Perpetuities”) and most all states require it to be included in a trust. Basically, the rule states that, regardless of circumstances, a trust (or an interest in the trust) must end at some point in the future; it does not mean that the trust must continue for that period. Since these laws can change, your trust merely states that the trust will end, assuming it was still
on-going, at the end of the maximum period under California law at that time. Please note that it is extremely unlikely that this provision will ever be needed, but it must be included.

Paragraph 2.I. is the “No Contest” provision in the trust. It states that, to the extent permitted under California law, if anyone challenges the validity of the trust or your intent as expressed in the trust, that person and his or her descendants will receive nothing from the trust.

Paragraph 2.J. sets the requirement that a beneficiary must survive you by at least thirty days to receive his or her distribution. This can avoid an unnecessary probate of the beneficiary's share of the trust.

Paragraph 2.K. creates some general rules (which will not override any specific distribution provisions) of what will happen to any trust distribution going to a beneficiary who is under the age of twenty-one or who is incapacitated at the time of the distribution. Again, if you have made specific provisions (for example, holding a trust share until age twenty-five), those specific provisions will take precedence over the general provisions in this paragraph. One of the important provisions of this paragraph is the discretionary right it gives to the Trustee to hold any distribution for a beneficiary deemed by the Trustee to be incompetent or suffering from substance abuse, or because the beneficiary's financial circumstances are such that failure to delay the distribution would actually reduce the trust benefits to the beneficiary (e.g., a beneficiary who is receiving state assistance of some kind).

Paragraph 2.L. establishes the procedures to resolve any conflicts between beneficiaries or between a beneficiary and the Trustee.

Paragraph 2.M. provides that the Trustee can distribute an interest in the trust if the cost of administering that interest makes it uneconomical to continue the trust administration on that share.

Article III has detailed provisions concerning the Trustee.

Paragraph 3.A. reiterates your authority to designate anyone you wish as a co-Trustee or as a successor Trustee.

Paragraph 3.B. gives the beneficiaries the authority to appoint a new Trustee if, for any reason, no Trustee is acting and there is no successor Trustee designated or able to act; otherwise, the court would appoint the new Trustee.

Paragraph 3.C. gives any Trustee the right to resign and, if there is not a designated successor Trustee, to have a successor Trustee appointed by the court.

Paragraph 3.D. releases a successor Trustee from any liability for the actions of a predecessor (although the predecessor Trustee would still be liable). Without this protection, no successor Trustee would ever be willing to act.
Paragraph 3.E. eliminates the requirement that a Trustee post a bond prior to acting. A bond is very difficult to obtain when there is no court supervision and is very expensive (it is paid out of the trust assets); it can also be a “Catch-22” situation because the successor Trustee cannot gain access to the trust assets to pay for the bond until he or she becomes the Trustee but cannot become the Trustee until the bond has been posted. The best advice is to designate successor Trustees you can trust!

Paragraph 3.F. sets the compensation of a successor Trustee. If a Trustee is a corporation (i.e., a bank) the compensation is the Trustee’s published fee schedule; however, when a Trustee is an individual such compensation shall be the average of what banks in your county would charge for a similar trust. A Trustee is also entitled to be reimbursed for all necessary expenses incurred in the discharge of the Trustee’s duties. The last sentence in the paragraph gives the Trustee the right to determine how the fees should be allocated.

Paragraph 3.G. discusses the reporting requirements of the Trustee. In general, a Trustee must report (“account”) to the beneficiaries of a trust at least annually. Obviously, while you are the Trustee (and the beneficiary) it is not necessary for you to account to yourself; further, a beneficiary can waive (“give-up”) the requirement. An accounting becomes final when it is given pursuant to this paragraph and it is not objected to within sixty days.

Paragraph 3.H. outlines the manner of payment of trust assets to the beneficiaries. This paragraph releases the Trustee from liability for any payment made in conformance to the paragraph.

Paragraph 3.I. means that a Trustee can hold separate trust interests in a common account but must maintain a separate accounting for each interest.

Paragraph 3.J. defines certain actions a Trustee can take; for example, a Trustee can, just as you can, give another person a “power of attorney”. If there is a dispute between co-Trustees, the paragraph directs that majority rule prevails; but if only two co-Trustees are acting, then the paragraph sets-up the procedures to be followed to resolve the conflict. As previously mentioned, this paragraph clarifies that the power of individual signature granted in Paragraph 2.C. does not supersede the requirement for agreement between the Trustees as set forth in this paragraph.

Paragraph 3.K. gives your successor Trustee the right to obtain your health care information which would otherwise not be accessible under the privacy provisions of the federal Health Insurance Portability and Accountability Act (“HIPAA”). This information may be necessary in the event you became incapacitated. A similar provision is also in your Health Care power.

Paragraph 3.L. authorizes the Trustee to collect any life insurance which is payable to the trust (i.e., the trust is the beneficiary of the policy).

If any IRA or other tax deferred accounts are paid to the trust (as the beneficiary), Paragraph 3.M. makes sure that the trust can receive the same “stretch” on the pay-outs
which would be available if the account had been paid directly to an individual (this language has to be fairly technical to meet the IRS requirements).

Paragraph 3.N. permits a Trustee to release or to restrict the scope of any trustee power if necessary for an appropriate reason (such as a tax consequence).

Article IV grants the powers of the Trustee. In general, the Trustee will have the same level of control over the trust assets that you enjoyed prior to transferring the assets into the trust. The actual powers are set forth in Exhibit A to the trust.

Article V contains your retained rights as the creator of the trust: your right to revoke (Paragraph 5.A.) or change (Paragraph 5.B.) the trust at any time during your lifetime; that these powers terminate at your death (Paragraph 5.C.), and that these powers cannot be exercised by any one other than you (Paragraph 5.D.). There are also provisions concerning your right to use your personal property (Paragraph 5.E.) and your principal residence (Paragraph 5.F.) without accountability to the Trustee (if you are not acting as the Trustee at any point during your lifetime).

Article VI is the part of the trust that controls how the assets of the trust are to be distributed; both during your lifetime and then after your death. It is the distribution after death when the trust acts like a Will, except the assets can be distributed without court supervision (i.e., no probate).

Paragraph 6.A. restates the Trustee's responsibility.

Paragraph 6.B. states your unlimited right to the income and principal during your lifetime.

Paragraph 6.C. allows the Trustee to accumulate the trust income and/or distribute the trust principal in the event you are incapacitated; it also states your desire to stay in your principal residence as long as possible and/or to return to your residence from a care facility as soon as it is medically reasonable.

Paragraph 6.D. gives the Trustee the right to delay distribution of the trust for up to six months after your death. This time frame is tied to the federal estate tax “alternative valuation date” (the right to revalue the estate for tax purposes six months after the date of death), but more importantly it gives the Trustee some time to make sure all of the assets have been located and all of the debts and bills have been paid before being pressured by the beneficiaries to make distributions. This does not mean the Trustee cannot be making some or all of the distributions in the meantime.

Paragraph 6.E. authorizes the Trustee to pay from the trust all of your debts, funeral expenses, the costs of administration and any taxes. Because legally the Executor of an estate has this responsibility, this paragraph coordinates the payment with the Executor if one is appointed or gives this authority to the Trustee if one is not appointed (as is typically the case). The provisions for the payment of any death taxes is fairly technical; the important point here is that the taxes (if any) are paid from the balance of the trust before final distribution.
Paragraph 6.F. is the place in the trust where you direct how your trust (including any assets added to the trust after your death, such as life insurance or assets passing through the “Pour-Over Will”) shall be distributed at your death. The first subparagraph lets you control the distribution of any tangible personal property (i.e., “things”) through a separate list of instructions (this form is included with your trust papers). Please review the remainder of this paragraph carefully.

DECLARATION OF TRUST:

Under certain, very limited circumstances, this Declaration could possibly be helpful after your death if you neglected to transfer a valuable asset to your Trust; it merely confirms that you intended to include all of your assets within your Trust. This Declaration is not a substitute for the requirement that you must transfer (“title”) your assets into the name of your Trust in order to avoid a potential probate of those non-Trust assets.

CERTIFICATE OF TRUST

The Certificate sets forth the existence of your Trust and your unlimited right as Trustee to deal with any account or asset held in the Trust. The Certificate acts as a short version of the Trust Agreement and gives any third party all the information required from the Trust without getting into the dispositive provisions, which are (and should remain) confidential.

ASSIGNMENT OF PERSONAL PROPERTY:

This Assignment acts as the method of transferring all of your tangible personal property assets (generally such assets do not have a title or an ownership document) to your Trust (thereby avoiding the necessity or possibility of having to probate these assets).

INSTRUCTIONS FOR THE DISTRIBUTION OF MY PERSONAL PROPERTY:

This is an optional form and can be completed at any time (you should make copies of it for future use). This is where you can designate specific items of your tangible personal property (i.e., “things”) to go to certain people at your death. For example, “I give my diamond engagement ring to my daughter MARY”; “I give my stamp collection to my grandson MICHAEL SMITH”; etc. You should NOT, however, use this form to designate cash gifts or specific trust assets. You can add to or change this form as often as you wish without having to amend your trust or execute a codicil to your Will; if you do add or delete a distribution, you should date and initial the addition or deletion (or complete a new form and destroy the old one).

WILL:

Your Will is commonly referred to as a “pour-over” will. Under the terms of the Will, any assets held by you which have not previously been transferred into your Trust will be added to the Trust at the time of your death (but may be subject to a probate administration in order to do so). The purpose of this is to make sure all of your assets (whether in the Trust or not) are distributed according to the dispositive plan set forth in the Trust.
THE DURABLE POWER OF ATTORNEY FOR MANAGEMENT OF PROPERTY AND PERSONAL AFFAIRS:

The Durable Power of Attorney is a “general power of attorney”. This document is primarily intended to give your named agent the power to deal with any trust or non-trust assets in the event of your incapacity. However, this document gives your agent broad powers to dispose of, sell, convey and encumber your real and personal property; if you have any concern about granting such broad powers, please contact me at once.

ADVANCE HEALTH CARE DIRECTIVE:

The Advance Health Care Directive gives your named Agents the power to make medical decisions, sign consents and/or releases with hospitals and/or doctors [it conforms to the new Federal Laws (known as “HIPAA”) with regard to the releases]. It also acts as your “living will” for end-of-life decisions.

FINAL DISPOSITION INSTRUCTIONS:

The Final Disposition Instructions give you the ability to specify how you wish your remains to be dealt with (i.e., cremation or burial); to provide information of any prior arrangements and to designate the persons to carry-out your wishes.
LAST WILL AND TESTAMENT

OF

FRANK J SMITH

I, FRANK J SMITH, also known as Frank James Smith, declare that this is my Last Will and Testament, hereby revoking all prior Wills and Codicils.

ARTICLE ONE

INTRODUCTORY PROVISIONS

1.A. Family. I am a widower. I have three children now living; their names and dates of birth are:

   JOHN SMITH, born October 28, 1976
   WAYNE SMITH, born March 5, 1982
   SALLY SMITH, born September 22, 1984

   I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any other children and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

1.B. Definition of “Issue”. As used in this Will, the term “issue” shall refer to lineal descendants of all degrees and shall include adopted persons; provided however, that such term shall refer only to the issue of lawful marriages and illegitimate children only if a parent/child relationship existed between such child and his or her parent, living or deceased, as determined under California law.

1.C. Definition of “Right of Representation”. Whenever a distribution is to be made by “right of representation”, the assets are to be divided into as many shares as there are then-living children and deceased children who left living descendants. Each living child shall receive one share and each deceased child's share shall be divided among such deceased child's then-living descendants in the same manner.
ARTICLE TWO

NOMINATION OF FIDUCIARIES

2.A. Executor. I nominate my children JOHN SMITH, WAYNE SMITH and SALLY SMITH as co-Executors of my Will. If a co-Executor fails to qualify or ceases to act, the other co-Executor(s) shall continue to act. The term “my Executor” as used in this Will shall include any personal representative of my estate and all named Executors shall serve without bond being required.

2.B. Trustees. As Trustee for all trusts created hereunder, my nomination shall be in the same order as the above-named Executors.

ARTICLE THREE

DISTRIBUTION PROVISIONS

3.A. Payment of Estate Expenses. My Executor shall pay from my estate all debts which are due and enforceable against my estate, the expenses of my last illness and funeral, the expenses of administering my estate, and all death taxes and governmental charges imposed and made payable under the laws of the United States or of any state or country by reason of my death.

3.B. Tangible Personal Property. I give such of my tangible personal property in accordance with any written instructions left by me and the remainder of the personal property, or all of it if no such instructions are left, to my children in equal shares.

3.C. Confirmation of Joint Tenancy. I hereby confirm that all assets held in my name and the name of daughter SALLY SMITH as “Joint Tenants” or as “Joint Tenants with Rights of Survivorship” are to pass in their entirety to said co-tenant if I predecease her.

3.D. Specific Pecuniary Bequest. I give the sum of Ten Thousand Dollars ($10,000) to each of my then-living grandchildren; provided however, if any such beneficiary does not survive me, such deceased beneficiary’s distribution shall fail and shall be added to the residue of my Estate. If said beneficiary has not yet attained the age of twenty-one (21), this distribution shall be held for such beneficiary in a custodial account under the provisions of the Uniform Transfer to Minors Act with the parent of such beneficiary as the custodian.

3.E. Disposition of Residue. I give the rest, remainder and residue of my Estate (hereinafter referred to as the “Trust Estate”) to the above-named Trustee, IN TRUST, to hold, administer and distribute in the following manner:

   (1) The Trustee shall divide the remainder of the Trust Estate into as many equal shares as there are children of mine then living and children of mine then deceased with issue then living. The Trustee shall allocate one (1) such share to each then-living child and one (1) such share to each group composed of the then-living issue of a deceased child. Each such share shall be distributed, or retained in trust, as hereafter provided:
From each share held for any of my then-living children, the Trustee shall hold the same in further trust hereunder and pay over the net income of such share to the child for whom such share shall be set aside.

In addition to the net income, the Trustee shall pay to or apply for the benefit of such child as much of the principal of his or her share as the Trustee in the Trustee's discretion shall deem necessary for such child's proper support, health, maintenance and education.

The Trustee shall also pay over to each child, after he or she shall have attained the age of twenty-five (25) years, so much of the principal of the share set aside for such child as he or she shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to such child prior to his or her attaining the age of thirty (30) years shall not exceed one-half of the value of the share set aside for him or her at the time of the setting aside of such share.

In the event of the death of a child for whom a share (or any undistributed part thereof) shall then be held in trust hereunder, the Trustee shall (upon the death of such child) hold, administer and distribute such share to the then-living issue, by right of representation, of the child so dying. If such deceased child shall not be survived by issue, the Trustee shall distribute his or her share to my then-living issue (whenever born), by right of representation; provided however, any portion of the share of such deceased child distributable to any other beneficiary for whose benefit a share shall then be held in trust hereunder shall be added to such share and shall thenceforth be held, administered and distributed as a part thereof.

In the event of the distribution at my death of a share to the issue a deceased child, the Trustee shall distribute such share to the then-living issue, by right of representation, of such deceased child.

ARTICLE FOUR

ESTATE ADMINISTRATION

4.A. General Powers of Executor. Subject to any limitations stated elsewhere in this Will, my Executor shall have, in addition to all of the powers now or hereafter conferred on Executors by law, and any powers enumerated elsewhere in this Will, the power to perform any of the acts specified in this section without the necessity of court approval:

(1) To take possession or control of all of my Estate subject to disposition by this Will, and collect all debts due to me or to my Estate;

(2) To receive the rents, issues, and profits from all real and personal property in my Estate until the estate is settled or delivered over by order of court to my heirs or beneficiaries;
(3) To pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, all property in my Estate;

(4) To insure the property of my Estate against damage or loss, and insure the Executor against liability to third persons;

(5) To deposit money belonging to my Estate in an insured account in a financial institution in California;

(6) If any asset of my Estate consists of an option right, to exercise the option and to use any funds or property in my Estate to acquire the property covered by the option;

(7) To hold any securities or other property, both real and personal, in the name of the Executor, in the name of such nominee as my Executor shall select, or in the form of “street certificates,” without in any of such cases disclosing the fact that such property is held in a fiduciary capacity, and to indemnify any such nominee against any loss resulting from holding such property as nominee;

(8) To vote in person, and give proxies to exercise, any voting rights with respect to any stock, any membership in a nonprofit corporation, or any other property in my Estate, and waive notice of a meeting, give consent to the holding of a meeting, and authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners;

(9) To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plan;

(10) To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for such consideration, whether or not the highest possible consideration, and upon such terms, including credit, as the Executor shall deem advisable, and to execute, acknowledge and deliver deeds or other instruments in connection therewith. No purchaser shall be held to see to the application of the purchase money;

(11) To lease any real estate for such term or terms and upon such provisions and conditions as the Executor shall deem advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase.

(12) To borrow and to pledge or mortgage any property as collateral, and to make secured or unsecured loans. The Executor is specifically authorized to make loans without interest to any beneficiary hereunder. No individual or entity loaning property to the Executor shall be held to see to the application of such property.

(13) To pay any and all charges reasonably incurred in connection with or incidental to the distribution of any property of my Estate, including but not limited to expenses of
storage, freight, shipping, delivery, packing, and insurance; and, on any accounting, treat any such expenditures as expenses of the administration of my Estate;

(14) To dispose of or abandon tangible personal property (including donation to any charitable organization or organizations of the Executor’s choice), except tangible personal property that is a specific gift, when the cost of collecting, maintaining, and safeguarding the property would exceed its fair market value;

(15) To commence and prosecute, either individually or jointly with my heirs or beneficiaries, any action necessary or proper to quiet title to or recover possession of any real or personal property in my Estate;

(16) To pay, compromise or settle any claim, action, or proceeding by or for the benefit of, or against, me, my Estate, or the Executor, subject only to any confirmation of court that may be required by law; and

(17) To employ others in connection with the administration of my Estate, including legal counsel, investment advisors, brokers, accountants and agents, notwithstanding the fact that the Executor may receive a direct or indirect financial benefit as a result of such employment or may otherwise be affiliated with any of them, and to pay reasonable compensation thereto in addition to that to be paid to the Executor.

4.B. **Power to Invest.** To retain for whatever period the Executor shall deem advisable any property, including property owned by me at my death, and to invest and reinvest any money of my Estate not reasonably required for the immediate administration of my Estate in any kind of property, real, personal, or mixed, and in any kind of investment, including but not limited to improved and unimproved real property, interest-bearing accounts, certificates of deposit, corporate and governmental obligations of any kind, preferred or common stocks, mutual funds (including mutual funds of the “load” and “no load” variety), investment trusts, money-market funds, taxable and tax-exempt commercial paper, repurchase and reverse repurchase agreements, and stocks, obligations, and shares or units of common trust funds of any corporate fiduciary; regardless of whether any particular investment would be proper for an Executor and regardless of the extent of diversification of the assets held hereunder.

4.C. **Power to Make Tax Elections.** To the extent permitted by law, and without regard to the resulting effect on any other provision of this Will, on any person interested in my Estate, or on the amount of taxes that may be payable, the Executor shall have the power to choose a valuation date for tax purposes; choose the methods to pay any death taxes; elect to treat or use any item for state or federal estate or income tax purposes as an income tax deduction or an estate tax deduction; disclaim all or any portion of any interest in property passing to my Estate at or after my death; and determine when an item is to be treated as taken into income or used as a tax deduction.

4.D. **Division or Distribution in Cash or in Kind.** In order to satisfy a pecuniary gift or to distribute or divide estate assets into shares or partial shares, the Executor may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind,
with or without regard to tax basis. Property distributed to satisfy a pecuniary gift under this Will shall be valued at its fair market value at the time of distribution.

4.E. **Power to Continue or Sell Business.** The Executor shall have the power to continue the operation of any business that I may own, or in which I have an interest at my death, for such a time and in such a manner as the Executor deems advisable and in the best interests of my Estate, or sell or liquidate the business (or interest in a business) at such time and on such terms as the Executor deems advisable and in the best interests of my Estate.

4.F. **Special Distributions Options.** If any income and/or principal of my Estate hereunder ever vests outright under the provisions of this Will in a person not yet twenty-one (21), or a person who suffers from substance abuse, or a person who my Executor determines is incompetent, or a person whose financial circumstances are such that failure to delay distributions will actually reduce the benefits to such person, then my Executor, in my Executor's discretion and without supervision of any court, shall hold or distribute such property (subsequently referred to in this Paragraph as the “protected property”) in accordance with the following provisions:

(1) My Executor may distribute any protected property to or for the benefit of such beneficiary: (a) directly to the beneficiary; (b) on behalf of the beneficiary for the beneficiary's exclusive benefit; (c) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a form reserving title, management and custody of such account to a suitable person for the use of such beneficiary (such as an account created under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state); (d) in any form of an annuity; and, (e) in all ways provided by law dealing with gifts or distributions to or for minors or persons under incapacity. The receipt for distributions by any such person shall fully discharge my Executor.

(2) In determining whether to make distributions, my Executor may consider other resources of the beneficiary, any governmental entitlements and the future needs of the beneficiary. The protected property shall, at all times, remain free of all claims by any governmental agency and/or creditors of the beneficiary.

(3) Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, my Executor shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction or as a qualified subchapter S trust.

4.G. **Liability.** Unless due to such Executor’s own willful default or gross negligence, no Executor shall be liable for such Executor’s acts or omissions or those of any co Executor or prior Executor.

4.H. **Independent Administration of Estates Act.** My Estate may be administered under the Independent Administration of Estates Act.
ARTICLE FIVE
TRUST ADMINISTRATION

5.A. **Trustee Defined.** Reference in this instrument to the “Trustee” shall be deemed a reference to whoever is serving as Trustee or co-Trustees, and shall include alternate or successor Trustees or co-Trustees, unless the context requires otherwise.

5.B. **No Bond Required.** No bond shall be required of any individual serving as a Trustee of any trust under this will.

5.C. **Compensation of Trustees.** Any corporate Trustee serving under this will shall be entitled to reasonable compensation for its services in accordance with its standard schedule of trust fees, as existing from time to time. Individuals serving as Trustee shall be entitled to reasonable compensation for services rendered, payable without court order.

5.D. **Procedure for Resignation.** Any Trustee may resign at any time, without giving a reason for the resignation, by giving written notice, at least thirty (30) days before the time the resignation is to take effect, to any other Trustee then acting, to any persons authorized to designate a successor Trustee, to all living trust beneficiaries known to the Trustee (or, in the case of a minor beneficiary, to the parent or guardian of that beneficiary), and to the successor Trustee. A resignation shall be effective on written acceptance of the trust by the successor Trustee.

5.E. **General Powers of Trustee.** To carry out the purposes of any trust created under this will, and subject to any limitations stated elsewhere in this will, in addition to all of the powers now or hereafter conferred on Trustees by law, the Trustee shall have all of the following powers:

(1) With or without court authorization, sell (for cash or on deferred payments, and with or without security), convey, exchange, partition, and divide trust property; grant options for the sale or exchange of trust property, whether real property or personal property, whether tangible or intangible, for any purpose, whether the contract is to be performed or the option is to be exercised within or beyond the term of the trust; and lease trust property for any purpose, for terms within or extending beyond the expiration of the trust, regardless of whether the leased property is commercial or residential and regardless of the number of units leased.

(2) Engage in any transactions with the personal representative of my Estate that are in the best interest of any trusts under this will.

(3) Manage, control, improve, and maintain all real and personal trust property.

(4) Subdivide or develop land; make or obtain the vacation of plats and adjust boundaries, or adjust differences in valuation on exchange or partition by giving or receiving consideration; and dedicate land or easements to public use with or without consideration.
(5) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing party walls or buildings, and erect new party walls or buildings, as the Trustee deems advisable.

(6) Employ and discharge agents and employees, including but not limited to attorneys, accountants, investment and other advisers, custodians of assets, property managers, real estate agents and brokers, and appraisers, to advise and assist the Trustee in the management of any trusts created under this will, and compensate them from the trust property.

(7) With respect to securities held in trust, exercise all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and pay assessments and other sums deemed by the Trustee necessary for the protection of the trust property; participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and, in connection therewith, deposit securities with and transfer title to any protective or other committee under such terms as the Trustee deems advisable; exercise or sell stock subscription or conversion rights; and accept and retain as investments of the trust any securities or other property received through the exercise of any of the foregoing powers.

(8) Hold securities or other trust property in the Trustee’s own name or in the name of a nominee, with or without disclosure of the trust, or in unregistered form, so that title may pass by delivery.

(9) Deposit securities in a securities depository that is either licensed or exempt from licensing.

(10) Borrow money for any trust purpose from any person or entity on such terms and conditions as the Trustee deems advisable, and obligate the trust for repayment; encumber any trust property by mortgage, deed of trust, pledge, or otherwise, whether for terms within or extending beyond the term of the trust, as the Trustee deems advisable, to secure repayment of any such loan; replace, renew, and extend any such loan or encumbrance; and pay loans or other obligations of the trust deemed advisable by the Trustee.

(11) Procure and carry, at the expense of the trust, insurance in such forms and in such amounts as the Trustee deems advisable to protect the trust property against damage or loss, and to protect the Trustee against liability with respect to third persons.

(12) Enforce any obligation owing to the trust, including any obligation secured by a deed of trust, mortgage, or pledge held as trust property, and purchase any property subject to a security instrument held as trust property at any sale under the instrument.

(13) Extend the time for payment of any note or other obligation held as an asset of, and owing to, the trust, including accrued or future interest, and extend the time for repayment beyond the term of the trust.
(14) Pay or contest any claim against the trust; release or prosecute any claim in favor of the trust; or, in lieu of payment, contest, release, or prosecution, adjust, compromise, or settle any such claim, in whole or in part, and with or without consideration.

(15) At trust expense, prosecute or defend actions, claims, or proceedings of whatever kind for the protection of the trust property and of the Trustee in the performance of the Trustee’s duties, and employ and compensate attorneys, advisers, and other agents as the Trustee deems advisable.

(16) Accept additions to any trusts created by this will, from any source and at any time; all such additions shall become a part of the trust and shall be held, administered, and distributed in accordance with the terms of the trust.

5.F. **Power to Retain Trust Property.** The Trustee shall have the power to retain property received into the trust at its inception or later added to the trust, without regard to whether the trust investments are diversified, until, in the judgment of the Trustee, disposition of the property should be made.

5.G. **Power to Invest.** The Trustee shall have the power to invest in and acquire every kind of property, real, personal, or mixed, and every kind of investment, including but not limited to improved and unimproved real property, corporate and government obligations of every kind, stocks (both preferred and common), shares of mutual funds of any character, shares of investment companies, interest-bearing accounts, and foreign assets. The Trustee is under no duty to diversify investments. This section of the will shall be construed as expanding the standards set forth in California Probate Code §16040.

5.H. **Power Over Unproductive Property.** The Trustee shall have the power to retain or acquire unproductive or underproductive property.

5.I. **Power to Self-Deal.** The Trustee, acting as an individual or as a Trustee of a non-testamentary trust, shall have the power to perform the following acts with respect to the property of any trust under this will: purchase property from or sell property to the trust at fair market value; exchange property for trust property of equal value; lease property from or to the trust at fair rental value; borrow funds from or lend or advance funds to the trust, with interest at then-prevailing rates, and give or receive security for the loans in any commercially reasonable form; and receive from any business in which the trust has an interest a reasonable salary and reimbursement of expenses while performing duties as a Trustee.

5.J. **Combining Multi-Trust Property.** Each trust created under this will shall constitute a separate trust and be administered accordingly; however, the assets of all of the trusts may be combined for bookkeeping purposes and held for the trust beneficiaries without physical division into separate trusts until time of distribution.

5.K. **Division or Distribution in Cash or in Kind.** In order to satisfy a pecuniary gift or to distribute or divide trust assets into shares or partial shares, the Trustee may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those
assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind. Property distributed to satisfy a pecuniary gift under this will shall be valued at its fair market value at the time of distribution.

5.L. **Spendthrift Clause.** The interests of each trust beneficiary under this will are not transferable by voluntary or involuntary assignment or by operation of law, and shall be free from the claims of creditors and from attachment, execution, bankruptcy, and other legal process, to the maximum extent permitted by law.

5.M. **Special Distributions.** If any income and/or principal of any trust hereunder ever vests outright under the provisions of this Will in a person not yet twenty-one (21), a person who suffers from substance abuse, or a person who the Trustee determines is incompetent or whose financial circumstances is such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee's discretion and without supervision of any court, shall hold or distribute the distribution for such person (hereinafter “the beneficiary”) in accordance with the following provisions:

(1) **Under Age Twenty-One.** If a beneficiary is under the age of twenty-one and no other provision of this trust specifically addresses this possibility, the Trustee may either open a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian or the Trustee may hold such beneficiary's distribution in a separate trust for such beneficiary, exercising as the Trustee of such trust all the administrative powers conferred in this Will., on the following terms and conditions:

(a) The Trustee may accumulate or distribute to or for such beneficiary such amount or amounts of income and/or principal of the trust as the Trustee determines from time to time during the term of the trust to be appropriate. The Trustee may make such distributions to or for the benefit of such beneficiary: (i) directly to the beneficiary; (ii) on behalf of the beneficiary for the beneficiary's exclusive benefit; (iii) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian; (iv) in any form of an annuity; and, (v) to such beneficiary's guardian if one has been appointed by the Court. The receipt for distributions by any such person shall fully discharge the Trustee. In determining whether to make distributions, the Trustee may consider other resources of the beneficiary, trust resources and the future needs of the beneficiary during the term of the trust.

(b) This separate trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21), dies, or when the trust assets are exhausted by discretionary distributions. At such termination, the Trustee shall distribute the trust then on hand to the beneficiary or to the beneficiary's estate if the trust terminated at the beneficiary's death.
Substance Abuse Dependence. If the Trustee reasonably believes that a beneficiary of any trust created under this Will is a person who routinely or frequently uses or consumes any illegal drugs or other illegal chemical substance so as to be physically or psychologically dependent upon that drug or substance; or, is a person who is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by that doctor or psychiatrist; and, if the Trustee reasonably believes that, as a result of the use or consumption, the beneficiary is incapable of caring for himself or herself or is likely to dissipate the beneficiary's financial resources, the Trustee shall follow the procedures set forth below.

(a) The Trustee will request the beneficiary to submit to one or more examinations (both physical and psychological) determined to be appropriate by a board certified medical doctor or psychiatrist selected by the Trustee. The Trustee will request the beneficiary to consent to full disclosure by the examining doctor or facility to the Trustee of the results of all the examinations. The Trustee will maintain strict confidentiality of those results and will not disclose those results to any person other than the beneficiary without the beneficiary's written permission. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

(b) If, in the examining doctor's or psychiatrist's opinion, the examination indicates current or recent use of a drug or substance as described above, the beneficiary will consult with the examining doctor or psychiatrist to determine an appropriate method of treatment for the beneficiary. Treatment may include counseling or treatment on an in-patient basis in a rehabilitation facility. If the beneficiary consents to the treatment, the Trustee will pay the costs of treatment directly to the provider of those services from the income or principal otherwise authorized or required to be distributed to the beneficiary.

(c) If the examination indicates current or recent use of a drug or substance as described above, all mandatory distributions and all withdrawal rights from the trust with respect to the beneficiary during the beneficiary's lifetime (including distributions upon termination of the trust for reasons other than the death of the beneficiary) will be suspended until in the case of use or consumption of an illegal drug or illegal substance, examinations indicate no such use; and, in all cases of dependence, until the Trustee, in the Trustee's judgment, determines that the beneficiary is fully capable of caring for himself or herself and is no longer likely to dissipate his or her financial resources.

(d) While mandatory distributions are suspended, the trust will be administered as a discretionary trust to provide for the beneficiary according to the provisions of the trust providing for discretionary distributions in the
Trustee's discretion and those provisions of the trust relating to distributions for the beneficiary's health, education, maintenance and support.

(e) When mandatory distributions to and withdrawals by the beneficiary are resumed, the remaining balance, if any, of the mandatory distributions that were suspended may be distributed to the beneficiary at that time and the balance of any rights of withdrawal by the beneficiary shall be immediately exercisable by the beneficiary. If the beneficiary dies before mandatory distributions or rights of withdrawal are resumed, the remaining balance of such beneficiary's share shall be distributed in the manner hereinafter set forth for the distribution of such beneficiary's share in the event such beneficiary did not survive me.

(f) It is not my intention to make the Trustee (or any doctor or psychiatrist retained by the Trustee) responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances. The Trustee (and any doctor or psychiatrist retained by the Trustee) will be indemnified from the trust for any liability in exercising its judgment and authority under this Will, including any failure to request a beneficiary to submit to medical examination and including a decision to distribute suspended amounts to a beneficiary.

(3) **Special Needs Trust.** If the Trustee reasonably believes that a beneficiary of any trust created under this Will is a person who is incompetent, or, is a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, the Trustee shall hold the distribution for such beneficiary further trust hereunder (hereinafter referred to as the “Special Trust”) on the following terms and conditions:

(a) The primary purpose of this trust is to provide a supplemental and emergency fund to supplement any public benefits available to such beneficiary during his or her lifetime. It is my intent that the assets of the Special Trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause such beneficiary's eligibility for public benefits to be terminated, it is likely that the trust assets would be depleted before his or her death and the purpose of this trust could not then be fulfilled.

(b) Until such beneficiary is, in the Trustee's judgment, no longer incapacitated, or such beneficiary's financial situation has changed significantly, the Trustee shall pay over to or for the benefit of such beneficiary as much of the net income and as much of the principal of the Special Trust, up to the whole thereof, as the Trustee, in the Trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of such beneficiary's special needs. For this purpose, “special needs” refers to the requisites for
maintaining such beneficiary's good health, comfort, safety, and welfare when, in the discretion of the Trustee, those requisites are not being provided for by any county, state, federal, or other governmental agency, or by any person or persons with a legal obligation to support such beneficiary. “Special needs” shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, rehabilitation, travel needs and recreation not provided for or reimbursed by public benefits. The Trustee shall consult with any guardian, conservator, custodian, or other person who cares for such beneficiary regarding his or her special needs. Expenditures made by the Trustee under this section may include reasonable compensation to any person who provides for the special needs of such beneficiary as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order.

(c) It is my intent that any payments or distributions from this trust to or for the benefit of such beneficiary shall supplement (but not replace) any public benefits or other private resources available to him or her. The Trustee may, in the exercise of the Trustee's discretion, seek as necessary all available public benefits for such beneficiary's benefit, and shall segregate any public benefits received by the Trustee for that purpose in a separate trust or account and administer the same for the benefit of such beneficiary. All public benefits received by the Trustee for that purpose, together with any other resources available to such beneficiary, shall be taken into account by the Trustee in making payments or distributions to or for the benefit of such beneficiary. The Trustee shall regularly consult with such beneficiary and any persons or entities providing care or assistance to such beneficiary for the purpose of determining such beneficiary's needs and resources. The Trustee shall not exercise the Trustee's discretion to make any payments or distributions to or for the benefit of such beneficiary if the Trustee determines, in the Trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to such beneficiary to satisfy those needs.

(d) No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of such beneficiary. For purposes of determining such beneficiary's eligibility for any public benefits, no part of the principal or undistributed income of the Trust Estate shall be considered available to him or her, and he or she shall have no right to compel the Trustee to release principal or income to him or her or for his or her benefit or otherwise to have any access to any of the trust assets. In the event that the Trustee is requested to release principal or income of the trust to or on behalf of such beneficiary to pay for any equipment, medication, services, or any other needs that any public benefits would be authorized to provide for were it not for the existence of the trust,
or in the event that the Trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the Trustee is authorized to deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of such beneficiary for all available public benefits, including obtaining instructions from a court of competent jurisdiction that the trust principal is not available to such beneficiary for purposes of determining his or her eligibility for any public benefits. Any expenses of the Trustees in this regard, including reasonable attorney's fees, shall be a proper charge to the Special Trust.

(e) If any payment or distribution from the trust to or for the benefit of such beneficiary would have the effect of disqualifying him or her for any public benefits, or if all income of the Special Trust cannot be completely utilized for his or her special needs, the Trustee shall accumulate the trust income annually and add it to principal.

(f) The discretion of the Trustee shall not be subject to review by such beneficiary, his or her creditors and/or any governmental agency. Notwithstanding any other provision of this instrument, if the existence of the Special Trust, or any change in any law, regulation, or rule relating to the Special Trust or the administration of the Special Trust for the benefit of such beneficiary, should at any time have the effect of disqualifying him or her for any public benefits, or if such beneficiary, his or her creditors and/or any governmental agency shall ever bring any court action to force or require the Trustee to distribute to or for the benefit of such beneficiary a greater amount of income and/or principal than the Trustee, in the Trustee's absolute discretion, has determined to be appropriate, the Trustee is authorized (but not required) to terminate the trust and distribute the trust principal and income as provided in subsection (g); I request that any person who takes any part of the trust assets as the result of this termination power, conserve and manage such property for the benefit of such beneficiary during his or her lifetime to insure that he or she receives sufficient funds for his or her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and is not mandatory.

(g) At such beneficiary's death, the Trustee shall distribute the Special Trust, as then constituted, in the manner hereinafter set forth for the distribution of such beneficiary's share in the event such beneficiary did not survive me.

(4) Tax Savings Provisions. Notwithstanding the provisions of the preceding subparagraphs or any other provision of my Will, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction or as a qualified
subchapter S trust. Finally, nothing herein shall prevent a distribution mandated by the provisions hereof relating to the Maximum Duration of Trusts.

5.N. **Trustee’s Liability.** No Trustee shall be liable to any interested party for acts or omissions of that Trustee, except those resulting from that Trustee’s willful misconduct or gross negligence. This standard shall also apply regarding a Trustee’s liability for the acts or omissions of any co-Trustee, predecessor Trustee, or agent employed by the Trustee.

5.O. **Written Notice to Trustee.** Until the Trustee receives written notice of any death or other event on which the right to payments from any trust may depend, the Trustee shall incur no liability for disbursements made in good faith to persons whose interests may have been affected by that event.

5.P. **Duty to Account.** The Trustee shall render accounts at least annually, at the termination of a trust, and on a change of Trustee, to the persons and in the manner required by law, except as such reporting shall be waived by such person. If the persons entitled to an accounting are minors, their accounting shall be delivered to their parents or guardian. If the persons entitled to an accounting are incapacitated, their accounting shall be delivered to their legal representative. Unless the accounting is objected to in writing within one hundred and eighty (180) days after mailing to the persons to whom the accounting is to be rendered, the account shall be deemed final and conclusive in respect to all transactions disclosed in the accounting. The accounting shall be binding on all persons interested in the trust, including those who are not known or who are not yet born. The records of the Trustee shall be open at all reasonable times to such inspections. The Trustee shall not be required to make any reports or accountings to the courts; however, nothing herein stated shall be deemed to restrict the Trustee from seeking judicial approval of the Trustee’s accounts.

5.Q. **Maximum Duration of Trusts.** Regardless of any other provision herein, the Maximum Duration for Trusts is the longest period that property may be held in trust under this Will under the applicable rules of the State of California governing perpetuities, vesting, accumulations, the suspension of alienation and the like (including any applicable period in gross such as twenty-one (21) years or ninety (90) years). If under those rules the Maximum Duration for Trusts shall be determined (or alternatively determined) with reference to the death of the last survivor of a group of individuals alive upon my death, or at such other time that the application of such rules limiting the maximum duration of trusts is deemed to begin, those individuals shall consist of all beneficiaries (including future and/or contingent) of this trust (as hereinafter named) alive at my death. Any trust created hereunder must end immediately prior to such maximum duration and, thereupon, the Trustee shall pay over the principal, free from such trust, to the person or persons then entitled to receive the net income.

5.R. **Environmental Issues.** The Trustee may take into account any environmental law that may be relevant to any real estate included in the trust.

(1) The Trustee may inspect property held directly or indirectly as part of the Trust assets, including any interests in incorporated or unincorporated business entities, to comply with environmental laws affecting this property and respond to a change in, or any
actual or threatened violation of, any environmental law affecting property held as part of the Trust assets.

(2) The Trustee may appropriately respond to a change in, or prevent, abate or otherwise remedy any actual or threatened violation of any environmental law affecting property held as part of the Trust assets, either before or after the initiation of an enforcement action by any governmental body.

(3) The Trustee may refuse to accept the transfer to the Trust of additional property if the Trustee shall determine that this additional property either is or may reasonably be believed to be contaminated by any hazardous substance that could result in liability to the Trust.

(4) The Trustee may disclaim any power granted by any document, statute or rule of law that, in the discretion of the Trustee, may reasonably be expected to cause the Trustee to incur personal liability under any environmental law.

(5) The Trustee may charge the cost of any inspection, response or other action against the income or principal of the Trust.

(6) The Trustee shall not be personally liable to any beneficiary for any decrease in value because of the compliance by the Trustee with any environmental law, including any reporting requirement. Neither the acceptance by the Trustee of property nor the failure by the Trustee to inspect property shall create any inference as to whether or not there is or may be any liability under any environmental law with respect to such property.

(7) “Environmental law” means any Federal, state or local law relating to the protection of the environment or human health, and “hazardous substances” means any substances defined as hazardous or toxic or otherwise regulated by any environmental law.

5.S. **Power to Operate Business.** The Trustee shall have the power to continue to hold and operate any business or other enterprise that is or becomes trust property, on such terms and for such a time as the Trustee, in the Trustee’s discretion, deems advisable; to purchase, acquire, invest in, or otherwise participate in, any business or other enterprise on behalf of the trust; or to sell, dissolve, liquidate, or terminate any such business. The Trustee shall also have the power to incorporate, reorganize, or otherwise change the form of a business or enterprise that is part of the trust, through merger or consolidation of two or more enterprises or otherwise, and to participate in that business or enterprise as a sole proprietor, as a general or limited partner, as a shareholder, or in any other capacity. Any operation, sale, purchase, acquisition, investment in, or dissolution or liquidation of a business interest, in good faith, shall be at the risk of the trust, and without liability on the part of the Trustee for any resulting losses. The Trustee shall also have the power to contribute capital or loan money to the business or enterprise on such terms and conditions as the Trustee deems advisable.
ARTICLE SIX

CONCLUDING PROVISIONS

6.A. Definition of Death Taxes. The term “death taxes,” as used in this will, shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person’s interest in my Estate or by reason of my death, including penalties and interest, but excluding any additional tax that may be assessed under Internal Revenue Code §2032A.

6.B. Payment of Death Taxes. Death taxes shall be prorated and apportioned among the persons interested in that property as provided by the laws of the State of California, whether or not such property is inventoried in my probate estate.

6.C. Simultaneous Death. If any beneficiary under this will and I die simultaneously, or if it cannot be established by clear and convincing evidence whether that beneficiary or I died first, I shall be deemed to have survived that beneficiary, and this will shall be construed accordingly.

6.D. Period of Survivorship. For the purposes of this will, a beneficiary shall not be deemed to have survived me if that beneficiary dies within three (3) months after my death.

6.E. Guardian Ad Litem. I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained, or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

6.F. Beneficial Interests. The interest of any beneficiary in any share or part of this will, both as to principal and income, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

6.G. No-Contest Clause. To the extent permitted by the laws of the State of California in effect at the time this will is executed, if any person, directly or indirectly, contests the validity of this will in whole or in part, or opposes, objects to, or seeks to invalidate any of its provisions, or seeks to succeed to any part of my Estate otherwise than in the manner specified in this will, any gift or other interest given to that person under this will shall be revoked and shall be disposed of as if he or she had predeceased me without issue.

6.H. Captions. The captions appearing in this will are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this will.

6.I. Severability Clause. If any provision of this will is invalid, that provision shall be disregarded, and the remainder of this will shall be construed as if the invalid provision had not been included.
6.J. **Governing Law.** All questions concerning the validity and interpretation of this will, shall be governed by the laws of the State of California in effect at the time this will is executed.

IN WITNESS WHEREOF, I have on ______________, 2007, in Monterey County, California, signed, sealed, published and declared the foregoing instrument as and for my Last Will and Testament, in the presence of each and all of the subscribing witnesses, each of whom I have requested, in the presence of each of the others, to subscribe his or her name as an attesting witness, in my presence and in the presence of the others. I am of legal age, of sound mind, and under no constraint or undue influence.

____________________________________
FRANK J. SMITH

On the date last above written, FRANK J. SMITH declared to us, the undersigned, that the foregoing instrument was his Last Will and Testament and requested us to act as witnesses to it. That to the best of our knowledge, FRANK J. SMITH was of legal age, of sound mind, and under no constraint or undue influence. FRANK J. SMITH thereupon signed this Will in our presence, all of us being present at the same time. We now, at his request, in his presence and in the presence of each other, subscribe our names as witnesses.

Executed on ______________, 2007, in Monterey County, California.

We declare under penalty of perjury that the foregoing is true and correct.

____________________________________  [signature – please print name under this line]  [street address]

____________________________________  [city, state]

____________________________________  [signature – please print name under this line]  [street address]

____________________________________  [city, state]
Reciprocal Trust for Husband (Wife’s is identical with change in names and gender) with Schedule “A” funding, corporate successor trustee, “long form” Special Distributions paragraph, State Tax QTIP, “pro-rata” allocation of estate tax, full GST with 5% Unitrust Distribution and “S Corp” Stock Qualifying Language.

THE JOHN DOE LIVING TRUST

THIS TRUST AGREEMENT, entered into by JOHN DOE, also known as John Michael Doe, as Settlor, and JOHN DOE, as Trustee. For all purposes hereunder, the words “I”, “me”, “my”, “mine”, and similar pronouns, shall refer to Settlor JOHN DOE and shall be construed as the possessive when the context would so indicate.

ARTICLE I

RECITALS AND CONVEYANCE

WHEREAS, I, JOHN DOE, desire to establish a trust of which, during my lifetime, I am the sole life beneficiary and the exclusive recipient of the economic benefits;

WHEREAS, this trust shall be initially funded with the assets described in the attached Schedule “A” entitled “INITIAL TRUST FUNDING”; these assets and any assets later added to the trust shall be known as the “trust fund” and shall be held, administered and distributed as provided in this document and any subsequent amendments to this document;

NOW, THEREFORE, the Trustee acknowledges receipt of the trust fund and shall hold the same in trust under the following terms, conditions and provisions:

ARTICLE II

DECLARATIONS

2.A. Trust Name. This trust shall be known as THE JOHN DOE LIVING TRUST.

2.B. Family. I am married to MARY DOE and all references to “my wife” shall be to her. We have two children of this marriage now living; namely, STEVEN DOE and SUSAN SMITH. I also have a child by a previous marriage now living; namely, SALLY DOE.

2.C. Successor Trustee. If I should cease to act as the Trustee for any reason, I shall be succeeded by my wife MARY DOE as the successor Trustee. If she fails to qualify or ceases to act, BANK OF AMERICA TRUST DEPARTMENT shall act as the alternate successor Trustee.

2.D. Trust Fund. I, and/or any other person, may add to the principal of the trust by deed, will, or otherwise.
2.E. **Definitions.** For any interpretation of this Trust Agreement, the following definitions shall apply:

(1)  **Beneficiary.** The term “beneficiary” or “beneficiaries” shall mean any person and/or entity then eligible to receive current income or whose right to receive assets from the estate is currently vested;

(2)  **Code.** Any reference to the “Code” shall refer to The Internal Revenue Code of 1986, as amended, and to any regulations pertaining to the referenced sections;

(3)  **Education.** As used in this Trust Agreement, the term “education” or “educational purposes” shall include any course of study or instruction which may, in the Trustee's discretion, be useful in preparing a beneficiary for any vocation consistent with such beneficiary's abilities and interests. Distributions for education may include tuition, fees, books, supplies, living expenses, travel and spending money to the extent that they are reasonable and necessary, again in the Trustee's absolute discretion;

(4)  **Incapacity.**

   (a)  In the case of a question or dispute, incapacitation of a Trustee (whether such Trustee shall be me or a designated successor) shall be evidenced by written certification of two (2) physicians;

   (b)  If there is no question or dispute, incapacitation of a Trustee shall be established by the written declaration of only one doctor;

(5)  **Issue.** The term “issue” shall refer to lineal descendants of all degrees and shall include adopted persons; provided however, that such term shall refer only to the issue of lawful marriages and illegitimate children only if a parent/child relationship existed between such child and his or her parent, living or deceased, as determined under Massachusetts law. A child in gestation which is later born alive and survives for thirty (30) days shall be considered as issue in being throughout the period of gestation;

(6)  **Majority.** The term “majority” shall mean more than one-half (1/2), and, in the event of a deadlock, shall be determined in accordance with the laws of the Commonwealth of Massachusetts relating to inter-vivos trusts;

(7)  **Per Stirpes.** Whenever a distribution is to be made “per stirpes”, the assets are to be divided into as many shares as there are then-living children and deceased children who left living descendants. Each living child shall receive one share and each deceased child's share shall be divided among such deceased child's then-living descendants in the same manner;

(8)  **Principal and Income.** The determination by the Trustee in all matters as to what shall constitute principal of the trust, gross income therefrom and distributable net income under the terms of the trust shall be governed by the provisions of the Principal and Income Act of the Commonwealth of Massachusetts, except as to any of such matters as may
otherwise be provided for in this instrument. In the event and to the extent that any of such matters relating to what constitutes principal or income of the trust and in the allocation of receipts and disbursements between these accounts is not provided for either in this Trust Agreement or in such Principal and Income Act, the Trustee has full power and authority to determine such matters;

(9) **Pronouns and Gender.** In this Trust Agreement, the feminine, masculine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates;

(9) **Request in Writing.** When I am acting as the Trustee or as a co-Trustee, the requirement of a writing to be signed by me as Settlor and/or beneficiary and delivered to me as the Trustee shall be waived; and,

(11) **Trustee.** Any reference to “Trustee” shall be deemed to refer to whichever individual (including myself), individuals or corporation shall then be acting as the Trustee.

2.F. **Governing Law.** This Trust Agreement is a Massachusetts contract and creates a Massachusetts trust; all of the terms and provisions hereof shall be interpreted according to the laws of the Commonwealth of Massachusetts.

2.G. **Restrictions.** The interest of any beneficiary (whether entitled to current income or possessing only a future interest) in either the income or principal of the trust fund or any part of it shall not be alienated or in any other manner assigned or transferred by such beneficiary; and such interest shall be exempt from execution, attachment and other legal process which may be instituted by or on behalf of any creditor or assignee of such beneficiary; nor shall any part of such interest be liable for the debts or obligations (including alimony) of any such beneficiary.

2.H. **Maximum Duration of Trusts.** Regardless of any other provision herein, the Maximum Duration for Trusts is the longest period that property may be held in trust under this Agreement under the applicable rules of the Commonwealth of Massachusetts governing perpetuities, vesting, accumulations, the suspension of alienation and the like (including any applicable period in gross such as twenty-one (21) years or ninety (90) years). If, under those rules, the Maximum Duration for Trusts shall be determined (or alternatively determined) with reference to the death of the last survivor of a group of individuals alive upon my death, or at such other time that the application of such rules limiting the maximum duration of trusts is deemed to begin, those individuals shall consist of all beneficiaries (including future and/or contingent) of this trust (as hereinafter named) alive at my death. Any trust created hereunder must end immediately prior to such maximum duration and, thereupon, the Trustee shall pay over the principal, free from such trust, to the person or persons then entitled to receive the net income.

2.I. **No-Contest Provision.** To the extent permitted under the laws of the Commonwealth of Massachusetts, in the event any beneficiary under this trust shall, singly or in conjunction with any other person or persons, contest in any court the validity of this Trust Agreement and/or my last Will, or shall seek to obtain an adjudication in any proceeding in any court that this Trust Agreement or any of its provisions and/or that such Will or any of its provisions are void, or seek otherwise to set aside this Trust Agreement or any of its dispositive provisions, then the right of
that person to take any interest given him or her by this Trust Agreement shall be determined as it would have been determined had the person predeceased me. The Trustee is hereby authorized to defend, at the expense of the trust fund, any contest or other attack of any nature on this Trust Agreement or any of its provisions.

2.J. Presumptions. Any beneficiary who shall not be living thirty (30) days after my death shall be deemed not to have survived me; except that in event of the simultaneous death of my wife MARY and me, if the order of our deaths cannot be established by proof, I shall be deemed to be the survivor of us.

2.K. Special Distributions. If any income and/or principal of any trust hereunder ever vests outright under the provisions of this Trust Agreement in a person not yet twenty-one (21), a person who suffers from substance abuse, or a person who the Trustee determines is incompetent or whose financial circumstances is such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee’s discretion and without supervision of any court, shall hold or distribute the distribution for such person (hereinafter “the beneficiary”) in accordance with the following provisions:

(1) Under Age Twenty-One. If a beneficiary is under the age of twenty-one and no other provision of this trust specifically addresses this possibility, the Trustee may either open a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian or the Trustee may hold such beneficiary’s distribution in a separate trust for such beneficiary, exercising as the Trustee of such trust all the administrative powers conferred in this Trust Agreement, on the following terms and conditions:

(a) The Trustee may accumulate or distribute to or for such beneficiary such amount or amounts of income and/or principal of the trust as the Trustee determines from time to time during the term of the trust to be appropriate. The Trustee may make such distributions to or for the benefit of such beneficiary: (i) directly to the beneficiary; (ii) on behalf of the beneficiary for the beneficiary’s exclusive benefit; (iii) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian; (iv) in any form of an annuity; and, (v) to such beneficiary’s guardian if one has been appointed by the Court. The receipt for distributions by any such person shall fully discharge the Trustee. In determining whether to make distributions, the Trustee may consider other resources of the beneficiary, trust resources and the future needs of the beneficiary during the term of the trust.

(b) This separate trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21), dies, or when the trust assets are exhausted by discretionary distributions. At such termination, the Trustee shall distribute
the trust then on hand to the beneficiary or to the beneficiary's estate if the trust terminated at the beneficiary's death.

(2) Substance Abuse Dependence. If the Trustee reasonably believes that a beneficiary of any trust created under this Agreement is a person who routinely or frequently uses or consumes any illegal drugs or other illegal chemical substance so as to be physically or psychologically dependent upon that drug or substance; or, is a person who is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by that doctor or psychiatrist; and, if the Trustee reasonably believes that, as a result of the use or consumption, the beneficiary is incapable of caring for himself or herself or is likely to dissipate the beneficiary's financial resources, the Trustee shall follow the procedures set forth below.

(a) The Trustee will request the beneficiary to submit to one or more examinations (both physical and psychological) determined to be appropriate by a board certified medical doctor or psychiatrist selected by the Trustee. The Trustee will request the beneficiary to consent to full disclosure by the examining doctor or facility to the Trustee of the results of all the examinations. The Trustee will maintain strict confidentiality of those results and will not disclose those results to any person other than the beneficiary without the beneficiary's written permission. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

(b) If, in the examining doctor's or psychiatrist's opinion, the examination indicates current or recent use of a drug or substance as described above, the beneficiary will consult with the examining doctor or psychiatrist to determine an appropriate method of treatment for the beneficiary. Treatment may include counseling or treatment on an in-patient basis in a rehabilitation facility. If the beneficiary consents to the treatment, the Trustee will pay the costs of treatment directly to the provider of those services from the income or principal otherwise authorized or required to be distributed to the beneficiary.

(c) If the examination indicates current or recent use of a drug or substance as described above, all mandatory distributions and all withdrawal rights from the trust with respect to the beneficiary during the beneficiary's lifetime (including distributions upon termination of the trust for reasons other than the death of the beneficiary) will be suspended until in the case of use or consumption of an illegal drug or illegal substance, examinations indicate no such use; and, in all cases of dependence, until the Trustee, in the Trustee's judgment, determines that the beneficiary is fully capable of caring for himself or herself and is no longer likely to dissipate his or her financial resources.
(d) While mandatory distributions are suspended, the trust will be administered as a discretionary trust to provide for the beneficiary according to the provisions of the trust providing for discretionary distributions in the Trustee's discretion and those provisions of the trust relating to distributions for the beneficiary's health, education, maintenance and support.

(e) When mandatory distributions to and withdrawals by the beneficiary are resumed, the remaining balance, if any, of the mandatory distributions that were suspended may be distributed to the beneficiary at that time and the balance of any rights of withdrawal by the beneficiary shall be immediately exercisable by the beneficiary. If the beneficiary dies before mandatory distributions or rights of withdrawal are resumed, the remaining balance of such beneficiary’s share shall be distributed in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.

(f) It is not my intention to make the Trustee (or any doctor or psychiatrist retained by the Trustee) responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances. The Trustee (and any doctor or psychiatrist retained by the Trustee) will be indemnified from the trust for any liability in exercising its judgment and authority under this Agreement, including any failure to request a beneficiary to submit to medical examination and including a decision to distribute suspended amounts to a beneficiary.

(3) Special Needs Trust. If the Trustee reasonably believes that a beneficiary of any trust created under this Agreement is a person who is incompetent, or a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, the Trustee shall hold the distribution for such beneficiary further trust hereunder (hereinafter referred to as the “Special Trust”) on the following terms and conditions:

(a) The primary purpose of this trust is to provide a supplemental and emergency fund to supplement any public benefits available to such beneficiary during his or her lifetime. It is my intent that the assets of the Special Trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause such beneficiary’s eligibility for public benefits to be terminated, it is likely that the trust assets would be depleted before his or her death and the purpose of this trust could not then be fulfilled.

(b) Until such beneficiary is, in the Trustee’s judgment, no longer incapacitated, or such beneficiary’s financial situation has changed significantly, the Trustee shall pay over to or for the benefit of such beneficiary as much of the net income and as much of the principal of the
Special Trust, up to the whole thereof, as the Trustee, in the Trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of such beneficiary’s special needs. For this purpose, “special needs” refers to the requisites for maintaining such beneficiary’s good health, comfort, safety, and welfare when, in the discretion of the Trustee, those requisites are not being provided for by any county, state, federal, or other governmental agency, or by any person or persons with a legal obligation to support such beneficiary. “Special needs” shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, rehabilitation, travel needs and recreation not provided for or reimbursed by public benefits. The Trustee shall consult with any guardian, conservator, custodian, or other person who cares for such beneficiary regarding his or her special needs. Expenditures made by the Trustee under this section may include reasonable compensation to any person who provides for the special needs of such beneficiary as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order.

(c) It is my intent that any payments or distributions from this trust to or for the benefit of such beneficiary shall supplement (but not replace) any public benefits or other private resources available to him or her. The Trustee may, in the exercise of the Trustee's discretion, seek as necessary all available public benefits for such beneficiary's benefit, and shall segregate any public benefits received by the Trustee for that purpose in a separate trust or account and administer the same for the benefit of such beneficiary. All public benefits received by the Trustee for that purpose, together with any other resources available to such beneficiary, shall be taken into account by the Trustee in making payments or distributions to or for the benefit of such beneficiary. The Trustee shall regularly consult with such beneficiary and any persons or entities providing care or assistance to such beneficiary for the purpose of determining such beneficiary's needs and resources. The Trustee shall not exercise the Trustee's discretion to make any payments or distributions to or for the benefit of such beneficiary if the Trustee determines, in the Trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to such beneficiary to satisfy those needs.

(d) No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of such beneficiary. For purposes of determining such beneficiary's eligibility for any public benefits, no part of the principal or undistributed income of the Trust Estate shall be considered available to him or her, and he or she shall have no right to compel the Trustee to release principal or income to him or her or for his or her benefit or otherwise to have any access to any of the
trust assets. In the event that the Trustee is requested to release principal or income of the trust to or on behalf of such beneficiary to pay for any equipment, medication, services, or any other needs that any public benefits would be authorized to provide for were it not for the existence of the trust, or in the event that the Trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the Trustee is authorized to deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of such beneficiary for all available public benefits, including obtaining instructions from a court of competent jurisdiction that the trust principal is not available to such beneficiary for purposes of determining his or her eligibility for any public benefits. Any expenses of the Trustee in this regard, including reasonable attorney’s fees, shall be a proper charge to the Special Trust.

(e) If any payment or distribution from the trust to or for the benefit of such beneficiary would have the effect of disqualifying him or her for any public benefits, or if all income of the Special Trust cannot be completely utilized for his or her special needs, the Trustee shall accumulate the trust income annually and add it to principal.

(f) The discretion of the Trustee shall not be subject to review by such beneficiary, his or her creditors and/or any governmental agency. Notwithstanding any other provision of this instrument, if the existence of the Special Trust, or any change in any law, regulation, or rule relating to the Special Trust or the administration of the Special Trust for the benefit of such beneficiary, should at any time have the effect of disqualifying him or her for any public benefits, or if such beneficiary, his or her creditors and/or any governmental agency shall ever bring any court action to force or require the Trustee to distribute to or for the benefit of such beneficiary a greater amount of income and/or principal than the Trustee, in the Trustee's absolute discretion, has determined to be appropriate, the Trustee is authorized (but not required) to terminate the trust and distribute the trust principal and income as provided in subsection (g); I request that any person who takes any part of the trust assets as the result of this termination power, conserve and manage such property for the benefit of such beneficiary during his or her lifetime to insure that he or she receives sufficient funds for his or her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and is not mandatory.

(g) At such beneficiary's death, the Trustee shall distribute the Special Trust, as then constituted, in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.
(4) **Tax Savings Provisions.** Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction. Finally, nothing herein shall prevent a distribution mandated by the provisions hereof relating to the Maximum Duration of Trusts.

2.L. **Conflict Resolution.** Any controversy between any interested parties concerning the construction, application or interpretation of any provision of this Trust Agreement or of the Trustee’s actions shall be settled by arbitration in accordance with the laws of the Commonwealth of Massachusetts (if no such laws then exist, in accordance with the then current rules of the American Arbitration Association) and the findings of such arbitration may be enforced by any Court having jurisdiction thereof.

2.M. **Uneconomical Administration.** No other provision of this trust to the contrary, if at any time a share or trust being administered for any income beneficiary or group of income beneficiaries has such fair market value as to make the continued administration of the share or trust uneconomical as determined by the Trustee, in the Trustee's sole discretion, the Trustee may pay the entire balance of such share or trust to the person or persons then entitled to the income therefrom, in proportion to their interests therein.

**ARTICLE III**

**TRUSTEESHIP**

3.A. **Successor Trustees.** I may appoint individuals or corporations as co-Trustees or successor Trustees by a written instrument (other than a Will) delivered to the then-acting Trustee.

3.B. **Appointment of Trustee.** If there is no Trustee acting hereunder, then a majority of the beneficiaries shall appoint a successor Trustee or co-Trustees by an instrument in writing, which appointment must be effective upon the date the last Trustee fails to qualify or ceases to act.

3.C. **Resignation.** Any Trustee may resign at any time by giving written notice to me, if I am then-living, and thereafter to the other Trustees, if any, and, if not, to all the beneficiaries. Any such notice shall become effective as agreed by me or the majority of the beneficiaries, but no later than thirty (30) days after such written notice. Notwithstanding the foregoing, the Trustee may, at the expense of any trust created hereunder, secure the appointment of a successor Trustee of such trust by a court of competent jurisdiction.

3.D. **Liability.** No successor Trustee shall be under any obligation to examine the accounts of any prior trustee, and a successor Trustee shall be exonerated from all liability arising from any prior Trustee's acts or negligence. It is my intention that any Trustee serving hereunder shall be accountable only from the date such Trustee receives the assets of the trust.

3.E. **Bond.** No bond shall be required of any person or institution named in this Trust Agreement as the Trustee.
3.F. **Compensation.** A Trustee, other than my wife Mary, shall be entitled to receive, out of the income and principal of the trust fund, compensation for its services hereunder to be determined, if a corporate Trustee, by the application of the current rates then charged by the Trustee for trusts of a similar size and character, and, if the Trustee shall be an individual, such compensation shall be the average of the current rates then charged by corporate fiduciaries doing trust business in the county of my residence for trusts of a similar size and character. The Trustee shall also be entitled to reimbursement for all travel and other necessary expenses incurred in the discharge of the Trustee’s duties. The Trustee may impose any Trustee fees or other expenses of the trust against the principal or income of the trust fund without any duty to seek reimbursement from the interest not charged.

3.G. **Reports.** While I am living and if I am not acting as the Trustee or co-Trustee, the then-acting Trustee shall render an accounting at least annually to me unless I have waived such accounting. After my death, the Trustee shall render an annual accounting to each beneficiary, except as such reporting shall be waived by such beneficiary. If beneficiaries entitled to an accounting are minors, their accounting shall be delivered to their parents or guardian. If beneficiaries entitled to an accounting are incapacitated, their accounting shall be delivered to their legal representative. Unless the accounting is objected to in writing within one hundred and eighty (180) days after mailing to the persons to whom the accounting is to be rendered, the account shall be deemed final and conclusive in respect to all transactions disclosed in the accounting. The accounting shall be binding on all persons interested in the trust, including beneficiaries who are not known or who are not yet born. The records of the Trustee shall be open at all reasonable times to such inspections. The Trustee shall not be required to make any reports or accountings to the courts; however, nothing herein stated shall be deemed to restrict the Trustee from seeking judicial approval of the Trustee’s accounts.

3.H. **Payments to Beneficiaries.**

(1) The Trustee shall pay the net income of any trust hereunder to the beneficiary to whom such income is directed to be paid, at such times and in such manner as shall be convenient to such beneficiary and agreed to by the Trustee;

(2) Any income and/or principal of any trust hereunder to which any beneficiary may be entitled may, without regard to any order or assignment purporting to transfer the same to any other person, be paid or distributed by the Trustee, in the Trustee’s sole discretion, into the hands of such beneficiary, or to the guardian of the person of such beneficiary, or be mailed to such beneficiary’s last known address, or deposited to the account of such beneficiary in a bank or trust company of good standing, or be applied for the benefit of such beneficiary and his or her dependents directly by the Trustee; and the receipt for any payment or distribution or evidence of the application of any income or principal made in conformity with the foregoing shall discharge the Trustee from any further liability therefor; and,

(3) Unless the Trustee shall have received actual written notice of the occurrence of an event affecting the beneficial interests of this Trust Agreement, the Trustee shall not be
liable to any beneficiary of this Trust Agreement for distribution made as though the event had not occurred.

3.I. **Division of Trust Fund.** There shall be no requirement for the physical segregation or division of any trusts created hereunder except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

3.J. **Trustee Authority.**

(1) Any Trustee may appoint an “Attorney-in-Fact” and delegate to such agent the exercise of all or any of the powers conferred upon a Trustee and may at pleasure revoke such appointment. Any such appointment shall be made by a written, acknowledged instrument.

(2) No purchaser from or other person dealing with the Trustee shall be responsible for the application of any purchase money or thing of value paid or delivered to such the Trustee, and the receipt by the Trustee shall be a full discharge; and no purchaser or other person dealing with the Trustee and no issuer, or transfer agent, or other agent of any issuer of any securities to which any dealings with the Trustee should relate, shall be under any obligation to ascertain or inquire into the power of the Trustee to purchase, sell, exchange, transfer, mortgage, pledge, lease, distribute or otherwise in any manner dispose of or deal with any security or any other property held by the Trustee or comprised in the trust fund.

(3) Prior to delivering the trust fund to a successor Trustee or to making any partial or complete distribution of principal hereunder (other than a distribution that is made in the exercise of the Trustee’s discretion and does not terminate the trust), the Trustee may require an approval of the Trustee’s accounts and a release and discharge from all beneficiaries having an interest in the distribution. If any beneficiary or beneficiaries shall refuse to provide a requested release and discharge, the Trustee may require court settlement of such accounts; all of the Trustee’s fees and expenses (including attorneys’ fees) attributable to court approval of such accounts shall be paid by the trust involved to the extent that the accounts are approved.

(4) The certificate of a Trustee and/or Attorney-in-Fact that such Trustee and/or agent is acting according to the terms of this Trust Agreement shall fully protect all persons dealing with such Trustee and/or agent.

(5) The Trustee and any individual or entity with which they are associated or affiliated in any way (including, but not limited to, any such individual or entity associated or affiliated through any direct or indirect ownership interest of any sort) (each of which is an “Authorized Party” under this Trust Agreement) may deal in their own interest with any trust created in this Trust Agreement. The Trustee may deal between such trust estate and itself or any other Authorized Party, either party acting in any capacity (including, but not limited to, acting as the Trustee, personal representative, employee, agent or partner), in buying, selling, pledging, leasing, and exchanging assets, in furnishing or receiving goods,
services, or facilities, and in borrowing or lending funds or participating in other extensions of credit when, in their sole discretion, such transaction shall be to the benefit of the trust estate. The foregoing shall apply regardless of any reasonable compensation derived by any Authorized Party acting in any capacity in connection with such transaction.

(a) Any Authorized Party may furnish services to any trust estate created in this Trust Agreement in any capacity as may be necessary or desirable in the Trustee's sole discretion for the proper management, protection, and sale or other disposition of any part of the trust property, and may receive and retain customary and reasonable compensation for services in any such capacity. The Trustee shall act without bond or security and shall not account to any court.

(b) In any event that any person employed by an Authorized Party shall also be acting as an officer or director of any corporation in which the trust may own stock or other securities or as an officer or director of any affiliate of such corporation or may be a candidate for election as such officer or director, such person may act as such officer or director and receive compensation therefore in the same manner as if he or she were not employed by an Authorized Party, and shall not be disqualified from voting for the election to such office or for membership on said board of directors for the reason that he or she is employed by an Authorized Party, or for the reason that he or she may be receiving compensation for serving in any such capacity.

3.K. **Release of Healthcare Information, including HIPAA Authority.** Settlor intends for the Trustee to be treated as he would regarding the use and disclosure of his individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 USC 1320d and 45 CFR 160-164. Settlor authorizes any physician, healthcare professional, dentist, health plan, hospital, clinic, laboratory, pharmacy or other covered health provider, any insurance company and medical Information Bureau Inc. or other health care clearinghouse that has provided treatment or services or that has paid for or is seeking payment from Settlor for such services to give, disclose, and release, either orally or in writing, to the Trustee or Trustees, without restriction, all of Settlor’s individually identifiable health information and medical records regarding any past, present or future medical or mental health condition.

The authority given to the Trustee shall supersede any prior agreement that Settlor has made with his health care provider to restrict access to or disclosure of Settlor’s individually identifiable health information. The authority given to the Trustee has no expiration date and shall expire only in the event that Settlor revokes the authority in writing and delivers such revocation to his health care providers.

3.L. **Powers of Invasion.** A discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for “health, care, education, support or maintenance” (or a similar use of such terms) shall be considered to be in compliance with §§2041
and 2514 of the Code and any exercise of such power shall be limited by those sections. Notwithstanding any statute of Massachusetts law to the contrary, any other discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for any other purpose shall be deemed to be a broader power if a clear reading of the terms of such power would so indicate. Further, notwithstanding any statute of Massachusetts law to the contrary, any discretionary power to make distributions of income or principal of any trust created hereunder which is given to a current beneficiary as sole Trustee is specifically intended to be given to such sole Trustee and the right of any other beneficiary to have another Trustee appointed for the purpose of making such discretionary distributions is hereby specifically waived.

3.M. **Release of Powers.** Each Trustee shall have the power to release or to restrict the scope of any power that such Trustee may hold in connection with any trust created under this Trust Agreement, whether said power is expressly granted in this Trust Agreement or implied by law. The Trustee shall exercise this release in a written instrument specifying the powers to be released or restricted and the nature of any such restriction. Any released power shall pass to and be exercised by the other then-acting Trustees.

**ARTICLE IV**

**TRUSTEE'S POWERS**

Subject to the provisions and limitations set forth expressly herein, the Trustee shall have, in general, the power to do and perform any and all acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon the Trustee be exhausted by the use thereof, but each shall be continuing. In addition to the above, the Trustee is specifically authorized and empowered to exercise those powers hereinafter set forth in Exhibit A (attached hereto and incorporated herein by reference as though fully set forth).

**ARTICLE V**

**MY RETAINED POWERS**

5.A. **Revocation.** During my lifetime, this Trust Agreement may be revoked in whole or in part by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.B. **Amendment.** I may at any time during my lifetime amend any of the terms of this Trust Agreement by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.C. **Powers Terminate on Death.** On my death, this Trust Agreement may not be amended, revoked, or terminated (except as hereinafter provided in Article VI).

5.D. **Powers Personal to Me.** My powers to revoke or amend this Trust Agreement are personal to me and shall not be exercisable on my behalf by any conservator or other person, except that
revocation or amendment may be authorized, after notice to the Trustee, by the court that appointed
the conservator. Notwithstanding the previous sentence, my power to amend this Trust Agreement
may be exercised by my attorney-in-fact to the extent that the document appointing the attorney-
in-fact expressly so authorizes the power to amend with an express reference to this Trust Agreement.

5.E. **Life Insurance.** Upon my death, the Trustee shall proceed immediately to collect the net
proceeds of policies, if any, on my life which are then payable to the Trustee and shall hold such
proceeds for the purposes and upon the trusts provided in Article VI of this Trust Agreement.
Payment to the Trustee by an insurance company of the proceeds of such policies and receipt of
such proceeds by the Trustee shall be a full discharge of the liability of such insurance company
with respect to such proceeds, and no insurance company need inquire into or take notice of this
Trust Agreement or see to the application of such payments. The Trustee may prosecute and
maintain any litigation necessary to enforce payment of such policies.

5.F. **Tangible Personal Property.** While I am living, I reserve the right to retain the control,
use and possession of any or all of the tangible personal property included in the trust
fund. I expressly limit the Trustee’s responsibility with respect to the property so retained to the Trustee’s
function as the holder of legal title until I surrender my right to the use and possession of any such
property or until my death. In addition, I shall have the right, exercisable by written notice to the
Trustee on terms specified by me, to direct the sale, transfer, gift or other disposition of any such
property, with or without consideration, and the Trustee shall take all actions necessary to comply
with the terms of such notice. In the event I surrender any property to the Trustee, or upon my
death, the Trustee shall take possession, preserve and maintain such property. The Trustee shall be
responsible and accountable only for that tangible personal property which is actually in the
Trustee’s possession or control or, if retained by me, is found by application of reasonable
diligence at my death or at such time that the Trustee asserts control.

5.G. **Real Property.** I reserve the right to have complete and unlimited use and control of any
real property which may ever constitute an asset of the trust estate and which is occupied by me
for residential purposes; such use and control shall be without rent or other accountability to the
Trustee. As part of such use and control, I, and not the Trustee, shall have the responsibility to
manage such property, pay taxes, insurance, utilities and all other charges against the property,
and may, at my option, charge such expenses to the trust fund, or may request reimbursement for
any advances made for such purposes.

**ARTICLE VI**

**DISPOSITION OF TRUST FUND**

6.A. **Trustee's Basic Duties.** During the term of this Trust Agreement, the Trustee shall hold,
manage, invest and reinvest the trust fund, collect the income and profits from it, pay the necessary
expenses of trust administration, and distribute the net income and principal as provided in this
ARTICLE VI.

6.B. **Disposition During My Lifetime.** During my lifetime, the Trustee shall pay the net income
of the trust fund as I shall direct. The Trustee shall also pay over to me, or to any person as directed
by me, so much of the principal thereof as I shall request at any time or times during the remainder of my life. In the absence of direction from me, the Trustee may also make gifts in favor of my issue, any spouse of such issue and any other of my dependents, including the Trustee; provided however, such gifts shall not be future interests within the meaning of Internal Revenue Code §2503 and the aggregate amount of any gifts made in any one calendar year to any one individual shall not exceed the amount that may be made free of federal gift tax.

6.C. **Disposition During My Incapacity.** If at any time, in the Trustee's discretion, I have become physically or mentally incapacitated, whether or not a court of competent jurisdiction has declared me in need of a conservator, the Trustee shall pay over or apply the net income and/or the principal of the trust fund to my support, maintenance, comfort, and/or well-being and/or to the payment of any taxes, bills or other obligations for which I may be liable, in such amounts and to such extent as the Trustee, in its sole judgment and discretion, shall deem to be in my best interests; and the Trustee shall accumulate any of the net income not so paid over and/or applied and shall add the same to the principal of the trust fund, and shall thenceforth hold, administer and distribute the same as a part thereof. As a guide to the Trustee, it is my intent that I shall remain in my primary residence as long as it is medically reasonable and, if I should ever need convalescent care, that I be able to return home as soon as it is medically reasonable; the expense of home care shall be of secondary importance.

6.D. **Deferral of Division or Distribution.** Whenever the Trustee is directed to make a distribution of trust assets or a division of trust assets into separate trusts or shares on my death, the Trustee may, in the Trustee's discretion, defer such distribution or division up to six (6) months after my death. When the Trustee defers distribution or division of the trust assets, the deferred division or distribution shall be made as if it had taken place at the time prescribed in this Trust Agreement in the absence of this Paragraph, and all rights given to the beneficiaries of such trust assets under other provisions of this Trust Agreement shall be deemed to have accrued and vested as of such prescribed time; further, the beneficiaries of such trust assets shall be entitled to receive interest on the delayed distribution pursuant to Massachusetts law (if there is no provision expressly applicable to trusts, then interest shall be paid pursuant to Massachusetts law applicable to decedents’ estates).

6.E. **Authorized Actions at My Death.** After my death, the Trustee is authorized and directed to pay over to my executor, administrator, or personal representative so much of the trust fund as such representative shall state in writing is necessary or desirable to provide my estate with funds with which to pay my funeral expenses, debts, cost of administration of my estate and/or the taxes on my taxable estate, including transfer, estate and inheritance taxes which may be imposed upon the probate estate, upon the trust fund and/or upon any property or interest in property, legal or equitable, which is included in the taxable estate, and any such statement of such personal representative (regardless of the nature or extent of the assets held in my estate) shall be binding and conclusive upon the Trustee and upon all persons having any interest in the trust fund.

(1) If such personal representative fails to furnish any such directions or if no such representative is appointed, the Trustee may, in its discretion, pay in whole or in part all debts which are due and enforceable against my estate, the expenses of the last illness,
funeral, and administration and all death taxes and other governmental charges imposed under the laws of the United States or of any state or country by reason of my death.

(2) Any federal and/or state death taxes imposed on any trust assets shall be pro-rated among the beneficiaries and/or trusts who actually receive such property in the manner set forth under Massachusetts law and the Code. Further, the Trustee is specifically authorized to recover the payments of any federal and/or state death taxes attributable to assets not part of the trust fund (or not added to the trust fund following my death) from the person, persons or entity which received such assets. Provided however:

(a) No death taxes shall be apportioned to, charged against or paid from any retirement plan benefits in which the trust fund acquires an interest as a result of my death.

(b) No death taxes shall be apportioned to, charged against or paid from any life insurance proceeds or other property passing to the trust fund on my death in accordance with a beneficiary designation, unless the property would have been liable for death taxes had the property passed to an individual beneficiary rather than the trust fund.

(c) No death taxes shall be apportioned to, charged against or paid from any tangible personal property or specific cash gifts made by me under my Will or under this Trust Agreement.

(d) No death taxes shall be apportioned to, charged against or paid from any gift made to a charitable organization that qualifies for a charitable deduction under §2055 of the Code.

(e) No death taxes shall be apportioned to, charged against or paid from any property qualifying for the marital deduction under §2056 of the Code.

(f) No death taxes shall be apportioned to, charged against or paid from any other property excluded from the imposition of death taxes by reason of any exemption, exclusion, or deduction applicable to the property, or because of (i) provisions of my Will or this Trust Agreement that expressly exclude the property from taxation; (ii) the relationship between me and the beneficiary of the property; or (iii) the character of the property. All such property shall pass free of death taxes.

(g) All death taxes imposed on property includible in my gross taxable estate under §2041 of the Code by reason of a general power of appointment held by me shall be charged to and paid from the property. Further, I direct that the amount of the general power of appointment property equal to the death taxes attributable to the value of the property shall be paid to the Trustee, to be held in this trust and used to pay death taxes. The amount of death taxes attributable to the property shall equal (i) the amount of all death taxes
imposed on my taxable estate (including the value of the general power of
appointment property), less (ii) the amount of all death taxes that would
have been imposed on my taxable estate excluding the value of the general
power of appointment property. The rules promulgated under §2207 of the
Code shall apply in determining the amount of the incremental tax to be
paid from the general power of appointment property.

(h) Any increment in death taxes attributable to other property in which I had a
life interest or a term interest that did not end prior to my death (including
a life estate or life income interest) and which is included in my gross
taxable estate shall be borne by the holder or recipient of that property.

(3) Notwithstanding the provisions of subparagraph (2), such authorized payments
shall specifically exclude the payment of any generation-skipping transfer tax which shall
be specifically borne by the asset(s) giving rise to such tax.

6.F. Distribution at My Death. On my death, the Trustee shall hold, administer and distribute
the trust fund, as then constituted, plus any additions thereto as a result of my death (all of which
is hereafter referred to as the “Trust Estate”) as follows:

(1) If my wife MARY survives me, the Trustee shall distribute my tangible personal
property to her. If my wife shall predecease me, the Trustee shall distribute, free of trust,
such items of my tangible personal property as may then be included in the Trust Estate in
accordance with any written instructions left by me and the remainder of such personal
property, or all of it if no such instructions are left, in the manner that the Trustee shall
determine, in the Trustee's absolute discretion.

(2) If my wife MARY survives me, the Trustee shall distribute to the then-acting
Trustee of that certain trust agreement known as THE MARY DOE LIVING TRUST,
executed concurrently herewith; the minimum pecuniary (i.e., dollar) amount of this trust
necessary as a marital deduction to eliminate entirely (or to reduce to the maximum extent
possible) any federal estate tax otherwise payable by virtue of my death, taking into account
(a) all deductions and credits available for federal estate tax purposes in my estate and (b)
the final federal estate tax values of all other property interests included in my gross estate
which passes or has passed to or in trust for my wife so as to qualify for the marital
deduction. For purpose of determining the amount of this transfer, final federal estate tax
values shall control and account shall not be taken of any credit that would cause the marital
deduction to be disallowed in whole or in part, or of any item not deductible for estate tax
purposes because claimed for income tax purposes; but all transfers under this Will or
otherwise for which the marital deduction would have been allowed but for a disclaimer
by my wife shall be treated for this purpose as if that deduction had been allowed. This
amount, as finally determined above, may be satisfied in cash or in kind, or partly in each;
provided however, that assets allocated in kind shall be deemed to satisfy this amount on
the basis of their values at the date or dates of distribution to Mary's trust. Only assets
eligible for the estate tax marital deduction shall be allocated to said trust.
(3) The balance of this trust shall be held in further trust (hereinafter referred to as the “Exemption Trust”) on the following terms and conditions:

(a) If Mary requires the use of my principal residence, either temporarily or permanently, such residence may be allocated in whole or in part to the trust for my wife or to the Exemption Trust. The allocation decision shall be made by the Trustee in the Trustee's discretion after considering all the facts and circumstances then existing.

(b) If my unused Generation Skipping Tax Exemption (as defined under Chapter 13 of the Code) is not enough to cover the entire the Exemption Trust, then the Trustee shall divide the Exemption Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of my unused Generation Skipping Tax Exemption and the second to contain the remainder of the Exemption Trust. The sub-trust containing the unused exemption shall be labeled “Exemption Trust `A” and the other sub-trust shall be labeled “Exemption Trust `B”.

(c) Mary shall not at any time have a general power of appointment (as described in §§2041 and 2514 of the Code) over any assets of this Trust and any provisions of this Trust Agreement which would so create a general power of appointment shall be disregarded.

(d) The Trustee shall pay to or apply for the benefit of Mary the net income of the Exemption Trust in quarter-annual or more frequent installments. No less frequently than annually, the Trustee shall pay to or apply for the benefit of Mary the “annual minimum required distribution” from any qualified plan account and/or Individual Retirement Account (“IRA”) from which the right to receive distributions is held by the Exemption Trust. In addition thereto, Mary has the power, exercisable annually, to compel the Trustee to withdraw from any qualified plan account and/or Individual Retirement Account (“IRA”) from which the right to receive distributions is held by the Exemption Trust an amount equal to the income earned on the assets held by such account(s) during the year which is in excess of the annual minimum required distribution from the account(s) and to distribute that amount to or apply it for the benefit of my wife.

(e) The Trustee shall also pay to or apply for the benefit of Mary such sums out of the principal of the Exemption Trust as the Trustee, in the Trustee's discretion, shall consider necessary for her proper health, support and maintenance; provided however, said Trust shall be free of claims by any governmental agencies.

(2) On Mary’s death or on my death if Mary is not then living, the Trustee shall combine all exempt shares (as such term is hereinafter defined) of the Trust Estate into a separate trust hereinafter referred to as the “Exempt Trust” and shall combine all
nonexempt shares (as such term is hereinafter defined) of the Trust Estate into a separate trust hereinafter referred to as the “Nonexempt Trust”.

(3) The Trustee shall divide the Exempt Trust into as many equal shares (“Exempt Shares”) as there are children of mine then-living and children of mine then-deceased with issue then living and shall divide the Nonexempt Trust (“Nonexempt Shares”) into as many equal shares as there are children of mine then-living and children of mine then-deceased with issue then living. The Trustee shall allocate one (1) share from each trust to each then-living child and one (1) share from each trust to each group composed of the then-living issue of a deceased child. Each such share shall be distributed, or retained in trust, as hereafter provided:

(a) Each share allocated to a living child shall be retained and administered by the Trustee as a separate share.

(b) The Trustee shall pay to or apply for the benefit of each child, for the remainder of such child’s lifetime, an unitrust amount equal to Five Percent (5%) of the net fair-market value of such child’s share valued on the first day of each taxable year of the trust (the “valuation date”). The unitrust amount shall be paid at the end of each month. Such unitrust amount shall first be paid from income and, to the extent that income is not sufficient, from principal.

(c) In addition to the unitrust payment, the Trustee shall pay to or apply for the benefit of such child as much of the principal of such child’s share, first from the Nonexempt Share, as the Trustee in the Trustee's discretion shall deem necessary for such child’s proper support, health, maintenance and education.

(d) On the death of a child for whose benefit a share is then held in trust hereunder, the Trustee shall distribute that portion of the Nonexempt Share in the manner directed by such child; provided such direction meets the requirements hereinafter set forth for a General Power of Appointment. The Trustee shall hold, administer and distribute the Exempt Share and the undistributed balance of the Nonexempt Share (or all of it, if no separate directions were made or such directions are not effective) for such deceased child's issue in the amounts and in the manner set forth by such child in his or her will (or valid codicil to a will) which specifically refers to this Limited Power of Appointment, or, if no such valid Power exists, in the manner hereinafter set forth to the then-living issue, per stirpes, of such child.

(e) Subject to the General Power of Appointment (as hereinafore set forth), if a deceased child shall not be survived by issue, the Trustee shall distribute his or her share to my then-living issue (whenever born), per stirpes; provided however, any portion of the share of such deceased child

The John Doe Living Trust: Page 19
distributable to any other beneficiary for whose benefit a share shall then be held in trust hereunder shall be added to such share and shall thenceforth be held, administered and distributed as a part thereof.

(f) Each share allocated (at the time hereinabove set forth for the original division of the Trust Estate into shares) to a group composed of the then-living issue of a deceased child of mine shall be distributed to such issue, per stirpes, on the terms and conditions hereinafter set forth.

(g) For any share held for a descendent of mine more remote than a child, the Trustee shall hold the same in further trust hereunder on the following terms and conditions:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-one (21) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) When each such beneficiary shall attain the age of twenty-one (21) years, the Trustee shall pay to the beneficiary the net income of his or her share on a quarter-annual or more frequent basis. The Trustee shall continue to have the right to apply for the benefit of such beneficiary as much of the principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare.

(iii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to such beneficiary prior to his or her attaining the age of thirty (30) years shall not exceed one-half of the value of the Trust Estate set aside for him or her at the time of the setting aside of such share.

(iv) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, per stirpes. If said deceased beneficiary is not survived by issue, trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living
brothers and sisters, if any; and, if none, to my then-living issue (whenever born), per stirpes.

6.L. Generation Skipping Tax Provisions. The purpose of this Paragraph is to place in one Paragraph as many provisions relating to generation skipping as is practical. In this Paragraph and in the generation skipping context generally, the term or any reference to the term “generation skipping tax” refers to the federal generation skipping transfer tax under Chapter 13 of the Code.

(1) Definitions. For purposes of this Trust Agreement the following generation skipping definitions apply:

(a) Exempt. The term “exempt” refers to property, or a trust or a share that has a generation skipping inclusion ratio of Zero (an applicable fraction for generation skipping purposes of One). This means that distributions from such a trust or with respect to such property are not subject to the Generation Skipping Tax. References to an “Exempt Trust” or to an “Exempt Share” refer to or are a special titling for property that has or is to be established having an inclusion ratio of Zero.

(b) Nonexempt. The terms “Nonexempt Trust” or “Nonexempt Share” or “nonexempt” refer to property, or a trust or a share that has a generation skipping inclusion ratio of One (an applicable fraction for generation skipping purposes of Zero). This means that distributions from such a trust or with respect to such property are subject to the Generation Skipping Tax.

(c) Trustee. In this Paragraph, and in the generation skipping context generally, the term “Trustee” refers to the person or persons whom the Code authorizes to make the transferor election for qualified terminable interest property under Section 2652(a)(3) of the Code and to allocate the exemption under Section 2631(a) of the Code. However, if the Executor of my Will has that authority under the Code, then the term “Trustee” in this Paragraph and elsewhere when used in reference to those authorizations includes the Executor. A person acting as a Trustee shall not, however, be authorized to make or participate in any generation skipping election or allocation decision if making or participating in that decision would result in that person having a general power of appointment over the property which such person would not otherwise have. If this prohibition leaves no Trustee able to make elections and allocations, the Trustee for such limited purposes shall be filled in the manner hereinabove set forth in Article III.

(2) Exemption Allocation. In allocating my exemption, the Trustee may include or exclude from that allocation any property of which I am the transferor for generation skipping purposes, including property transferred before my death. The Trustee may base the decision on prior transfers, gift tax returns, and other information known to the Trustee; there is no requirement that the allocations proportionately, equally, or in any other particular manner benefit the various transferees or beneficiaries of that property.
(3) **Separate Trusts for Exempt and Nonexempt Property.** If any of my or another's exemption is allocated to property of a trust under this agreement or to the Exempt Portion of that trust, and the trust results in a generation skipping inclusion ratio of other than Zero, then the Trustee must immediately create two separate trusts so that each separate trust has a generation skipping inclusion ratio of either Zero (the Exempt Portion) or One (the Non-Exempt Portion). The Trustee does this by allocating to a Nonexempt trust the minimum amount of property needed to create that trust with an inclusion ratio of One, while leaving an Exempt trust with an inclusion ratio of Zero.

If any of the separate trusts in this document terminate, partially terminate, are subdivided, or distributions are made from them, or are combined, the Trustee shall preserve the nonexempt (inclusion ratio of One) or exempt (Zero inclusion ratio) generation skipping character of the property in each trust. Therefore, when the Trustee adds to or combines property with the property of another trust or trusts, or establishes trusts from one or more sources, the Trustee shall not combine or add nonexempt property with exempt property in a trust even if this requires the creation of more separate trusts with the same terms.

For example, if the terms of Trust X direct that on its termination (or on the failure of a party to exercise a power of appointment) the Trustee shall add its property to another trust, then the Trustee shall add Trust X's exempt property only to the property in an exempt trust even if it is necessary to create another exempt trust for that exempt property, with the same terms as the terms of the recipient trust. Nonexempt property shall be combined only with the nonexempt property in a nonexempt trust even if it is necessary to create another nonexempt trust for that nonexempt property, with the same terms as the terms of the recipient trust.

(4) **Combining or Separating Trusts Depending on Interests.** To preserve the rights and to protect the interests of beneficiaries, the Trustee may combine trusts having the same inclusion ratio with the same terms for beneficiaries, or may separate trusts having the same inclusion ratio and different terms for different beneficiaries. In deciding whether and how to exercise this authority, the Trustee may consider efficiencies of administration, generation skipping tax and other transfer tax considerations, income taxes on the trusts and their beneficiaries, the beneficiaries' future needs, the desirability for different the Trustees for different trusts, and any other considerations the Trustee deems appropriate.

(5) **General Power of Appointment.** If the beneficiary has been given a Testamentary General Power of Appointment (hereinafter referred to as “GPA”) in order to avoid or minimize the generation skipping transfer tax, then this subparagraph governs the use of the GPA:

(a) This GPA gives the beneficiary the power to appoint the assets subject to this power only to the creditors of the beneficiary's estate.
(b) The beneficiary may exercise the GPA alone and in all events; provided however, the GPA shall be effective to convey property other than as hereinabove set forth in the above Paragraph only if, at the time of the beneficiary's death, there would be a generation skipping transfer tax imposed on the property so appointed if this GPA were not granted to the beneficiary.

(c) The GPA can be exercised only in the beneficiary's will specifically referring to the GPA granted in the specific section of Article VI of this Trust Agreement. “Will” does not include a codicil.
Executed on ________________, 2007, in Boston County, Massachusetts.

_______________________________________
JOHN DOE,  
Settlor

I hereby acknowledge receipt of the trust fund, accept the terms of THE JOHN DOE LIVING TRUST, and covenant that I will execute the trust with all due fidelity.

_______________________________________
JOHN DOE,  
Trustee

[NOTARY ACKNOWLEDGEMENT]
EXHIBIT “A”
OF
THE JOHN DOE LIVING TRUST

STANDARD TRUSTEE POWERS

1. **Agreements.** To carry out the terms of any valid agreements which Settlor may have entered into during Settlor’s lifetime regarding property owned by the trust;

2. **Asset Title.** To hold securities or other property in the Trustee's name as trustee, or in “street name”, or in bearer form.

3. **Bank Accounts.** To open and maintain bank accounts in the name of the Trustee with any bank, trust company or savings and loan association authorized and doing business in any State of the United States of America. If more than one the Trustee shall be acting, the Trustees may designate one or more of them to conduct banking activities and to make deposits, withdrawals and endorsements upon giving written notice of such designation to the bank, trust company, or savings and loan association in question; and such bank, trust company or savings and loan association shall be protected in relying upon such designation;

4. **Contracts.** To enter into contracts which are reasonably incident to the administration of the trust;

5. **Deal with Fiduciaries.** To buy from, sell to, and generally deal with the Trustee individually and as a fiduciary;

6. **Depreciation Reserve.** The Trustee shall not be required to establish any reserve for depreciation or to make any charge for depreciation against any portion of the income of the trust fund;

7. **Divisions and Distributions.** In any case in which the Trustee is required to divide any trust assets into shares for the purpose of distribution (or otherwise), such division may be in kind, including undivided interests in any real property, or partly in kind and partly in money. For such purposes, the Trustee may make such sales of trust assets as the Trustee may deem necessary on such terms and conditions as the Trustee shall deem fit, and to determine the relative value of the securities or other assets so allotted or distributed; the Trustee's determination of values and of the property for such distribution shall be conclusive. The decision of the Trustee in distributing assets in reliance on this paragraph shall be binding, and shall not be subject to challenge by any beneficiary;

8. **Indebtedness.** With respect to any indebtedness owed to the trust, secured or unsecured:

   (a) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as the Trustee deems advisable; and,

   (b) To foreclose any security for such indebtedness, to purchase any property securing such indebtedness and to acquire any property by conveyance from the debtor in lieu of foreclosure;

9. **Invest and Reinvest.** To invest, reinvest, change investments and keep the trust fund invested in any kind of property, real, personal, or mixed, including by way of illustration but not limitation, oil and gas royalties and interests; precious metals; common and preferred stocks of any corporation; bonds; notes;
debentures; trust deeds; mutual funds or common trust funds, including such funds administered by a the
Trustee; interests in partnerships, whether limited or general and as a limited or general partner; intending
hereby to authorize the Trustee to act in such manner as the Trustee shall believe to be in the best interests
of the trust fund and the beneficiaries thereof. The Trustee is specifically vested with the power and
authority to open, operate and maintain securities brokerage accounts wherein any securities may be bought
and/or sold on margin, and to hypothecate, borrow upon, purchase and/or sell existing securities in such
account as the Trustee shall deem appropriate or useful and, further, while Settlor is acting as the Trustee,
such account(s) may deal in commodities, options, futures contracts, hedges, puts, calls and/or straddles
(whether or not covered by like securities held in the brokerage account). These powers shall be construed
as expanding the standards of the prudent investor rule as set forth in the Uniform Prudent Investor Act;

10. **Loans.** To borrow for the trust fund from any person, corporation or other entity, including the
Trustee, at such rates and upon such terms and conditions as the Trustee shall deem advisable, and to pledge
as security therefor any of the assets of the trust fund for the benefit of which such loan is made; to execute,
acknowledge and deliver mortgages, deeds of trust or other documents incidental thereto; to lend money
upon such terms and such conditions as the Trustee deems to be in the best interests of the trust fund and
the beneficiaries thereof, including the lending of money from one trust to any other trust created hereunder
and to borrow on behalf of one trust from any other trust created hereunder, and further including the right
to lend money to the probate estate of Settlor but in such event such loans shall be adequately secured and
shall bear the then prevailing rate of interest for loans to such persons or entities for the purposes
contemplated;

11. **Manage and Control.** To manage, control, sell at public or private sale, convey, exchange,
partition, divide, subdivide, improve, repair; to grant options and to sell upon deferred payments; to pledge
or encumber by mortgage or deed of trust or any other form of hypothecation; to otherwise dispose of the
whole or any part of the trust fund on such terms and for such property or cash or credit, or any combination
thereof, as the Trustee may deem best; to lease for terms within or extending beyond the duration of the
trust fund for any purposes; to create restrictions, easements, to compromise, arbitrate, or otherwise adjust
claims in favor of or against the trust fund; to institute, compromise and defend actions and proceedings
with respect to the trust fund; and to secure such insurance, at the expense of the trust fund, as the Trustee
may deem advisable;

12. **Professional Assistance.** To employ and compensate agents, investment managers, attorneys,
accountants, and other professionals deemed by the Trustee to be reasonably necessary for the
administration of the trust fund, and the Trustee shall not be liable for any losses occasioned by the good
faith employment of such professionals, nor shall the Trustee be liable for any losses occasioned by any
actions taken by the Trustee in good faith reliance upon any advice or recommendation thereof; to pay all
costs, taxes, and charges in connection with the administration of the trust fund; and to be reimbursed for
all reasonable expenses, including attorneys' fees, incurred in the management and protection of the trust
fund and to pay such professionals a reasonable fee without court approval thereof. Any such payment by
the Trustee of such fees shall be out of principal or income, as the Trustee may elect, or partially out of
each. The discretion of the Trustee to pay these expenses from income or principal, or partially from each,
should be subject to the Trustee's fiduciary obligation to treat income beneficiaries and remaindermen
equitably;

13. **Purchase.** To purchase property at its fair market value as determined by the Trustee from the
probate estate (if any) of Settlor;

14. **Receive Assets.** To receive, take possession of, sue for, recover and preserve the assets of the trust
fund, both real and personal, coming to its attention or knowledge, and the rents, issues and profits arising
from such assets;
15. **Retention of Trust Property.** To retain, without liability for loss or depreciation resulting from such retention, any assets received by the Trustee or any property that may from time to time be added to the trust fund or any trust created hereunder; or any property in which the funds of any trust may from time to time be invested, for such time as the Trustee shall deem best, even though such property may represent a large percentage of the total property of the trust fund;

16. **Securities.** With respect to any corporation or partnership, the stocks, bonds or interests in which may form a part of the trust estate, to act in the same manner and to exercise any and all powers which an individual could exercise as the legal owner of any such corporate stock or partnership interest, including the right to vote in person or in proxy, or to surrender, exchange or substitute stocks, bonds, or other securities as an incident to the merger, consolidation, re-capitalization or dissolution of any of such corporation, or to exercise any option or privilege which may be conferred upon the holders of such stocks, bonds, or other securities, either for the exchange or conversion of the same into other securities or for the purchase of additional securities, and to make any and all payments which may be required in connection therewith;

17. **Closely-Held Business.**

(a) **Authority to Operate.** The Trustee may operate “the Business” (as defined below) and retain any equity interests in the Business, even if these interests would otherwise be a speculative or inappropriate investment for a Trust. This authority shall not supersede any right otherwise granted under this Trust Agreement to Settlor’s wife if she shall survive Settlor to compel that certain trust assets be made productive. The Trustee may do all things related to the operation of the Business that may be appropriate, all in a fiduciary capacity:

(i) The Trustee may carry out the terms of any option or buy-sell agreements into which Settlor may have entered.

(ii) The Trustee may sell or liquidate any of the Business interests at such price and on such terms as the Trustee may deem advisable.

(iii) The Trustee may arrange for and supervise the continued operations of the Business.

(iv) The Trustee may vote (in person or by proxy) as stockholder or otherwise and in any matter involving the Business on behalf of the Trust.

(v) The Trustee may grant, exercise, sell or otherwise deal in any rights to subscribe to additional interests in the Business.

(vi) The Trustee may take any actions appropriate to cause the capital stock or securities in the Business to be registered for public sale under any state or Federal securities act; may enter into any underwriting agreements or other agreements necessary or advisable for this registration and sale; and may grant indemnities to underwriters and others in connection with such registration.

(vii) The Trustee may participate in any incorporation, dissolution, merger, reorganization or other change in the form of the Business and, where appropriate, deposit securities with any protective committees and participate in any voting trusts.
(viii) The Trustee may delegate to others discretionary power to take any action with respect to the management and affairs of the Business that Settlor could have taken as the owner of the Business.

(ix) The Trustee may invest additional capital in, subscribe to additional stock or securities of and lend money or credit to the Business from the Trust.

(x) The Trustee may accept as correct financial or other statements rendered by the Business as to its conditions and operations except when having actual notice to the contrary.

(b) **Liabilities.** Any contractual and tort liabilities arising from the Business shall be satisfied first from its assets, and only secondarily from other assets of the Trust. The Trustee shall have no liability to anyone for any loss arising from the operations, retention or sale of the Business.

(c) **Compensation.** The Trustee shall be entitled to additional reasonable compensation for the performance of services with respect to the Business, which may be paid to the Trustee from the Business, the trust assets, or both, as the Trustee may deem advisable.

(d) **Conflict of Interest Waived.** The Trustee may exercise the authorities granted hereunder even if the Trustee personally shall own an interest in the Business.

(e) **“The Business” Defined.** “The Business” means any interest owned by Settlor or his wife, the Trust, or some combination of them, representing in the aggregate at least Five Percent (5%) of the total equity interests in any actively-conducted trade or business, whether incorporated or unincorporated. Settlor declares that the term “the Business” shall also include, but not be limited to, any five percent or greater equity interests in any general and/or limited partnerships, as well as membership interests in any limited liability company formed, operated, beneficially owned by or participated in (to the extent of five percent or more) by Settlor prior to his death, and shall also include any interest in JOHN DOE AND SON or its successor-in interest, if any. The term “the Business” does not include any interests that are regularly traded on an established exchange or over-the-counter.

18. **Environmental Issues.** The Trustee may take into account any environmental law that may be relevant to any real estate included in the trust.

(a) The Trustee may inspect property held directly or indirectly as part of the Trust assets, including any interests in incorporated or unincorporated business entities, to comply with environmental laws affecting this property and respond to a change in, or any actual or threatened violation of, any environmental law affecting property held as part of the Trust assets.

(b) The Trustee may appropriately respond to a change in, or prevent, abate or otherwise remedy any actual or threatened violation of any environmental law affecting property held as part of the Trust assets, either before or after the initiation of an enforcement action by any governmental body.
(c) The Trustee may refuse to accept the transfer to the Trust of additional property if the Trustee shall determine that this additional property either is or may reasonably be believed to be contaminated by any hazardous substance that could result in liability to the Trust.

(d) The Trustee may disclaim any power granted by any document, statute or rule of law that, in the discretion of the Trustee, may reasonably be expected to cause the Trustee to incur personal liability under any environmental law.

(e) The Trustee may charge the cost of any inspection, response or other action against the income or principal of the Trust.

(f) The Trustee shall not be personally liable to any beneficiary for any decrease in value because of the compliance by the Trustee with any environmental law, including any reporting requirement. Neither the acceptance by the Trustee of property nor the failure by the Trustee to inspect property shall create any inference as to whether or not there is or may be any liability under any environmental law with respect to such property.

(g) “Environmental law” means any Federal, state or local law relating to the protection of the environment or human health, and “hazardous substances” means any substances defined as hazardous or toxic or otherwise regulated by any environmental law.

19. **Tax Consequences.** To prepare and file returns and arrange for payment with respect to all local, state, federal and foreign taxes incident to this Trust Agreement; to take any action and to make any election, in the Trustee’s discretion, to minimize the tax liabilities of this Trust Agreement and its beneficiaries; and,

20. **General Powers.** To do any and all other acts necessary, proper or desirable for the benefit of the trust fund and its beneficiaries, and to effectuate the powers conferred upon the Trustee hereunder.
SCHEDULE “A”
OF
THE JOHN DOE LIVING TRUST
INITIAL TRUST FUNDING

3. The real property located at 123 4th Avenue, Brookline, Massachusetts.

4. All articles of personal and household use and ornament of every kind and description and wheresoever situated.
IRA Beneficiary Trust with Letter to Account Holder and IRA Beneficiary Designation form. This trust was created for a married client whose spouse is the primary beneficiary of the IRA and the trust is the contingent beneficiary; the client's children are the secondary beneficiaries of the trust. Other options include the trust as the primary beneficiary, a single primary (or secondary) beneficiary of the trust, and contingent beneficiaries.

THE JOHN DOE
IRA BENEFICIARY TRUST

THIS TRUST AGREEMENT is entered into by JOHN DOE, as Settlor, and JOHN DOE, as Trustee. For all purposes hereunder, the words “I”, “me”, “my”, “mine”, and similar pronouns, shall refer to Settlor JOHN DOE and shall be construed as the possessive when the context would so indicate.

ARTICLE I
RECITALS AND CONVEYANCE

WHEREAS, I, JOHN DOE, desire to establish a revocable trust which shall be the designated beneficiary of any Individual Retirement Accounts (“IRA”) which I may own;

WHEREAS, this trust shall be initially funded with the sum of TEN DOLLARS ($10.00) in cash; such sum and any assets later added to the trust shall be known as the “trust fund” and shall be held, administered and distributed as provided in this document and any subsequent amendments to this document;

NOW, THEREFORE, the Trustee acknowledges receipt of the trust fund and shall hold the same in trust under the following terms, conditions and provisions:

ARTICLE II
DECLARATIONS

2.A. **Name.** This trust shall be known as THE JOHN DOE IRA BENEFICIARY TRUST.

2.B. **Family.** I am married to MARY DOE and all references to “my wife” shall be to her. There are three children of this marriage now living; namely, BILL DOE, SALLY SMITH and JOHN DOE.

2.C. **Successor Trustee.** If I should cease to act as the Trustee for any reason, I shall be succeeded by my wife MARY DOE as the successor Trustee. Thereafter, if she fails to qualify or ceases to act, my son BILL DOE shall act as the alternate successor Trustee.
2.D. **Definitions.** For any interpretation of this Trust Agreement, the following definitions shall apply:

1. **Beneficiary.** The term “beneficiary” or “beneficiaries” shall mean any person and/or entity then eligible to receive current income or whose right to receive assets from the estate is currently vested;

2. **Code.** Any reference to the “Code” shall refer to the Internal Revenue Code of 1986, as amended, and to any regulations pertaining to the referenced sections;

3. **Deferrable Retirement Benefit.** A “Deferrable Retirement Benefit” means any benefit from a “Retirement Account” (as that term is hereinafter defined) that meets the following two requirements: (a) it is subject to the “Minimum Distribution Rules” (as that term is hereinafter defined) and (b) this trust has the option (either under the terms of the account or arrangement that governs such benefit, or by transferring the benefit to an inherited IRA) to take distribution of such benefit in annual installments over the life expectancy of the oldest trust beneficiary.

4. **Descendants.** The term “descendants” shall include a person's lineal descendants of all generations.

5. **Education.** As used in this Trust Agreement, the term “education” or “educational purposes” shall include any course of study or instruction which may, in the Trustee's discretion, be useful in preparing a beneficiary for any vocation consistent with such beneficiary's abilities and interests. Distributions for education may include tuition, fees, books, supplies, living expenses, travel and spending money to the extent that they are reasonable and necessary, again in the Trustee's absolute discretion;

6. **Incapacity.**

   a. In the case of a question or dispute, incapacitation of a Trustee (whether such Trustee shall be me or a successor) shall be evidenced by written certification of two (2) physicians that the individual is unable to effectively manage his or her own property or financial affairs, whether as a result of age, illness, use of prescription medications, drugs or other substances, or any other cause;

   b. If there is no question or dispute, incapacitation of a Trustee shall be established by the written declaration of only one doctor;

   c. An individual shall be deemed 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 own property and financial affairs; and,

   d. An individual shall be deemed incapacitated if a court of competent jurisdiction has declared the individual to be incompetent or legally incapacitated. If an individual fails to grant the court making such
determination valid authorization to disclose the person's protected health information under any applicable federal and/or state statute, or if the person subsequently revokes such authority, the individual shall be deemed incapacitated.

(7) **Individual Retirement Account.** The term “Individual Retirement Account” or “Retirement Account” means amounts held in or payable pursuant an individual retirement arrangement under §408 of the Code, or a Roth IRA under §408A of the Code, or the corresponding provisions of any subsequent federal tax law;

(8) **Interested Person.** The term “Interested Person” means (a) a person who is a transferor of the property to the trust (including a person whose qualified disclaimer resulted in property passing to the trust); (b) a person that is related or subordinate to a person who is a transferor of the property to the trust (including a person whose qualified disclaimer resulted in property passing to the trust) within the meaning of §672(c) of the Code; (c) a person who is a beneficiary of the trust; or (d) a person that is related or subordinate to a beneficiary within the meaning of §672(c) of the Code.

For purposes of this subparagraph, “a beneficiary of the trust” 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. A person shall be considered a beneficiary of a trust even if he or she has only a remote contingent remainder interest in the trust; however, a person shall not be considered a beneficiary of a trust if the person's only interest is as a potential appointee under a power of appointment.

(9) **Issue.** The term “issue” shall refer to lineal descendants of all degrees; provided however, that such term shall refer only to the issue of lawful marriages and illegitimate children only if a parent/child relationship existed between such child and his or her parent, living or deceased, as determined under Arizona law and, provided further, “issue” of mine or of some other person shall not include an individual who is my (or such person’s) “issue” by virtue of legal adoption if such individual (i) was so adopted after my death and (ii) is older than the oldest other beneficiary of this trust who was a living member of said class at my death. A child in gestation which is later born alive and survives for thirty (30) days shall be considered as issue in being throughout the period of gestation;

(10) **Legal Representative or Personal Representative.** As used in this Trust Agreement, the term “legal representative” or “personal representative” shall mean a person's guardian, conservator, executor, administrator, trustee, or any other person or entity personally representing a person or the person's estate.

(11) **Majority.** The term “majority” shall mean more than one-half (1/2), and, in the event of a deadlock, shall be determined in accordance with the laws of the State of Arizona relating to inter-vivos trusts;

(12) **Minimum Distribution Rules.** The “Minimum Distribution Rules” mean the rules of §401(a)(9) of the Code.
(13) **Minimum Required Distribution.** The “Minimum Required Distribution” for any year means, for each Retirement Benefit: (a) the value of the Retirement Benefit determined as of the preceding year-end, divided by (b) the Applicable Distribution Period; or such greater amount (if any) as the Trustee shall be required to withdraw under the laws then applicable to this trust to avoid penalty. Notwithstanding the foregoing, the Minimum Required Distribution for the year of my death shall mean (a) the amount that was required to be distributed to me with respect to such Benefit during such year under the Minimum Distribution Rules, minus (b) amounts actually distributed to me with respect to such Benefit during such year.

(14) **Per Stirpes.** Whenever a distribution is to be made “per stirpes”, the assets are to be divided into as many shares as there are then-living children and deceased children who left living descendants. Each living child shall receive one share and each deceased child's share shall be divided among such deceased child's then-living descendants in the same manner;

(15) **Principal and Income.** The determination by the Trustee in all matters as to what shall constitute principal of the trust, gross income therefrom and distributable net income under the terms of the trust shall be governed by the provisions of the Principal and Income Act of the State of Arizona, except as to any of such matters as may otherwise be provided for in this instrument. In the event and to the extent that any of such matters relating to what constitutes principal or income of the trust and in the allocation of receipts and disbursements between these accounts is not provided for either in this Trust Agreement or in such Principal and Income Act, the Trustee has full power and authority to determine such matters;

(16) **Pronouns and Gender.** In this Trust Agreement, the feminine, masculine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates;

(17) **Trustee.** Any reference to “Trustee” shall be deemed to refer to whichever individual, individuals (including me) or corporation shall then be acting as the Trustee.

2.E. **Restrictions.** The interest of any beneficiary (whether entitled to current income or possessing only a future interest) in either the income or principal of the trust fund or any part of it shall not be alienated or in any other manner assigned or transferred by such beneficiary; and such interest shall be exempt from execution, attachment and other legal process which may be instituted by or on behalf of any creditor or assignee of such beneficiary; nor shall any part of such interest be liable for the debts or obligations (including spousal and/or child support, except as required under Arizona law) of any such beneficiary.

2.F. **Maximum Duration of Trusts.** Regardless of any other provision herein, the Maximum Duration for Trusts is the longest period that property may be held in trust under this Agreement under the applicable rules of the State of Arizona governing perpetuities, vesting, accumulations, the suspension of alienation and the like (including any applicable period in gross such as twenty-one (21) years or ninety (90) years). If, under those rules, the Maximum Duration for Trusts shall be determined (or alternatively determined) with reference to the death of the last survivor of a
group of individuals alive upon my death, or at such other time that the application of such rules limiting the maximum duration of trusts is deemed to begin, those individuals shall consist of all beneficiaries (including future and/or contingent) of this trust (as hereinafter named) alive at my death. Any trust created hereunder must end immediately prior to such maximum duration and, thereupon, the Trustee shall pay over the principal, free from such trust, to the person or persons then entitled to receive the net income.

2.G. **Governing Law.** This Trust Agreement is an Arizona contract and creates an Arizona trust; all of the terms and provisions hereof shall be interpreted according to the laws of the State of Arizona relating to inter-vivos trusts, except as shall be specifically modified herein.

2.H. **Conflict Resolution.** Any controversy between any interested parties concerning the construction, application or interpretation of any provision of this Trust Agreement or of the Trustee’s actions shall be settled by arbitration in accordance with the laws of the State of Arizona (if no such laws then exist, in accordance with the then current rules of the American Arbitration Association) and the findings of such arbitration may be enforced by any Court having jurisdiction thereof.

### ARTICLE III

**TRUSTEESHIP**

3.A. **Successor Trustees.** I may appoint individuals or corporations as co-Trustees or successor Trustees by a written instrument (other than a Will) delivered to the then-acting Trustee.

3.B. **Appointment of Trustee.** If there is no Trustee acting hereunder, then a majority of the beneficiaries of the trust or any sub-trust created hereunder shall appoint a successor Trustee or co-Trustees by an instrument in writing, which appointment must be effective upon the date the last Trustee fails to qualify or ceases to act.

3.C. **Resignation.** Any Trustee may resign at any time by giving written notice to me, if I am then living, and thereafter to the other Trustees, if any, and, if not, to all the beneficiaries. Any such notice shall become effective as agreed by me or the majority of the beneficiaries, but no later than thirty (30) days after such written notice. Notwithstanding the foregoing, the Trustee may, at the expense of any trust created hereunder, secure the appointment of a successor Trustee of such trust by a court of competent jurisdiction.

3.D. **Liability.** No successor Trustee shall be under any obligation to examine the accounts of any prior trustee, and a successor Trustee shall be exonerated from all liability arising from any prior Trustee’s acts or negligence. It is my intention that any Trustee serving hereunder shall be accountable only from the date such Trustee receives the assets of such trust.

3.E. **Bond.** No bond shall be required of any person or institution named in this Trust Agreement as the Trustee or Special Trustee.
3.F. **Compensation.**

(1) A Trustee shall be entitled to receive, out of the income and/or principal of the trust and each sub-trust created hereunder, compensation for its services hereunder to be determined, if a corporate Trustee, by the application of the current rates then charged by the Trustee for trusts of a similar size and character, and, if the Trustee shall be an individual, such compensation shall be a reasonable fee based on the time and effort of the Trustee. The Trustee shall also be entitled to reimbursement for all travel and other necessary expenses incurred in the discharge of the Trustee's duties. The Trustee may impose any Trustee fees or other expenses of the trust and/or sub-trust against the principal or income of the trust and/or sub-trust without any duty to seek reimbursement from the interest not charged.

(2) A Special Trustee shall be entitled to receive, out of the income and/or principal of the trust or each sub-trust created hereunder, a reasonable fee based on the time and effort of the Special Trustee. The Special Trustee shall also be entitled to reimbursement for all travel and other necessary expenses incurred in the discharge of the Special Trustee's duties. The Special Trustee may impose any fees or other expenses against the principal or income of the trust and/or sub-trust without any duty to seek reimbursement from the interest not charged.

3.H. **Payments to Beneficiaries.**

(1) If a beneficiary is under the age of twenty-one and must receive a distribution from this Trust or a sub-trust created under the terms of this Trust, the Trustee may either open a custodial account for the benefit of such minor beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian or make such distribution to the guardian of the person of such minor beneficiary; and,

(2) Unless the Trustee shall have received actual written notice of the occurrence of an event affecting the beneficial interests of this Trust Agreement, the Trustee shall not be liable to any beneficiary of this Trust Agreement for distribution made as though the event had not occurred.

3.I. **Accounting for Retirement Benefits.**

(1) **General Principles.** This Paragraph shall govern the Trustee's accounting for Retirement Benefits. In general, a Retirement Benefit shall be deemed an asset of the trust, increases or decreases in its value shall be allocated to income or principal of the trust as provided herein, and distributions from the Retirement Benefit shall be accounted for as provided herein.

(2) **Certain Individual Account Plans.** With respect to any Retirement Benefit which is an individual account plan, for which the Trustee receives such reporting of the investment activity in the account that the Trustee can readily determine the “income” and “principal” of the trust's interest in the plan in accordance with traditional principles of income and
principal, the Trustee shall account for the trust's interest in the Retirement Benefit as if the applicable plan assets were owned by the trust directly.

(3) **All Other Retirement Benefits.** With respect to any other Retirement Benefit, the Trustee shall treat the inventory value of the trust's interest in the Retirement Benefit as principal, and allocate any subsequent increases in value (or charge decreases in value) in such interest to income or principal in accordance with any reasonable method selected by the Trustee that is consistent with traditional principles of income and principal and is consistently applied to the trust's interest in such plan, including:

(a) A method specified in any Uniform Principal and Income Act (“UPIA”) or other state law governing trust accounting for retirement benefits or deferred compensation, but only if such law provides for a reasonable apportionment, each year, between the income and remainder beneficiaries of the total return of the trust for such year. The “10 percent rule” of UPIA §409(c), or any other state law that determines income with respect to a Retirement Benefit by reference to the amount of the retirement plan's required distributions rather than by reference to the return on the applicable investments or other traditional principles of income and principal, or that otherwise depart from traditional principles of income and principal, may not be used to determine “income” for any purpose of this trust.

(b) In the case of a plan similar to the type of plan specified in subparagraph (2) above, the method specified in said subparagraph (2) adapted as necessary.

(c) Any method used in the Code or Treasury regulations to distinguish between “ordinary income” and “return of principal” (or corpus) with respect to similar assets.

(4) **Treatment of Distributions.** When a distribution is received from or under a Retirement Benefit, and, at the time of such distribution, under the foregoing rules, the trust's interest in the Retirement Benefit is composed of both income and principal, such distributions shall be deemed withdrawn first from the income portion.

(5) **Definition of Inventory Value.** In the interpretation of this Paragraph, the “inventory value” of an interest in a Retirement Benefit shall mean:

(a) In the case of an interest that becomes payable to (or is owned by) this trust as of the date of my death, its “fair market value” determined in accordance with the rules applicable for valuing such interests for purposes of the federal estate tax (as in effect at my death, or, if such tax does not then exist, as last in effect); or,

(b) In the case of an interest that becomes payable to this trust as of a date after the date of my death (for example, by transfers from another fiduciary), its “fair market value” shall be its value as of my death determined as provided
in the preceding subsection, adjusted as necessary for distributions, expenditures, and receipts that occurred between the date of my death and the date of transfer to this trust; or, if the trustee cannot determine its value in that manner, its “fair market value” shall be its value as of the date it becomes an asset of this trust, determined as provided in the preceding subsection, provided, in the case of an interest transferred to this trust from another fiduciary (such as my Personal Representative) accrued income so transferred shall be treated as income and shall not be included in “inventory value”.

3.J. **Release of Powers.** Each Trustee shall have the power to release or to restrict the scope of any power that such Trustee may hold in connection with any trust created under this Trust Agreement, whether said power is expressly granted in this Trust Agreement or implied by law. The Trustee shall exercise this release in a written instrument specifying the powers to be released or restricted and the nature of any such restriction. Any released power shall pass to and be exercised by the other then-acting Trustees.

**ARTICLE IV**

**TRUSTEE'S POWERS**

Subject to the provisions and limitations set forth expressly herein, the Trustee shall have, in general, the power to do and perform any and all necessary acts and things in relation to the trust in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon the Trustee be exhausted by the use thereof, but each shall be continuing. In addition to the above, the Trustee is specifically authorized and empowered to exercise those powers hereinafter set forth in this Article IV.

4.A. **Agreements.** To carry out the terms of any valid agreements which I may have entered into during my lifetime regarding property owned by the trust;

4.B. **Asset Title.** To hold securities or other property in the Trustee's name as trustee, or in "street name", or in bearer form;

4.C. **Bank Accounts.** To open and maintain bank accounts in the name of the Trustee with any bank, trust company or savings and loan association authorized and doing business in any State of the United States of America. If more than one Trustee shall be acting, the Trustees may designate one or more of them to conduct banking activities and to make deposits, withdrawals and endorsements upon giving written notice of such designation to the bank, trust company, or savings and loan association in question; and such bank, trust company or savings and loan association shall be protected in relying upon such designation;

4.D. **Contracts.** To enter into contracts which are reasonably incident to the administration of the trust;
4.E. **Divisions and Distributions.** In any case in which the Trustee is required to divide any trust assets into shares for the purpose of distribution (or otherwise), such division may be in kind, including undivided interests in any real property, or partly in kind and partly in money. For such purposes, the Trustee may make such sales of trust assets as the Trustee may deem necessary on such terms and conditions as the Trustee shall deem fit, and to determine the relative value of the securities or other assets so allotted or distributed; the Trustee's determination of values and of the property for such distribution shall be conclusive. The decision of the Trustee in distributing assets in reliance on this paragraph shall be binding, and shall not be subject to challenge by any beneficiary;

4.F. **Invest and Reinvest.** To invest, reinvest, change investments and keep the trust invested in any kind of property, real, personal, or mixed, including by way of illustration but not limitation, oil and gas royalties and interests; precious metals; common and preferred stocks of any corporation; bonds; notes; debentures; trust deeds; mutual funds or common trust funds, including such funds administered by a Trustee; interests in partnerships, whether limited or general and as a limited or general partner; intending hereby to authorize the Trustee to act in such manner as the Trustee shall believe to be in the best interests of the trust and the beneficiaries thereof. The Trustee is specifically vested with the power and authority to open, operate and maintain securities brokerage accounts wherein any securities may be bought and/or sold on margin, and to hypothecate, borrow upon, purchase and/or sell existing securities in such account as the Trustee shall deem appropriate or useful. These powers shall be construed as expanding the standards of the prudent investor rule as set forth in the Uniform Prudent Investor Act;

4.G. **Manage and Control.** To manage, control, sell at public or private sale, convey, exchange, partition, divide, subdivide, improve, repair; to grant options and to sell upon deferred payments; to pledge or encumber by mortgage or deed of trust or any other form of hypothecation; to otherwise dispose of the whole or any part of the trust on such terms and for such property or cash or credit, or any combination thereof, as the Trustee may deem best; to lease for terms within or extending beyond the duration of the trust for any purposes; to create restrictions, easements, to compromise, arbitrate, or otherwise adjust claims in favor of or against the trust; to institute, compromise and defend actions and proceedings with respect to the trust; and to secure such insurance, at the expense of the trust, as the Trustee may deem advisable;

4.H. **Professional Assistance.** To employ and compensate agents, investment managers, attorneys, accountants, and other professionals deemed by the Trustee to be reasonably necessary for the administration of the trust, and the Trustee shall not be liable for any losses occasioned by the good faith employment of such professionals, nor shall the Trustee be liable for any losses occasioned by any actions taken by the Trustee in good faith reliance upon any advice or recommendation thereof; to pay all costs, taxes, and charges in connection with the administration of the trust; and to be reimbursed for all reasonable expenses, including attorneys' fees, incurred in the management and protection of the trust and to pay such professionals a reasonable fee without court approval thereof. Any such payment by the Trustee of such fees shall be out of principal or income, as the Trustee may elect, or partially out of each. The discretion of the Trustee to pay these expenses from income or principal, or partially from each, should be subject to the Trustee's fiduciary obligation to treat income beneficiaries and remaindersmen equitably;
4.I. **Securities.** With respect to any corporation or partnership, the stocks, bonds or interests in which may form a part of the trust estate, to act in the same manner and to exercise any and all powers which an individual could exercise as the legal owner of any such corporate stock or partnership interest, including the right to vote in person or in proxy, or to surrender, exchange or substitute stocks, bonds, or other securities as an incident to the merger, consolidation, recapitalization or dissolution of any of such corporation, or to exercise any option or privilege which may be conferred upon the holders of such stocks, bonds, or other securities, either for the exchange or conversion of the same into other securities or for the purchase of additional securities, and to make any and all payments which may be required in connection therewith;

4.J. **Tax Consequences.** To prepare and file returns and arrange for payment with respect to all local, state, federal and foreign taxes incident to this Trust Agreement; to take any action and to make any election, in the Trustee's discretion, to minimize the tax liabilities of this Trust Agreement and its beneficiaries; and,

4.K. **General Powers.** To do any and all other acts necessary, proper or desirable for the benefit of the trust and its beneficiaries, and to effectuate the powers conferred upon the Trustee hereunder.

**ARTICLE V**

**MY RETAINED POWERS**

5.A. **Revocation.** During my lifetime, this Trust Agreement may be revoked in whole or in part by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.B. **Amendment.** I may at any time during my lifetime amend any of the terms of this Trust Agreement by an acknowledged instrument in writing signed by me which shall refer to this Trust Agreement and this specific power and which shall be delivered to the then-acting Trustee.

5.C. **Powers Terminate on Death.** On my death, this Trust Agreement may not be amended, revoked, or terminated (except as hereinafter provided in Article VI).

5.D. **Powers Personal to Me.** My powers to revoke or amend this Trust Agreement are personal to me and shall not be exercisable on my behalf by any conservator and/or guardian or other person, except that revocation or amendment may be authorized, after notice to the Trustee, by the Court that appointed the conservator and/or guardian.

**ARTICLE VI**

**DISPOSITION OF TRUST FUND**

6.A. **Trustee's Basic Duties.** During the term of this Trust Agreement, the Trustee shall hold, manage, invest and reinvest the Trust Estate, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this Article VI.
6.B. **Division at My Death.**

(1) If I am survived by my wife MARY DOE and if she has disclaimed all (or any portion) of her interest in a Retirement Account of which this trust is the contingent beneficiary, the trustee shall hold the Trust Estate in further trust hereunder for the lifetime of my wife. If the Trustee or my personal representative choose not to elect the federal estate tax marital deduction pursuant to §2056(a) as to any portion of the trust that would otherwise qualify for the qualified terminable interest property (“QTIP”) election as defined by §2056(b)(7)(B) of the Code, the Trustee shall hold that portion of the trust (the “Non-election Share”) as a separate trust hereunder. Other than the Non-election Share, it is my intention to have this trust qualify for the marital deduction under §2056(b)(7) of the Code or any corresponding or substitute provisions applicable to that deduction. In no event shall the Trustee take any action or have any power that will impair the marital deduction, and all provisions regarding this trust shall be interpreted to conform to this primary objective.

(2) If my wife shall predecease me, or at her subsequent death, or if she has disclaimed her interest in this trust (in which event, she shall be deemed to have predeceased me), the Trustee shall divide this trust into separate shares (“sub-trusts”) for my then-living issue, per stirpes.

6.C. **Mandatory Distributions of Income.** During my wife's lifetime, the Trustee shall pay to or apply for her benefit the net income of this trust in annual or more frequent installments. No less frequently than annually, the Trustee shall pay to or apply for the benefit of my wife the benefits from any Retirement Account (as hereinabove defined) from which the right to receive distributions is held by this trust in amounts sufficient to meet the minimum distribution requirements of §401(a)(9) of the Code and the regulations thereunder (the “Minimum Required Distribution”). In addition thereto, my wife has the power, exercisable annually, to compel the Trustee to withdraw from any Retirement Account from which the right to receive distributions is held by this trust an amount equal to the income earned on the assets held by such account(s) during the year which is in excess of the annual minimum required distribution from the account(s) and to distribute that amount to or apply it for the benefit of my wife.

6.D. **Discretionary Distributions.**

(1) In additional to the mandatory distributions pursuant to Paragraph 6.C., during the lifetime of my wife, the Trustee shall pay to my wife or apply for her benefit as much of the principal of the Trust Estate as the Trustee in the Trustee's discretion shall deem necessary and appropriate for her proper support, health, and maintenance.

(2) After the death of my wife or in the event of the disclaimer by my wife in this trust, and subject to the requirements of Paragraph 6.F., the Trustee shall pay to or apply for the benefit of the current beneficiary of any sub-trust created hereunder as much of the income and/or principal of that beneficiary's sub-trust as the Trustee in the Trustee's discretion shall deem necessary and appropriate for the beneficiary's proper support, health, maintenance.
and education. Any income not so distributed shall be added to the principal of such sub-
trust.

6.E. **Sub-Trust Mandatory Distributions.** If any sub-trust created hereunder is no longer the
beneficiary or contingent beneficiary of any Retirement Account, the Trustee shall distribute to
the beneficiary of such sub-trust the income and principal of such sub-trust in the following
manner:

(1) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the principal of the sub-trust set aside for such beneficiary as he or she shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to such beneficiary prior to his or her attaining the age of thirty (30) years shall not exceed one-half of the value of the sub-trust set aside for him or her at the time of the creation of such sub-trust.

(2) In the event of the death of any beneficiary while any undistributed part of his or her sub-trust shall then be held in trust hereunder, the Trustee shall (upon the death of such beneficiary) distribute (subject to the age requirement hereinabove set forth) his or her sub-trust or share thereof to such deceased beneficiary’s then-living issue, per stirpes. If such deceased beneficiary is not survived by issue, the Trustee shall (upon the death of such beneficiary) distribute his or her sub-trust or share thereof to such deceased beneficiary’s then-living brothers and sisters, if any, and if none to my then-living issue, per stirpes. If a sub-trust or a share thereof is then being held for any beneficiary who may be entitled to receive the interest of a deceased beneficiary, such interest shall be added to the sub-trust or share thereof of the beneficiary and shall be thereafter held, administered and distributed as a part thereof.

6.F. **Retirement Accounts.** Notwithstanding the discretionary power to distribute income
and/or principal hereinabove set forth in Paragraph 6.D., unless the election is made to exempt any
“qualifying sub-trust” (as hereinafter defined) from the requirements of this Paragraph pursuant to
Paragraph 6.G. below, to the extent any sub-trust which is created no later than by September 30
of the year following my death (a “qualifying sub-trust”) is the beneficiary of an Individual
Retirement Account (as hereinabove defined), the Trustee shall draw the benefits from the
Retirement Account in amounts sufficient to meet the minimum distribution requirements of
§401(a)(9) of the Code and the regulations thereunder (the “Minimum Required Distribution”).

Notwithstanding any provision of this trust or any qualifying sub-trust to the contrary, unless the
election is made to exempt any qualifying sub-trust from the requirements of this Paragraph
pursuant to Paragraph 6.G. below, the Minimum Required Distribution shall be paid to or applied
for the benefit of the person or persons then entitled to receive or have the benefit of the income
from the qualifying sub-trust, or if there is more than one income beneficiary, the Trustee shall
make such distribution to such income beneficiaries in the proportion in which they are
beneficiaries or if no proportion is designated in equal shares to such beneficiaries.

It is my intention that, unless the election is made to exempt such qualifying sub-trust from
the requirements of this Paragraph pursuant to Paragraph 6.G. below, each qualifying sub-trust
shall qualify as a “conduit trust” under Code §401(a)(9) so the beneficiaries of any qualifying sub-
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trust shall be considered “designated beneficiaries” for purposes of the minimum distribution rules, and that distributions may therefore be taken over the life expectancy of the oldest qualifying sub-trust beneficiary.

The Retirement Accounts shall not be subject to the claims of any creditor of my estate and they shall not be applied to the payment of my debts, taxes or other claims or charges against my estate unless and until all other assets available for such purposes have been exhausted, and even then only to the minimum extent that would be required under applicable law in the absence of any specific provision on this subject in this trust. Provided however, any transfer, estate and inheritance taxes which may be imposed upon the value of the trust at the death of my wife shall be paid by the Trustee from this trust if, in the discretion of the Trustee, there are insufficient assets to pay such tax in any other Marital Deduction Trust which may have been created for my wife at the time of my death or if the beneficiaries of this trust are different than the beneficiaries of such other Marital Deduction Trust.

6.G. **Special Elections.** If my wife shall not survive me or shall die prior to September 30 of the year following my death, the Special Trustee (as hereinafter defined) shall have the following powers to be exercised (if at all) no later than by September 30 of the year following the year of my death:

(1) To elect, by a written instrument delivered to the Trustee, to make any or all of the qualifying sub-trusts created under Paragraph 6.B.(2) exempt from the mandatory distribution requirements of Paragraph 6.F. and thereby make such qualifying sub-trust or sub-trusts “fully discretionary”.

(2) If the above-described election is made as to a qualifying sub-trust, to designate, by a written instrument delivered to the Trustee, the potential beneficiaries of such qualifying sub-trust other than my issue. This designation can limit or change the beneficiary or beneficiaries who shall take as a potential contingent beneficiary in the event that I am not survived by issue. Such potential contingent beneficiaries must qualify as a “designated beneficiary” as defined in Treas. Reg. §1.401(a)(9)-4, Q&A 1, as well as meet the requirement that such potential contingent beneficiaries be presently “identifiable” pursuant to Treas. Reg. §1.401(a)(9)-4, Q&A 5(b)(3); further, it is my intent that the Special Trustee should take into account the ages of such potential contingent beneficiaries to minimize the income tax liabilities of the IRA distributions.

(3) Once made, such election(s) and/or designation(s) shall be irrevocable.

(4) The Special Trustee shall be my attorney STEVE ALLEN. If there is no Special Trustee acting hereunder, the Trustee then-acting shall appoint a Special Trustee who is not an “interested person” (as hereinabove defined) by an instrument in writing, which appointment must be effective by September 30 of the year following my death.

6.G. **Special Distributions.** Other than as hereinabove provided in Paragraph 6.E., if any income and/or principal of any sub-trust hereunder ever vests outright under the provisions of this Trust Agreement in a person who suffers from substance abuse, or a person who the Trustee...
determines is incompetent or whose financial circumstances is such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee’s discretion and without supervision of any court, shall hold or distribute the distribution for such person (hereinafter “the beneficiary”) in accordance with the following provisions:

(1) **Substance Abuse Dependence.** If the Trustee reasonably believes that a beneficiary of any trust created under this Agreement is a person who routinely or frequently uses or consumes any illegal drugs or other illegal chemical substance so as to be physically or psychologically dependent upon that drug or substance; or, is a person who is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by that doctor or psychiatrist; and, if the Trustee reasonably believes that, as a result of the use or consumption, the beneficiary is incapable of caring for himself or herself or is likely to dissipate the beneficiary's financial resources, the Trustee shall follow the procedures set forth below.

(a) The Trustee will request the beneficiary to submit to one or more examinations (both physical and psychological) determined to be appropriate by a board certified medical doctor or psychiatrist selected by the Trustee. The Trustee will request the beneficiary to consent to full disclosure by the examining doctor or facility to the Trustee of the results of all the examinations. The Trustee will maintain strict confidentiality of those results and will not disclose those results to any person other than the beneficiary without the beneficiary's written permission. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

(b) If, in the examining doctor's or psychiatrist's opinion, the examination indicates current or recent use of a drug or substance as described above, the beneficiary will consult with the examining doctor or psychiatrist to determine an appropriate method of treatment for the beneficiary. Treatment may include counseling or treatment on an in-patient basis in a rehabilitation facility. If the beneficiary consents to the treatment, the Trustee will pay the costs of treatment directly to the provider of those services from the income or principal otherwise authorized or required to be distributed to the beneficiary.

(c) If the examination indicates current or recent use of a drug or substance as described above, all mandatory distributions and all withdrawal rights from the trust with respect to the beneficiary during the beneficiary's lifetime (including distributions upon termination of the trust for reasons other than the death of the beneficiary) will be suspended until in the case of use or consumption of an illegal drug or illegal substance, examinations indicate no such use; and, in all cases of dependence, until the Trustee, in the Trustee's judgment, determines that the beneficiary is fully capable of
caring for himself or herself and is no longer likely to dissipate his or her financial resources.

(d) While mandatory distributions are suspended, the trust will be administered as a discretionary trust to provide for the beneficiary according to the provisions of the trust providing for discretionary distributions in the Trustee's discretion and those provisions of the trust relating to distributions for the beneficiary's health, education, maintenance and support.

(e) When mandatory distributions to and withdrawals by the beneficiary are resumed, the remaining balance, if any, of the mandatory distributions that were suspended may be distributed to the beneficiary at that time and the balance of any rights of withdrawal by the beneficiary shall be immediately exercisable by the beneficiary. If the beneficiary dies before mandatory distributions or rights of withdrawal are resumed, the remaining balance of such beneficiary’s share shall be distributed in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.

(f) It is not my intention to make the Trustee (or any doctor or psychiatrist retained by the Trustee) responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances. The Trustee (and any doctor or psychiatrist retained by the Trustee) will be indemnified from the trust for any liability in exercising its judgment and authority under this Agreement, including any failure to request a beneficiary to submit to medical examination and including a decision to distribute suspended amounts to a beneficiary.

(2) Special Needs Trust. If the Trustee reasonably believes that a beneficiary of any sub-trust created under this Agreement is a person who is incompetent, or, is a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, the Trustee shall hold the distribution for such beneficiary further trust hereunder (hereinafter referred to as the “Special Trust”) on the following terms and conditions:

(a) The primary purpose of this trust is to provide a supplemental and emergency fund to supplement any public benefits available to such beneficiary during his or her lifetime. It is my intent that the assets of the Special Trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause such beneficiary’s eligibility for public benefits to be terminated, it is likely that the trust assets would be depleted before his or her death and the purpose of this trust could not then be fulfilled.
(b) Until such beneficiary is, in the Trustee’s judgment, no longer incapacitated, or such beneficiary’s financial situation has changed significantly, the Trustee shall pay over to or for the benefit of such beneficiary as much of the net income and as much of the principal of the Special Trust, up to the whole thereof, as the Trustee, in the Trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of such beneficiary’s special needs. For this purpose, “special needs” refers to the requisites for maintaining such beneficiary’s good health, comfort, safety, and welfare when, in the discretion of the Trustee, those requisites are not being provided for by any county, state, federal, or other governmental agency, or by any person or persons with a legal obligation to support such beneficiary. “Special needs” shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, rehabilitation, travel needs and recreation not provided for or reimbursed by public benefits. The Trustee shall consult with any guardian, conservator, custodian, or other person who cares for such beneficiary regarding his or her special needs. Expenditures made by the Trustee under this section may include reasonable compensation to any person who provides for the special needs of such beneficiary as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order.

(c) It is my intent that any payments or distributions from this trust to or for the benefit of such beneficiary shall supplement (but not replace) any public benefits or other private resources available to him or her. The Trustee may, in the exercise of the Trustee's discretion, seek as necessary all available public benefits for such beneficiary's benefit, and shall segregate any public benefits received by the Trustee for that purpose in a separate trust or account and administer the same for the benefit of such beneficiary. All public benefits received by the Trustee for that purpose, together with any other resources available to such beneficiary, shall be taken into account by the Trustee in making payments or distributions to or for the benefit of such beneficiary. The Trustee shall regularly consult with such beneficiary and any persons or entities providing care or assistance to such beneficiary for the purpose of determining such beneficiary’s needs and resources. The Trustee shall not exercise the Trustee's discretion to make any payments or distributions to or for the benefit of such beneficiary if the Trustee determines, in the Trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to such beneficiary to satisfy those needs.

(d) No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of such beneficiary. For purposes of determining such beneficiary's eligibility for
any public benefits, no part of the principal or undistributed income of the Trust Estate shall be considered available to him or her, and he or she shall have no right to compel the Trustee to release principal or income to him or her or for his or her benefit or otherwise to have any access to any of the trust assets. In the event that the Trustee is requested to release principal or income of the trust to or on behalf of such beneficiary to pay for any equipment, medication, services, or any other needs that any public benefits would be authorized to provide for were it not for the existence of the trust, or in the event that the Trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the Trustee is authorized to deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of such beneficiary for all available public benefits, including obtaining instructions from a court of competent jurisdiction that the trust principal is not available to such beneficiary for purposes of determining his or her eligibility for any public benefits. Any expenses of the Trustees in this regard, including reasonable attorney’s fees, shall be a proper charge to the Special Trust.

(e) If any payment or distribution from the trust to or for the benefit of such beneficiary would have the effect of disqualifying him or her for any public benefits, or if all income of the Special Trust cannot be completely utilized for his or her special needs, the Trustee shall accumulate the trust income annually and add it to principal.

(f) The discretion of the Trustee shall not be subject to review by such beneficiary, his or her creditors and/or any governmental agency. Notwithstanding any other provision of this instrument, if the existence of the Special Trust, or any change in any law, regulation, or rule relating to the Special Trust or the administration of the Special Trust for the benefit of such beneficiary, should at any time have the effect of disqualifying him or her for any public benefits, or if such beneficiary, his or her creditors and/or any governmental agency shall ever bring any court action to force or require the Trustee to distribute to or for the benefit of such beneficiary a greater amount of income and/or principal than the Trustee, in the Trustee’s absolute discretion, has determined to be appropriate, the Trustee is authorized (but not required) to terminate the trust and distribute the trust principal and income as provided in subsection (g); I request that any person who takes any part of the trust assets as the result of this termination power, conserve and manage such property for the benefit of such beneficiary during his or her lifetime to insure that he or she receives sufficient funds for his or her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and is not mandatory.
(h) At such beneficiary's death, the Trustee shall distribute the Special Trust, as then constituted, in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.

(3) **Tax Savings Provisions.** Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction. Finally, nothing herein shall prevent a distribution mandated by the provisions hereof relating to the Maximum Duration of Trusts.
Executed on June 8, 2008, in Pima County, Arizona.

_______________________________________
JOHN DOE,
Settlor

I hereby acknowledge receipt of the trust fund, accept the terms of THE JOHN DOE IRA BENEFICIARY TRUST, and covenant that I will execute the trust with all due fidelity.

_______________________________________
JOHN DOE,
Trustee

[NOTARY ACKNOWLEDGEMENT]
June 8, 2008

Bank of America
34 Pine Street
Somewhere, AZ 99999

Re: IRA Account Number: 1234567

Dear Sir or Madam:

Please make the changes to the manner of administering my account in the event of my death as set forth on the attached “Beneficiary Designation Form”. Please sign the Receipt on the copy of the attached form and return in the enclosed envelope.

If you have any questions regarding this request, please contact me at the address below, or telephone me at (333) 333-3333. Thank you for your cooperation.

Sincerely yours,

JOHN DOE

123 4th Street
Hometown, Arizona 99999
**IRA BENEFICIARY DESIGNATION**

I. ADMINISTRATION OF THE ACCOUNT:

(A) Definitions: The following words, when used in this form and capitalized shall have the meaning indicated in this Section:

“Account” means the “Individual Retirement Account,’ “Individual Retirement Trust,” “Roth Individual Retirement Account,’ or “Roth Individual Retirement Trust” referred to in the letter accompanying this form, which is established and maintained under §408 or §408A of the Code.

“Administrator” means the IRA custodian or trustee of the Account referred to in the letter accompanying this form, and its successors in that office.

“Agreement” means the account agreement between the Administrator and the undersigned establishing the Account.

“Beneficiary” means any person (including the Trustee of any trust) entitled to ownership of all or part of the Account as a result of my death (or as a result of the death of another Beneficiary), whether such person is a Primary, Contingent or Successor Beneficiary.

“Contingent Beneficiary” means the person(s) (including the Trustee of any trust) I have designated in this form to receive the Death Benefit if my Primary Beneficiary does not survive me (or disclaims the benefits).

“Death Benefit” means all amounts payable under the Account on account of my death.

My “Personal Representative” means the duly appointed executor or administrator of my estate and/or the person has the fiduciary responsibility to file the Federal Estate Tax Return (IRS Form 706) on my behalf, who is serving as such at the applicable time.

“Primary Beneficiary” means the person(s) (including the Trustee of any trust) designated in this form to receive the Death Benefit in the event of my death.

“Successor Beneficiary” means a person (including the Trustee of any trust) entitled to receive the balance of another Beneficiary's benefits if such other Beneficiary dies before distribution of all of his or her share of the Death Benefit.

(B) Form of Benefit Payments after my Death. Except as may be otherwise specifically provided herein, or in the Agreement, or by applicable law, each Beneficiary shall be entitled to elect the form and timing of distribution of benefits payable to such Beneficiary.

(C) Information to be provided to My Personal Representative. The Administrator shall provide to my Personal Representative any information such representative shall request in connection with the performance of such representative's duties (including the preparation of any tax return) regarding the benefits, the terms of the account, and the Beneficiary(ies), including information as to matters prior to such representative's
appointment, to the same extent and on the same terms that such information would have been provided to me had I requested it. Any Beneficiary, by accepting benefits hereunder, shall be deemed to have consented to the release of information to my Personal Representative as provided in the preceding sentence.

(D) **Payments to Minors.** If any individual Beneficiary becomes entitled to ownership of any part of the Account while under the age of twenty-one (21) years, such ownership shall instead be vested in the name of such Beneficiary's surviving parent, if any, otherwise in the name of my oldest then living child if any, otherwise in the name of some other person selected by my Personal Representative, as custodian for such Beneficiary under the Uniform Transfers to Minor Act of the state of my domicile at death, and such custodian shall have the power to act for such Beneficiary in all respects with regard to the Account.

(E) **Governing Law.** The law of the State of Arizona shall apply solely for the purpose of interpreting my intent as expressed in this Designation of Beneficiary form. This provision is not intended to amend or supersede any governing law provision in the Agreement with respect to the interpretation and administration of the Agreement.

(F) **Partitioned Account.** If there are multiple Beneficiaries entitled to ownership of the Account simultaneously and, pursuant to the directions in this Beneficiary Designation, the Administrator is required to have the Account partitioned into multiple Accounts, corresponding to each Beneficiary's separate interest in the Account as of or at any time after my death, this partition shall occur to the maximum extent such division is permitted by law without causing a deemed distribution of the Account. Following such partition, the newly created separated Accounts shall be maintained as if each were an Account in my name payable solely to the applicable Beneficiary; no Beneficiary shall have any further interest in or claim to any Account other than the separate Account representing such Beneficiary's interest.

(G) **Preservation of Marital Deduction.** If my wife MARY DOE survives me, this paragraph shall apply to any portion (or all) of the Account as to which my wife is the Beneficiary or as to which my wife becomes the Beneficiary by virtue of another Beneficiary's death or disclaimer. My wife, as such Beneficiary, shall have the right, exercisable solely by my wife, annually or more frequently (in her discretion), to require distribution to my wife of all income of the Account, and also shall have the power, exercisable by my wife alone and in all events, at any time or times and from time to time, to appoint all of the principal of the Account (including undistributed income) to her. Rights given to my wife under this paragraph shall be in addition to and not in limitation of any rights given to my wife by law, by the Agreement or by other provisions hereof. My wife shall have sole responsibility for determining the “income” and “principal” of the Account. The Administrator's responsibility under this section is limited solely to distributing to my wife any amounts my wife has instructed the Administrator to distribute to her.

II. **DESIGNATION OF BENEFICIARY:**

(A) **Primary Beneficiary:** I hereby designate as my primary beneficiary of the Account my wife MARY DOE.
(A) **Contingent Beneficiary in Case of Disclaimer.** If my wife survives me, but disclaims the Death Benefit (or part of it), I direct that the above-mentioned Account (or the disclaimed portion thereof) be partitioned into three (3) equal new accounts and I hereby designate as the new beneficiary of these new accounts, to receive the part (or all) of the Death Benefit so disclaimed, the then-acting Trustee of the following trusts; each being a separate share trust (“sub-trust”) of THE JOHN DOE IRA BENEFICIARY TRUST, U/A dated June 8, 2008:

THE BILL DOE IRA TRUST  
THE SALLY SMITH IRA TRUST  
THE JOHN DOE IRA TRUST

(B) **Contingent Beneficiary in Case of Death.** If my wife is not living on September 30 of the year following my death, I direct that the above-mentioned Account be partitioned into three (3) equal new accounts and I hereby designate as the new beneficiary of these new accounts the then-acting Trustee of the following trusts; each being a separate share trust (“sub-trust”) of THE JOHN DOE IRA BENEFICIARY TRUST, U/A dated June 8, 2008:

THE BILL DOE IRA TRUST  
THE SALLY SMITH IRA TRUST  
THE JOHN DOE IRA TRUST

Executed on June 8, 2008, in Pima County, Arizona.

JOHN DOE  
123 4th Street  
Hometown, Arizona 99999

**CONSENT OF SPOUSE**

I consent to the above designation.

________________________________________  
MARY DOE

**RECEIPT**

Receipt of the above beneficiary designation form is hereby acknowledged this _____ day of __________________, 20__.

__________________________________________________________________________  
Name of Custodian or Trustee
By: _________________________________
Type of Trust Paragraphs (for Couples):

“Disclaimer Trust”

6.D. **Administration of the Trust Fund at the Death of the First of Us.** The first of us to die shall be called the “Deceased Spouse” and the survivor of us shall be called the “Surviving Spouse”. On the death of the Deceased Spouse, the entire trust fund (hereinafter referred to as the “Survivor’s Trust”) shall continue in trust for the benefit of the Surviving Spouse, without exception, and with the full power of revocation; provided however, if the Surviving Spouse shall disclaim any interest in the Survivor’s Trust, or any portion thereof, the disclaimed property shall be allocated to a trust hereinafter referred to as the Decedent’s Trust. The Surviving Spouse shall not at any time have a general power of appointment (as described in §§2041 and 2514 of the Code) over any assets of the Decedent’s Trust and any provisions of this Trust Agreement which would so create a general power of appointment shall be disregarded.

**QTIP with “Clayton Election” (“Pecuniary Formula”)**

(2) The Trustee shall allocate all of the Deceased Spouse’s separate estate (if any) and the Deceased Spouse’s interest in the community estate to the “Marital Deduction Trust”.

But, if the Trustee or the Deceased Spouse’s personal representative choose not to elect the federal estate tax marital deduction pursuant to §2056(a) as to any property that would otherwise qualify for the qualified terminable interest property (“QTIP”) election as defined by §2056(b)(7)(B) of the Code, the Trustee shall allocate that portion of such trust (the “non-election share”) in the following manner:

(a) The Trustee shall first allocate to the “State Marital Deduction Trust” the minimum pecuniary (i.e., dollar) amount of the non-election property necessary as a marital deduction and which will qualify for a state QTIP election to eliminate entirely any state estate tax which would be otherwise payable on the non-election property. But, if the Trustee or the Deceased Spouse’s personal representative choose not to elect the state estate tax marital deduction as to any property that would otherwise qualify for the state QTIP election, the Trustee shall allocate that portion of the non-election property in the manner hereinafter set forth in subsection (b).

(i) Only assets eligible for the state estate tax marital deduction shall be allocated to the State Marital Deduction Trust. It is our intention to have the State Marital Deduction Trust qualify for the marital deduction under state laws applicable to the estate tax marital deduction. In no event shall the Trustee take any action or have any power that will impair the marital deduction, and all provisions regarding the State Marital Deduction Trust shall be interpreted to conform to this primary objective.
The Surviving Spouse shall have the power to require the Trustee to
make all or part of the principal of the State Marital Deduction Trust
productive or to convert promptly any unproductive part of the State
Marital Deduction Trust into productive property. This power shall
be exercised by the Surviving Spouse in a written instrument
delivered to the Trustee.

In addition, if the Deceased Spouse's unused Generation Skipping
Tax Exemption (as defined under Chapter 13 of the Code) is not
enough to cover the entire State Marital Deduction Trust (after
taking into account the use of such exemption in the Decedent’s
Trust), then the Trustee shall divide the State Marital Deduction
Trust into two (2) sub-trusts: the first to contain assets of a value
equal to the amount of the unused Generation Skipping Tax
Exemption of the Deceased Spouse and the second to contain the
remained of the State Marital Deduction Trust. The sub-trust
containing the unused exemption shall be labeled “State Marital
Deduction Trust A” and the other sub-trust shall be labeled “State
Marital Deduction Trust B”.

The “Decedent’s Trust” shall consist of the balance of the non-elected
property.

The Surviving Spouse shall not at any time have a general power of
appointment (as described in §§2041 and 2514 of the Code) over
any assets of Decedent’s Trust and any provisions of this Trust
Agreement which would so create a general power of appointment
shall be disregarded.

In addition, if the Deceased Spouse's unused Generation Skipping
Tax Exemption (as defined under Chapter 13 of the Code) is not
enough to cover the entire Decedent's Trust, then the Trustee shall
divide the Decedent’s Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of the unused Generation Skipping Tax Exemption of the Deceased Spouse and the second to contain the remainder of the Decedent’s Trust. The sub-trust containing the unused exemption shall be labeled “Decedent’s Trust A” and the other sub-trust shall be labeled “Decedent’s Trust B”.

It is our intention to have the Marital Deduction Trust qualify for the marital
deduction under §2056(b)(7) of the Code or any corresponding or substitute
provisions of the Code applicable to the trust fund. In no event shall the
Trustee take any action or have any power that will impair the marital
deduction, and all provisions regarding the Marital Deduction Trust shall be
interpreted to conform to this primary objective. For all purposes of
determining the value of the Marital Deduction Trust, final federal estate tax values shall control and account shall not be taken of any credit that would cause the marital deduction to be disallowed in whole or in part, or of any item not deductible for estate tax purposes because claimed for income tax purposes.

(b) The Surviving Spouse shall have the power to require the Trustee to make all or part of the principal of the Marital Deduction Trust productive or to convert promptly any unproductive part of the Marital Deduction Trust into productive property. This power shall be exercised by the Surviving Spouse in a written instrument delivered to the Trustee.

(c) Notwithstanding anything to the contrary in this Trust Agreement, the Surviving Spouse shall have the right to disclaim all or any part of the Marital Deduction Trust (i.e., the disclaimer may be as to specific assets, specific sums of money, a percentage or a fractional interest in the Marital Deduction Trust). In the event of a disclaimer by the Surviving Spouse in all or a part of the Marital Deduction Trust, such disclaimed portion (including all income attributable thereto) shall be added to the Decedent’s Trust and shall, for all purposes under this Trust Agreement, be treated as a part thereof.

(d) In addition, if the Deceased Spouse's unused Generation Skipping Tax Exemption (as defined under Chapter 13 of the Code) is not enough to cover the entire Marital Deduction Trust (after taking into account the use of such exemption in the Decedent’s Trust and the State Marital Deduction Trust), then the Trustee shall divide the Federal Marital Deduction Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of the unused Generation Skipping Tax Exemption of the Deceased Spouse and the second to contain the remainder of the Marital Deduction Trust. The sub-trust containing the unused exemption shall be labeled “Marital Deduction Trust A” and the other sub-trust shall be labeled “Marital Deduction Trust B”.

**QTIP with “Clayton Election” (“Fractional Share Formula”)**

(2) The Trustee shall allocate all of the Deceased Spouse's separate estate (if any) and the Deceased Spouse's interest in the community estate to the “Marital Deduction Trust”. But, if the Trustee or the Deceased Spouse's personal representative choose not to elect the federal estate tax marital deduction pursuant to §2056(a) as to any fractional share that would otherwise qualify for the qualified terminable interest property (“QTIP”) election as defined by §2056(b)(7)(B) of the Code, the Trustee shall allocate that portion of such trust (the “non-election property”) in the following manner:

(a) The Trustee shall first allocate to the “State Marital Deduction Trust” the smallest fractional share of the non-election share which, when added to the total value for state estate tax purposes of all other interests in property that
pass or have passed from the Deceased Spouse to the Surviving Spouse that qualify for the state marital deduction and are includable in the gross estate of the Deceased Spouse for state estate tax purposes, will eliminate entirely (or reduce to the greatest extent possible) any state estate tax which would be otherwise payable on the non-election share. But, if the Trustee or the Deceased Spouse's personal representative choose not to elect the state estate tax marital deduction as to any portion of the non-election share that would otherwise qualify for the state QTIP election, the Trustee shall allocate that portion of the non-election share in the manner hereinafter set forth in subsection (b).

(i) The Trustee shall allocate the assets as between the Marital Deduction Trust and the State Marital Deduction Trust in cash or in kind, or partly in each, on a pro rata basis. Any assets allocated in kind shall be valued for purposes of allocation at their values on the date or dates of distribution. Only assets eligible for the state estate tax marital deduction shall be allocated to the State Marital Deduction Trust. It is our intention to have the State Marital Deduction Trust qualify for the marital deduction under state laws applicable to the estate tax marital deduction. In no event shall the Trustee take any action or have any power that will impair the marital deduction, and all provisions regarding the State Marital Deduction Trust shall be interpreted to conform to this primary objective.

(ii) The Surviving Spouse shall have the power to require the Trustee to make all or part of the principal of the State Marital Deduction Trust productive or to convert promptly any unproductive part of the State Marital Deduction Trust into productive property. This power shall be exercised by the Surviving Spouse in a written instrument delivered to the Trustee.

(iii) In addition, if the Deceased Spouse's unused Generation Skipping Tax Exemption (as defined under Chapter 13 of the Code) is not enough to cover the entire State Marital Deduction Trust (after taking into account the use of such exemption in the Decedent's Trust), then the Trustee shall divide the State Marital Deduction Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of the unused Generation Skipping Tax Exemption of the Deceased Spouse and the second to contain the remainder of the State Marital Deduction Trust. The sub-trust containing the unused exemption shall be labeled “State Marital Deduction Trust A” and the other sub-trust shall be labeled “State Marital Deduction Trust B”.


(b) The “Decedent's Trust” shall consist of the balance of the non-elected property.

(iii) The Trustee shall allocate the assets as between the Marital Deduction Trust and the Decedent's Trust in cash or in kind, or partly in each, on a pro rata basis. Any assets allocated in kind shall be valued for purposes of allocation at their values on the date or dates of distribution.

(iv) The Surviving Spouse shall not at any time have a general power of appointment (as described in §§2041 and 2514 of the Code) over any assets of Decedent's Trust and any provisions of this Trust Agreement which would so create a general power of appointment shall be disregarded.

(v) In addition, if the Deceased Spouse's unused Generation Skipping Tax Exemption (as defined under Chapter 13 of the Code) is not enough to cover the entire Decedent's Trust, then the Trustee shall divide the Decedent's Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of the unused Generation Skipping Tax Exemption of the Deceased Spouse and the second to contain the remainder of the Decedent's Trust. The sub-trust containing the unused exemption shall be labeled “Decedent's Trust A” and the other sub-trust shall be labeled “Decedent's Trust B”.

(c) It is our intention to have the Marital Deduction Trust qualify for the marital deduction under §2056(b)(7) of the Code or any corresponding or substitute provisions of the Code applicable to the trust fund. In no event shall the Trustee take any action or have any power that will impair the marital deduction, and all provisions regarding the Marital Deduction Trust shall be interpreted to conform to this primary objective. For all purposes of determining the value of the Marital Deduction Trust, final federal estate tax values shall control and account shall not be taken of any credit that would cause the marital deduction to be disallowed in whole or in part, or of any item not deductible for estate tax purposes because claimed for income tax purposes.

(b) The Surviving Spouse shall have the power to require the Trustee to make all or part of the principal of the Marital Deduction Trust productive or to convert promptly any unproductive part of the Marital Deduction Trust into productive property. This power shall be exercised by the Surviving Spouse in a written instrument delivered to the Trustee.

(c) Notwithstanding anything to the contrary in this Trust Agreement, the Surviving Spouse shall have the right to disclaim all or any part of the
Marital Deduction Trust (i.e., the disclaimer may be as to specific assets, specific sums of money, a percentage or a fractional interest in the Marital Deduction Trust). In the event of a disclaimer by the Surviving Spouse in all or a part of the Marital Deduction Trust, such disclaimed portion (including all income attributable thereto) shall be added to the Decedent's Trust and shall, for all purposes under this Trust Agreement, be treated as a part thereof.

(a) In addition, if the Deceased Spouse's unused Generation Skipping Tax Exemption (as defined under Chapter 13 of the Code) is not enough to cover the entire Marital Deduction Trust (after taking into account the use of such exemption in the Decedent's Trust and the State Marital Deduction Trust), then the Trustee shall divide the Federal Marital Deduction Trust into two (2) sub-trusts: the first to contain assets of a value equal to the amount of the unused Generation Skipping Tax Exemption of the Deceased Spouse and the second to contain the remainder of the Marital Deduction Trust. The sub-trust containing the unused exemption shall be labeled “Marital Deduction Trust A” and the other sub-trust shall be labeled “Marital Deduction Trust B”.

QTIP Basis Adjustment under §1022(b) & (c) (if no estate tax)

(3) If there is no federal estate tax in effect at the death of the Deceased Spouse and §1022 of the Code is in effect, the Trustee shall allocate to the “Decedent's Trust” those assets from the remaining trust property selected by the Trustee that collectively have a sufficient amount of appreciation to fully utilize the entire aggregate basis increase allowed under §1022(b) of the Code. From the remaining trust property, the Trustee shall allocate to the “Marital Deduction Trust” those assets selected by the Trustee that, together with any other property passing to the Surviving Spouse by reason of the death of the Deceased Spouse, whether under or outside of this Trust Agreement, shall collectively have a sufficient amount of appreciation to fully utilize the “spousal property basis increase” available to the estate of the Deceased Spouse under §1022(c) of the Code. The Trustee shall then allocate the remaining trust property to the Decedent's Trust. But the aggregate value of the property allocated to the Decedent's Trust by the Trustee shall not exceed the largest amount that may be transferred without increasing all death taxes imposed by state or local authorities by reason of the Deceased Spouse's death.
Optional Trust Paragraphs:

Special Distributions (“Short Version”)

2.K. Special Distributions. If any income and/or principal of any trust hereunder ever vests outright under the provisions of this Trust Agreement in a person not yet twenty-one (21), or a person who suffers from substance abuse, or a person who the Trustee determines is incompetent, or a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee’s discretion and without supervision of any court, shall hold or distribute such property (subsequently referred to in this Paragraph as the “protected property”) in accordance with the following provisions:

(1) The Trustee may hold any protected property in a separate trust for each such beneficiary, exercising as the Trustee of such trust all the administrative powers conferred in this Trust Agreement. The Trustee may accumulate or distribute to or for such beneficiary in accordance with subparagraph (2), as hereinbelow set forth, such amount or amounts of income and/or principal of the trust as the Trustee determines from time to time during the term of the trust to be appropriate. This separate trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21) if the beneficiary's age was the basis for the separate trust, dies, when the trust assets are exhausted by discretionary distributions, or the reason for the separate trust no longer exists in the Trustee's discretion. At such termination, the Trustee shall distribute the protected property then on hand in trust to the beneficiary or to the beneficiary's estate if the trust terminated at the beneficiary's death.

(2) The Trustee may distribute any protected property to or for the benefit of such beneficiary: (a) directly to the beneficiary; (b) on behalf of the beneficiary for the beneficiary's exclusive benefit; (c) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a form reserving title, management and custody of such account to a suitable person for the use of such beneficiary; (d) in any form of an annuity; and, (e) in all ways provided by law dealing with gifts or distributions to or for minors or persons under incapacity. The receipt for distributions by any such person shall fully discharge the Trustee.

(3) In determining whether to make distributions, the Trustee may consider other resources of the beneficiary, any governmental entitlements and the future needs of the beneficiary during the term of the trust. The protected property shall, at all times, remain free of all claims by any governmental agency and/or creditors of the beneficiary.

(4) Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction. Finally, nothing herein shall prevent a distribution mandated by the provisions hereinabove set forth relating to the Maximum Duration of Trusts.
Special Distributions (“Long Version”)

2.K. Special Distributions. If any income and/or principal of any trust hereunder ever vests outright under the provisions of this Trust Agreement in a person not yet twenty-one (21), a person who suffers from substance abuse, or a person who the Trustee determines is incompetent or whose financial circumstances is such that failure to delay distributions will actually reduce the trust benefits to such person, then the Trustee, in the Trustee’s discretion and without supervision of any court, shall hold or distribute the distribution for such person (hereinafter “the beneficiary”) in accordance with the following provisions:

(1) Under Age Twenty-One. If a beneficiary is under the age of twenty-one and no other provision of this trust specifically addresses this possibility, the Trustee may either open a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian or the Trustee may hold such beneficiary’s distribution in a separate trust for such beneficiary, exercising as the Trustee of such trust all the administrative powers conferred in this Trust Agreement, on the following terms and conditions:

(a) The Trustee may accumulate or distribute to or for such beneficiary such amount or amounts of income and/or principal of the trust as the Trustee determines from time to time during the term of the trust to be appropriate. The Trustee may make such distributions to or for the benefit of such beneficiary: (i) directly to the beneficiary; (ii) on behalf of the beneficiary for the beneficiary’s exclusive benefit; (iii) to any account in a bank, credit union, mutual fund and/or brokerage firm either in the name of such beneficiary or in a custodial account for the benefit of said beneficiary under the Uniform Transfer to Minors Act with a suitable person as the custodian; (iv) in any form of an annuity; and, (v) to such beneficiary’s guardian if one has been appointed by the Court. The receipt for distributions by any such person shall fully discharge the Trustee. In determining whether to make distributions, the Trustee may consider other resources of the beneficiary, trust resources and the future needs of the beneficiary during the term of the trust.

(b) This separate trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21), dies, or when the trust assets are exhausted by discretionary distributions. At such termination, the Trustee shall distribute the trust then on hand to the beneficiary or to the beneficiary's estate if the trust terminated at the beneficiary's death.

(2) Substance Abuse Dependence. If the Trustee reasonably believes that a beneficiary of any trust created under this Agreement is a person who routinely or frequently uses or consumes any illegal drugs or other illegal chemical substance so as to be physically or psychologically dependent upon that drug or substance; or, is a person who is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by that doctor or psychiatrist; and, if the Trustee
reasonably believes that, as a result of the use or consumption, the beneficiary is incapable of caring for himself or herself or is likely to dissipate the beneficiary's financial resources, the Trustee shall follow the procedures set forth below.

(a) The Trustee will request the beneficiary to submit to one or more examinations (both physical and psychological) determined to be appropriate by a board certified medical doctor or psychiatrist selected by the Trustee. The Trustee will request the beneficiary to consent to full disclosure by the examining doctor or facility to the Trustee of the results of all the examinations. The Trustee will maintain strict confidentiality of those results and will not disclose those results to any person other than the beneficiary without the beneficiary's written permission. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

(b) If, in the examining doctor's or psychiatrist's opinion, the examination indicates current or recent use of a drug or substance as described above, the beneficiary will consult with the examining doctor or psychiatrist to determine an appropriate method of treatment for the beneficiary. Treatment may include counseling or treatment on an in-patient basis in a rehabilitation facility. If the beneficiary consents to the treatment, the Trustee will pay the costs of treatment directly to the provider of those services from the income or principal otherwise authorized or required to be distributed to the beneficiary.

(c) If the examination indicates current or recent use of a drug or substance as described above, all mandatory distributions and all withdrawal rights from the trust with respect to the beneficiary during the beneficiary's lifetime (including distributions upon termination of the trust for reasons other than the death of the beneficiary) will be suspended until in the case of use or consumption of an illegal drug or illegal substance, examinations indicate no such use; and, in all cases of dependence, until the Trustee, in the Trustee's judgment, determines that the beneficiary is fully capable of caring for himself or herself and is no longer likely to dissipate his or her financial resources.

(d) While mandatory distributions are suspended, the trust will be administered as a discretionary trust to provide for the beneficiary according to the provisions of the trust providing for discretionary distributions in the Trustee's discretion and those provisions of the trust relating to distributions for the beneficiary's health, education, maintenance and support.

(e) When mandatory distributions and withdrawals by the beneficiary are resumed, the remaining balance, if any, of the mandatory distributions that were suspended may be distributed to the beneficiary at that time and the balance of any rights of withdrawal by the beneficiary shall be immediately
exercisable by the beneficiary. If the beneficiary dies before mandatory distributions or rights of withdrawal are resumed, the remaining balance of such beneficiary’s share shall be distributed in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.

(f) It is not my »intention to make the Trustee (or any doctor or psychiatrist retained by the Trustee) responsible or liable to anyone for a beneficiary’s actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances. The Trustee (and any doctor or psychiatrist retained by the Trustee) will be indemnified from the trust for any liability in exercising its judgment and authority under this Agreement, including any failure to request a beneficiary to submit to medical examination and including a decision to distribute suspended amounts to a beneficiary.

(3) Special Needs Trust. If the Trustee reasonably believes that a beneficiary of any trust created under this Agreement is a person who is incompetent, or, a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person, the Trustee shall hold the distribution for such beneficiary further trust hereunder (hereinafter referred to as the “Special Trust”) on the following terms and conditions:

(a) The primary purpose of this trust is to provide a supplemental and emergency fund to supplement any public benefits available to such beneficiary during his or her lifetime. It is my »intent that the assets of the Special Trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause such beneficiary’s eligibility for public benefits to be terminated, it is likely that the trust assets would be depleted before his or her death and the purpose of this trust could not then be fulfilled.

(b) Until such beneficiary is, in the Trustee’s judgment, no longer incapacitated, or such beneficiary’s financial situation has changed significantly, the Trustee shall pay over to or for the benefit of such beneficiary as much of the net income and as much of the principal of the Special Trust, up to the whole thereof, as the Trustee, in the Trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of such beneficiary’s special needs. For this purpose, “special needs” refers to the requisites for maintaining such beneficiary’s good health, comfort, safety, and welfare when, in the discretion of the Trustee, those requisites are not being provided for by any county, state, federal, or other governmental agency, or by any person or persons with a legal obligation to support such beneficiary. “Special needs” shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, rehabilitation, travel needs and recreation not provided
for or reimbursed by public benefits. The Trustee shall consult with any guardian, conservator, custodian, or other person who cares for such beneficiary regarding his or her special needs. Expenditures made by the Trustee under this section may include reasonable compensation to any person who provides for the special needs of such beneficiary as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order.

(c) It is my intent that any payments or distributions from this trust to or for the benefit of such beneficiary shall supplement (but not replace) any public benefits or other private resources available to him or her. The Trustee may, in the exercise of the Trustee's discretion, seek as necessary all available public benefits for such beneficiary's benefit, and shall segregate any public benefits received by the Trustee for that purpose in a separate trust or account and administer the same for the benefit of such beneficiary. All public benefits received by the Trustee for that purpose, together with any other resources available to such beneficiary, shall be taken into account by the Trustee in making payments or distributions to or for the benefit of such beneficiary. The Trustee shall regularly consult with such beneficiary and any persons or entities providing care or assistance to such beneficiary for the purpose of determining such beneficiary's needs and resources. The Trustee shall not exercise the Trustee's discretion to make any payments or distributions to or for the benefit of such beneficiary if the Trustee determines, in the Trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to such beneficiary to satisfy those needs.

(d) No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of such beneficiary. For purposes of determining such beneficiary's eligibility for any public benefits, no part of the principal or undistributed income of the Trust Estate shall be considered available to him or her, and he or she shall have no right to compel the Trustee to release principal or income to him or her or for his or her benefit or otherwise to have any access to any of the trust assets. In the event that the Trustee is requested to release principal or income of the trust to or on behalf of such beneficiary to pay for any equipment, medication, services, or any other needs that any public benefits would be authorized to provide for were it not for the existence of the trust, or in the event that the Trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the Trustee is authorized to deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of such beneficiary for all available public benefits, including obtaining instructions from a court of competent jurisdiction that the trust
principal is not available to such beneficiary for purposes of determining his or her eligibility for any public benefits. Any expenses of the Trustees in this regard, including reasonable attorney’s fees, shall be a proper charge to the Special Trust.

(e) If any payment or distribution from the trust to or for the benefit of such beneficiary would have the effect of disqualifying him or her for any public benefits, or if all income of the Special Trust cannot be completely utilized for his or her special needs, the Trustee shall accumulate the trust income annually and add it to principal.

(f) The discretion of the Trustee shall not be subject to review by such beneficiary, his or her creditors and/or any governmental agency. Notwithstanding any other provision of this instrument, if the existence of the Special Trust, or any change in any law, regulation, or rule relating to the Special Trust or the administration of the Special Trust for the benefit of such beneficiary, should at any time have the effect of disqualifying him or her for any public benefits, or if such beneficiary, his or her creditors and/or any governmental agency shall ever bring any court action to force or require the Trustee to distribute to or for the benefit of such beneficiary a greater amount of income and/or principal than the Trustee, in the Trustee's absolute discretion, has determined to be appropriate, the Trustee is authorized (but not required) to terminate the trust and distribute the trust principal and income as provided in subsection (g); I request that any person who takes any part of the trust assets as the result of this termination power, conserve and manage such property for the benefit of such beneficiary during his or her lifetime to insure that he or she receives sufficient funds for his or her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and is not mandatory.

(i) At such beneficiary’s death, the Trustee shall distribute the Special Trust, as then constituted, in the manner hereinafter set forth for the distribution of such beneficiary’s share in the event such beneficiary did not survive me.

(5) **Tax Savings Provisions.** Notwithstanding the provisions of the preceding subparagraphs or any other provision of this Agreement, the Trustee shall not suspend any mandatory distributions required for a trust to qualify, in whole or in part, for any Federal or state marital deduction or charitable deduction. Finally, nothing herein shall prevent a distribution mandated by the provisions hereof relating to the Maximum Duration of Trusts.

**Arbitration**

2.L. **Conflict Resolution.** Any controversy between any interested parties concerning the construction, application or interpretation of any provision of this Trust Agreement or of the Trustee’s actions shall be settled by arbitration in accordance with the then current rules of the
American Arbitration Association and the findings of such arbitration may be enforced by any Court having jurisdiction thereof.

**Special Trustee**

Inserted in Paragraph 3.J:

(5) In the event any successor Trustee hereunder is precluded by the laws of any state from acting as a Trustee in such state, such successor Trustee may appoint a “Special Trustee” qualified to act in such state and may delegate to such Special Trustee the exercise of all or any of the powers conferred upon a Trustee hereunder. Such successor Trustee may at its pleasure revoke such appointment and/or delegation. A Special Trustee shall in no way be responsible for the matters not delegated to it. Any appointment of a Special Trustee and the delegation of powers to such Special Trustee shall be made by a written, acknowledged instrument.

**Corporate Trustee Authority**

Automatically inserted in Paragraph 3.J. if a Corporate Trustee is selected:

(6) The Trustee and any individual or entity with which they are associated or affiliated in any way (including, but not limited to, any such individual or entity associated or affiliated through any direct or indirect ownership interest of any sort) (each of which is an “Authorized Party” under this Trust Agreement) may deal in their own interest with any trust created in this Trust Agreement. The Trustee may deal between such trust estate and itself or any other Authorized Party, either party acting in any capacity (including, but not limited to, acting as the Trustee, personal representative, employee, agent or partner), in buying, selling, pledging, leasing, and exchanging assets, in furnishing or receiving goods, services, or facilities, and in borrowing or lending funds or participating in other extensions of credit when, in their sole discretion, such transaction shall be to the benefit of the trust estate. The foregoing shall apply regardless of any reasonable compensation derived by any Authorized Party acting in any capacity in connection with such transaction.

(a) Any Authorized Party may furnish services to any trust estate created in this Trust Agreement in any capacity as may be necessary or desirable in the Trustee's sole discretion for the proper management, protection, and sale or other disposition of any part of the trust property, and may receive and retain customary and reasonable compensation for services in any such capacity. The Trustee shall act without bond or security and shall not account to any court.

(b) In any event that any person employed by an Authorized Party shall also be acting as an officer or director of any corporation in which the trust may own stock or other securities or as an officer or director of any affiliate of such corporation or may be a candidate for election as such officer or director, such person may act as such officer or director and receive compensation therefore in the same manner as if he or she were not
employed by an Authorized Party, and shall not be disqualified from voting for the election to such office or for membership on said board of directors for the reason that he or she is employed by an Authorized Party, or for the reason that he or she may be receiving compensation for serving in any such capacity.

Co-Trustee Dispute Resolution

Automatically inserted in Paragraph 3.J. if Co-Trustees are selected:

(7) If co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion, the determination of the majority shall be binding, but the dissenting Trustee or co-Trustees shall bear no liability or accountability for any act or transaction entered into as a result of the enforcement of the majority rule if such Trustee or co-Trustees shall have dissented in writing in advance of such act or transaction. If only two co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion on which they cannot agree, such conflict shall be settled by arbitration in accordance with the then current rules of the American Arbitration Association and the findings of such arbitration may be enforced by any Court having jurisdiction thereof. However, prior to submitting any such conflict to arbitration, the co-Trustees must first attempt to resolve the conflict through formal mediation. Notwithstanding any power of individual signature contained in this Trust Agreement or hereafter conferred on the Trustees, no one co-Trustee shall have the right, power or authority to make any unilateral decision affecting the trust, other than of a purely ministerial nature.

Power of Invasion

3.K. Powers of Invasion. A discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for “health, care, education, support or maintenance” (or a similar use of such terms) shall be considered to be in compliance with §§2041 and 2514 of the Code and any exercise of such power shall be limited by those sections. Notwithstanding [IF State = “California”] §16081(c) of the California Probate Code [ELSE] any statute of [State] law to the contrary [END IF], any other discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for any other purpose shall be deemed to be a broader power if a clear reading of the terms of such power would so indicate. Further, [IF State = “California”] §16081(c) of the California Probate Code [ELSE] any statute of [State] law to the contrary [END IF], any discretionary power to make distributions of income or principal of any trust created hereunder which is given to a current beneficiary as sole Trustee is specifically intended to be given to such sole Trustee and the right of any other beneficiary to have another Trustee appointed for the purpose of making such discretionary distributions is hereby specifically waived.
Subchapter S Stock

6.L. Subchapter S Stock. Before the date on which any “S Corporation Shares” (defined below) would otherwise pass to or be treated as held by an “Ineligible Trust” (defined below), the Trustee may elect to hold these S Corporation Shares in one or more separate trusts or trust shares on the terms set forth in this Paragraph. The Trustee may elect to hold such S Corporation Shares under the section entitled “Qualified Subchapter S Trusts” or the section entitled “Electing Small Business Trusts”, as the Trustee shall deem appropriate, considering the changes that such provisions would require from the terms and conditions under which such shares would otherwise be held under this Agreement.

(1) Qualified Subchapter S Trusts. Any S Corporation Shares held under this section shall be held on the following terms:

(a) Each trust held under this section shall be a separate trust or substantially separate and independent share, as defined in §1361(d)(3) of the Code, held for the benefit of one beneficiary. Any reference in this section to a beneficiary's separate trust shall refer equally to any substantially separate and independent trust share.

(b) Until the “QSST Termination Date” (defined below), the Trustee shall annually distribute all of the trust's “Net Income” (defined below) to the sole beneficiary of each trust held under this section, together with as much of that trust's principal as is appropriate under the standard contained in the trust to which such S Corporation Shares would otherwise have been held. The Trustee shall not distribute income or principal to anyone other than the beneficiary to whom Net Income is distributable until the QSST Termination Date.

(c) Upon the QSST Termination Date, the Trustee shall distribute the remaining trust assets to the beneficiary to whom Net Income was then distributable, if then living, or otherwise to such beneficiary's estate.

(d) The Trustee shall elect under §1361(d)(2) of the Code to cause each trust held under this section to be treated as a Qualified Subchapter S Trust for Federal income tax purposes.

(e) The Trustee shall administer any trust under this section as a Qualified Subchapter S Trust, as defined in §1361(d)(3) of the Code.

(f) The Trustee shall allocate any S Corporation Shares that will be held under this section to the one trust under this section that is not the Ineligible Trust or, if there is more than one trust under this section that is not the Ineligible Trust, between or among those separate trusts, based on each beneficiary's interest in the income of the Ineligible Trust that would otherwise have held those shares. If no beneficiary was entitled to income of such Ineligible Trust at that time, the Trustee may allocate any S Corporation Shares to the one trust under this section that is not the Ineligible
Trust or, if there is more than one trust under this section that is not the Ineligible Trust, between or among those separate trusts for the beneficiaries of such Ineligible Trust, in such manner as the Trustee shall deem appropriate.

(2) **Electing Small Business Trusts.** Any S Corporation Shares held under this section shall be held on the following terms:

(a) The Trustee shall apportion to the trusts under this section a reasonable share of the unallocated expenses of all trusts under this Agreement, in a manner consistent with the applicable Code and Regulations.

(b) The Trustee shall make the election required by §1361(e)(3) of the Code to qualify the trust under this section as an Electing Small Business Trust, under §1361(e) of the Code.

(c) The Trustee shall administer each trust under this section as an Electing Small Business Trust, under §1361(e) of the Code.

(3) **Implementation.** The Trustee shall manifest the Trustee’s selection of the form in which they shall hold any S Corporation Shares by written notice to all persons who would be eligible or entitled at the time of such writing to receive income from the Ineligible Trust that would otherwise hold such S Corporation Shares.

(4) **Definitions.** The following definitions apply for purposes of this Paragraph:

(a) “Ineligible Trust” means a trust whose ownership of any S Corporation Shares would cause the termination of that corporation’s election to be taxed under subchapter S of the Code.

(b) “Net Income” means income, as defined in §643(b) of the Code.

(c) “S Corporation Shares” means shares of any stock of a corporation that then operates, or that the Trustee shall deem likely to operate in the future, under an election to have its earnings taxed directly to its stockholders under subchapter S of the Code.

(d) “QSST Termination Date” means the earlier of the date on which the beneficiary of a trust under this Paragraph dies and the date on which such trust no longer holds any S Corporation Shares.

(5) **Application.** None of the foregoing provisions of this Paragraph shall apply with respect to any S Corporation Shares that would, but for the provisions of this Paragraph, be held in any trust any portion of the disposition to which would qualify for the Federal estate and/or gift tax marital deduction.
Closely-Held Business (Trustee Powers)


(a) Authority to Operate. The Trustee may operate “the Business” (as defined below) and retain any equity interests in the Business, even if these interests would otherwise be a speculative or inappropriate investment for a Trust. «IF Client = “Couple”»This authority shall not supersede any right otherwise granted to the Surviving Spouse under this Trust Agreement to compel that certain trust assets be made productive. «END IF»The Trustee may do all things related to the operation of the Business that may be appropriate, all in a fiduciary capacity:

(i) The Trustee may carry out the terms of any option or buy-sell agreements into which «IF Client = “Single”»Settlor«ELSE»either of the Settlors«END IF» may have entered.

(ii) The Trustee may sell or liquidate any of the Business interests at such price and on such terms as the Trustee may deem advisable.

(iii) The Trustee may arrange for and supervise the continued operations of the Business.

(iv) The Trustee may vote (in person or by proxy) as stockholder or otherwise and in any matter involving the Business on behalf of the Trust.

(v) The Trustee may grant, exercise, sell or otherwise deal in any rights to subscribe to additional interests in the Business.

(vi) The Trustee may take any actions appropriate to cause the capital stock or securities in the Business to be registered for public sale under any state or Federal securities act; may enter into any underwriting agreements or other agreements necessary or advisable for this registration and sale; and may grant indemnities to underwriters and others in connection with such registration.

(vii) The Trustee may participate in any incorporation, dissolution, merger, reorganization or other change in the form of the Business and, where appropriate, deposit securities with any protective committees and participate in any voting trusts.

(viii) The Trustee may delegate to others discretionary power to take any action with respect to the management and affairs of the Business that «IF Client = “Single”»Settlor«ELSE»either of the Settlors«END IF» could have taken as the owner of the Business.
The Trustee may invest additional capital in, subscribe to additional stock or securities of and lend money or credit to the Business from the Trust.

The Trustee may accept as correct financial or other statements rendered by the Business as to its conditions and operations except when having actual notice to the contrary.

**Liabilities.** Any contractual and tort liabilities arising from the Business shall be satisfied first from its assets, and only secondarily from other assets of the Trust. The Trustee shall have no liability to anyone for any loss arising from the operations, retention or sale of the Business.

**Compensation.** The Trustee shall be entitled to additional reasonable compensation for the performance of services with respect to the Business, which may be paid to the Trustee from the Business, the trust assets, or both, as the Trustee may deem advisable.

**Conflict of Interest Waived.** The Trustee may exercise the authorities granted hereunder even if the Trustee personally shall own an interest in the Business.

**“The Business” Defined.** “The Business” means any interest owned by either or both of the Settlors, the Trust, or some combination of them, representing in the aggregate at least Five Percent (5%) of the total equity interests in any actively-conducted trade or business, whether incorporated or unincorporated. Settlors declare that the term “the Business” shall also include, but not be limited to, any five percent or greater equity interests in any general and/or limited partnerships, as well as membership interests in any limited liability company formed, operated, beneficially owned by or participated in (to the extent of five percent or more) by either Settlor prior to such Settlor’s death, and shall also include any interest in [Business Name] or its successor-in interest, if any. The term “the Business” does not include any interests that are regularly traded on an established exchange or over-the-counter.

**Environmental Issues (Trustee Powers)**

18. **Environmental Issues.** The Trustee may take into account any environmental law that may be relevant to any real estate included in the trust.

   (a) The Trustee may inspect property held directly or indirectly as part of the Trust assets, including any interests in incorporated or unincorporated business entities, to comply with environmental laws affecting this property and respond to a change in, or any actual or threatened violation of, any environmental law affecting property held as part of the Trust assets.

   (b) The Trustee may appropriately respond to a change in, or prevent, abate or otherwise remedy any actual or threatened violation of any environmental law
affecting property held as part of the Trust assets, either before or after the initiation of an enforcement action by any governmental body.

(c) The Trustee may refuse to accept the transfer to the Trust of additional property if the Trustee shall determine that this additional property either is or may reasonably be believed to be contaminated by any hazardous substance that could result in liability to the Trust.

(d) The Trustee may disclaim any power granted by any document, statute or rule of law that, in the discretion of the Trustee, may reasonably be expected to cause the Trustee to incur personal liability under any environmental law.

(e) The Trustee may charge the cost of any inspection, response or other action against the income or principal of the Trust.

(f) The Trustee shall not be personally liable to any beneficiary for any decrease in value because of the compliance by the Trustee with any environmental law, including any reporting requirement. Neither the acceptance by the Trustee of property nor the failure by the Trustee to inspect property shall create any inference as to whether or not there is or may be any liability under any environmental law with respect to such property.

(g) “Environmental law” means any Federal, state or local law relating to the protection of the environment or human health, and “hazardous substances” means any substances defined as hazardous or toxic or otherwise regulated by any environmental law.

NFA Gun Trust (Trustee Powers)

18. **Firearms.** Notwithstanding any other provision of this trust (or any other document incorporated by reference by this trust), any firearms owned by the trust which are subject to any state or federal law, statute or regulation shall be held and transferred in the manner hereinafter stated:

1. **Definitions.** The following definitions apply for purposes of this Paragraph:

   a. “BATFE” means the “Bureau of Alcohol, Tobacco, Firearms and Explosives”.

   b. “Firearm” means a weapon from which a shot is discharged by gunpowder and shall include rifles, guns, handguns and any accessory which may become part of the weapon.

   c. “Licensed Dealer” means an individual or a company engaged in the business of the interstate and/or intrastate sale of firearms and who holds an appropriate Federal Firearms License issued pursuant to the Gun Control
Act of 1968 (44 U.S.C. ch. 18) for the type of firearm being sold (i.e., Class I or Class III).

(d) “NFA” means the National Firearms Act, as defined in 26 U.S.C. ch. 53.

(e) “Prohibited Person” means any person who is prohibited from owning or possessing a firearm by any state and/or federal law, statute or regulation; specifically including the Gun Control Act of 1968 (44 U.S.C. ch. 18).

(f) “State Law, Statute or Regulation” means the laws, statutes or regulations of the «IF State = “District of Columbia”»District of Columbia«ELSE»«IF “Massachusetts Virginia Kentucky Pennsylvania” CONTAINS State»Commonwealth of «State»«ELSE»State of «State»«END IF»«END IF» and the laws, statutes or regulations of any other state and/or local jurisdiction which regulates the ownership and/or transfer of any firearm owned by the trust within that state and/or jurisdiction.

(g) “Title II Weapons” means those weapons whose ownership and/or transfers are regulated by the NFA (also referred to as “Class 3 Firearms” and “Class III Firearms”).

(2) Ownership. Before the trust shall maintain ownership of any firearm, the Trustee shall comply with all state and federal requirements for the registration of such firearm; including, registration of all Title II weapons with BATFE. Further, the Trustee is expressly prohibited from altering a firearm in such a manner that it would then be a prohibited weapon or from obliterating, removing, changing, or altering the serial number of the firearm.

(3) Transfers. Before the transfer of any firearm from the trust to any person or other entity (including distribution on the death of «IF Client = “Single”»the «ELSE»either «END IF»«Settlor»), the Trustee shall comply with all state and federal requirements for the transfer of such firearm; including, the payment of all applicable transfer taxes.

(4) Prohibited Transfers. Before the transfer of any firearm (including distribution on the death of «IF Client = “Single”»the «ELSE» either «END IF» «Settlor») to anyone other than a licensed dealer, the Trustee shall use due diligence to determine that the transferee is not a prohibited person.
Specific Distribution Clauses:

**Distribution of Personal Property (Trustee Discretion)**

(1) The Trustee shall distribute, free of trust, such items of my tangible personal property as may then be included in the Trust Estate in accordance with any written instructions left by me and the remainder of such personal property, or all of it if no such instructions are left, in the manner that the Trustee shall determine, in the Trustee's absolute discretion.

**Distribution of Dollar Amount to Class (Grandchildren) with UTMA provision**

(2) The Trustee shall distribute the sum of Ten Thousand Dollars ($10,000) to each of my then-living grandchildren; provided however, if any such beneficiary does not survive me, such deceased beneficiary’s distribution shall fail and shall be added to the residue of the Trust Estate. If said beneficiary has not yet attained the age of twenty-one (21), this distribution shall be held for such beneficiary in a custodial account under the provisions of the Uniform Transfer to Minors Act with the parent of such beneficiary as the custodian.

**Distribution of Percentage Amount to an Individual**

(2) The Trustee shall distribute an amount equal to Five Percent (5%) of the Trust Estate to my brother GEORGE SMITH; provided however, if he does not survive me, this gift shall be distributed to his issue, by right of representation; provided further, if he does not so survive and is not survived by issue, this distribution shall fail and shall be added to the residue of the Trust Estate.

**Forgive Debt with Option for Adjustment**

(2) The Trustee shall forgive any indebtedness owed by a child of mine to the Trust Estate or to me. This shall include the power to re-convey any security interest, lien or deed of trust.

*IF SHARES ARE TO BE EQUALIZED, ADD THE FOLLOWING TO THE END OF THE 1ST PARAGRAPH OF THE DISTRIBUTION OF RESIDUE PARAGRAPH.*

; provided however, that the balance of any indebtedness hereinabove forgiven shall be charged to the share of the beneficiary for whom such indebtedness was forgiven and an equal amount credited to the shares of the other beneficiaries (on the basis of right of representation). It is my intent that the division of the Trust Estate after taking into account the forgiveness of any indebtedness shall result in equal shares on the basis of right of representation.
Distribution of Business Interest

(2) Trustee shall distribute my interest in that business entity known as FRANK SMITH ENTERPRISES, 321 Central Avenue, Hometown, California; and shall include, but not be limited to, the goodwill, accounts receivable, equipment, inventory, bank accounts and all other assets of the business of whatever manner, wherever located, and whenever acquired, to my son WAYNE SMITH; provided however, if he does not survive me, the Trustee shall transfer and deliver this property in the manner hereinafter set forth for the distribution of the residue of the Trust Estate.

Life Trust in Assets

(2) If my brother GEORGE SMITH is then-living, the Trustee shall hold a sum equal to Ten Percent (10%) of the Trust Estate in further trust hereunder. The Trustee shall pay to or apply for the benefit of said beneficiary a unitrust amount equal to Five Percent (5%) of the net fair-market value of the assets held in this trust valued on the first day of each taxable year of the trust (the “valuation date”) for and during the remainder of his lifetime. The unitrust amount shall be paid at the end of each month. Such unitrust amount shall first be paid from income and, to the extent that income is not sufficient, from principal. At the death of said beneficiary, or at my death if said beneficiary should predecease me, the Trustee shall transfer and deliver this trust in the manner hereinafter set forth for the distribution of the residue of the Trust Estate.

Distribution of Real Property

(2) Trustee shall distribute that certain real property located in the County of Monterey, State of California, and more particularly known as 321 Pine Street, Seaside, California, to my son WAYNE SMITH; provided however, if he does not survive me, the Trustee shall transfer and deliver this property to his then-living issue, by right of representation.

Option to Buy Real Property

(2) Trustee shall offer to sell the trust’s interest in that certain real property located in the County of Monterey, State of California, and more particularly known as 123 5th Avenue, Salinas, California, to my son JOHN SMITH for Ninety Percent (90%) of its fair market value (as established by an appraisal as of the date of my death). To exercise this option, the holder of the option shall notify the Trustee in writing within thirty (30) days of receipt of the appraisal, and such sale shall be completed within ninety (90) days of such notification. If no written notice is received within the thirty day option period or if the option is declined, the Trustee shall sell the property and add the net proceeds of the sale to the residue of the Trust Estate. It is my intent that the above-named holder of the option may use a portion of his distributive share of the residue of the Trust Estate to make this purchase.
**Life Trust in Real Property**

(2) If my daughter SALLY SMITH is then-living, and if that certain real property located in the County of Monterey, State of California, and more particularly known as 323 Central Avenue, Monterey, California, is then part of the Trust Estate (hereinafter the “property”), the Trustee shall allow said beneficiary to live in such property for the rest of her lifetime; provided however, said beneficiary shall pay all maintenance, insurance, taxes and/or mortgage payments so that there shall be no expenses chargeable to the trust. If said beneficiary decides she no longer wishes to live in said property, the Trustee shall sell said property and purchase, on behalf of the trust, another residence for said beneficiary (of her choosing) and of the same or lesser net value; if the net proceeds from the sale are greater than the purchase price of the new residence, the Trustee shall invest such proceeds and pay to or for the benefit of said beneficiary the net income of this investment. At the death of said beneficiary, or my death if said beneficiary should predecease me, the Trustee shall transfer and deliver the property (or the net sale proceeds of the property) in the manner hereinafter set forth for the distribution of the residue of the Trust Estate.

**Pet Trust (for a single animal and with a “pet trust enforcer”)**

(2) If I am survived by my dog TAFFY, I give said dog and the sum of FIVE THOUSAND DOLLARS ($5,000) to my friend SAM JONES, as the Trustee of the “PET TRUST”, to be administered and distributed in the following manner:

(a) **Trustee.** SAM JONES shall serve as the initial Trustee; but in the event that SAM JONES is unable or unwilling to serve, my friend MARY BLACK shall serve as successor Trustee. In the event that both of the above-named parties are unable or unwilling to serve, a successor Trustee shall be appointed by ALEXIS SMITH; provided however, if said Alexis Smith is unable or unwilling to do so, by a court of competent jurisdiction. The Trustee may resign upon by providing 30 days written notice thereof and possession of the dog and the remaining assets of the Pet Trust to said Alexis Smith or to any other party appointed by the court to enforce this Pet Trust. The Trustee may be removed, at any time, by said Alexis Smith or by a court of competent jurisdiction, and upon receipt of written notice of removal, the Trustee shall relinquish possession of the dog and the remaining assets of the Pet Trust to the duly-appointed successor Trustee, or if there is no such party, to said Alexis Smith or any other party appointed by the court to enforce this Pet Trust. Notwithstanding the foregoing, in no event shall said Alexis Smith or any other party appointed by the court to enforce this Pet Trust serve as Trustee. Except as otherwise provided herein, the Trustee shall have all the rights, powers, duties, and obligations of a trustee as hereinabove set forth.
(b) **Expenditures and Distributions.** During the term of the Pet Trust, the Trustee shall be entitled to expend such sums of net income, and if necessary, principal, as the Trustee determines to be necessary or advisable for the health, care, and welfare of the above-named dog, including (but not limited to) food, veterinary care and/or insurance, toys and other recreational activities, and temporary boarding and/or pet-sitting fees. In exercising such discretion, it is intended that the Trustee will maintain Taffy in the same standard of health, care, and welfare as I provided during my lifetime. The Trustee is also authorized to pay, or reimburse to the Trustee, any income taxes attributable to the Pet Trust and other necessary expenses associated with the administration and distribution thereof.

(c) **Termination and Final Distribution.** The Pet Trust shall terminate upon (a) the exhaustion of the Pet Trust assets (other than said dog); or (b) the death of Taffy. If termination of the Pet Trust occurs because of the death of Taffy, the Trustee shall, at the expense of the Pet Trust, provide for the respectful and proper disposition of the remains of Taffy, pay any remaining debts and expenses of the Pet Trust, and then distribute the remaining assets of the Pet Trust in the manner hereinafter set forth for the distribution of the remainder of the Trust Estate. If termination occurs for any other reason, I give Taffy outright to the Trustee and request that the Trustee provides for the continued health, welfare, and care of Taffy.

(d) **Purposes.** While Taffy is alive, the primary purpose of the Pet Trust is to provide for the health, care, and welfare of said dog. Notwithstanding the above, if at any time, Taffy suffers from a medical or physical condition or illness and the Trustee determines, based on a written opinion of a veterinary professional, that euthanasia would be more humane, then the Trustee is authorized to do so at the expense of the Pet Trust.

(e) **Enforcement of the Pet Trust by Third Party.** The purposes and terms of this Pet Trust may be enforced, at any time, with or without court intervention, by ALEXIS SMITH, or if Alexis Smith is unable or unwilling to do so, by any party appointed by a court of competent jurisdiction. To this end, Alexis Smith may (but is not required to) request an accounting for the funds of the Pet Trust, not more frequently than quarterly, and inspect Taffy and the conditions of the premises where Taffy is kept, from time to time, to ensure that appropriate care is being provided by the Trustee. This provision shall apply even if the party granted the enforcement powers is not a beneficiary of the Pet Trust. Notwithstanding the foregoing, no provision in this paragraph shall be construed to limit the rights of the Trustee and the beneficiaries to enforce the terms hereof.
Private Charitable Foundation

Put in Definitions section and renumber remaining subparagraphs

(2) Charity. The term “charity” or “charities” means a trust, organization, corporation, community chest, fund, or foundation, created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States, which is organized and operated exclusively for charitable, scientific, literary, or educational purposes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

Revise Paragraph 3.A.

Appointment of Trustee. A Trustee may appoint a co-trustee at any time or times; such appointment shall be by written instrument and may be revocable or irrevocable by its terms. If there is no Trustee acting hereunder, then all living trust beneficiaries (or the Board of Governors of The Frank Smith Foundation in the case of The Frank J. Smith Charitable Foundation Trust [as is hereinafter defined]) shall appoint a successor Trustee or co-Trustees by an instrument in writing, which appointment must be effective upon the date the last Trustee fails to qualify or ceases to act.

Keep following in Distribution Paragraph:

(2) The Trustee shall hold a sum equal to Ten Percent (10%) of the Trust Estate in further trust hereunder (hereinafter referred to as “THE FRANK J. SMITH CHARITABLE FOUNDATION TRUST” or as “the Trust”) on the following terms and conditions:

(a) THE FRANK J. SMITH CHARITABLE FOUNDATION TRUST is created exclusively for charitable purposes within the meaning of §501(c)(3) of the Code, and in so creating the Trust, it is my intent to obtain the full benefit of any estate tax charitable contribution deductions to which my estate may be entitled under the Code and for the Trust to qualify as a charitable trust under Section 501(c)(3) of the Code and the regulations thereunder. Accordingly, the Trust shall be interpreted, valued, managed, invested, administered and in all other respects governed consistent with this intent. Notwithstanding any other provision of these Trust Agreement, the Trust shall not carry on any other activities not permitted to be carried on (a) by a trust exempt from Federal income tax under §501(c)(3) of the Code (or the corresponding provision of any future United States Internal Revenue law) or (b) by a trust contributions to which are deductible under §170(c)(2) of the Code (or corresponding provision of any future United States Internal Revenue law).

(b) The Trust shall be irrevocable and shall not be altered, amended, revoked or terminated; provided however, trustee shall have the power to amend the Trust for the sole purpose of complying with the requirements of §501(c)(3) of the Code and the regulations thereunder.
(c) The Trustee is prohibited from engaging in any act of self-dealing as defined in §4941(d) of the Code, from retaining any excess business holdings as defined in §4943(c) of the Code, which would subject the Trust to a tax under §4943 of the Code, from making any investments which would subject the Trust to a tax under §4944 of the Code, and from making any taxable expenditures as defined in §4945(d) of the Code. If §4942 of the Code is deemed applicable to the Trust by reason of §508(e) of the Code or otherwise, the Trustee shall make distributions at such time and in such manner so as not to subject the Trust to tax under said §4942. Other than as herein set forth, nothing in this Agreement shall be construed to restrict the Trustee from investing the assets of the Trust in a manner that can result in the annual realization of a reasonable amount of income or gain from the sale or disposition of such assets.

(d) The Trustee shall distribute all of the net income and so much of the principal [not exceeding Ten Percent (10%) in any single calendar year] of the Trust as the Board of Governors (hereinafter referred to as “the Board”) of The frank smith foundation (as is hereinbelow more particularly described and hereinafter referred to as “the Foundation”) shall from time to time direct to such charity or charities (as herein defined) in the manner and amounts as the Board may determine appropriate.

(e) The Trustee shall not distribute any income and/or principal of the Trust to any organization, including the Foundation, not satisfying the requirements in §§170(c), 2055(a) and 2522(a) of the Code, at the time when any income and/or principal of the Trust is to be distributed to it. If the Trustee believes any organization selected by the Board is not so qualified, the Trustee shall notify the Board in writing within thirty (30) days from the time written notification of the selection is given to the Trustee; if an alternate selection is not made, or if the Trustee is not satisfied of the qualification of the selected organization, within an additional thirty (30) days, the Trustee shall distribute such income and/or principal to one or more organizations which are then so described as the Trustee shall select in the Trustee’s sole discretion.

(f) Upon the dissolution of the Trust, all remaining trust assets shall be distributed for one or more exempt purposes within the meaning of §501(c)(3) of the Code (or corresponding section of any future tax code), or shall be distributed to the federal government, or to a state or local government, for a public purpose.

(g) The Foundation shall be established by this Agreement as a non-profit organization pursuant to the laws of the State of California and operated exclusively for charitable, educational or other exempt purposes within the meaning of §501(c)(3) of the Code (or corresponding section of any future tax code). The Foundation shall be created, funded and thereafter operated on the following terms and conditions:
(i) The Board of Governors for the Foundation shall consist of three (3) members. The following individuals shall be the initial board members (if none are able to so act, trustee shall designate the initial members):

FOUNDATION BOARD NAME1
FOUNDATION BOARD NAME2
FOUNDATION BOARD NAME3

Thereafter, the Board shall vote to fill all vacancies.

(ii) The Board shall meet from time to time, but at least semi-annually, to determine worthwhile charities (as previously defined) which directly meet the criteria hereinafter set forth in the next section. Such selected charities shall receive the income and/or principal [not exceeding 10% in any single calendar year] of the Trust in the manner and amounts as the Board may determine appropriate.

(iii) Other than reimbursement for reasonable expenses directly benefiting the Foundation and/or the Trust, reasonable compensation and/or per diem, the Board and/or the Foundation shall not permit any part of the Trust to inure to the benefit of any Board member, private trustee or individual, and no part of the activities of this Foundation, or any organization benefiting from the Trust, shall consist of carrying on propaganda or otherwise attempting to influence legislation, or of participating in or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this Trust Agreement, the Foundation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization which is tax exempt under federal law or by an organization, donations to which are deductible from income under the Code and other applicable legislation and regulations as they now exist or may hereafter be amended.

(iv) The Board shall use the following criteria in determining the manner of distribution of the income and/or principal:

CRITERIA

Special Needs Trust

(2) The Trustee shall hold, administer and distribute a sum equal to Fifty Percent (50%) of the residue of the Trust Estate in further trust hereunder (hereinafter referred to as the “Special Trust”) on the following terms and conditions:

(a) This trust is created for the benefit of my daughter SALLY SMITH. The primary purpose of this trust is to provide a supplemental and emergency
fund to supplement any public benefits available to Sally during her lifetime. It is my intent that the assets of the Special Trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause Sally’s eligibility for public benefits to be terminated, it is likely that the trust assets would be depleted before her death and the purpose of this trust could not then be fulfilled.

(b) During the lifetime of Sally, the Trustee shall pay over to or for the benefit of Sally as much of the net income and as much of the principal of the trust, up to the whole thereof, as the Trustee, in the Trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of Sally’s special needs. For this purpose, “special needs” refers to the requisites for maintaining Sally’s good health, comfort, safety, and welfare when, in the discretion of the Trustee, those requisites are not being provided for by any county, state, federal, or other governmental agency, or by any person or persons with a legal obligation to support Sally. “Special needs” shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, rehabilitation, travel needs and recreation not provided for or reimbursed by public benefits. The Trustee shall consult with any guardian, conservator, custodian, or other person who cares for Sally regarding her special needs. Expenditures made by the Trustee under this section may include reasonable compensation to any person who provides for the special needs of Sally as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order.

(c) It is my intent that any payments or distributions from this trust to or for the benefit of Sally shall supplement (but not replace) any public benefits or other private resources available to her. The Trustee may, in the exercise of the Trustee's discretion, seek as necessary all available public benefits for Sally's benefit, and shall segregate any public benefits received by the Trustee for that purpose in a separate trust or account and administer the same for the benefit of Sally. All public benefits received by the Trustee for that purpose, together with any other resources available to Sally, shall be taken into account by the Trustee in making payments or distributions to or for the benefit of Sally. The Trustee shall regularly consult with Sally and any persons or entities providing care or assistance to Sally for the purpose of determining Sally’s needs and resources. The Trustee shall not exercise the Trustee's discretion to make any payments or distributions to or for the benefit of Sally if the Trustee determines, in the Trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to Sally to satisfy those needs.
(d) No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of Sally. For purposes of determining Sally's eligibility for any public benefits, no part of the principal or undistributed income of the Trust Estate shall be considered available to her, and she shall have no right to compel the Trustee to release principal or income to her or for her benefit or otherwise to have any access to any of the trust assets. In the event that the Trustee is requested to release principal or income of the trust to or on behalf of Sally to pay for any equipment, medication, services, or any other needs that any public benefits would be authorized to provide for were it not for the existence of the trust, or in the event that the Trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the Trustee is authorized to deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of Sally for all available public benefits, including obtaining instructions from a court of competent jurisdiction that the trust principal is not available to Sally for purposes of determining her eligibility for any public benefits. Any expenses of the Trustees in this regard, including reasonable attorney’s fees, shall be a proper charge to the Special Trust.

(e) To the extent all income of the Special Trust is not expended by the end of the trust's fiscal year under the provisions of subsection (b) above, the remaining income shall be added to the principal of the Special Trust.

(f) The discretion of the Trustee shall not be subject to review by Sally, her creditors and/or any governmental agency. Notwithstanding any other provision of this instrument, if the existence of the Special Trust, or any change in any law, regulation, or rule relating to the Special Trust or the administration of the Special Trust for the benefit of Sally, should at any time have the effect of disqualifying her for any public benefits, or if Sally, her creditors and/or any governmental agency shall ever bring any court action to force or require the Trustee to distribute to or for the benefit of Sally a greater amount of income and/or principal than the Trustee, in the Trustee's absolute discretion, has determined to be appropriate, the Trustee is authorized (but not required) to terminate the trust and distribute the trust principal and income as provided in subsection (g); I request that any person who takes any part of the trust assets as the result of this termination power, conserve and manage such property for the benefit of Sally during her lifetime to insure that she receives sufficient funds for her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and is not mandatory.
(g) At Sally's death, or at my death if Sally should predecease me, the Trustee shall distribute the Special Trust, as then constituted, as in the manner hereinafter set forth for the distribution of the residue of the Trust Estate.

**Contingent Beneficiary**

(3) If no issue of mine shall be living at my death or prior to the distribution of the whole of the Trust Estate, the Trustee shall distribute such part of the Trust Estate as shall then be held in trust hereunder to my brother GEORGE SMITH; provided if he is not then-living, to his issue, by right of representation.

**Disinherit**

(4) For all purposes hereunder, I am specifically not making any provision for THOMAS SMITH or for his issue (if any).
Residual Distribution Provisions:

Residual Distribution to One Child

(2) Trustee shall divide the remainder of the Trust Estate into shares for my then living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined by right of representation.

(3) If my son JOHN SMITH (or any other child of mine) is then-living, the Trustee shall distribute the principal of the rest, remainder and residue of the Trust Estate (or such living child's share of the Trust Estate) to such child.

(4) For any share held for issue of mine more remote than a child, the Trustee shall distribute such share in the following manner:

(a) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(b) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(c) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
Residual Distribution to One Child Delayed Until Specified Age with Net Income and outright to Grandchildren if Child dies

(2) Trustee shall divide the Trust Estate into shares for my then living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined by right of representation.

(a) If my son JOHN SMITH (or any other child of mine) is then-living and has not yet attained the age of twenty-five (25), the Trustee shall pay to or apply for the benefit of such child as much of the net income and principal of the child's trust as the Trustee in the Trustee's discretion shall deem necessary for such child's proper support, health, maintenance and education. Any income not so distributed shall be added to principal.

(b) The Trustee shall also pay over to such child, after such child shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the child's trust as such child shall request in writing at any time or times.

(c) In the event of the death of a child before the child's trust has been fully distributed to such child, the Trustee shall distribute the remaining portion of the child's trust to such child's then-living issue, by right of representation.
Residual Distribution to One Child Delayed to Specified Ages with Unitrust Distribution and held in trust for Grandchildren if Child dies:

(2) Trustee shall divide the Trust Estate into shares for my then living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined by right of representation.

(a) If my son JOHN SMITH is then-living and has not yet attained the age of twenty-one (21), the Trustee shall pay to or apply for the benefit of him as much of the net income and principal of the Trust Estate as the Trustee in the Trustee's discretion shall deem necessary for his proper support, health, maintenance and education. Any income not so distributed shall be added to principal.

(b) When John shall attain the age of twenty-one (21) years, or at my death if John is already age twenty-one (21) or older, the Trustee shall hold the Trust Estate in further trust hereunder and shall pay to John an unitrust amount equal to Five Percent (5%) of the net fair-market value of the Trust Estate valued on the first day of each taxable year of the trust (the “valuation date”). The unitrust amount shall be paid at the end of each month. Such unitrust amount shall first be paid from income and, to the extent that income is not sufficient, from principal. In addition to the unitrust payment, the Trustee shall pay to or apply for the benefit of John as much of the principal of the Trust Estate as the Trustee in the Trustee's discretion shall deem necessary for John's proper support, health, maintenance and education.

(c) The Trustee shall also pay over to John, after he shall have attained the age of twenty-five (25) years, so much of the principal of the Trust Estate as he shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to John prior to his attaining the age of thirty (30) years shall not exceed one-third of the value of the Trust Estate; provided further that the aggregate of all such payments of principal so made to John prior to his attaining the age of thirty-five (35) years shall not exceed two-thirds of the value of the Trust Estate.

(d) In the event of John’s death before the Trust Estate has been fully distributed to him, the Trustee shall distribute the remaining portion of the Trust Estate to his then-living issue, by right of representation, in the manner set forth below.

(e) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if the Trust Estate or any undistributed part thereof is thereafter distributed to any of my descendents more remote than my son, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal
of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(iii) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
Residual Distribution to One Child Delayed for Specified Years with Net Income and outright to Grandchildren if Child dies

(2) Trustee shall divide the Trust Estate into shares for my then living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined by right of representation.

(a) If my son JOHN SMITH (or any other child of mine) is then-living, the Trustee shall pay to such child the net income of the Trust Estate. In addition to the income, the Trustee shall pay to or apply for the benefit of such child as much of the principal of the child's trust as the Trustee in the Trustee's discretion shall deem necessary for such child's proper support, health, maintenance and education.

(b) The Trustee shall also pay over to such child so much of the principal of the child's trust as the child shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to such child prior to the fifth (5th) anniversary of my death shall not exceed one-third of the value of the child's trust; provided further that the aggregate of all such payments of principal so made to such child prior to the tenth (10th) anniversary of my death shall not exceed two-thirds of the value of the child's trust.

(c) In the event of the death of a child before the child's trust has been fully distributed to such child, the Trustee shall distribute the remaining portion of the child's trust to such child's then-living issue, by right of representation, in the manner set forth below.

(d) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if the Trust Estate or any undistributed part thereof is thereafter distributed to any of my descendents more remote than my son, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(iii) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall
(upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
Family Pot Residual Distribution

(2) Until my youngest living child attains age twenty-three (23) years of age, the Trustee shall pay to or apply for the benefit of any of my children as much of the net income and principal of the residue of the Trust Estate as the Trustee in the Trustee's discretion shall deem necessary for such child's proper support, health, maintenance and education. The Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of such child, outside of the Trust Estate, known to the Trustee and reasonably available for these purposes. The Trustee may pay or apply more to or for one child than the others, or to the exclusion of the others, if the Trustee deems this necessary or appropriate under the circumstances, the size of the trust fund and the probable future needs of the children. Any payment or application of benefits to or for any of the children pursuant to this paragraph shall be charged against the Trust Estate as a whole rather than against the ultimate distributive share of the child to whom or for whose benefit the payment is made. In exercising these discretionary powers to invade principal, the Trustee shall be mindful of the fact that my primary concern is the welfare of my children under age twenty-three (23) years of age. Any net income not distributed shall be accumulated and added to principal.

(4) When my youngest child attains age twenty-three (23), or if, at my death, my youngest child is already age twenty-three (23) or older, the Trustee shall divide the Trust Estate into shares for my then-living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined by right of representation.

(a) As to each share set aside for any of my then-living children, the Trustee shall hold the same in further trust hereunder and pay over the net income of such share to the child for whom such share shall be set aside. In addition to the income, the Trustee shall pay to or apply for the benefit of such child as much of the principal of his or her share as the Trustee in the Trustee's discretion shall deem necessary for such child's proper support, health, maintenance and education.

(b) The Trustee shall also pay over to each child, after he or she shall have attained the age of thirty (30) years, so much of the principal of the share set aside for such child as he or she shall request in writing at any time or times; provided however, that the aggregate of all such payments of principal so made to such child prior to his or her attaining the age of thirty-five (35) years shall not exceed one-half of the value of the share set aside for him or her at the time of the setting aside of such share.

(c) In the event of the death of a child of mine for whom a share (or any undistributed part thereof) shall then be held in trust hereunder, the Trustee shall (upon the death of such child) hold, administer and distribute such share in the manner hereinbelow set forth to the then-living issue, by right of representation, of the child so dying. If such deceased child shall not be survived by issue, the Trustee shall distribute his or her share to my then-
living issue (whenever born), by right of representation; provided however, any portion of the share of such deceased child distributable to any other beneficiary for whose benefit a share shall then be held in trust hereunder shall be added to such share and shall thenceforth be held, administered and distributed as a part thereof.

(d) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if any share or the undistributed part thereof is thereafter distributed to any of my descendents more remote than a child, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(iii) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters, if any, and if none to my then-living issue, by right of representation.
Simple Generation-skipping Residual Distribution for One Child with Net Income to Child

(2) If my son JOHN SMITH is living at my death, the Trustee shall hold the residue of the Trust Estate in further trust hereunder on the following terms and conditions:

(a) The Trustee shall pay to or apply for the benefit of John the net income of the trust for the remainder of his lifetime. If the Trustee considers this income to be insufficient, the Trustee shall pay to or apply for the benefit of John as much of the principal of the trust as the Trustee, in the Trustee's discretion, shall deem necessary for his proper support, health, maintenance and education. The Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of John, outside of the trust, known to the Trustee and reasonably available for these purposes.

(b) At the death of John, the Trustee shall distribute the trust for said son’s issue in the amounts and in the manner set forth by John in his will (or valid codicil to a will) which specifically refers to this Limited Power of Appointment. Provided however, if John has not exercised the Limited Power of Appointment, the trust shall be distributed to said son’s issue, by right of representation, in the manner hereinafter set forth.

(3) If John shall predecease me, the Trustee shall distribute the residue of the Trust Estate to said son’s issue, by right of representation, in the manner hereinafter set forth.

(4) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if the Trust Estate or any undistributed part thereof is thereafter distributed to any of my descendents more remote than my son, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(a) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(b) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(c) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
**Simple Generation-skipping Residual Distribution for One Child with Net Income and/or Principal “sprinkled” to Child and/or Grandchildren**

(2) If my son JOHN SMITH is living at my death, the Trustee shall hold the residue of the Trust Estate in further trust hereunder on the following terms and conditions:

(a) The Trustee shall pay to or apply for the benefit of John, his children (hereinafter referred to as the “grandchildren”), or to trusts established for the benefit of said grandchildren as much of the net income and principal of the trust as the Trustee, in the Trustee's discretion, shall deem necessary for their proper support, health, maintenance and education. The Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of such beneficiaries, outside of the trust, known to the Trustee and reasonably available for these purposes. The Trustee may pay or apply more to or for some of said grandchildren than the others, or to the exclusion of the others, including John. Payments or applications of benefits pursuant to this paragraph shall be charged against the trust as a whole rather than against any ultimate distributive share of the grandchild to whom or for whose benefit the payment is made. Any income not so distributed to or for a grandchild shall be distributed to John. In exercising these discretionary powers to invade principal, the Trustee shall be mindful of the fact that my primary concern is the welfare of my son and the higher education of my grandchildren.

(b) At the death of John, the Trustee shall distribute the trust for said son’s issue in the amounts and in the manner set forth by John in his will (or valid codicil to a will) which specifically refers to this Limited Power of Appointment. Provided however, if John has not exercised the Limited Power of Appointment, the trust shall be distributed to said son’s issue, by right of representation, in the manner hereinafter set forth.

(3) If John shall predecease me, the Trustee shall distribute the residue of the Trust Estate to said son’s issue, by right of representation, in the manner hereinafter set forth.

(4) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if the Trust Estate or any undistributed part thereof is thereafter distributed to any of my descendents more remote than my son, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(a) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(b) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and
principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(c) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
Complex Generation-skipping Residual Distribution for One Child with Unitrust for life of Child and then Net Income continuing to Child’s spouse

(2) If my son JOHN SMITH is then-living, the Trustee shall combine all exempt shares (as such term shall be hereinafter defined) of the residue of the Trust Estate into a separate trust hereinafter referred to as the “Exempt Trust” and shall combine all nonexempt shares (as such term shall be hereinafter defined) of the residue of the Trust Estate into a separate trust hereinafter referred to as the “Nonexempt Trust”. Each trust shall thereafter be held, administered and distributed as follows:

(a) The Trustee shall pay to or apply for the benefit of John, for the remainder of his lifetime, an unitrust amount equal to Five Percent (5%) of the net fair-market value of each of the trusts valued on the first day of each taxable year of the trust (the “valuation date”). The unitrust amount shall be paid at the end of each month. Such unitrust amount shall first be paid from income and, to the extent that income is not sufficient, from principal. In addition to the unitrust payment, the Trustee shall pay to or apply for the benefit of John as much of the principal, first from the Nonexempt Trust, as the Trustee in the Trustee’s discretion shall deem necessary for John’s proper support, health, maintenance and education.

(b) On the death of John or at my death if John shall predecease me, if John is survived by his wife SALLY DOE (provided they were married and living together at the time of John’s death), the Trustee shall pay to or apply for the benefit of Sally the net income of the trusts on a quarter-annual or more frequent basis for the remainder of her lifetime.

(c) At the death of the survivor of John and Sally, the Trustee shall distribute that portion of the Nonexempt Trust in the manner directed by John; provided such direction meets the requirements hereinafter set forth for a General Power of Appointment. The Trustee shall hold, administer and distribute the Exempt Trust and the undistributed balance of the Nonexempt Trust (or all of it, if no separate directions were made or such directions are not effective) for his issue in the amounts and in the manner set forth by John in his will (or valid codicil to a will) which specifically refers to this Limited Power of Appointment. Provided however, if John has not exercised the Limited Power of Appointment, the trusts shall be distributed to said son’s issue, by right of representation, in the manner hereinafter set forth.

(3) If both John and Sally shall predecease me, the Trustee shall distribute the residue of the Trust Estate to said son’s issue, by right of representation, in the manner hereinafter set forth.

(4) If any share is set aside for (at the time hereinbefore provided for the division of the Trust Estate into shares) or if the Trust Estate or any undistributed part thereof is thereafter distributed to any of my descendents more remote than my son, the Trustee shall hold, administer and distribute such beneficiary’s share in the following manner:
(a) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(b) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(c) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
(2) Until our youngest living daughter attains age twenty-three (23) years of age, the Trustee shall hold, administer and distribute the residue of the Trust Estate (hereinafter referred to as the "Children's Trust") on the following terms and conditions:

(a) The Trustee shall pay to or apply for the benefit of either of our daughters as much of the net income and/or principal of the Children's Trust as the Trustee in the Trustee's discretion shall deem necessary for such daughter's proper support, health, maintenance and education. The Trustee may pay or apply more to or for one daughter than the other, or to the exclusion of the other. Any payment or application of benefits to or for either of the daughters pursuant to this subsection shall be charged against the Children's Trust as a whole rather than against the ultimate distributive share of the daughter to whom or for whose benefit the payment is made. Any net income not distributed shall be accumulated and added to principal.

(b) In addition to the above discretionary power to distribute income and/or principal for support, health, maintenance and education, the Trustee may make advancements of principal of the Children's Trust to any of the daughters for the following purposes:

(i) To permit a daughter to enter into or engage in a business or profession;

(ii) To permit a daughter to purchase a personal residence; or,

(iii) To pay the expenses of a daughter's first wedding.

Before making an advancement to any daughter, we request, but do not require, that the Trustee consider the respective needs and requirements of all of the beneficiaries of the Children's Trust.

The Trustee shall designate any distribution made under this subsection as an advancement. The determination by the Trustee as to whether a distribution of principal is an advancement under this subsection or is a distribution of principal under subsection (a) shall be conclusive on all persons. At the time of dividing the Children's Trust into shares (as hereinafter set forth), the Trustee shall add to the value of the remainder of said trust the value of all advancements, if any; the Trustee shall then reduce the share of a daughter (or the share for the issue of a deceased daughter) who had received an advancement by the value of each advancement as of the date of its distribution, such reduction to be made from the daughter's "Nonexempt Share" (as such term is hereinafter defined) to the greatest extent possible.

(c) In exercising these powers to invade principal under this subparagraph, the Trustee may take into consideration, to the extent the Trustee shall deem
advisable, any income or other resources of such daughter, outside of the
Children's Trust, known to the Trustee and reasonably available for these
purposes, the size of the trust fund and the probable future needs of the daughters.
Finally, the Trustee shall be mindful of the fact that our primary concern is to
ensure that our younger daughter is provided with the same advantages that may
have been provided for our older daughter.

(3) When our youngest daughter attains age twenty-three (23), or if, at the Surviving Spouse's
death, our youngest daughter is already age twenty-three (23) or older, the Trustee shall combine
all exempt shares (as such term is hereinafter defined) of the Trust Estate into a separate trust
hereinafter referred to as the “Exempt Trust” and shall combine all nonexempt shares (as such
term is hereinafter defined) of the Trust Estate into a separate trust hereinafter referred to as the
“Nonexempt Trust”.

(4) The Trustee shall divide the Exempt Trust into as many equal shares (“Exempt Shares”) as
there are daughters of ours then-living and daughters of our then-deceased with issue then
living and shall divide the Nonexempt Trust (“Nonexempt Shares”) into as many equal shares as
there are daughters of ours then-living and daughters of our then-deceased with issue then living.
The Trustee shall allocate one (1) share from each trust to each then-living daughter and one (1)
share from each trust to each group composed of the then-living issue of a deceased daughter.
Each such share shall be distributed, or retained in trust, as hereafter provided:

(a) Each share allocated to a living daughter shall be retained and administered as a
separate trust. Until the daughter for whom such share was allocated attains age
thirty (30) (or if such daughter is already said age upon the Surviving Spouse's
death), the sole Trustee of such share shall be the daughter for whom such share
was allocated. After attaining age thirty (30), each daughter shall also have the
power to appoint a co-Trustee or successor Trustees of her share (in the absence
of any such designation, the successor Trustees shall be in the manner hereinabove
set forth in Paragraph 2.C.). If, prior to the time such daughter is designated as the
sole Trustee of her share, the Trustee presently acting pursuant to Paragraph 2.C.
determines that such daughter would be ineligible to receive trust income pursuant
to Paragraph 2.K. (as hereinabove set forth), the Trustee shall delay the
designation of such daughter as the Trustee until such daughter would again be
eligible to receive trust income.

(b) From the Exempt Share of each child’s trust, the Trustee (if co-Trustees are then-
acting and the daughter for whom such trust is being held is a co-Trustee, this
power shall be limited to the co-Trustee or co-Trustees other than the daughter)
shall pay to or apply for the benefit of the daughter for whom such share is
allocated, such daughter's children (hereinafter referred to as the
“grandchildren”), or to trusts established for the benefit of said grandchildren as
much of the net income of said share as the Trustee, in the Trustee's discretion,
shall deem necessary for their proper support, health, maintenance and education.
The Trustee may take into consideration, to the extent the Trustee shall deem
advisable, any income or other resources of such beneficiaries, outside of said
share, known to the Trustee and reasonably available for these purposes. The Trustee may pay or apply more to or for some of said grandchildren than the others, or to the exclusion of the others, including the daughter. Any income not so distributed to or for the benefit of grandchildren, plus the net income of the Nonexempt Share of each child’s trust, shall be paid to or applied for the benefit of the daughter for whose benefit such shares were allocated.

(c) In addition to any discretionary payments of income, the Trustee may, from the Nonexempt Share until exhausted and thereafter from the Exempt Share of each child’s trust, distribute principal for the proper support, health, maintenance and education of that daughter. The Trustee may also, from the Exempt Share until exhausted and thereafter from the Nonexempt Share of each child’s trust, distribute principal for the proper support, health, maintenance and education of any or all of that daughter's children. If co-Trustees are then-acting and the daughter for whom such trust is being held is a co-Trustee, these powers shall be limited to the co-Trustee or co-Trustees other than the daughter.

(d) On the death of a daughter for whose benefit a share is then held in trust hereunder, the Trustee shall distribute that portion of the Nonexempt Share in the manner directed by such daughter; provided such direction meets the requirements hereinafter set forth for a General Power of Appointment. The Trustee shall distribute the Exempt Share and the undistributed balance of the Nonexempt Share (or all of it, if no separate directions were made or such directions are not effective) in further trust to the then-living issue of such deceased daughter, per stirpes. The Trustee (if co-Trustees are then-acting and the beneficiary for whom such trust is held is a co-Trustee, this power shall be limited to the co-Trustee or co-Trustees other than the beneficiary) shall pay to or apply for the benefit of the beneficiary of each new trust and/or the issue of such beneficiary as much of the net income and/or principal of said trust as the Trustee, in the Trustee’s discretion, shall deem necessary for their proper support, health, maintenance and education. Any net income not so distributed shall be paid to or applied for the benefit of the beneficiary. On the death of the beneficiary, the Trustee shall distribute such deceased beneficiary's trust in further trust to the then-living issue of such deceased beneficiary, per stirpes, to be administered under the same provisions as the beneficiary's trust.

(e) Subject to the General Power of Appointment (as hereinabove set forth), if a deceased daughter shall not be survived by issue, the Trustee shall distribute her share to our then-living issue (whenever born), per stirpes. Thereafter, if a deceased beneficiary shall not be survived by issue, the Trustee shall distribute such deceased beneficiary's trust, per stirpes, to the issue of the deceased beneficiary's nearest lineal ancestor who was a descendant of ours or, if no such descendant is then living, to our then-living issue (whenever born), per stirpes. Provided however, any portion of the trust of a deceased daughter or another deceased beneficiary distributable to any other beneficiary for whose benefit a
share shall then be held in trust hereunder shall be added to such share and shall thenceforth be held, administered and distributed as a part thereof.

(f) Each share allocated (at the time hereinabove set forth for the original division of the Trust Estate into shares) to a group composed of the then-living issue of a deceased daughter of ours shall be held for such issue in the same manner as is hereinabove set forth in subsection (d).

(g) As a guide to the Trustee, in the administration of the discretionary trusts:

(i) It is our intent is to encourage our children and their descendents to become independent and educated; we have created lifetime trusts for our children and their descendents as a source of financial security that will be protected throughout their lifetimes, but which is available to them to use to enrich their lives, pursue their dreams, and provide for extra opportunities based on our family values. Education, integrity, hard work and a commitment to family and loved ones are the values by which our family has lived their lives and raised their children; we hope that our descendants will allow these same values to guide them throughout their own lives and that by doing so, they will use their trust assets wisely.

(ii) It is our desire that the Trustee give assistance to a beneficiary for the pursuit of education, basic living expenses while obtaining education and to allow our beneficiaries to remain debt free so long as they are acting responsibly. For example, we would want the Trustee to use some of our trust assets to help a beneficiary purchase a house or pay off student loans so long as the beneficiary was maintaining a responsible lifestyle. Trust assets may also be used to pay for such things as vacations and entertainment if the primary needs of the beneficiary's education and living expense ere already fulfilled.

(iii) In making discretionary distributions, the Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of such beneficiaries, outside of said trust, known to the Trustee and reasonably available for these purposes. It is our express desire that the Trustee also take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder. Education and basic living expenses are the primary objectives for our trust assets; all other distributions are luxuries and should be considered only after the Trustee ensures that there are sufficient assets to educate and secure the financial future of the beneficiaries.
“Dynasty Trust” (child first as a co-Trustee and then as sole Trustee; a “pot” after child’s death)

(2) The Trustee shall combine all exempt shares (as such term is hereinafter defined) of the Trust Estate into a separate trust hereinafter referred to as the “Exempt Trust” and shall combine all nonexempt shares (as such term is hereinafter defined) of the Trust Estate into a separate trust hereinafter referred to as the “Nonexempt Trust”.

(3) The Trustee shall divide the Exempt Trust into as many equal shares (“Exempt Shares”) as there are daughters of ours then-living and daughters of ours then-deceased with issue then living and shall divide the Nonexempt Trust (“Nonexempt Shares”) into as many equal shares as there are daughters of ours then-living and daughters of ours then-deceased with issue then living. The Trustee shall allocate one (1) share from each trust to each then-living daughter and one (1) share from each trust to each group composed of the then-living issue of a deceased daughter. Each such share shall be distributed, or retained in trust, as hereafter provided:

(a) Each share allocated to a living daughter shall be retained and administered as a separate trust. Until the daughter for whom such share was allocated attains age thirty (30), the Trustee thereof shall be the Trustee hereinafter set forth in Paragraph 2.C. and, upon such daughter attaining said age (or if such daughter is already said age upon the Surviving Spouse's death), the daughter and the then-acting Trustee shall act a co-Trustees of such share; further, upon such daughter attaining age thirty (30) (or if such daughter is already said age upon the Surviving Spouse's death), the sole Trustee of such share shall be the daughter for whom such share was allocated. After attaining age thirty (30), each daughter shall also have the power to appoint a co-Trustee or successor Trustees of her share (in the absence of any such designation, the successor Trustees shall be in the manner hereinafter set forth in Paragraph 2.C.). If, prior to the time such daughter is designated as the sole Trustee of her share, the Trustee presently acting pursuant to Paragraph 2.C. determines that such daughter would be ineligible to receive trust income pursuant to Paragraph 2.K. (as hereinabove set forth), the Trustee shall delay the designation of such daughter as the Trustee until such daughter would again be eligible to receive trust income.

(b) From the Exempt Share of each child’s trust, the Trustee (if co-Trustees are then-acting and the daughter for whom such trust is being held is a co-Trustee, this power shall be limited to the co-Trustee or co-Trustees other than the daughter) shall pay to or apply for the benefit of the daughter for whom such share is allocated, such daughter's children (hereinafter referred to as the “grandchildren”), or to trusts established for the benefit of said grandchildren as much of the net income of said share as the Trustee, in the Trustee's discretion, shall deem necessary for their proper support, health, maintenance and education. The Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of such beneficiaries, outside of said share, known to the Trustee and reasonably available for these purposes. The Trustee may pay or apply more to or for some of said grandchildren than the others, or to the exclusion of the others, including the daughter. Any income not so distributed to or for the benefit of grandchildren, plus the net income of the
Nonexempt Share of each child’s trust, shall be paid to or applied for the benefit of the daughter for whose benefit such shares were allocated.

(c) In addition to any discretionary payments of income, the Trustee may, from the Nonexempt Share until exhausted and thereafter from the Exempt Share of each child’s trust, distribute principal for the proper support, health, maintenance and education of that daughter. The Trustee may also, from the Exempt Share until exhausted and thereafter from the Nonexempt Share of each child’s trust, distribute principal for the proper support, health, maintenance and education of any or all of that daughter's children. If co-Trustees are then-acting and the daughter for whom such trust is being held is a co-Trustee, these powers shall be limited to the co-Trustee or co-Trustees other than the daughter.

(d) On the death of a daughter for whose benefit a share is then held in trust hereunder, the Trustee shall distribute that portion of the Nonexempt Share in the manner directed by such daughter; provided such direction meets the requirements hereinafter set forth for a General Power of Appointment. The Trustee shall hold the Exempt Share and the undistributed balance of the Nonexempt Share (or all of it, if no separate directions were made or such directions are not effective) in further trust for the benefit of such deceased daughter's descendants for the maximum period permitted by law pursuant to Paragraph 2.H. (as hereinabove set forth). The Trustee shall distribute the income and/or principal of said trust to such descendants in the following manner:

(i) The Trustee shall pay to or apply for the benefit of the descendants of the deceased daughter as much of the net income of said trust as the Trustee, in the Trustee's discretion, shall deem necessary for their proper support, health, maintenance and education. The Trustee may pay or apply more to or for some of said beneficiaries than the others, or to the exclusion of the others. Any income not so distributed shall be paid to or applied for the benefit of the then-living issue of such daughter, per stirpes.

(ii) In addition to any discretionary payments of income, the Trustee may distribute principal of said trust for the proper support, health, maintenance and education of any or all of the descendants of the deceased daughter.

(e) If a deceased daughter shall not be survived by issue, the Trustee shall distribute her share to our then-living issue (whenever born), per stirpes; provided however, any portion of the share of such deceased daughter distributable to any other beneficiary for whose benefit a share shall then be held in trust hereunder shall be added to such share and shall thenceforth be held, administered and distributed as a part thereof.

(f) Each share allocated (at the time hereinabove set forth for the original division of the Trust Estate into shares) to a group composed of the then-living issue of a
deceased daughter of ours shall be held for such issue in the same manner as is hereinabove set forth in subsection (d).

(g) As a guide to the Trustee, in the administration of the discretionary trusts:

(i) It is our intent is to encourage our children and their descendents to become independent and educated; we have created lifetime trusts for our children and their descendents as a source of financial security that will be protected throughout their lifetimes, but which is available to them to use to enrich their lives, pursue their dreams, and provide for extra opportunities based on our family values. Education, integrity, hard work and a commitment to family and loved ones are the values by which our family has lived their lives and raised their children; we hope that our descendents will allow these same values to guide them throughout their own lives and that by doing so, they will use their trust assets wisely.

(ii) It is our desire that the Trustee give assistance to a beneficiary for the pursuit of education, basic living expenses while obtaining education and to allow our beneficiaries to remain debt free so long as they are acting responsibly. For example, we would want the Trustee to use some of our trust assets to help a beneficiary purchase a house or pay off student loans so long as the beneficiary was maintaining a responsible lifestyle.

(iii) In making discretionary distributions, the Trustee may take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of such beneficiaries, outside of said trust, known to the Trustee and reasonably available for these purposes. It is our express desire that the Trustee also take into consideration the future probable needs of a beneficiary prior to making any discretionary distributions hereunder. Education and basic living expenses are the primary objectives for our trust assets; all other distributions are luxuries and should be considered only after the Trustee ensures that there are sufficient assets to educate and secure the financial future of the beneficiaries.
6.L. **Generation Skipping Tax Provisions.** The purpose of this Paragraph is to place in one Paragraph as many provisions relating to generation skipping as is practical. In this Paragraph and in the generation skipping context generally, the term or any reference to the term “generation skipping tax” refers to the federal generation skipping transfer tax under Chapter 13 of the Code.

(1) **Definitions.** For purposes of this Trust Agreement the following generation skipping definitions apply:

(a) *Exempt.* The term “exempt” refers to property, or a trust or a share that has a generation skipping inclusion ratio of Zero (an applicable fraction for generation skipping purposes of One). This means that distributions from such a trust or with respect to such property are not subject to the Generation Skipping Tax. References to an “Exempt Trust” or to an “Exempt Share” refer to or are a special titling for property that has or is to be established having an inclusion ratio of Zero.

(b) *Nonexempt.* The terms “Nonexempt Trust” or “Nonexempt Share” or “nonexempt” refer to property, or a trust or a share that has a generation skipping inclusion ratio of One (an applicable fraction for generation skipping purposes of Zero). This means that distributions from such a trust or with respect to such property are subject to the Generation Skipping Tax.

(c) *Trustee.* In this Paragraph, and in the generation skipping context generally, the term “Trustee” refers to the person or persons whom the Code authorizes to make the transferor election for qualified terminable interest property under Section 2652(a)(3) of the Code and to allocate the exemption under Section 2631(a) of the Code. However, if the Executor of my Will has that authority under the Code, then the term “Trustee” in this Paragraph and elsewhere when used in reference to those authorizations includes the Executor. A person acting as a Trustee shall not, however, be authorized to make or participate in any generation skipping election or allocation decision if making or participating in that decision would result in that person having a general power of appointment over the property which such person would not otherwise have. If this prohibition leaves no Trustee able to make elections and allocations, the Trustee for such limited purposes shall be filled in the manner hereinabove set forth in Article III.

(2) **Exemption Allocation.** In allocating my exemption, the Trustee may include or exclude from that allocation any property of which me the transferor for generation skipping purposes, including property transferred before my death. The Trustee may base the decision on prior transfers, gift tax returns, and other information known to the Trustee; there is no requirement that the allocations proportionately, equally, or in any other particular manner benefit the various transferees or beneficiaries of that property.

(3) **Separate Trusts for Exempt and Nonexempt Property.** If any of my or another’s exemption is allocated to property of a trust under this agreement or to the Exempt Portion of that trust, and
the trust results in a generation skipping inclusion ratio of other than Zero, then the Trustee must immediately create two separate trusts so that each separate trust has a generation skipping inclusion ratio of either Zero (the Exempt Portion) or One (the Non-Exempt Portion). The Trustee does this by allocating to a Nonexempt trust the minimum amount of property needed to create that trust with an inclusion ratio of One, while leaving an Exempt trust with an inclusion ratio of Zero.

If any of the separate trusts in this document terminate, partially terminate, are subdivided, or distributions are made from them, or are combined, the Trustee shall preserve the nonexempt (inclusion ratio of One) or exempt (Zero inclusion ratio) generation skipping character of the property in each trust. Therefore, when the Trustee adds to or combines property with the property of another trust or trusts, or establishes trusts from one or more sources, the Trustee shall not combine or add nonexempt property with exempt property in a trust even if this requires the creation of more separate trusts with the same terms.

For example, if the terms of Trust X direct that on its termination (or on the failure of a party to exercise a power of appointment) the Trustee shall add its property to another trust, then the Trustee shall add Trust X’s exempt property only to the property in an exempt trust even if it is necessary to create another exempt trust for that exempt property, with the same terms as the terms of the recipient trust. Nonexempt property shall be combined only with the nonexempt property in a nonexempt trust even if it is necessary to create another nonexempt trust for that nonexempt property, with the same terms as the terms of the recipient trust.

(4) **Combining or Separating Trusts Depending on Interests.** To preserve the rights and to protect the interests of beneficiaries, the Trustee may combine trusts having the same inclusion ratio with the same terms for beneficiaries, or may separate trusts having the same inclusion ratio and different terms for different beneficiaries. In deciding whether and how to exercise this authority, the Trustee may consider efficiencies of administration, generation skipping tax and other transfer tax considerations, income taxes on the trusts and their beneficiaries, the beneficiaries' future needs, the desirability for different the Trustees for different trusts, and any other considerations the Trustee deems appropriate.

(5) **General Power of Appointment.** If the beneficiary has been given a Testamentary General Power of Appointment (hereinafter referred to as “GPA”) in order to avoid or minimize the generation skipping transfer tax, then this subparagraph governs the use of the GPA:

(a) This GPA gives the beneficiary the power to appoint the assets subject to this power only to the creditors of the beneficiary's estate.

(b) The beneficiary may exercise the GPA alone and in all events; provided however, the GPA shall be effective to convey property other than as hereinabove set forth in the above Paragraph only if, at the time of the beneficiary's death, there would be a generation skipping transfer tax imposed on the property so appointed if this GPA were not granted to the beneficiary.
(c) The GPA can be exercised only in the beneficiary's will specifically referring to the GPA granted in the specific section of Article VI of this Trust Agreement. "Will" does not include a codicil.
Allocate Residue into Shares

(2) The Trustee shall divide the rest, remainder and residue of the Trust Estate into four (4) equal shares; one share shall be allocated for my son JOHN SMITH, one share shall be allocated for my son WAYNE SMITH, one share shall be allocated for my daughter SALLY SMITH and one share shall be allocated for my niece ALEXIS SMITH. Each share shall thereafter be held, administered and distributed as follows:

(a) For each of the above-named beneficiaries then-living, the Trustee shall distribute the principal of that beneficiary’s share, plus the accrued income of such share, to the beneficiary for whom such share shall be allocated.

(b) In the event of the death of either beneficiary for whom a share was allocated, the Trustee shall distribute such share, in the manner hereinbelow set forth, to the then-living issue, by right of representation, of the beneficiary so dying. If such deceased beneficiary shall not be survived by issue, the Trustee shall distribute the deceased beneficiary’s share to the other share allocated under this subparagraph.

(c) If any share or portion of a share is ever distributed to the issue of either of the above-named, the Trustee shall hold, administer and distribute such beneficiary's share in the following manner:

(i) As to each share so set aside, until each such beneficiary shall attain the age of twenty-five (25) years, the Trustee shall pay over to, or apply for the benefit of such beneficiary so much of the net income and/or principal of his or her share as the Trustee, in the Trustee's discretion, shall deem advisable for such beneficiary's health, education, support, maintenance and welfare. Any income not so distributed shall be added to principal.

(ii) The Trustee shall also pay over to such beneficiary, after he or she shall have attained the age of twenty-five (25) years, so much of the accrued income and principal of the Trust Estate set aside for such beneficiary as he or she shall request in writing at any time or times.

(iii) In the event of the death of any beneficiary while any undistributed part of his or her share shall then be held in trust hereunder, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said deceased beneficiary's then-living issue, by right of representation. If said deceased beneficiary is not survived by issue, the Trustee shall (upon the death of said beneficiary) transfer and deliver forthwith his or her share to said beneficiary's then-living brothers and sisters.
LIMITED DURABLE POWER OF ATTORNEY

I, FRANK J. SMITH, as an individual and as trustee of THE FRANK J. SMITH LIVING TRUST, executed by myself on June 1, 1999, appoint my brother GEORGE SMITH, as my Attorney-in-Fact (hereinafter referred to in this power of attorney as “my ATTORNEY-IN-FACT”).

I intend to create a Limited Durable Power of Attorney (herein referred to as “this Power”) pursuant to California Probate Code §4000 and following, specifically including the Uniform Durable Power of Attorney Act but specifically not including §4600 and following relating to health care. This Power is effective immediately upon its execution and shall not be affected by my subsequent disability or incapacity; however, this Power shall terminate on March 1, 2005.

I give my ATTORNEY-IN-FACT only the powers specified in this Power with the understanding that they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity.

I. POWERS

1.A. Enumerated Powers. To take any actions for the management or maintenance of any real property in which I own an interest when this Power is executed, or in which I later acquire an interest, including the power to acquire, sell, and convey ownership of real property; control the manner in which real property is managed, maintained, and used; change the form of title in which property is held; satisfy and grant security interests and other encumbrances on real property; obtain and make claims on insurance policies covering risks of loss or damage to real property and the contents thereof; accept or remove tenants; collect proceeds generated by real property; ensure that any needed repairs are made to real property; make improvements to real property; and perform any other acts described in California Probate Code §§4451 and 4452.
1.B **Incidental Powers.** In connection with the exercise of any of the powers described in the preceding paragraph, I give my ATTORNEY-IN-FACT full authority, to the extent that a principal can act through an agent, to take all actions that my ATTORNEY-IN-FACT believes necessary, proper, or convenient, to the extent that I could take such actions myself, including the power to prepare, execute, and file all documents and maintain records; enter into contracts; hire, discharge, and pay reasonable compensation to attorneys, accountants, or other assistants; execute, acknowledge, seal, and deliver any instrument; and perform any other acts described in California Probate Code §4450.

II. **AMPLIFYING PROVISIONS**

2.A. **Reimbursement for Costs and Expenses.** My ATTORNEY-IN-FACT shall be entitled to reimbursement from my property for expenditures properly made in the execution of the powers conferred by me in this Power. My ATTORNEY-IN-FACT shall keep records of any such expenditures and reimbursement.

2.B. **No Compensation.** My ATTORNEY-IN-FACT shall not be entitled to compensation for the services rendered in the execution of any of the powers conferred by me in this Power.

2.C. **Reliance by Third Parties.** To induce third parties to rely upon the provisions of this Power, I, for myself and on behalf of my heirs, successors, and assigns, hereby waive any privilege that may attach to information requested by my ATTORNEY-IN-FACT in the exercise of any of the powers described herein. Moreover, on behalf of my heirs, successors, and assigns, I hereby agree to hold harmless any third party who acts in reliance upon this Power for damages or liability incurred as a result of that reliance.

2.D. **Ratification.** I ratify and confirm all that my ATTORNEY-IN-FACT does or causes to be done under the authority granted in this Power. All instruments of any sort entered into in any manner by my ATTORNEY-IN-FACT shall bind me, my estate, my heirs, successors, and assigns.

2.E. **Exculpation.** My ATTORNEY-IN-FACT shall not be liable to me or any of my successors in interest for any action taken or not taken in good faith, but shall be liable for any willful misconduct or gross negligence.

2.F. **Photostatic Copies.** Persons dealing with my ATTORNEY-IN-FACT may rely fully on a photostatic copy of this Power.

2.G. **Governing Law.** All questions pertaining to validity, interpretation, and administration of this Power shall be determined in accordance with the laws of the State of California.

2.H. **Explanation of Durable Power.** I understand that this Power is an important legal document: (1) this document provides my ATTORNEY-IN-FACT with broad powers to dispose of, sell, convey, and encumber my real property; (2) the powers granted in this Power will exist for an indefinite period of time unless I limit their duration by the terms of this Power or revoke this Power, and they will continue to exist notwithstanding my subsequent disability or incapacity; and (3) I have the right to revoke or terminate this Power at any time.
This Limited Durable Power of Attorney is executed by me on _______________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
EXERCISE OF LIMITED POWER OF APPOINTMENT

WITNESSETH

WHEREAS, on or about <DATE>, <NAME> made and entered into an agreement wherein and whereby certain trusts were created and known as <OLD TRUST NAME>;

WHEREAS, pursuant to Paragraph <#> of said Trust Agreement, the undersigned was given a Limited Power to change the manner of distribution of <Name of Share> (as defined in said Trust Agreement).

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OTHERS, the share of said Trust over which the undersigned has the right and power to designate the manner of distribution at the death of the undersigned shall be distributed in the following manner:

To the then-acting trustee of THE FRANK J. SMITH LIVING TRUST, executed by the undersigned on June 1, 1999.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
REVOCATION OF TRUST

WHEREAS, Paragraph 5.A of THE SMITH FAMILY TRUST, as executed by the undersigned and JANE SMITH on May 1, 1995, reserves to the Settlors, or either of them, the right and power to revoke said Trust, in whole or in part.

NOW, THEREFORE, I, as Settlor thereof, hereby revoke, rescind and terminate said Trust, in its entirety and direct the Trustee thereof to transfer all of my interest in and to any assets now in said Trust or any assets which may later be added to said Trust to the then-acting Trustee of THE FRANK J. SMITH LIVING TRUST, as executed by the undersigned on June 1, 1999.

Executed on ______________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
Revocation of Power of Attorney

RECORDING REQUESTED BY
FRANK J. SMITH

AND, WHEN RECORDED MAIL TO:
Mr. Frank J. Smith
321 Central Avenue
Hometown, California 98765

REVOCATION OF POWER OF ATTORNEY

On May 1, 1995, I, FRANK J. SMITH, created a Durable Power of Attorney which appointed JANE SMITH as my Attorney-in-Fact.

I hereby revoke, rescind and terminate said Durable Power of Attorney in its entirety and hereby revoke, rescind and terminate any right, power or authority of JANE SMITH to act on my behalf.

Executed on ________________, 2007, in Monterey County, California.

__________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
Resignation of Trustee (with appointment of a new successor Trustee)

APPOINTMENT OF SUCCESSOR TRUSTEE

AND

RESIGNATION OF TRUSTEE

WHEREAS, on or about June 1, 1999, FRANK J. SMITH, as Settlor and Trustee, made and entered into an agreement wherein and whereby certain trusts were created and known as THE FRANK J. SMITH LIVING TRUST;

WHEREAS, pursuant to the power reserved in said original agreement, the Settlor may at any time appoint successor Trustees,

WHEREAS, pursuant to the terms of said original agreement, any Trustee may resign at any time by giving written notice of resignation to the Settlor, if living, and otherwise to the other Trustees,

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OTHERS, IT IS AGREED AS FOLLOWS:

1. That WAYNE SMITH is hereby appointed as the successor Trustee of said Trust to serve without bond, and to act upon the death or resignation of the Trustee now acting.

2. That FRANK J. SMITH does herewith tender his resignation as Trustee of said Trust.

3. That FRANK J. SMITH, as Settlor, does accept said resignation, effective immediately upon acceptance by said Wayne Smith as the successor Trustee.

IN WITNESS WHEREOF, this Agreement is executed on ______________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]

ACCEPTANCE OF SUCCESSOR TRUSTEE

Receipt of the assets of THE FRANK J. SMITH LIVING TRUST is hereby acknowledged, the terms of said Trust are hereby accepted and the covenant to execute the trust with all due fidelity is hereby made.

Dated: ______________, 2007

____________________________________
WAYNE SMITH,
Successor Trustee
APPOINTMENT OF CO-TRUSTEE

WHEREAS, on or about June 1, 1999, FRANK J. SMITH, as Settlor and Trustee, made and entered into an agreement wherein and whereby certain trusts were created and known as THE FRANK J. SMITH LIVING TRUST;

WHEREAS, pursuant to the power reserved in said original agreement, the Settlor may at any time appoint a co-Trustee and successor Trustees by a written instrument,

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OTHERS, IT IS AGREED AS FOLLOWS:

4. That WAYNE SMITH is hereby appointed as co-Trustee of said Trust to serve without bond.

5. That Paragraph 2.C. of said original agreement shall be, and hereby is amended to read as follows:

   If FRANK J. SMITH ceases to act as co-Trustee, WAYNE SMITH shall act as the sole Trustee. If Wayne Smith ceases to act as co-Trustee or as sole Trustee, SALLY SMITH shall act as the successor co-Trustee or the sole Trustee (as the case maybe).

6. That Frank J. Smith as Settlor, does accept said appointment, effective immediately upon acceptance by said WAYNE SMITH as co-Trustee.

IN WITNESS WHEREOF, this Agreement is executed on ______________, 2007, in Monterey County, California.

______________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]

ACCEPtANCE OF CO-TRUSTEE

Receipt of the assets of THE FRANK J. SMITH LIVING TRUST is hereby acknowledged, the terms of said Trust are hereby accepted and the covenant to execute the trust with all due fidelity is hereby made.

Dated: _________________, 2007

______________________________________
WAYNE SMITH,
Co-Trustee
Affidavit - Death of Joint Tenant

RECORDING REQUESTED BY:
FRANK J. SMITH

WHEN RECORDED, MAIL TO
AND MAIL TAX STATEMENTS TO:

Frank J. Smith
321 Central Avenue
Hometown, CA 98765

APN:

AFFIDAVIT — DEATH OF JOINT TENANT

STATE OF CALIFORNIA )
COUNTY OF MONTEREY ) ss.

FRANK J. SMITH, of legal age, being first sworn, deposes and says:

That JANE SMITH, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as Jane Smith, named as one of the parties in that certain Grant Deed, dated ________________, executed by ______________________________ to Jane Smith and Frank J. Smith, as Joint Tenants, and recorded on ________________, in the Office of the Recorder of the County of ________________, State of California, as Document No. ________________ of Official Records, relating to the real property located in said County and more particularly described in Exhibit “A” (attached hereto and incorporated herein by reference).

Executed on ________________, 2007, in Monterey County, California.

________________________________________
FRANK J. SMITH

SUBSCRIBED AND SWORN TO before me
on ________________, 2007, in Monterey County, California.

________________________________________
NOTARY PUBLIC
Affidavit - Death of Co-Trustee

RECORDING REQUESTED BY:
FRANK J. SMITH

WHEN RECORDED, MAIL TO
AND MAIL TAX STATEMENTS TO:

Mr. Frank J. Smith
321 Central Avenue
Hometown, CA  98765

THIS SPACE FOR RECORDER'S USE ONLY

APN:

AFFIDAVIT--DEATH OF CO-TRUSTEE

STATE OF CALIFORNIA  )
) ss.
COUNTY OF MONTEREY  )

FRANK J. SMITH, of legal age, being first sworn, deposes and says:

That JANE SMITH, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as Jane Smith, named as a Co-Trustee in that certain unrecorded trust agreement dated June 1, 1999, executed by Jane Smith and Frank J. Smith, and which Trust was named as the Grantee in that certain Grant Deed, dated June 1, 1999, and recorded on ______________, in the Office of the Recorder of the County of ______________, State of California, as Document No. ______________ of Official Records, relating to the real property located in said County and more particularly described in Exhibit “A” (attached hereto and incorporated herein by reference).

That said trust provides that at the death of Jane Smith, FRANK J. SMITH shall act as the sole trustee.

Executed on ______________, 2007, in Monterey County, California.

__________________________________
FRANK J. SMITH

SUBSCRIBED AND SWORN TO before me
on ______________, 2007, in Monterey County, California.

__________________________________
NOTARY PUBLIC
Transfer Documents:

Deed to Trust (California with a “PCOR”)

RECORDING REQUESTED BY:
FRANK J SMITH

WHEN RECORDED, MAIL TO
AND MAIL TAX STATEMENTS TO:
Mr. Frank J. Smith
123 4th Street
Hometown, CA 90000

The undersigned Grantor declares that this conveyance transfers Grantor's interest to Grantor's Revocable Trust for no consideration. This transaction is exempt from the Documentary Transfer Tax pursuant to R & T Code §11930.

GRANT DEED TO A REVOCABLE TRUST

FRANK J SMITH, the GRANTOR,

HEREBY GRANTS TO

FRANK J SMITH, as Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated _________________, 20___, the GRANTEE,

All of THAT PROPERTY situated in the County of Monterey, State of California, bounded and described as set forth in Exhibit “A” (attached hereto and incorporated herein by reference).

The then-acting Trustee has the power and authority to encumber or otherwise to manage and dispose of the hereinabove described real property; including, but not limited to, the power to convey.

Executed on this _____ day of _____________, 20___, in Monterey County, California.

_____________________________________________
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT]
PRELIMINARY CHANGE OF OWNERSHIP REPORT

[To be completed by transferee (buyer) prior to transfer of subject property in accordance with section 480.3 of the Revenue and Taxation Code.] A Preliminary Change of Ownership Report must be filed with each conveyance in the County Recorder’s office for the county where the property is located; this particular form may be used in all 58 counties of California.

THIS REPORT IS NOT A PUBLIC DOCUMENT

SELLER/TRANSFEROR: Frank J Smith
BUYER/TRANSFEREE: The Frank J. Smith Living Trust
ASSessor’s Parcel number(s): 555-555-555
PROPERTY Address OR Location: 123 4th Street, Hometown, CA
MAIL Tax INFORMATION TO: 123 4th Street, Hometown, CA 90000

Phone Number (8 a.m. – 5 p.m.) (888) 555-1111

NOTICE: A lien for property taxes applies to your property on January 1 of each year for the taxes owing in the following fiscal year, July 1 through June 30. One-half of these taxes is due November 1, and one-half is due February 1. The first installment becomes delinquent on December 10, and the second installment becomes delinquent on April 10. One tax bill is mailed before November 1 to the owner of record. You may be responsible for the current or upcoming property taxes even if you do not receive the tax bill.

The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the __________ Assessor. For further information on your supplemental roll obligation, please call the Monterey County Assessor.

PART I: TRANSFER INFORMATION (please answer all questions)

YES NO
☐ ☐ A. Is this transfer solely between husband and wife (addition of a spouse, death of a spouse, divorce settlement, etc.)?
☐ ☐ B. Is this transaction only a correction of the name(s) of the person(s) holding title to the property (for example, a name change upon marriage)?
Please explain
☐ ☐ C. Is this document recorded to create, terminate, or re-convey a lender's interest in the property?
☐ ☐ D. Is this transaction recorded only as a requirement for financing purposes or to create, terminate, or re-convey a security interest (e.g., cosigner)? Please explain
☐ ☐ E. Is this document recorded to substitute a trustee of a trust, mortgage, or other similar document?
☐ ☐ F. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants?
☐ ☐ G. Does this transfer return property to the person who created the joint tenancy (original transferor)?
☐ ☐ H. Is this transfer of property:
☐ ☐ 1. to a revocable trust that may be revoked by the transferor and is for the benefit of the ☐ transferor ☐ transferor’s spouse?
☐ ☐ 2. to a trust that may be revoked by the Creator/Grantor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the Creator/Grantor dies?
☐ ☐ 3. to an irrevocable trust for the benefit of the ☐ Creator/Grantor and/or ☐ Grantor’s spouse?
☐ ☐ 4. to an irrevocable trust from which the property reverts to the Creator/Grantor within 12 years?
☐ ☐ I. If this property is subject to a lease, is the remaining lease term 35 years or more including written options?
☐ ☐ J. Is this transfer between ☐ parent(s) and child(ren)? ☐ or from grandparent(s) to grandchild(ren)?
☐ ☐ K. Is this transaction to replace a principal residence by a person 55 years of age or older?
Within the same county? ☐ Yes ☐ No
☐ ☐ “L. Is this transaction to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5 within the same county? ☐ Yes ☐ No
☐ ☐ M. Is this transfer solely between domestic partners currently registered with the California Secretary of State?

*If you checked yes to J, K or L, you may qualify for a property tax reassessment exclusion, which may result in lower taxes on your property. If you do not file a claim, your property will be reassessed.

Please provide any other information that would help the Assessor to understand the nature of the transfer.

If the conveying document constitutes an exclusion from a change in ownership as defined in section 62 of the Revenue and Taxation Code for any reason other than those listed above, set forth the specific exclusions claimed:

Please answer all questions in each section. If a question does not apply, indicate with “N/A.” Sign and date at bottom of second page.

PART II: OTHER TRANSFER INFORMATION

A. Date of transfer if other than recording date __________________________
B. Type of transfer (please check appropriate box):
☐ Purchase ☐ Foreclosure ☐ Gift ☐ Trade or Exchange ☐ Merger, Stock, or Partnership Acquisition
☐ Contract of Sale – Date of Contract __________________________
☐ Inheritance – Date of Death __________________________
☐ Other (please explain): __________________________
☐ Creation of Lease ☐ Assignment of a Lease ☐ Termination of a Lease ☐ Sale/Leaseback
☐ Date lease began __________________________
☐ Date lease began __________________________
☐ Original term in years (including written options) __________________________
☐ Remaining term in years (including written options) __________________________
☐ Monthly Payment __________________________
☐ Remaining Term __________________________
C. Was only a partial interest in the property transferred? ☐ Yes ☐ No
If Yes, indicate the percentage transferred __%. 
### PART III: PURCHASE PRICE AND TERMS OF SALE

A. **CASH DOWN PAYMENT OR value of trade or exchange (excluding closing costs)**
   - **Amount $**

B. **FIRST DEED OF TRUST @ % interest for years. Pymts./Mo. = $ (Prin. & Int. only)**
   - **Amount $**
     - FHA (Discount Points)
     - Conventional
     - VA (Discount Points)
     - Cal-Vet
     - Loan carried by seller
     - Balloon Payment
     - Due Date
   - **Amount $**

C. **SECOND DEED OF TRUST @ % interest for years. Pymts./Mo. = $ (Prin. & Int. only)**
   - **Amount $**
     - Bank or savings & loan
     - Loan carried by seller
     - Balloon Payment
     - Due Date
   - **Amount $**

D. **OTHER FINANCING:**
   - **Amount $**
     - Type @ % interest for years. Pymts./Mo. = $(Prin. & Int. only)
     - Balloon Payment
     - Due Date
   - **Amount $**

E. **EAS AN IMPROVEMENT BOND ASSUMED BY THE BUYER?**
   - **Yes**
   - **No**
   - **Outstanding Balance: Amount $**

F. **TOTAL PURCHASE PRICE (or acquisition price, if traded or exchanged, include real estate commission if paid)**
   - **Amount $**

G. **PROPERTY PURCHASED**
   - Through a broker
   - Direct from seller
   - From a family member
   - Other (please explain):_________

### PART IV: PROPERTY INFORMATION

A. **TYPE OF PROPERTY TRANSFERRED:**
   - Single-family residence
   - Multiple-family residence (no. of units:__________)
   - Commercial/Industrial
   - Other (Description: i.e., timber, mineral, water rights, etc.)

B. **IS THIS PROPERTY INTENDED AS YOUR PRINCIPAL RESIDENCE?**
   - **Yes**
   - **No**
   - If yes, enter date of occupancy__________/________/________. or intended occupancy__________/________/________.

C. **IS PERSONAL PROPERTY INCLUDED IN PURCHASE PRICE (i.e., furniture, farm equipment, machinery, etc.)**
   - **Yes**
   - **No**
   - If yes, enter value of the personal property included in the purchase price $_________ (Attach itemized list of personal property.)

D. **IS A MANUFACTURED HOME INCLUDED IN PURCHASE PRICE?**
   - **Yes**
   - **No**
   - If yes, how much of the purchase price is allocated to the manufactured home?

E. **DOES THE PROPERTY PRODUCE INCOME?**
   - **Yes**
   - **No**
   - **If yes, is the income from:**
     - Lease/Rent
     - Contract
     - Mineral rights
     - Other (please explain):_________

F. **WHAT WAS THE CONDITION OF THE PROPERTY AT THE TIME OF SALE?**
   - **Good**
   - **Average**
   - **Fair**
   - **Poor**

### CERTIFICATION

**OWNERSHIP TYPE**: [ ]
- Proprietorship
- Partnership
- Corporation
- Other Trust

**NAME OF NEW OWNER/CORPORATE OFFICER**
Frank J Smith

**SIGNATURE OF NEW OWNER/CORPORATE OFFICER**

**ADDRESS**
123 4th Street, Hometown, CA 90000

**DATE**

**FEDERAL EMPLOYER ID NUMBER**

**NOTE:** The Assessor may contact you for additional information.

If a document evidencing a change of ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change of ownership report, the recorder may charge an additional recording fee of twenty dollars ($20).
WARRANTY DEED

FRANK J SMITH, the GRANTOR,

Whose mailing address is 123 4th Street, Hometown, CA 90000;

FOR A GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, does hereby give, grant, bargain, sell and confirm to

FRANK J SMITH, as Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated ________________, 20___, the GRANTEE,

Whose mailing address is 123 4th Street, Hometown, CA 90000;

and to Grantee's successors and assigns, all of THE FOLLOWING described real property located in the County of Platte, State of Nebraska:

SEE EXHIBIT “A” ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

More commonly known as 123 4th Street, Kimball, NE.

Assessor's Parcel Number: _________________

SUBJECT TO: Restrictions, Conditions, Covenants, Rights, Rights of Way, and Easements that are now of record, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

The then-acting Trustee has the power and authority to encumber or otherwise to manage and dispose of the hereinabove described real property; including, but not limited to, the power to convey.

Dated this _____ day of ____________, 20___.

_____________________________________________
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT]
Dear Sir or Madam:

I wish to change the title of all of my accounts (other than any IRA accounts). Please change the owner of each account to the following:

    FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

Please find a copy of a Certificate of Trust Establishment and Authority which documents the establishment of my trust and sets out my unlimited powers for my future handling of the account as Trustee. Please continue to use my Social Security Number (123-45-6789) as the Tax Identification Number; pursuant to IRS Regulation 1.671-4(b), no separate Tax Identification Number is required for this type of trust.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

    FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
IRA Change of Beneficiary

Re: IRA Account:
    SSAN: 123-45-6789

Dear Sir or Madam:

I wish to change the beneficiary of the above-referenced account. Please re-title your records (or provide me with the appropriate Change of Beneficiary form to effectuate this change) to the following:

    FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

    Sincerely yours,

    FRANK J. SMITH

    321 Central Avenue
    Hometown, California 98765
Re: Account Number: 
SSAN: 123-45-6789

Dear Sir or Madam:

Please use this letter as your authorization to journal all securities and cash from the above-captioned account into a new account in the following name:

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

Please find a copy of a Certificate of Trust Establishment and Authority which documents the establishment of my trust and sets out my unlimited powers for my future handling of the account as Trustee. Please continue to use my Social Security Number (123-45-6789) as the Tax Identification Number; pursuant to IRS Regulation 1.671-4(b), no separate Tax Identification Number is required for this type of trust. In addition, please retain all existing rights, authorizations, and privileges for the new account.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
Re: Direct Registration Account No.:
SSAN: 123-45-6789

Dear Sir or Madam:

I have recently established a revocable inter-vivos trust. I wish to transfer the above-mentioned Direct Registration Account to my Trust. Please use this letter as your authorization to re-title the account in the following manner:

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

Please find a copy of a Certificate of Trust Establishment and Authority which documents the establishment of my trust and sets out my unlimited powers for my future handling of the account as Trustee. Please continue to use my Social Security Number (123-45-6789) as the Tax Identification Number; pursuant to IRS Regulation 1.671-4(b), no separate Tax Identification Number is required for this type of trust. In addition, please retain all existing rights, authorizations, and privileges for the new account.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
Re: Direct Registration Account No.:  
Certificate(s) Number(s):  
SSAN: 123-45-6789

I have recently established a revocable inter-vivos trust. I wish to transfer the above-mentioned Direct Registration Account to my Trust. Please use this letter as your authorization to re-title the account in the following manner:

    FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

Also enclosed herewith, please find the above-mentioned certificate(s) for ______ shares of the company represented by the Direct Registration Account. Please add these shares to the new Direct Registration Account; it is my desire that you hold all of my shares in the company in this account.

Please find a copy of a Certificate of Trust Establishment and Authority which documents the establishment of my trust and sets out my unlimited powers for my future handling of the account as Trustee. Please continue to use my Social Security Number (123-45-6789) as the Tax Identification Number; pursuant to IRS Regulation 1.671-4(b), no separate Tax Identification Number is required for this type of trust. In addition, please retain all existing rights, authorizations, and privileges for the new account.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

    Sincerely yours,

    FRANK J. SMITH

    321 Central Avenue
    Hometown, California 98765
Life Insurance Change of Beneficiary

Re: Life Insurance Policy No.:  
Insured: FRANK J. SMITH

Dear Sir or Madam:

I have created a revocable inter-vivos trust. In this connection, I wish to change the beneficiary of the above-referenced policy to the trustee of the trust. Please send me the appropriate Change of Beneficiary form to effectuate this change along with a copy of this letter. The new beneficiary will be:

The Then-Acting Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
Annuity Contract Change of Owner and Beneficiary

Re: Annuity Contract No.:  
Annuitant: FRANK J. SMITH

Dear Sir or Madam:

I have created a revocable inter-vivos trust. In this connection, I wish to change the owner and beneficiary of the above-referenced contract to the trustee of my trust. Please send me the appropriate Change of Ownership and Change of Beneficiary form(s) to effectuate these changes. The new owner and beneficiary will be:


If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
Re: Plan:
Employee: FRANK J. SMITH
SSAN: 123-45-6789

Dear Sir or Madam:

I wish to change the beneficiary of all death benefits which may become payable to me as a participant in the above-described retirement plan. The new beneficiary shall be, effective immediately, the following:

The Then-Acting Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

If you have any questions regarding this transfer, please contact me at the address below, or telephone me at (888) 555-5555. Thank you for your cooperation.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
ASSIGNMENT OF INDEBTEDNESS

(PROMISSORY NOTE)

WITHOUT CONSIDERATION, the undersigned does hereby assign and transfer to:

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

all of his right, title and interest in and to that certain Promissory Note dated ________________________, in the Principal Amount of $______________, and made by and between FRANK J. SMITH, as payee, and ____________________________, as payor.

Executed on __________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
ASSIGNMENT OF DEED OF TRUST

FRANK J. SMITH,

the beneficiary under the Deed of Trust executed by

_____________________

and recorded on __________________, in the Office of the Recorder of the County of __________________, State of ________________, as Document No. ______________, and given to secure the payment of a Promissory Note for the principal sum of $____________ and interest, does hereby ASSIGN AND TRANSFER to:

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999, all of his right, title and interest in said Note and all rights accrued or to accrue under said Deed of Trust.

Executed on _________________, 2007, in Monterey County, California.

FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
ASSIGNMENT OF BUSINESS INTEREST

WITHOUT CONSIDERATION, the undersigned does hereby assign, transfer, grant and set over to

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

all of his right, title and interest in the business entity known as FRANK SMITH ENTERPRISES, 321 Central Avenue, Hometown, California; and shall include, but not be limited to, the goodwill, accounts receivable, equipment, inventory, bank accounts and all other assets of the business of whatever manner, wherever located, and whenever acquired.

The foregoing assignment and transfer shall apply even though “record” ownership or title, in some instances, may, presently or in the future, be registered in my individual name, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed.

Executed on _________________, 2007, in Monterey County, California.

FRANK J. SMITH

[NOTARY ACKNOWLEDGEMENT]
ASSIGNMENT OF PARTNERSHIP INTEREST

WITHOUT CONSIDERATION, the undersigned does hereby assign, transfer and set over to

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

all of his right, title and interest in the General Partnership known as ___________________________; and shall include, but not be limited to, the goodwill, accounts receivable, equipment, inventory, bank accounts and all other assets of the partnership.

The foregoing assignment and transfer shall apply even though “record” ownership or title, in some instances, may, presently or in the future, be registered in my individual name, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

ACCEPTANCE OF SUBSTITUTION

The undersigned hereby accepts the foregoing assignment and agrees to be bound by the terms of the Partnership Agreement and to accept all of the benefits and assume all of the liabilities attributable to its assignor.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH
Trustee

[NOTARY ACKNOWLEDGEMENT]
ASSIGNMENT OF LIMITED PARTNERSHIP INTEREST

WITHOUT CONSIDERATION, the undersigned does hereby assign, transfer and set over to

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

all of his right, title and interest in the Limited Partnership known as

_________________________________________________.

The foregoing assignment and transfer shall apply even though “record” ownership or title, in some instances, may, presently or in the future, be registered in my individual name, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

ACCEPTANCE OF SUBSTITUTION

The undersigned hereby accepts the foregoing assignment and agrees to be bound by the terms of the Partnership Agreement and to accept all of the benefits and assume all of the liabilities attributable to its assignor.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH,
Trustee

[NOTARY ACKNOWLEDGEMENT]
ASSIGNMENT OF LIMITED LIABILITY COMPANY INTEREST

WITHOUT CONSIDERATION, the undersigned does hereby assign, transfer and set over to

FRANK J. SMITH, as trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999,

all of his right, title and interest in the Limited Liability Company known as

_________________________________________________.

The foregoing assignment and transfer shall apply even though “record” ownership or title, in
some instances, may, presently or in the future, be registered in my individual name, in which
event such record ownership shall hereafter be deemed held in trust even though such trusteeship
remains undisclosed.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH

ACCEPTANCE OF SUBSTITUTION

The undersigned hereby accepts the foregoing assignment and agrees to be bound by the
terms of the Limited Liability Company Agreement and to accept all of the benefits and assume
all of the liabilities attributable to its assignor.

Executed on ________________, 2007, in Monterey County, California.

____________________________________
FRANK J. SMITH,
Trustee
Deed of Mineral Rights

RECORDING REQUESTED BY:
FRANK J SMITH

WHEN RECORDED, MAIL TO
Mr. Frank J. Smith
123 4th Street
Hometown, CA 90000

APN: ______________________

The undersigned Grantor declares that this conveyance transfers Grantor's interest to Grantor's Revocable Trust for no consideration. This transaction is exempt from the Documentary Transfer Tax pursuant to R & T Code §11930.

GRANT DEED TO A REVOCABLE TRUST

FRANK J SMITH, the GRANTOR,

HEREBY GRANTS TO
FRANK J SMITH, as Trustee of THE FRANK J. SMITH LIVING TRUST, U/A dated ________________, 20___, the GRANTEE,

All of his right, title and interest (as a mineral interest and not as a royalty interest), in and to all oil, gas, minerals and mineral rights upon and under THAT PROPERTY situated in the County of Tulare, State of California, bounded and described as set forth in Exhibit “A” (attached hereto and incorporated herein by reference).

The then-acting Trustee has the power and authority to encumber or otherwise to manage and dispose of the hereinabove described real property; including, but not limited to, the power to convey.

Executed on this _____ day of ____________, 20___, in Monterey County, California.

____________________________________________
FRANK J SMITH

[NOTARY ACKNOWLEDGEMENT]

MAIL TAX STATEMENTS AS CURRENTLY SHOWN
September 12, 2016

Mr. Frank J. Smith
321 Central Avenue
Hometown, California 98765

Re: Fee Arrangement

Dear Frank:

This letter is to confirm our meeting on November 14, 2005, and I look forward to working with you. As your attorney, I am regulated by State law to provide you with a written fee arrangement between attorney and client. This letter will outline the basis upon which I will provide legal services to you with respect to your estate planning and the manner in which I will bill for services rendered and any disbursements incurred.

As we discussed, I will prepare the following documents on your behalf:

1. A Restated Amendment to your Living Trust Agreement;
2. A “Pour-Over” Will;
3. A Certificate of Trust;
4. A General Power of Attorney;
5. A Health Care Directive;

My fee will also include all necessary office meetings, letters and telephone conversations. The fee for these services will be $1,000 (exclusive of out-of-pocket costs, such as recordation expenses and charges for re-registration of assets [if any]). In the event any further legal services should become necessary (i.e., drafting and recording of additional deeds or the transfer of other assets), such services will be billed at my normal hourly rate of $300 plus costs.

Please note that my services do not include any specific tax advice. You must consult your accountant or other tax advisor for any specific tax advice regarding your estate plan.
If the foregoing outline of our engagement and fees meets with your approval, please sign the copy of this letter and return in the enclosed envelope with your $500 retainer check. I will then prepare a draft of your new estate planning documents and send them to you for your review.

I look forward to being of further assistance to you. If you have any questions, please do not hesitate to contact me.

Sincerely yours,

YOUR NAME
Attorney-at-Law

The above agreement is confirmed.

Dated: _________________

FRANK J. SMITH
Dear John and Mary:

You have asked me to assist you both in planning your estate and in preparing the necessary estate planning documents. Although it is customary for a husband and wife to employ the same attorney to assist them in such matters, the Rules of Professional Conduct of the State Bar of California require me to inform you in writing of the following potential conflicts of interest:

1. A husband and wife may have conflicting interests concerning their property. If, as you request, I act as the attorney for both of you for your estate planning, I must try to balance all factors and cannot, therefore, act as an advocate for either of you. This balancing could end up favoring one of you to the detriment of the other.

2. To complete your estate planning, I must necessarily obtain confidential information from each of you. However, as between the two of you, I cannot keep that information confidential since I am representing both of you. Of course, anything either of you discuss with me is privileged from disclosure to third parties.

3. I may make recommendations which could affect each of your interest in your assets both during your lifetimes, after the first death and after the death of the survivor. There could be a conflict in the determination of what is community property, quasi-community property and separate property which may be more beneficial for one of you than the other. These determinations could potentially affect income, property division and support provisions in the event of divorce.

Based on the foregoing, you must decide whether or not you want me to represent both of you in your estate planning. You are each, of course, welcome to have your own counsel for any part or all of the matters in which I would be acting; in addition, either of you may, at any time, forbid me from being involved in any way on behalf of the other. If you wish me to proceed, please execute the acknowledgement below.

Sincerely yours,

YOUR NAME
Attorney-at-Law

We have each read the foregoing and understand that there could be serious potential conflicts of interest between ourselves in the estate planning matters about which we are consulting you. If, and to the extent that either of us wish to have separate counsel or desire you to not be involved at all, that spouse shall notify you. We each hereby consent to having you represent both of us in our Estate Planning. We each understand that, while you are representing both of us on the same matter, there is no confidential communications as between the two of us and you.

JOHN SMITH

MARY SMITH
Billing Statement

Law Offices of Your Name
Attorney-At-Law
123 Park Avenue
Hometown, California 98765
TELEPHONE: (888) 555-0000 -- FACSIMILE: (888) 555-0001
E-Mail: YourName@aol.com

Mr. Frank J. Smith
321 Central Avenue
Hometown, California 98765

March 1, 2007

DESCRIPTION OF SERVICE OR COST AMOUNT

RESTATED TRUST PACKAGE, including:
Review and analysis; conferences; preparation and execution of Restated Amendment, Pour-over Will, Certificate of Trust, Durable Power of Attorney, Advance Health Care Directive, and Miscellaneous Estate Planning Documents. $1,000.00

Reproduction Charge $10.00

Less Retainer Payments Received <$500.00>

AMOUNT DUE THIS BILL $510.00

THANK YOU FOR LETTING US BE OF SERVICE TO YOU
Mr. Frank J. Smith  
321 Central Avenue  
Hometown, California  98765

<table>
<thead>
<tr>
<th>DESCRIPTION OF SERVICE OR COST</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESTATED TRUST PACKAGE:</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Reproduction Charge</td>
<td>$10.00</td>
</tr>
<tr>
<td>Less Retainer Payments Received</td>
<td>&lt;$500.00&gt;</td>
</tr>
</tbody>
</table>

AMOUNT DUE THIS BILL  $510.00

DATE SIGNED: ________________, 2007

PAYMENTS RECEIVED:

$______________  ________________, 2005

$______________  ________________, 2005
NOTICE AND ACKNOWLEDGMENT

To:  Mr. Frank J. Smith
     321 Central Avenue
     Hometown, California  98765

I have accepted your estate planning documents for safekeeping. By law, I must use ordinary care for preservation of these documents.

You must keep me advised of any change in your address shown above. If you do not and I cannot return these documents to you when necessary, I will no longer be required to use ordinary care for their preservation, and I may transfer them to another attorney, or I may transfer them to the clerk of the Superior Court of the county of your last known domicile and give notice of the transfer to the State Bar of California.

If you have any questions, please do not hesitate to ask me.

Very truly yours,

YOUR NAME,
Attorney-at-Law

My address shown above is correct. I understand that I must keep you advised of any change in this address.

Executed on ________________, 2007, in Monterey County, California.

________________________________________________________________________

FRANK J. SMITH
September 12, 2016

Mr. Frank J. Smith  
321 Central Avenue  
Hometown, California  98765

Re: THE FRANK J. SMITH LIVING TRUST

Dear Frank:

Enclosed please find for your review a draft of the following documents:

1. The Restated Amendment to The Frank J. Smith Living Trust.
2. Certificate of Trust.
3. The Last Will and Testament.
5. A Health Care Directive (which includes the “Living Will” language).
6. Assignment of Personal Effects.
7. Final Disposition Instructions.

I will not attempt in this letter to set forth all the relevant provisions of these trust documents which, as might be expected, contain a great deal of technical language. However, the gist of the documents may be generally summarized as follows:

The Restated Amendment to your Trust Agreement:

The Trust continues to be fully revocable or changeable during your lifetime. You may continue to use your Social Security Number on all accounts; no special tax identification number is required and no special accounting or tax returns need be filed.

The Trust names you as the trustee of your own property and in the event you are unable to continue as trustee, Paragraph 2.C. designates the successor trustees.

As I advised you, the principal purpose of this Trust is to avoid probate of the assets of your Trust Estate and the time and expense which is involved in a probate proceeding. The Trust essentially
acts in place of a will to make sure that your property passes to your beneficiaries with a minimum of hassle and expense. As we discussed, it is extremely important that all assets which are to be included in your Trust (i.e., real property, life insurance policies, savings accounts, stocks and bonds) are actually titled in the name of the Trust. There will be more detail on this when I return the executed documents to you.

Another advantage to your Trust is that it allows your designated successor trustee to promptly take over the management of your affairs if you should become unable to manage your affairs due to illness, accident, Alzheimer's, etc. This avoids the potentially embarrassing, expensive and lengthy court process of a conservatorship.

Will:

Your Will is commonly referred to as a “pour-over” will. Under the Will, any assets held by you which have not previously been transferred into the Trust will be added to the Trust at the time of your death (but may have to be subject to a probate administration in order to do so).

Certificate of Trust Establishment And Authority:

The Certificate of Trust sets forth the existence of the Trust and your unlimited right as Trustee to deal with any account or asset held in the Trust. The Certificate acts as a short version of the Trust Agreement and gives any third party all the information required from the Trust without getting into the dispositive provisions, which are (and should remain) confidential.

The Durable Power of Attorney for Management of Property and Personal Affairs:

The Durable Power of Attorney is a “general power of attorney”. This document is primarily intended to give your named agent the power to deal with any trust or non-trust assets in the event of your incapacity. However, this document gives your agent broad powers to dispose of, sell, convey and encumber your real and personal property; if you have any concern about granting such broad powers, please contact me at once.

Advance Health Care Directive:

The Advance Health Care Directive gives your named agent the power to make medical decisions, sign consents and/or releases with hospitals and/or doctors. It also acts as your “living will” for end-of-life decisions.

Assignment of Personal Effects:

This Assignment acts as the method of transferring all personal property assets (generally they do not have a title or an ownership document) to the Trust (thereby avoiding the necessity or possibility of having to probate such assets).
Please review carefully. If you have any questions regarding the enclosed documents or if there are any changes which need to be made, please call me right away. When you are finished reviewing, please contact the office for an appointment.

Very truly yours,

Your Name
Attorney-at-Law

Encl.
Pursuant to the terms of THE FRANK J. SMITH LIVING TRUST, I am making the following designations for the distribution of my tangible personal property and personal effects at my death:

Dated: __________________________

FRANK J. SMITH
DECLARATION AND CERTIFICATION OF COUNSEL

The undersigned hereby makes the following declaration:

1. I am a member of the California Bar Association and I am actively engaged in the practice of law in the State of California.

2. I have reviewed that certain unrecorded trust agreement known as THE FRANK J. SMITH LIVING TRUST, U/A dated June 1, 1999.

3. Based on the terms and conditions set out in said Agreement, as well as the applicable provisions of California law, said Trust is a valid California trust.

4. FRANK J. SMITH was the Settlor and original Trustee of said Trust.

5. Pursuant to Article IV of said Trust, the Trustee has the power to do and perform any and all acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property. In addition, the Trustee is specifically authorized and empowered to those powers set forth in Exhibit A (attached hereto). Such powers are the same as the powers attached to the trust itself. This Exhibit specifically gives the Trustee the power to encumber and/or sell trust assets.

6. I certify that I have compared the attached copy with the original and it is a true and correct copy; further, I certify that none of the provisions of the submitted text is limited or modified by any other provision of the Trust or any Amendment to the Trust; and, finally, said Trust is still in full force and effect.

Executed under penalty of perjury on September 12, 2016, at Hometown, California.

YOUR NAME
Attorney-at-Law
Dear Sir:

You have my original estate planning documents in your files. I have decided to retain Your Name, Esq. as my new attorney. Please forward any of my original documents to the following address:

Your Name, Esq.
Law Offices of Your Name
555 Park Avenue
Hometown, California 98765

In addition, please forward any of my other papers or files which you may currently have in your possession. Thank you for your cooperation and consideration in this matter.

Sincerely yours,

FRANK J. SMITH

321 Central Avenue
Hometown, California 98765
ESTATE PLANNING

PORTFOLIO

OF

FRANK J. SMITH

Prepared By:

YOUR NAME
Attorney at Law
555 Park Avenue
Hometown, California 98765
(888) 555-1111
Funding CYA

Law Offices of Your Name
Attorney-At-Law
555 Park Avenue
Hometown, California  98765
TELEPHONE: (888) 555-1111 -- FACSIMILE: (888) 555-1112
E-Mail: YourName@aol.com

NOTICE AND ACKNOWLEDGMENT

Dear Frank:

You have now executed the estate planning documents which I have prepared for you according to your instructions. By signing below, you acknowledge that you understand that only the assets properly titled in your Living Trust will avoid probate upon your death and that I do not assume liability or responsibility for the transfer of your stocks, bonds, bank accounts or other assets to your Living Trust.

I have advised you of the procedure to be followed to transfer your assets, whether presently owned or later acquired, from your individual name to the name of your Trust. In addition, I have included written instructions for funding the Trust with the Portfolio containing your estate planning documents; it is important that you take the time to review these instructions. Finally, it is understood that you may call the office at any time to ask questions concerning your Trust, including questions pertaining to funding or re-titling assets; however, questions relating to IRA’s, pensions, Keough’s, 401(k)’s, or other retirement benefits (including beneficiary designations) should be directed to your tax advisor, as there could be important income tax considerations.

It has been a pleasure assisting you, and I look forward to working with you in the future.

Sincerely yours,

YOUR NAME
Attorney-at-Law

I acknowledge receiving Trust Funding Instructions from Law Offices Of Your Name and understand that I may contact the office of Law Offices Of Your Name at any time in the future for further instructions concerning the proper funding of my Living Trust.

Dated: ____________________.

________________________________
FRANK J. SMITH
September 12, 2016

Mr. Frank J. Smith
321 Central Avenue
Hometown, California 98765

Re: Instructions For Restated Amendment to Living Trust

Dear Frank:

Enclosed please find the copies of the estate planning documents you have recently completed. Now that your Restated Amendment has been signed and implemented, I want to leave you with this letter of instructions for future reference. As we discussed, the most important thing for you to remember is the necessity of titling all existing assets (other than automobiles, checking accounts, IRA accounts and/or other retirement benefits) and all subsequently acquired assets in the name of the Trust; the responsibility is yours to make sure all assets are properly in the trust. Property and assets which are not titled in the name of your Trust may be required to pass through a probate administration (if in excess of the “Small Estate Set-Aside Procedures”), could potentially not be subject to the terms of your Trust and could have adverse income and estate tax consequences. To assist you with this transfer process, I have enclosed a document entitled “Instructions for Transferring Assets to Your Living Trust”. The title for the assets owned by the Trust will be:

   FRANK J. SMITH, as Trustee of , U/A dated June 1, 1999.

Also enclosed is additional copy of the Certification of Trust. The Certification sets forth the existence of the Restated Amendment and your unlimited right as Trustee to deal with the trust accounts; this acts as a short version of the Trust Agreement and gives any third party all the information required from the Trust without getting into the dispositive provisions, which are, and should remain, confidential. If any institution should request a copy of the Trust, please provide them with a copy of the Certification. Please continue to use your Social Security Number on all accounts; no special tax identification number is required and no special accountings or tax returns need be filed.

I would suggest keeping a current listing (at least as of the first of each year) of your assets with your trust documents. This could serve as a reference point for your successor Trustee in the event of death.
As we discussed, the Will is referred to as a “Pour-Over Will” because it instructs your Executor to distribute, at your death, any non-trust assets to the Trust; however, it may require a probate administration to make this distribution (this is why it is so important to make sure you have all of your assets titled in the name of the Trust). The Advance Health Care Directive gives your named agents the power to make medical decisions, sign consents and/or releases with hospitals and/or doctors; it also acts as your “living will” for end-of-life decisions. I have provided you with an additional copy (you will need to make more copies as necessary). I suggest that you give a copy to your doctors for inclusion in your medical files and that you give a copy to your successor agent. The Durable Power of Attorney for Management of Property and Personal Affairs is a “general power of attorney”; this document is primarily intended to give your named agents the power to deal with any assets (including those in the trust) in the event of your temporary incapacity; however, as we have previously discussed, please be reminded that this document gives your named agent broad powers to dispose of, sell, convey and encumber your real and personal property. Also enclosed, you will find the Distribution of Personal Effects form for your completion (if you desire).

The present federal estate tax exemption is $3,500,000 (this is the amount of your assets which can pass to your heirs “estate tax free”). The estate tax is currently subject to complete phase out in 2010, but a so-called “sunset” provision reinstates the estate tax back to $1,000,000 in 2011. In view of the present federal deficit and economic climate, I suspect that Congress will reinstate the estate tax in some form in 2010 although I doubt it will roll-back to the $1,000,000. Of course, I will notify all my clients of any changes to the estate tax law.

Although the assets in the trust will not require any formal probate administration in the event of your death, there are often important tax decisions which must be formally made and implemented as well as some re-titling issues. Therefore, you should notify your successor Trustee to contact this office or a qualified tax professional immediately if anything should happen to you.

Finally, as before the Trust and the related documents are fully revocable or changeable during your lifetime; however, these documents have been executed with certain formalities and may be changed or revoked only through similar procedures. Accordingly, if there are any other changes in your dispositive desires or the people you wish to carry out these desires, you should contact me or another attorney in order to revoke or amend any of the documents. Other than the above, there is no need to handle your affairs any differently than you are doing right now, and I am sure you will find the Trust not to be any inconvenience or trouble whatsoever.
If you have any questions relating to the Trust or the titling of any asset in the Trust, please do not hesitate to contact this office immediately.

Sincerely yours,

YOUR NAME
Attorney-at-Law

Encl.
Funding Instructions

INSTRUCTIONS FOR TRANSFERRING ASSETS TO TRUST

The following information outlines the method by which assets should be transferred into your Revocable Living Trust. If you are uncertain how to initiate a transfer or if you receive CONFLICTING information, please contact this office so that we may assist you.

REMEMBER, YOU ARE RESPONSIBLE FOR KEEPING YOUR TRUST FUNDED DURING YOUR LIFETIME.

A. REAL PROPERTY

Most real estate should be held in the name of the Trust. To transfer real property into your Trust, a new deed reflecting the name of the Trust must be executed, notarized and recorded with the County Recorder in the County where the property is located. Care must be taken that the exact legal description in the existing deed appears on the new deed. If the deed is not executed properly and title of your real estate is not in the name of your Trust on your death, a probate proceeding may be needed to confirm that property to your beneficiaries.

If you have not already provided this office with the necessary documents relating to your real estate holdings, please forward copies of grant deeds and copies of the tax bills which you receive from the Assessor’s office to us as soon as possible so that we may assist you in a proper transfer. Please do not send the original deed, a copy is sufficient. Our office does not transfer out of state property or mobile homes. Further, we do not make an independent determination regarding the copy of the deed you provide; therefore, it is imperative that you supply our office only with copies of recorded grand deeds on property you currently own or in which you currently have an interest.

There will be no reassessment of your property under Proposition 13 as a result of this transfer. At the time of recording the Grant Deed, a “Preliminary Change of Ownership Report” must also be filed to prevent reassessment.

Federal law prohibits acceleration of any indebtedness by any lending institution or private individual on a transfer of residential real estate into a revocable trust. However, where there is an existing indebtedness on real estate other than residential (e.g., commercial and/or multi-unit), it will be necessary to contact the financial institution holding either the mortgage or deed of trust before placing it in the name of the Trust. The failure to obtain the lender’s consent to the transfer of non-residential property could potentially lead to the lender attempting to accelerate the loan based on a “due-on-sale” clause contained in the note or deed of trust. Typically, such consent will be granted by the lender after it has reviewed the Certificate of Trust and the appropriate assignment documents have been executed.

There can be special problems with the transfer of property held under a land lease; therefore, you should obtain the appropriate advice prior to any such transfer. If you purchased a home under the Cal-Vet program, you should contact the Department of Veterans Affairs for the proper method of transferring your purchase contract to your Trust.

When your insured property (e.g., your residence) has been re-titled in the name of your Trust, you should notify the insurance company (or agent) of the transfer and ask whether any change in the policy is required. This should apply to both casualty and liability insurance. It may be desirable for the policy to indicate that the Trust is an additional insured.
Please note that if you should refinance or borrow against your property, the lender or the title company may require that the property be transferred out of your Trust and into your name as an individual (this saves the lender and the title company the task of reading the trust in order to verify that it does not contain any terms or conditions which could interfere with the lender’s security interest). Be sure that you ask the title company to prepare and record a deed transferring the property back into the Trust as soon as the refinancing is complete. If this does not occur, probate of the property may be necessary. In the event the title company will not cooperate, be sure to contact me (or another attorney) so that I can prepare and record the appropriate deed to return the property to your Trust.

As you acquire new property, simply instruct the escrow officer handling the transaction that you wish to have the title recorded in the name of your Trust. You may need to provide the escrow officer or title company with a copy of the Certificate of Trust.

B. SECURITY INTERESTS

Most real estate security interests (e.g., sales contracts or deeds of trust) should be held in the name of the Trust. To transfer security interests into your Trust, an assignment of the contract/deed of trust reflecting the name of the Trust must be executed, notarized and recorded with the County Recorder in the County where the property is located.

C. OIL, GAS, AND MINERAL RIGHTS

Oil, gas and mineral rights are often the most troublesome of assets to transfer to a Revocable Living Trust. The reason for this is that, depending on the location or depending on how the assets came into existence, they may be treated either as an interest in real estate or an interest in personal property. Only through an examination of the title documents is it possible to determine the exact method by which such right should be transferred to the Trust.

D. BANK/SAVINGS ACCOUNTS/SAFETY DEPOSIT BOXES

The transfer of Money Market Accounts, Savings Accounts and Timed Deposits (CD’s) into your Living Trust can be accomplished quite easily. All you need do is provide your bank with a copy of the Certificate of Trust which has been prepared for you. You will then sign new signature cards as Trustee of your Trust. Generally you will not have to open new accounts to replace existing accounts; the only change is on the bank signature cards.

It is not necessary to hold your regular checking account in the name of the Trust; however, there is no harm in it.

When you open up new accounts, simply instruct the bank that you wish to have the title of the account in the name of your Trust. You may need to provide the bank with a copy of the Certificate of Trust.

Safety deposit boxes should be placed in the name of your Trust so your successor Trustee will have no difficulty in gaining access to the box.

E. STOCKS AND BONDS

To transfer stocks or bonds into the name of your Trust, a different procedure is used for privately held stock compared to that which is used for stock publicly traded on an exchange.
1. Privately Held Stock

The transfer of privately held security instruments, such as stocks in a privately held corporation, can be accomplished simply by surrendering the existing stock certificates and having new stock certificates prepared in the name of the Trust. This normally does not require a permit from a state agency, nor does it usually have any type of adverse tax consequence. However, the transfer of stock in a privately held corporation normally requires the approval of the corporation. Typically, such consent will be granted by the corporation after it has reviewed the Certificate of Trust and the appropriate assignment documents have been executed. Shares of individual professional corporations are usually not transferred to trusts because of statutory restrictions. You should obtain legal and tax advice prior to assigning any privately held stock or other security interest to your Trust.

2. Publicly Held Stock

In the case of publicly held stocks or bonds, it will be necessary to work through a stockbroker or through the institution from which the assets were purchased (such as a Dividend Reinvestment Plan or an Electronic Registration Plan). If you currently possess the certificate(s), the broker will require you to surrender the certificate(s) and sign certain transfer documents. We suggest that certificates always be sent certified mail. For a standard brokerage (and/or a mutual fund) account, all that is generally required is a request to the broker or account manager. They may also request a copy of the Trust Agreement, but frequently all that is required is a copy of the Certificate of Trust.

F. PARTNERSHIPS

Partnerships generally are either public or non-public.

1. Public

If a partnership was bought through a public offering, the institution making the sale should be contacted and given a copy of this instructional letter with a request that ownership name be changed to the name of the Trust. The institution may also require a copy of the Certificate of Trust Agreement.

2. Non-Public

The transfer to Trust of a non-public Partnership Interest (whether General or Limited) is generally accomplished by an Assignment which may or may not need the approval of the general partners or the approval of all the partners. The best way to proceed is to contact the general partners for guidance. Typically, such consent will be granted by the partnership after it has reviewed the Certificate of Trust and the appropriate assignment documents have been executed.

Further acquisition of partnership interests creates no problems. The purchase of the partnership interest is simply titled in the name of the Trust at the time of acquisition.

G. LIMITED LIABILITY COMPANIES

A trust can be a member of a limited liability company (“LLC”). The transfer of a LLC interest to a Trust may require the approval of the LLC. Typically, such consent will be granted by the LLC after it has reviewed the Certificate of Trust and the appropriate assignment documents have been executed.
If you acquire any future LLC interest, simply instruct the LLC that you wish to hold title in the name of your Trust. You will probably need to provide the LLC with a copy of the Certificate of Trust.

H. **BUSINESS INTERESTS**

Any other business interest or sole proprietorship can generally be transferred to the Trust by an “Assignment of Business Interest”. This document assigns all property/assets owned in the name of the business, for the purpose of determining title, into your Trust so that these interests will avoid probate. However, there may be specific issues with the transfer of interests in businesses (such as permits and licenses) and thus it is necessary that they be reviewed in detail before making the transfer. Accordingly, it is recommended that you obtain legal and tax advice prior to transferring any business interest to your Trust.

If you have a business interest in a franchise, any transfer of such interest to your Trust will probably require the consent of the franchisor. Typically, such consent will be granted by the franchisor after it has reviewed the Certificate of Trust and the appropriate assignment documents have been executed.

I. **INSURANCES AND ANNUITIES**

Life Insurances and Annuities are assets that may or may not need to be placed in Trust because the proceeds transfer contractually to the named beneficiary and, therefore, already avoid probate. However, if you wish the proceeds to be distributed in the same manner the other trust assets (which is usually the case), the Trust should be the beneficiary. You must instruct each insurance company or your insurance agent to designate your Trust as the beneficiary.

J. **IRA’s/KEOUGH’s/401(k)’s/ETC.**

An IRA, 401(k) plan or Keogh plan, wherever invested, must remain in the owner’s name and Social Security number. Between husband and wife, the Surviving Spouse is usually named the primary beneficiary and the Trust may be named the contingent beneficiary. Please realize that any change of a beneficiary designation of a retirement plan could have important income tax consequences; therefore, you should consult with your tax advisor prior to making any change.

K. **INTELLECTUAL PROPERTY**

Intellectual property assets such as copyrights, patents, trademarks and royalties that have significant value should be assigned to your Trust. This is normally accomplished by a specific assignment which should be acknowledged by a Notary. You may need to consult with an attorney who specializes in patents or copyrights prior to any transfer.

L. **MOTOR VEHICLES/RV’s/BOATS**

Automobiles, RVs, boats, etc. are items which are placed in your Trust by means of your “Assignment of Personal Property.” No Department of Motor Vehicle transfer is required.

M. **MOBILE HOMES**

Mobile homes may be placed into your Trust by contacting the State of California Department of Housing and Community Development. You may call toll-free (800) 952-8356 for the appropriate form(s) to effectuate this transfer. Please note that mobile homes less than eight and one-half (8 1/2) feet in width and forty feet in length are handled by the Department of Motor Vehicles.
N. PERSONAL PROPERTY

Personal property such as furniture, household effects, art work, jewelry, etc. should be transferred to the Trust. The “Assignment of Personal Property” document located in your Portfolio assigns all of the above-mentioned personal property into your Trust. This Assignment covers not only the property you currently own but any additional personal property acquired up to the date of death.

O. JOINT TENANCY

You should not hold any assets in joint tenancy, except for small checking accounts and automobiles. A joint tenancy asset will not be subject to the terms of the Trust, may frustrate your intentions and could have adverse income and estate tax consequences.

P. SEPARATE PROPERTY

In the event you should ever fund your Trust with any separate property, it must be specifically designated as the separate property of such spouse in order for such property to retain its character as separate property. For example, if a spouse receives an inheritance or gift in such spouse’s name, this property will be considered separate rather than community property. Unless the inheriting or gift recipient spouse wishes to change the character of the property from separate to community, the property must be specifically designated as such spouse’s separate property at the time it is transferred to the Trust. Changing the character of any property from separate to community may have significant income and estate tax consequences and could affect the division of property in the event you should dissolve the marriage. Therefore, you should obtain legal and tax advice prior to changing the character of any property from separate to community.

PLEASE REMEMBER THAT IF YOU HAVE ANY QUESTIONS CONCERNING TITLE TO A PARTICULAR ASSET WHICH IS NOT ANSWERED HERE, PLEASE CALL THIS OFFICE TO DISCUSS THE ISSUE.
Data Form for Single Client

CLIENT INFORMATION
[Strictly Confidential]

Legal Name: __________________________________________________________

Other Names used: ______________________________________________________

Address: ______________________________________________________________

County: ______________________ E-Mail: ________________________________

Telephone: (home)______________ (work)______________ (cell)

Date of Birth: _______________ Social Security No.: _______________

Business/Employer: _____________________________________________________

Marital Status: □ Never married □ Divorced □ Widowed □ Married

If married, name of Spouse: __________________________________________

US citizen? □ Yes □ No. If no, what nationality: ____________________________

CHILDREN: □ None

AGE or DOB

__________________________________________ _______________________

__________________________________________ _______________________

__________________________________________ _______________________

__________________________________________ _______________________

• Number of grandchildren: _______ Range of Ages: _________________

YES NO

• Any deceased children?

□ □

If yes, name: _________________________________________________

If yes, survived by issue?

□ □

If yes, name(s): _________________________________________________

________________________________________

________________________________________
- Do any of your beneficiaries have a learning disability, special educational, medical or physical needs?  
  | YES | NO |
  | □   | □  |

- Do you have any relatives (other than children) who depend on you for all or part of their support?  
  | YES | NO |
  | □   | □  |

- Do you think any of your beneficiaries have special problems with spouses, drugs, alcohol or handling money?  
  | YES | NO |
  | □   | □  |

- Do you wish to disinherit any of your children, grandchildren or any other close relative?  
  | YES | NO |
  | □   | □  |

- If a beneficiary dies before you, do you want the assets to go to that beneficiary’s issue?  
  | YES | NO |
  | □   | □  |

- Do you want assets passing to your beneficiaries to be held in trust until a specific age or ages?  
  | YES | NO |
  | □   | □  |

- Do you expect to inherit substantial assets ($100,000 +)?  
  | YES | NO |
  | □   | □  |

- Do you have an existing Will?  
  | YES | NO |
  | □   | □  |

- Have you ever executed a trust (either revocable or irrevocable)?  
  | YES | NO |
  | □   | □  |

- Have you ever filed a Federal Gift Tax Return?  
  | YES | NO |
  | □   | □  |

- Do you have an existing General Power of Attorney?  
  | YES | NO |
  | □   | □  |

- Do you currently hold any assets in Joint Tenancy with another person?  
  | YES | NO |
  | □   | □  |

- Do you wish to make anatomical bequests (organ donor)?  
  | YES | NO |
  | □   | □  |

- Do you wish to have a “Living Will”?  
  | YES | NO |
  | □   | □  |
• The name of the person(s) that you want to be the decision maker concerning your estate upon your death:

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________

• The name of the person(s) that you want to raise a child that is under 18 (if applicable):

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________

• The name of the person(s) that you want to make any major medical decisions on your behalf:

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________

• In general, state how you want your estate distributed among your beneficiaries?

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________

• State any specific concerns (not already mentioned) that you have regarding the distribution of your estate:

__________________________________________________________
__________________________________________________________
__________________________________________________________
__________________________________________________________
END-OF-LIFE DECISIONS

For California only

Initial the statement which best states your desires:

I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, I do not want efforts made to prolong my life and I do not want life-sustaining treatment to be provided or continued: (1) if I am in an irreversible coma or persistent vegetative state; or (2) if I am terminally ill and the use of life-sustaining procedures would serve only to artificially delay the moment of my death; or (3) under any other circumstances in which the burdens of the treatment outweigh the expected benefits. In making decisions about life-sustaining treatment under provision (3) above, I want my Agent to consider the relief of suffering and quality of remaining life as well as the extent of the possible prolongation of my life. I understand that if there is a conflict between my Agent’s decision and this statement, this statement shall take precedence.

For purposes of this statement:

(A) “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

(B) “An irreversible coma”, means a coma from which the treating physicians have reasonably concluded I will never regain consciousness.

(C) “Persistent vegetative state” means a state of permanent unconsciousness that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, is characterized by both of the following:

(i) I am irreversibly unaware of myself and my environment, and

(ii) There is a total loss of cerebral cortical functioning, resulting in my having no capacity to experience pain or suffering.

(D) “Terminal condition” means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by my attending physician and one other physician who has examined me, both of the following apply:

(i) There can be no recovery; and

(ii) Death is likely to occur within a relatively short time if life sustaining treatment is not administered.
I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, if in my Agent's judgment the burdens of the proposed treatment outweigh the expected benefits, then I desire that all life-sustaining treatment I desire that my Agent consider relief from suffering, preservation or restoration of functioning, and the quality as well as the extent of the life being preserved when decisions are made concerning life-sustaining care, treatment, services, and procedures. I trust my Agent, who knows my desires well, and in whose judgment I have absolute faith to exercise discretionary decisions in a manner that would be satisfactory to me. “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

I recognize that modern medical technology has made possible the artificial prolongation of my life beyond natural limits. I do not wish to artificially prolong the process of my dying if continued health care will not improve my prognosis for recovery or otherwise enable me to live a productive and/or enjoyable life. Therefore, if the extension of my life would result in a mere biological existence, devoid of cognitive function, with no reasonable hope for normal functioning, then I do not desire any form of life-sustaining procedures or, if life-sustaining treatment has been instituted, I desire that it be withdrawn. It is my desire that my Agent consider relief from suffering, preservation or restoration of functioning, and the quality as well as extent of the life being preserved when decisions are made concerning life-sustaining care, treatment, services, and procedures. In making the decision to withhold or remove treatment, my Agent should ask the question: “Is the proposed treatment an aid to recovery or merely a prolongation of inevitable death?” What is “reasonable,” what is “an aid to recovery,” and what is “merely a prolongation of inevitable death” shall be determined by my Agent after consulting with my attending physicians. “Life-sustaining treatment” means any medical procedure, treatment, intervention, or other measure including artificially or technologically supplied nutrition and hydration that, when administered, will serve principally to prolong the process of dying.

I express the desire that my life be prolonged to the greatest possible extent without regard for my physical or mental condition, chance of recovery, likelihood of suffering, or expense and authorize my Agent to consent to whatever medical procedures are necessary to accomplish this end. I trust my Agent, who knows my desires well, and in whose judgment I have absolute faith to exercise discretionary decisions in a manner that would be satisfactory to me.
**ESTIMATED* VALUE OF ESTATE**

<table>
<thead>
<tr>
<th>TYPE OF ASSET</th>
<th>ESTIMATED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>REAL ESTATE:</td>
<td>$________________</td>
</tr>
<tr>
<td>(fair market value, less loans)</td>
<td></td>
</tr>
<tr>
<td>SECURITIES:</td>
<td>$_______________</td>
</tr>
<tr>
<td>(stocks, bonds, mutual funds)</td>
<td></td>
</tr>
<tr>
<td>CASH TYPE ASSETS:</td>
<td>$_______________</td>
</tr>
<tr>
<td>(cash, annuities, notes due you)</td>
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<tr>
<td>BUSINESS INTERESTS:</td>
<td>$_______________</td>
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<tr>
<td>(sole proprietorship, partnerships,</td>
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<tr>
<td>closely held corporation, etc.)</td>
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<tr>
<td>RETIREMENT PLANS:</td>
<td>$_______________</td>
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<td>(IRA, 401k, etc.*)</td>
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<tr>
<td>VEHICLES:</td>
<td>$_______________</td>
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<tr>
<td>(autos, R.V., boat)</td>
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<tr>
<td>PERSONAL PROPERTY:</td>
<td>$_______________</td>
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<tr>
<td>(jewelry, furniture, antiques)</td>
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<tr>
<td><strong>TOTAL:</strong></td>
<td>$_______________</td>
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</tbody>
</table>

* Use best guess; this can be a “ballpark” estimate.

** Do not show benefits which will terminate at death (e.g., pension, social security, etc.).

Value of Life Insurance policies will be listed separately on the next page.
LIFE INSURANCE

(do not include accidental death policies)

- “Cash Value” use best estimate (term policies normally have no cash value)
- “Face Value” is the amount payable at death

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>CASH VALUE</th>
<th>FACE VALUE</th>
<th>BENEFICIARY</th>
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<tr>
<td>_________________</td>
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</tbody>
</table>
Trust Worksheet for a Couple

**COUPLE TRUST WORKSHEET**

Restated Amendment:  □ Yes □ No; If yes, date of trust: __________________________

If yes, did this office prepare original trust?: □ Yes □ No

Signing Date: □ Not Sure □ ________________; □ this will be date of documents.

Signing at Office: □ Yes □ No; If no, County for signing: □ Default □ ____________

Fee Quoted: □ $1,500 □ $2,000 □ $2,500 □ $____________

Correspondence Needed: □ Fee Agreement □ Send Draft □ Send Originals

**Information about Trust:**

Name of Trust:  The _________________ Living/Family Trust

□ Use Familiar (“We/our/ours”); otherwise, trust uses traditional “Settlors/Settlors’”

□ Joint Trust □ Reciprocal Trusts

If either spouse is a non-citizen, use a QDOT trust? [This will force the use of a QTIP] □

Yes □ No; otherwise:

□ Disclaimer Trust □ A/B Trust □ QTIP Trust □ QTIP with sprinkling □ Simple Trust

□ Both Settlors as co-trustees? Otherwise, who is sole trustee: □ Husband □ Wife

□ Exclude IRA/Retirement Plan language in Will

□ Any separate property? If yes, □ Both □ Husband □ Wife

If Using A/B Trust or QTIP:

Who is deemed to be the survivor if simultaneous death: □ Husband □ Wife

Power to change Decedent’s Trust: □ Limited to Issue □ Broadest Power □ No Power

□ Exhaust Survivor’s Trust before principal invasion of Decedent’s Trust? [Default is no]

□ Add discretionary power to invade Decedent’s Trust for children under 21?

□ Use GST language (divides Decedent’s Trust & QTIP into exempt and non-exempt trusts)?

□ If there is state estate tax, then fund a QTIP only for the state exclusion? [Default is no (i.e., a Federal QTIP is created as well)] {only needed for states with a separate estate tax}

**Optional Paragraphs:**

Do not include the standard definition of “Education”? □ Yes □ No (default)

Do not include an adopted person in the definition of “issue”? □ Yes □ No (default)

Are trustees fees for an individual limited to “reasonable fee”? □ Yes □ No (default)
Insert “Special Trustee” provisions?: □ Yes □ No (default)
Do not include the standard life insurance paragraph?: □ Yes □ No (default)
Taxes to be pro-rated between beneficiaries?: □ Yes □ No (default is paid from residue)

Successor Trustee Options:
□ Single Suc. Trustee □ 1 T’ee w/l named successor □ 1 T’ee w/2 co-T’ees as successor
□ Two co-T’ees only □ 2 co-T’ees w/l named suc. co-T’ee □ 2 co-T’ees w/survivor acting alone & then a named suc.
□ Three co-T’ees □ List of Successor Trustees in column format

Name and Relationship (and Address if needed) of Successor Trustees:
1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________

Co-Trustee Options: (if needed)
Individual Signature Power?: □ Yes (default) □ No.
Permit delegation of Trustee Authority?: □ Yes □ No (default)
Is a corporate fiduciary acting as a co-Trustee?: □ Yes □ No.; if yes, individual co-trustee:
  Prevails in matters of joint discretion?: □ Yes □ No
  Can remove Corporate co-Trustee and replace with another: □ Yes □ No

Executor Options: Same as Trustee?: □ Yes □ No; If no:
Name and Relationship (and Address if needed) of Executors (indicate if different between spouses):
1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________
□ Executors are the same for the General Power of Attorney?

Guardian Provisions: □ No □ Yes; if yes, □ Guardians same as Executors; If no:
Name and Relationship (and Address if needed) of Guardians (indicate if different between spouses):
1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________
**Distribution of Personal Property:** □ Exclude paragraph

□ Children □ Sons □ Daughters □ Son □ Daughter □ Spouse □ Residue

□ Trustee’s Discretion □ Other: ________________________________

□ Gift of Club Membership to ________________________________

□ Club: ____________________________ □ Adjust against share of Trust

□ **Any distributions at 1st Death?:**
  
  If Husband dies 1st: ________________________________

  ________________________________________________

  ________________________________________________

  ________________________________________________

  If Wife dies 1st:

  ________________________________________________

  ________________________________________________

  ________________________________________________

  ________________________________________________

□ **Different Distributions for each Spouse:**

  Husband: ________________________________

  ________________________________________________

  ________________________________________________

  ________________________________________________

  Wife:

  ________________________________________________

  ________________________________________________

  ________________________________________________

  ________________________________________________
Specific Distribution Options:

□ Gifts of Cash: Number of Gifts: ____________ $____________________

□ Class Gift to: □ Grandchildren □ ________________________________

□ Transfer gift using UTMA provisions

If a beneficiary is not alive, then to □ Issue (otherwise gift is added to residue).

□ Gifts to Charity: □ Exhibit “B” or ________________________________

□ Individual Gifts: □ Exhibit “B” or ________________________________

□ Transfer gift using UTMA provisions

If a beneficiary is not alive, then to □ Issue (otherwise gift is added to residue).

If UTMA, age for dist: □ 18 □ 21 □ 25

Custodian: □ Parent □ ________________________________

□ Gifts of a Percentage of Trust: Number of Gifts: ____________ _____%

□ Class Gift to: □ Grandchildren □ ________________________________

□ Transfer gift using UTMA provisions

If a beneficiary is not alive, then to □ Issue (otherwise gift is added to residue).

□ Gifts to Charity: □ Exhibit “B” or ________________________________

□ Individual Gifts: □ Exhibit “B” or ________________________________

□ Transfer gift using UTMA provisions

If a beneficiary is not alive, then to □ Issue (otherwise gift is added to residue).

If UTMA, age for dist: □ 18 □ 21 □ 25

Custodian: □ Parent □ ________________________________

□ Gift of Business to ____________________________________________

Name of Business: ______________________________________________

Address: □ Use residence; otherwise: ________________________________

If beneficiary is deceased, then to □ Beneficiary’s issue and if no issue, then

□ Residue □ As in Next ¶ □ To ________________________________

□ Option to Purchase Real Property

□ Children □ ___________________________________________________

% of FMV:______ □ Principal Residence □ _____________________________
Gifts of Real Property. Number of Gifts: __________

- Principal Residence
- ________________________________
  Beneficiary__________________________

If beneficiary is deceased, then to
- Residue
- As in Next ¶
- To ________________________________

Life Trust in Real Property to ________________________________

- Principal Residence
- ________________________________

- Beneficiary pays all normal expenses
- If yes: $__________  Income accrues; otherwise is paid to beneficiary

- Beneficiary can direct sale and buy another property of same or lesser value

At beneficiary’s death, then to
- Residue
- As in Next ¶
- To ________________________________

Life Trust to ________________________________

- _____%  $__________  Residue.

Paid as
- Unitrust (otherwise net income) _____%; Paid
- Monthly
- Annually

- Income only, no discretionary power to distribute principal

At beneficiary’s death, then to
- Residue
- As in Next ¶
- To ________________________________

Forgive indebtedness
- Adjust forgiveness against remainder of estate

Special Needs Trust for ________________________________

Funded with:
- Residue, _____% of trust, or $__________

- Non-distributed income accrues; otherwise to other child(ren).

At beneficiary’s death, then to
- Residue
- As in Next ¶
- To ________________________________

Charitable Foundation (named: ________________________________)

Funded with:
- Residue, _____% of trust, or $__________

% of prin. which can be distributed each year: ___

- # of Bd. Members :_____; Names: ________________________________

Limiting criteria (if any): __________________________________________
___________________________________________________________________
Non-Per Stirpes Distribution:

□ If clients have multiple children, but are distributing the residue to only one child

Name of Child: __________________________________________

(then select the appropriate “Per Stirpes Distribution” for how the distribution to this child should be made)

□ Distribute shares of residue to named beneficiaries. # of Shares to divide trust:______

Relationship to Clients: □ Children □ Sons □ Daughters □ Beneficiaries

Names: __________________________________________________________

______________________________________________________________

______________________________________________________________

□ Delay distributions to specified ages? □ Is a beneficiary currently under 21?

If share is to be held in trust, pay as □ ____% Unitrust (otherwise net income)

□ If a beneficiary is deceased, to beneficiary’s issue (otherwise, to other shares)?

□ Make second level distribution outright (otherwise held in trust to ages)

□ If the initial distribution was not equal, should the distribution of the share of a deceased beneficiary (if not survived by issue or if the option not to distribute to issue was selected) be made in the same relative proportions (otherwise, equally)?

If delay in distribution and/or distribution in trust to second level:

□ Single distribution □ Two step distribution □ Three step distribution

□ If single distribution, the age for income distribution and for principal distribution is the same: □ 18 □ 21 □ 23 □ 25 □ 30 □ ______

Otherwise,

Age for income distribution: □ 18 □ 21 □ 23 □ 25

Age for 1st principal distribution: □ 18 □ 21 □ 23 □ 25 □ 30 □ ______

Age for 2nd principal distribution: □ 25 □ 30 □ 35 □ 40 □ ______

Age for 3rd principal distribution: □ 30 □ 35 □ 40 □ 50 □ ______

□ Distribute to individuals or organizations as set forth on Exhibit “B” (details on separate list)

□ Distribute in following manner: __________________________________________

______________________________________________________________

______________________________________________________________
☐ Per Stirpes Distribution:

☐ Outright to Child or Children  ☐ Delay to Ages  ☐ Family Pot  ☐ Generation Skip

☐ Make second level distribution outright (otherwise held in trust to specified ages)

If Delay, Family Pot and/or Distribution in Trust to Grandchildren:

☐ Single distribution  ☐ Two step distribution  ☐ Three step distribution

☐ If single distribution, the age for income distribution and for principal distribution is the same:  ☐ 18  ☐ 21  ☐ 23  ☐ 25  ☐ 30  ☐ _______

Otherwise,

Age for income distribution (or Family Pot division):  ☐ 18  ☐ 21  ☐ 23  ☐ 25

Age for 1st principal distribution:  ☐ 18  ☐ 21  ☐ 23  ☐ 25  ☐ _______

Age for 2nd principal distribution:  ☐ 25  ☐ 30  ☐ 35  ☐ 40  ☐ _______

Age for 3rd principal distribution:  ☐ 30  ☐ 35  ☐ 40  ☐ 50  ☐ _______

If Delay, Family Pot and/or Generation Skipping Trust:

Paid as  ☐ Unitrust (otherwise net income); if Unitrust, yearly percentage: ______%

If Generation Skipping Trust:

☐ GST for Child’s estate tax only  ☐ GST language (otherwise, a “simple” GST)

☐ Each child is trustee of own trust  ☐ Each child is co-trustee with Corp. Trustee

☐ Sprinkling power (to child and gc)  ☐ Income continues to only child’s spouse

☐ Contingent Distribution:

☐ Exhibit “B”  ☐ ½ to Husband’s Heirs-at-Law & ½ to Wife’s Heirs-at-Law, otherwise,

☐ To  ____________________________________________

__________________________________________

__________________________________________

__________________________________________

__________________________________________

☐ Specific Disinheritance: ____________________________________________

☐ Exclude the issue of the above as well
General Power of Attorney:

☐ Alternate Agents  ☐ Joint Agents; if yes, ☐ All joint?  ☐ Two joint & 3rd as alternate?

☐ One Alternate Agent  ☐ Two Alternate Agents  ☐ Three Alternate Agents

☐ Springing Power  ☐ Run a Business  ☐ Make gifts (limited to annual exclusion)

☐ Same Agents for both spouses (if not, specify different Agents on next lines)

If different then the Trustees/Executors:

1st Alternate: ________________________________________________________________

2nd Alternate: ______________________________________________________________

3rd Alternate: ______________________________________________________________

☐ Agents are same for Health Care?

Health Care Directive:

☐ Alternate Agents  ☐ Joint Agents; if yes, ☐ All joint?  ☐ Two joint & 3rd as alternate?

☐ One Alternate Agent  ☐ Two Alternate Agents  ☐ Three Alternate Agents

☐ Same Agents for both spouses (if not, specify different Agents on next lines)

If different then the Trustees/Executors:

1st Alternate: ________________________________________________________________

2nd Alternate: ______________________________________________________________

3rd Alternate: ______________________________________________________________

☐ No anatomical gifts

☐ Standard Provisions

☐ Default End-of-Life  ☐ Agent’s Decision  ☐ Cognitive function  ☐ Keep alive

☐ Vegetative State  ☐ Senility  ☐ No CPR  ☐ No treatment
TRANSFER DOCUMENTS

☐ Deed for Principal Residence  APN: ____________________________

☐ Other Properties: ☐ Joint - #: ___ Counties: ____________________________
  ☐ Husband - #: ___ Counties: _________________________________________
  ☐ Wife - #: ___ Counties: ___________________________________________

☐ Bank letter  ☐ Bank IRA letter: ☐ Husband - #: ___  ☐ Wife - #: ___

☐ Investment Options:
  ☐ Brokerage or Mutual Fund Accts: ☐ Joint - #: ___  ☐ Husband - #: ___  ☐ Wife - #: ___
  ☐ Direct Registration Acct(s): ☐ Joint - #: ___  ☐ Husband - #: ___  ☐ Wife - #: ___
  ☐ Brokerage or Mutual Fund IRA Accounts: ☐ Husband - #: ___  ☐ Wife - #: ___

☐ Insurance Options:
  ☐ Insurance Policies: ☐ Husband - #: ___  ☐ Wife - #: ___
  ☐ Annuity Policies: ☐ Joint - #: ___  ☐ Husband - #: ___  ☐ Wife - #: ___
  ☐ Insurance IRA Accounts: ☐ Husband - #: ___  ☐ Wife - #: ___

☐ Security Options:
  ☐ Notes (no deed of trust): #: ______
  ☐ Deeds of Trust: ☐ Joint - #: ___  ☐ Husband - #: ___  ☐ Wife - #: ___

☐ Miscellaneous Options:
  ☐ General Partnership: #: ______.
    Name: _____________________________________________________________

  ☐ Limited Partnership: #: ______.
    Name: _____________________________________________________________

  ☐ Business Interest: Name: __________________________________________
    Address: __________________________________________________________________

☐ Other Real Estate Options:
  ☐ Affidavit of Death  ☐ Joint Tenant:
    ☐ Husband - #: ___ Counties: __________________________________________
    ☐ Wife - #: ___ Counties: ____________________________________________
  ☐ Mineral Rights: ☐ Joint - #: ___ Counties: _____________________________
    ☐ Husband - #: ___ Counties: ________________________________________

________________________________________________________________________
☐ Wife - #: ___
Counties: ________________________________