



LAW OFFICES OF  
ROBERT K WRIGHT

JUN - 5 2015

RECEIVED

Article	Section	Page
ARTICLE 1:	RESTATEMENT OF THE TRUST	1
ARTICLE 2:	DECLARATION REGARDING FAMILY	2
ARTICLE 3:	<u>Second Amendment to and Restatement of the Declaration of Trust</u>	3
ARTICLE 4:	AMENDMENT AND <u>and Trust Agreement</u>	4
ARTICLE 5:	TRUST ADMINISTRATION <u>of the</u> BOTH SETTLORS ARE LIVING	2
ARTICLE 6:	TRUST ADMINISTRATION <u>Vacek Family Trust of 1994</u> DEATH OF DECEDENT	11
ARTICLE 7:	TRUST ADMINISTRATION AFTER DEATH OF SURVIVOR	16
ARTICLE 8:	RETIREMENT ACCOUNTS	23
ARTICLE 9:	PROVISIONS REGARDING THE TRUSTEE	32
ARTICLE 10:	POWERS OF THE TRUSTEE	47
ARTICLE 11:	ADMINISTRATIVE PROVISIONS	62
ARTICLE 12:	MARITAL DEDUCTION PROVISIONS	70
ARTICLE 13:	GENERATION SKIPPING TAX PROVISIONS	72
ARTICLE 14:	TAXES	77
ARTICLE 15:	INTEREST	79
ARTICLE 16:	GENERAL PROVISIONS	80

Second Amendment to and Restatement of the Declaration of Trust  
and Trust Agreement

of the

Vacek Family Trust of 1994

Index

<u>Article</u>	<u>Heading</u>	<u>Page</u>
ARTICLE 1:	RESTATEMENT OF THE TRUST .....	1
ARTICLE 2:	DECLARATION REGARDING FAMILY .....	2
ARTICLE 3:	PROPERTY SUBJECT TO THIS TRUST .....	3
ARTICLE 4:	AMENDMENT AND REVOCATION.....	4
ARTICLE 5:	TRUST ADMINISTRATION WHILE BOTH SETTLORS ARE LIVING.....	7
ARTICLE 6:	TRUST ADMINISTRATION FOLLOWING DEATH OF DECEDENT.....	11
ARTICLE 7:	TRUST ADMINISTRATION AFTER DEATH OF SURVIVOR .....	16
ARTICLE 8:	RETIREMENT ACCOUNTS.....	23
ARTICLE 9:	PROVISIONS REGARDING THE TRUSTEE .....	32
ARTICLE 10:	POWERS OF THE TRUSTEE.....	47
ARTICLE 11:	ADMINISTRATIVE PROVISIONS.....	62
ARTICLE 12:	MARITAL DEDUCTION PROVISIONS .....	70
ARTICLE 13:	GENERATION SKIPPING TAX PROVISIONS .....	72
ARTICLE 14:	TAXES.....	77
ARTICLE 15:	INTEREST.....	79
ARTICLE 16:	GENERAL PROVISIONS .....	80



Second Amendment to and Restatement of the Declaration of Trust  
and Trust Agreement  
of the  
Vacek Family Trust of 1994

Pursuant to the provisions of Section A. of ARTICLE I of the Declaration of Trust and Trust Agreement of the Vacek Family Trust of 1994 executed March 11, 1994, as amended by a First Amendment dated February 13, 2014 (collectively, the "Declaration"), that trust is hereby amended and restated in its entirety as follows:

This Second Amendment to and Restatement of the Vacek Family Trust of 1994 (sometimes referred to as the "Trust") is entered into by and between Frank Vacek and Vera Vacek (sometimes referred to collectively as the "Settlors") and Frank Vacek, Vera Vacek, and Derek R. Hunt (sometimes referred to collectively as the "Trustee").

ARTICLE 1: RESTATEMENT OF THE TRUST

1.1 Restatement of Trust. The Settlers hereby restate the Vacek Family Trust of 1994 in its entirety.

(a) All property which is a part of the trust estate and which is community property shall be held in the name of the Vacek Family Trust of 1994.

(b) All property which is a part of the trust estate and which is Frank Vacek's separate property shall be held in a separate trust known as The Frank Vacek Separate Property Trust Established Under the Vacek Family Trust of 1994.

(c) All property which is a part of the trust estate and which is Vera Vacek's separate property shall be held in a separate trust known as The Vera Vacek Separate Property Trust Established Under the Vacek Family Trust of 1994.

ARTICLE 2: DECLARATION REGARDING FAMILY

2.1 The Settlers are husband and wife and have two (2) children now living, namely Milan Vacek and Jana Vacek, both of whom are adults. They have no other children, living or deceased.

2.2 The Settlers intentionally, and with full knowledge of the consequences, have failed to provide for Renee Hunt and her issue in this trust instrument. Each of such persons shall be treated as though they had predeceased the Settlers.

CONTINUED ON NEXT PAGE



### ARTICLE 3: PROPERTY SUBJECT TO THIS TRUST

3.1 Trust Estate. All property currently held by the Trustee, or hereafter conveyed to the Trustee to be held by the Trustee in accordance with the provisions of this Trust, is hereinafter sometimes referred to as the "trust estate".

3.2 Additions to Trust. Either Settlor or any other person, by Will or in any other manner and from time to time, may add to the trust estate any property acceptable to the Trustee.

3.3 Management of Trust Estate. All property currently held by the Trustee, or which shall become a part of the trust estate, shall be held, divided, managed and distributed by the Trustee in accordance with the provisions of this Trust.

3.4 Source and Character of Trust Estate. All property currently held by the Trustee, or hereafter conveyed to the Trustee by either Settlor to be held by the Trustee in accordance with the provisions of this Trust, together with the rents, issues and profits of such property, shall retain its character as either the community property of the Settlor or the separate property of the Settlor making such conveyance. No transmutation or hypothecation is intended or shall be accomplished by the mere act of transferring property to this Trust. Any part of the trust estate withdrawn by or distributed to the Settlor, or either of them, whether such distribution or withdrawal results from a revocation or termination of this Trust, shall retain the character (e.g., community property or separate property) such property had immediately prior to such withdrawal or distribution.

CONTINUED ON NEXT PAGE

#### ARTICLE 4: AMENDMENT AND REVOCATION

4.1 While Both Settlers are Living. While both of the Settlers are living, they may together, from time to time, amend, modify or revoke in whole or in part this Trust or any trusts created hereunder by delivering to the Trustee a signed and acknowledged instrument. While both of the Settlers are living, either of them may alone, from time to time, amend, modify or revoke in whole or in part this Trust or any trusts created hereunder by delivering to the Trustee a signed and acknowledged instrument, with a copy thereof delivered to the other Settlor, but in that case such amendment, modification or revocation shall be effective only as it relates to such Settlor's community property portion of the trust estate and such Settlor's separate property portion of the trust estate. Property received upon revocation by the Settlers or by either of them shall retain its community or separate property character.

4.2 After Decedent's Death. After the death of the Decedent, the trust shall be irrevocable as to the Marital Trust and the Decedent's Trust, but the Survivor may, from time to time, amend, modify or revoke in whole or in part the Survivor's Trust by delivering to the Trustee a signed and acknowledged instrument.

4.3 After Survivor's Death. After the death of the Survivor, neither this Trust nor any trust created hereunder may be amended, modified or revoked by any person, except in accordance with the provisions of a power of appointment expressly conferred by the terms of this Trust.

4.4 Powers Personal to Settlers. Each Settlor's power to amend, modify or revoke this Trust is personal to him and may be exercised on such Settlor's behalf either (i) in accordance with a proceeding subject to court approval, or (ii) pursuant to a durable power of attorney to the extent the agent is authorized to do so under the power of attorney.



4.5 Effective Date. Any amendment or revocation shall take effect when the required instrument is received by the Trustee.

4.6 Effect on Trustee. No amendment shall substantially increase the Trustee's duties or liabilities or change the Trustee's compensation without the Trustee's consent, nor shall the Trustee be obligated to act under an amendment unless the Trustee accepts it. Any amendment or revocation shall not affect any lawful act of the Trustee prior to receipt and acceptance by the Trustee of the required instrument.

4.7 Delivery of Trust Estate upon Revocation. Upon revocation of any part or all of this Trust or any trust created hereunder, the Trustee shall deliver the trust estate or the revoked portion of the trust estate, as the case may be, to either or both of the Settlers as the community property of the Settlers or the separate property of a Settlor, as the case may be.

4.8 Release of Medical Information.

(a) Pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (42 USC §1320d and 45 CFR parts 160, 164) and the California Confidentiality of Medical Information Act ("CCMIA") (California Civil Code ("CC") Sections 56-56.37), or any successor statutes, each Settlor of this trust authorizes any Health Care Provider (as defined below) to disclose his or her protected health information and medical information to a trustee, co-trustee, successor trustee, successor co-trustee or a beneficiary of this trust ("Requesting Party"), at the request of the Requesting Party, in the form of a written and signed opinion that the Settlor does or does not have capacity to revoke or amend the trust, along with a statement containing the health information sufficient to explain and support the opinion.

(b) Although information disclosed by a Health Care Provider pursuant to this Paragraph is subject to redisclosure and may no longer be protected by the

privacy rules of the Health Insurance Portability and Accountability Act of 1996 (45 CFR Section 164), or any successor statute, California law prohibits the further disclosure of this information without a "new authorization". It is each Settlor's intention that this Paragraph be construed to be a "new authorization" that meets the requirements of California Civil Code Section 56.11 for purposes of California Civil Code Section 56.13 to permit further authorization by the Requesting Party of information received under this Paragraph for the purpose of establishing whether the Settlor does or does not have capacity to revoke or amend the trust.

(c) "Health Care Provider" is defined as any

(i) covered entity (including, but not limited to, any physician, health care professional, dentist, health plan, hospital, nursing home, clinic, laboratory, pharmacy, or any other covered health care provider),

(ii) insurance company, and

(iii) the Medical Information Bureau, Inc., or other health care clearinghouse that has provided treatment or services to a Settlor or that has paid for or is seeking to be paid for services.

CONTINUED ON NEXT PAGE



ARTICLE 5: TRUST ADMINISTRATION WHILE BOTH SETTLORS ARE LIVING

5.1 Community Property.

(a) Discretionary Distributions. While both of the Settlers are living, the Trustee shall pay to or apply for the benefit of the Settlers as much of the net income and principal of the community property portion of the trust estate as is necessary in the Trustee's discretion for the Settlers' proper health, education, support, maintenance, comfort and welfare, in accordance with their accustomed manner of living at the date of exercise of such discretion. Any income not distributed shall be accumulated and added to the principal of the community property portion of the trust estate.

(b) Demand by a Settlor. Upon the written demand of either Settlor, the Trustee shall distribute and deliver to that Settlor so much of the income and principal of that Settlor's share of the community property portion of the trust estate as is demanded by that Settlor.

(c) Powers of Settlers. Notwithstanding any other provisions of this Trust, the powers granted the Trustee during the joint lives of the Settlers shall be no more extensive than those possessed by a husband or wife under the California Civil Code.

(d) Duty of Settlers. A Settlor receiving payments under this Paragraph shall have the same duty to use community property income and principal received under this Trust for the benefit of the Settlers as he or she has with respect to any other community property.

5.2 Separate Property.

(a) Discretionary Distributions. While both of the Settlers are living, the Trustee shall pay to or apply for the benefit of the Settlor whose separate property, if any,

was added to the trust estate as much of the net income and principal of such separate property portion of the trust estate as is necessary in the Trustee's discretion for such Settlor's proper health, education, support, maintenance, comfort and welfare, in accordance with such Settlor's accustomed manner of living at the date of exercise of such discretion. Any income not distributed shall be accumulated and added to the principal of such separate property portion of the trust estate.

(b) Demand by a Settlor. Upon the written demand of either Settlor, the Trustee shall distribute and deliver to that Settlor so much of the income and principal of that Settlor's share of the separate property portion of the trust estate as is demanded by that Settlor.

5.3 Disability of a Settlor. If, in the Trustee's discretion, either Settlor becomes incapacitated, whether or not a conservator has been appointed by a court of competent jurisdiction (but subject to the right of the Settlor to petition a court of competent jurisdiction for a determination that no incapacitation exists), the provisions of Paragraphs 5.1 and 5.2, above, shall not apply to distributions to or for the benefit of such Settlor. In the event of such incapacitation, the Trustee shall pay to or apply for the benefit of such Settlor as much of such Settlor's share of the income and principal of the community property portion of the trust estate and such Settlor's separate property portion of the trust estate as the Trustee shall, in the Trustee's discretion, determine to be necessary for the proper health, education, support, maintenance, comfort and welfare of such Settlor in accordance with such Settlor's accustomed manner of living at the date of incapacitation. Such manner of distributions shall continue until such Settlor is no longer incapacitated, after which the provisions of Paragraphs 5.1 and 5.2, above, shall once again apply to such Settlor. Any income not distributed for the benefit of the incapacitated Settlor shall be accumulated and added to such Settlor's share of the principal of



the community property portion of the trust estate or such Settlor's separate property portion of the trust estate, as the case may be. If a conservator of the person or estate is appointed for the incapacitated Settlor, the Trustee shall take into account, when exercising his discretion, any payments made for such Settlor's benefit by the conservator. Notwithstanding any other provisions of this Trust, the provisions of Paragraphs 5.1 and 5.2, above, shall continue to apply to the non-incapacitated Settlor with respect to such Settlor's share of the community property portion of the trust estate and such Settlor's separate property portion of the trust estate.

5.4 Care of Settlers.

(a) It is the Settlers' very strong desire that, if financially feasible, neither of them ever be placed into a nursing home or similar environment but, instead, that they be maintained in their residence with such live-in nurses, companions and similar helpers as may be necessary to accomplish this goal.

(b) The Settlers recognize that in-residence care in this manner may be much more expensive than nursing home care and that the principal of the trust estate remaining for future beneficiaries may be substantially depleted by complying with this provision. In making distributions under this provision, the Trustee shall take into consideration the approximate life expectancy of the Settlers and the Settlers' continuing need for funds during the balance of their respective lifetimes. The rights of any future beneficiaries shall be of absolutely no importance and the Trustee shall not be liable to any future beneficiaries for substantially depleting the trust estate pursuant to this provision. The Settlers also recognize that the fees of the Trustee may be higher in order for the Trustee to properly function under this provision.

(c) All decisions relating to the living arrangements and care of the Settlers and distributions relating thereto in the event that the Settlers (or either of them) are not

able to make such decisions shall be made in the sole discretion of the then acting Trustee. If there shall be one (1) or more individual Co-Trustees acting with a corporate Co-Trustee, then such decisions shall be made in the sole discretion of such individual Co-Trustee or Co-Trustees.

CONTINUED ON NEXT PAGE



ARTICLE 6: TRUST ADMINISTRATION FOLLOWING DEATH OF DECEDENT

6.1 Gifts Upon Decedent's Death. Upon the death of the Decedent (as defined in this document), the Trustee shall use property of the trust estate to satisfy all specific legacies made under the Will of the Decedent, to the extent that the Decedent's probate estate, other than property specifically bequeathed or devised by the Decedent's Will, shall be insufficient to pay or satisfy such legacies; provided, however, that the aggregate amount paid by the Trustee in satisfaction of such legacies shall not exceed the Decedent's interest in the trust estate.

6.2 Division of Trust Estate. The Trustee shall divide the remainder of the trust estate into three shares: the "Survivor's Trust", the "Marital Trust" and the "Decedent's Trust". The Trustee shall hold, administer and distribute each such share as provided below.

(a) (i) Survivor's Trust. The Survivor's Trust shall consist of the Survivor's (as defined in this document) share of the community property portion of the trust estate, and his or her separate property portion of the trust estate, if any.

(ii) The property allocated to the Survivor's Trust shall include the Decedent's clothing, jewelry and personal effects, and the Decedent's interest in the Settlor's silver, china, glassware, books, pictures, paintings, works of art, household furniture, automobiles, furnishings and equipment, and all other items of domestic, household or personal use.

(b) Marital Trust. The Marital Trust shall consist of the minimum dollar amount (if any) necessary as a marital deduction to eliminate (or reduce to the extent possible) any federal estate tax at the Decedent's death, taking account of:

CONTINUED ON NEXT PAGE

(i) The unused credit (if any) available at the date of the Decedent's death pursuant to Internal Revenue Code Section 2010, or any successor statute;

(ii) Any other credits except those for (1) death taxes paid in the estate of one whose death occurs after the Decedent's death, or for (2) any state death tax unless and to the extent that a death tax would be payable to the state or states regardless of the credit for state death taxes;

(iii) All federal estate tax deductions and exclusions; and

(iv) The net value of all other property included in the Decedent's gross estate which passes or has passed, during his life or at death, under this Trust, his Will or otherwise, to or for the Survivor and which qualifies for the federal estate tax marital deduction.

Only assets of the Decedent qualifying for the federal estate tax marital deduction shall be allocated to the Marital Trust. For purposes of determining this allocation, final federal estate tax computations, elections and values shall control, except that transfers by Will or otherwise for which the marital deduction would have been allowed but for disclaimer by the Survivor or non-election under Internal Revenue Code Section 2056(b)(7) by the Decedent's executor or Trustee shall be treated for this purpose as if that deduction had been allowed.

(c) Decedent's Trust. The Decedent's Trust shall consist of the balance of the trust estate, after payment of estate and inheritance taxes. The Trustee may, in his discretion, pay out of the income or principal of the Decedent's Trust the Decedent's last illness and funeral expenses and other obligations incurred for the support of the Decedent, as well as all other legally enforceable debts to the extent such amounts are not paid from the assets of the Decedent's probate estate, if any.



6.3 Disclaimers.

(a) Marital Trust. If the Survivor disclaims all or any part of the Survivor's interest in the Marital Trust, such disclaimed interest shall instead be allocated to the Decedent's Trust to be held, administered and distributed in accordance with its terms, but during the Survivor's lifetime, the Survivor shall be entitled, as to that disclaimed property, to the benefits of the Decedent's Trust which he or she would otherwise be entitled to if he or she were then living. The Trustee shall not be required to physically segregate the disclaimer property from the other assets allocated to the Decedent's Trust, but the Trustee shall keep separate accounts for the disclaimed property.

(b) Decedent's Trust. If the Survivor disclaims all or any part of his or her interest in the Decedent's Trust, such disclaimed interest shall be held, administered and distributed as if the Survivor were then deceased.

6.4 Income from Survivor's and Marital Trusts. The Trustee shall pay to or apply for the benefit of the Survivor the entire net income of the Survivor's and Marital Trusts, in quarterly or other convenient installments, but at least annually.

6.5 Principal from Survivor's and Marital Trusts. If the Trustee considers the income of the Survivor's and Marital Trusts to be insufficient to provide for the Survivor's proper health, education, support and maintenance, the Trustee shall pay to or apply for the benefit of the Survivor as much principal of such Trusts as the Trustee considers necessary for such needs, taking into account the Survivor's accustomed manner of living at the date of exercise of such discretion.

6.6 Payments from Decedent's Trust. The Trustee shall pay to or apply for the benefit of the Survivor as much of the income of the Decedent's Trust as the Trustee shall, in

the Trustee's discretion, deem necessary for his or her proper health, education, support and maintenance. Any income not distributed shall be accumulated and added to the principal of the Decedent's Trust. If the Trustee considers the income and principal of the Survivor's and Marital Trusts to be insufficient to provide for the Survivor's proper health, education, support and maintenance, the Trustee shall pay to or apply for the benefit of the Survivor as much of the principal of the Decedent's Trust as the Trustee, in the Trustee's discretion, shall deem necessary to provide for such needs, taking into account the Survivor's accustomed manner of living at the date of exercise of such discretion.

6.7 Withdrawals from Survivor's Trust. The Survivor shall have, with respect to the Survivor's Trust only, the unrestricted right to withdraw all or any part of the principal of the Survivor's Trust upon written demand. The exercise of this withdrawal right shall not affect the discretionary powers exercisable by the Trustee with respect to distributions from the Marital Trust or Decedent's Trust.

6.8 Order of Payments. Any discretionary payments of income or principal made to or applied for the benefit of the Survivor shall be made first out of the Survivor's Trust, until it is exhausted, and thereafter out of the Marital Trust, and thereafter out of the Decedent's Trust, except that all or any part of such payments may be made from the Marital Trust without exhausting the Survivor's Trust, or from the Decedent's Trust without exhausting the Marital Trust, if the Trustee considers it advisable.

6.9 Residence. Notwithstanding any provision of this instrument to the contrary, if the home or homes that the Settlor's are using as their residence or residences at the time of the Decedent's death are or become a part of the trust estate, the Trustee shall permit the Survivor during his or her lifetime to occupy the home or homes without rental. The Trustee



shall pay all payments of principal and interest on encumbrances, taxes and assessments which become payable upon the home or homes and the cost of insuring, maintaining and repairing the home or homes (all of which are referred to as "payments") and he shall charge such payments to the Trusts proportionally to each Trust's interest in the home or homes. If the Survivor instructs the Trustee to do so, the Trustee shall sell the Trusts' interests in the home or homes (or any other home or homes purchased as a substitute for the home or homes pursuant to this sentence) at such time, for such price, and on such terms as the Trustee shall determine. In the event of a sale, then at the Survivor's election, which may be changed from time to time, the Trustee shall retain the proceeds of the sale, allocating a proportionate amount of such proceeds to each of the Trusts, or he shall use the proceeds or any part of the proceeds for the purchase of any other home or homes which the Survivor selects. If a new home is purchased, the Trustee shall permit the Survivor during his or her lifetime to occupy the new home or homes, without rental, and the Trustee shall pay the payments relating to the new home or homes and charge these payments proportionally to each of the Trusts.

6.10 Allocation of Retirement Benefits. Notwithstanding any provision of this Trust to the contrary, if this Trust was designated as beneficiary of a qualified retirement plan or benefit plan (including, but not limited to, a pension plan, profit sharing plan, 401(K) plan, or IRA) ("Plan"), and the Survivor is then living and is a Settlor of this Trust, then the proceeds of the Plan shall be allocated to the Survivor's Trust and immediately distributed to the Survivor.

CONTINUED ON NEXT PAGE

## ARTICLE 7: TRUST ADMINISTRATION AFTER DEATH OF SURVIVOR

7.1 Payment of Specific Legacies. Upon the death of the Survivor, the Trustee shall use property of the trust estate to satisfy all specific legacies given under the Will of the Survivor, to the extent that the Survivor's probate estate, other than property specifically bequeathed or devised by the Survivor's Will, shall be insufficient to pay or satisfy such legacies; provided, however, that the aggregate amount paid by the Trustee in satisfaction of such legacies shall not exceed the Survivor's interest in the Survivor's Trust.

7.2 Payment of Expenses. Upon the death of the Survivor, the Trustee may, in his discretion, pay out of the income or principal of the Survivor's Trust the Survivor's last illness and funeral expenses and other obligations incurred for the support of the Survivor, as well as all other legally enforceable debts to the extent such amounts are not paid from the assets of the Survivor's probate estate, if any.

### 7.3 Distribution of Survivor's Trust.

#### (a) Personal Property.

(i) The Survivor shall have the power to appoint any or all of the Survivor's clothing, jewelry and personal effects, and the Survivor's interest in the silver, china, glassware, books, pictures, paintings, works of art, household furniture, automobiles, furnishings and equipment, and all other items of domestic, household or personal use held in the Survivor's Trust ("Personal Property") to any one or more persons or charitable organizations, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the Survivor may appoint (including, but not limited to, omitting any one or more of the Settlers' issue). This power may be exercised in a writing signed and dated by the Survivor. The writing need not expressly refer to this trust, and any additional formalities otherwise required by this



document for exercising a power of appointment shall not apply. Unless otherwise provided in the exercise of the power, the appointment of any item of Personal Property that is not a part of the Survivor's Trust at the Survivor's death and does not pass to the Survivor's Trust as a result of the Survivor's death shall fail, and any gift appointed to a person who fails to survive the Survivor shall lapse.

(ii) Any Personal Property not otherwise appointed by the Survivor shall be distributed as provided in the remaining provisions of this Article. The Personal Property shall be divided among those persons entitled to it as they may agree, or if they are unable to agree, then it shall be divided among them in such manner as the Trustee, in the Trustee's sole discretion, shall determine.

(iii) No gifts of Personal Property shall bear any expenses or Taxes (as such term is defined in this document) and any such expenses and Taxes shall be paid by the Trustee from the remainder of the trust estate.

(b) Retirement Accounts. If any Retirement Assets (as defined in Article 8, below) are payable to this Trust, such Retirement Assets shall be distributed in accordance with the provisions of Article 8, below.

(c) Remainder. Except as otherwise provided, upon the death of the Survivor, the Trustee shall distribute the balance then remaining, if any, of the Survivor's Trust (including any undistributed income) to such one or more persons and entities, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the Survivor may appoint. Any of the Survivor's Trust not effectively appointed by the Survivor shall be added to the Decedent's Trust to be held, administered and distributed as a part of that trust.

CONTINUED ON NEXT PAGE

7.4 Distribution of Marital Trust.

(a) Upon the death of the Survivor, the Trustee shall distribute the accrued and undistributed income of the Marital Trust to such one or more persons and entities, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the Survivor may appoint. Any of the accrued and undistributed income of the Marital Trust not effectively appointed by the Survivor shall be distributed to his or her estate.

(b) Upon the death of the Survivor, the Trustee shall distribute the balance then remaining, if any, of the Marital Trust to such one or more of the group consisting of the Settlers' issue or any charitable organizations, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the Survivor may appoint (including, but not limited to, omitting any one or more of the Settlers' issue). This limited power of appointment (1) shall preclude the Survivor from appointing all or any part of the Marital Trust to the Survivor, the creditors of the Survivor, the estate of the Survivor and the creditors of the estate of the Survivor, and (2) shall not apply to any assets which were added to the Marital Trust as a result of the exercise of a disclaimer by the Survivor (including accrued income). Any of the Marital Trust not effectively appointed by the Survivor pursuant to this subparagraph shall be added to the Decedent's Trust to be held, administered and distributed as a part of that trust.

7.5 Distribution of Decedent's Trust. Upon the death of the Survivor, the Trustee shall distribute the balance then remaining, if any, of the Decedent's Trust (including any portion of the Survivor's and Marital Trusts which are added to the Decedent's Trust) to such one or more of the group consisting of the Settlers' issue and any charitable organizations, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the Survivor may appoint (including, but not limited to, omitting any one or more of the Settlers'



issue). This limited power of appointment (1) shall preclude the Survivor from appointing all or any part of the Decedent's Trust to the Survivor, the creditors of the Survivor, the estate of the Survivor and the creditors of the estate of the Survivor, and (2) shall not apply to any assets which were added to the Decedent's Trust as a result of the exercise of a disclaimer by the Survivor (including accrued income). Any of the Decedent's Trust not effectively appointed by the Survivor shall be distributed as provided in the remaining provisions of this Article.

7.6 Division of Decedent's Trust. Upon the death of the Survivor, the Trustee shall distribute the Decedent's Trust as follows:

(a) Specific Gifts. The Trustee shall make the following specific gifts:

(i) If Jana Vacek ("Jana") is living, the Trustee shall distribute the Trust's interest in the real property located at 4105 Bellingham Avenue, Studio City, California (the "Property"), subject to all encumbrances including, but not limited to, mortgages, deeds of trust, real property taxes and assessments, to the Trustee of The Jana Vacek Heritage Trust No. 1, to be managed and administered according to the terms of such trust. If for any reason the disposition in the preceding sentence is not operative or is invalid, or if the trust referred to therein fails or has been revoked, then such share of the trust estate shall be distributed to the trustee named in the present provisions of such trust, to be administered in trust as provided in the present provisions of such trust (including all amendments made prior to the execution of this document) which, for such purpose, are hereby incorporated by reference. If Jana is not then living, such gift shall fail and such Property shall be distributed in accordance with the provisions of subparagraph (b), below. If the Property is not a part of the trust estate,

such gift shall fail and the proceeds of any prior transfer or sale of the Property, if any, shall be distributed in accordance with the provisions of subparagraph (b), below

(ii) If Derek R. Hunt ("Derek") is living, the Trustee shall distribute Two Hundred Fifty Thousand Dollars (\$250,000) to the Trustee of The Derek R. Hunt Heritage Trust No. 1, to be managed and administered according to the terms of such trust. If for any reason the disposition in the preceding sentence is not operative or is invalid, or if the trust referred to therein fails or has been revoked, then such portion of the trust estate shall be distributed to the trustee named in the present provisions of such trust, to be administered in trust as provided in the present provisions of such trust (including all amendments made prior to the execution of this document) which, for such purpose, are hereby incorporated by reference. If Derek is not then living, such gift shall fail and such portion shall be distributed in accordance with the provisions of subparagraph (b), below.

(iii) No gifts made under this this subparagraph shall bear any expenses or Taxes (as such term is defined in this document) and any such expenses and Taxes shall be paid by the Trustee from the remainder of the trust estate.

(b) Remainder. The Trustee shall divide the remainder of the Decedent's Trust as follows:

(i) If (A) Milan Vacek ("Milan") is living, or (B) Milan is not living but has issue then living, the Trustee shall distribute one-third (1/3) of the Decedent's Trust to the Trustee of The Milan Vacek Heritage Trust No. 1, to be managed and administered according to the terms of such trust. If for any reason the disposition in the preceding sentence is not operative or is invalid, or if the trust referred to therein fails or has been revoked, then such portion of the trust estate shall be distributed to the trustee named in the present provisions of



such trust, to be administered in trust as provided in the present provisions of such trust (including all amendments made prior to the execution of this document) which, for such purpose, are hereby incorporated by reference. If Milan is not then living and has no living issue, such portion of the trust estate shall be distributed pro rata among the remaining provisions of this subparagraph (b).

(ii) If Jana Vacek ("Jana") is living, the Trustee shall distribute one-third (1/3) of the Decedent's Trust to the Trustee of The Jana Vacek Heritage Trust No. 1, to be managed and administered according to the terms of such trust. If for any reason the disposition in the preceding sentence is not operative or is invalid, or if the trust referred to therein fails or has been revoked, then such portion of the trust estate shall be distributed to the trustee named in the present provisions of such trust, to be administered in trust as provided in the present provisions of such trust (including all amendments made prior to the execution of this document) which, for such purpose, are hereby incorporated by reference. If Jana is not then living, such portion of the trust estate shall be distributed in accordance with the provisions of subparagraph (iii), below. If none of the beneficiaries mentioned in subparagraph (iii), below, are then living, such portion of the trust estate shall be distributed in accordance with the provisions of subparagraph (i), above.

(iii) If (A) Derek Hunt ("Derek") is living, or (B) Derek is not living but has issue then living, the Trustee shall distribute one-third (1/3) of the Decedent's Trust to the Trustee of The Derek R. Hunt Heritage Trust No. 1, to be managed and administered according to the terms of such trust. If for any reason the disposition in the preceding sentence is not operative or is invalid, or if the trust referred to therein fails or has been revoked, then such portion of the trust estate shall be distributed to the trustee named in the present provisions of

such trust, to be administered in trust as provided in the present provisions of such trust (including all amendments made prior to the execution of this document) which, for such purpose, are hereby incorporated by reference. If Derek is not then living and has no living issue, such portion of the trust estate shall be distributed pro rata among the remaining provisions of this subparagraph (b).

(iv) If none of the beneficiaries mentioned in this subparagraph (b) are then living, the remainder of the trust estate shall be distributed in accordance with the provisions of Paragraph 7.7, below.

7.7 Distribution If No Beneficiaries Survive. If any portion of the trust estate is not disposed of pursuant to other provisions of this Trust, then the Trustee shall distribute such portion one-half ( $\frac{1}{2}$ ) to the heirs at law of each of the Settlers, subject to the provisions of Article 2, above.

CONTINUED ON NEXT PAGE



## ARTICLE 8: RETIREMENT ACCOUNTS

### 8.1 Division of Retirement Assets.

(a) Notwithstanding anything to the contrary, if any Retirement Assets, as defined below, are payable to this Trust or a Separate Trust Share (as defined below), such Retirement Assets shall be distributed in accordance with the provisions of this Article.

(b) The Trustee shall distribute the Retirement Assets as follows:

(i) One-third (1/3) shall be set aside and held for the benefit of Milan Vacek ("Milan"). If Milan is not then living, such portion of the Retirement Assets shall be set aside and held for the benefit of his then living issue, on the principle of representation. If Milan has no issue then living, such portion of the Retirement Assets shall be distributed pro rata among the remaining provisions of this subparagraph (b).

(ii) One-third (1/3) shall be set aside and held for the benefit of Jana Vacek ("Jana"). If Jana is not then living, such portion of the Retirement Assets shall be set aside and held in accordance with the provisions of subparagraph (iii), below. If none of the beneficiaries mentioned in subparagraph (iii), below, are then living, such portion of the Retirement Assets shall be set aside and held in accordance with the provisions of subparagraph (i), above.

(iii) One-third (1/3) shall be set aside and held for the benefit of Derek R. Hunt ("Derek"). If Derek is not then living, such portion of the Retirement Assets shall be set aside and held for the benefit of his then living issue, on the principle of representation. If Derek has no issue then living such portion of the Retirement Assets shall be distributed pro rata among the remaining provisions of this subparagraph (b).

CONTINUED ON NEXT PAGE

(iv) Each beneficiary's share shall be set aside and held in accordance with the provisions of this Article and shall be referred to as a Separate Trust Share.

(v) If none of the beneficiaries mentioned in this subparagraph (b) is then living, the Retirement Assets shall be distributed in accordance with the provisions of Paragraph 8.8, below.

8.2 Withdrawal from Retirement Assets. In the year of the surviving Settlor's death and each subsequent year, the Trustee shall withdraw from such Retirement Assets made payable to a Separate Trust Share, the Required Minimum Distribution(s) (as defined below) for such year. Additionally, the Trustee may withdraw so much of the net income and principal of Retirement Assets payable to a Separate Trust Share as is necessary for the health, education, support or maintenance of the beneficiary for whom the Separate Trust Share was established.

8.3 Distributions of Income and Principal. The Trustee may accumulate the income in a Separate Trust Share or may, at any time, distribute any part or all of the net income and principal of Separate Trust Share as the Trustee shall determine to be necessary or advisable for the health, education, support or maintenance of the beneficiary for whom the Separate Trust Share was established. If funds available to such beneficiary from sources other than the trust are known by the Trustee to be adequate for health, education, maintenance and support, it is the Settlor's desire that the Trustee make no distribution of income or principal for such beneficiary's benefit from a Separate Trust Share. Subject to these standards, all distributions of income and principal shall be at such times and in such amounts as the Trustee determines. The Trustee shall have the power to refrain from making distributions.

8.4 Designated Beneficiary Provisions. The Trustee shall comply with the procedural requirements of the Code and Regulations (or applicable proposed Regulations), as



defined below, to allow the beneficiaries of the trust to be treated as being designated beneficiaries of the Retirement Assets for purposes of determining the distribution period under IRC § 401(a)(9). These requirements are currently set forth in Treas. Reg. § 1.401(a)(9)-4 Q&A 5 and Q&A 6 and require certain documentation to be furnished to the plan administrator by October 31 of the year following the year of the death of the surviving Settlor.

8.5 Creation of Separate Shares. When, in accordance with Treas. Reg. §1.401(a)(9)-8, Separate Accounts or Segregated Shares are created under the terms of a beneficiary designation(s), naming this Trust as beneficiary, the Trustee shall create Separate Shares or Segregated Accounts, within the definition of Treas. Reg. §1.401(a)(9)-8 Q&A 3, as directed. It is the intention of this provision to allow said beneficiaries to enjoy the benefit of distributions from any IRA(s) or qualified plans over their separate life expectancies.

8.6 Death of Beneficiary.

(a) (i) Except as provided in this subparagraph, if a beneficiary dies prior to receiving his or her entire share of his or her Separate Trust Share, the beneficiary shall have a limited power of appointment to divide the balance then remaining, if any, of such beneficiary's trust among such persons as such beneficiary selects, on any terms and conditions, either outright or in trust, and in any amounts and proportions that the beneficiary may appoint.

(ii) If Milan Vacek or Jana Vacek is the deceased beneficiary, he or she shall not have a limited power of appointment over the balance then remaining, if any, of his or her trust.

(iii) Notwithstanding anything to the contrary, (A) unless otherwise provided in the exercise of such limited power of appointment, all trusts shall continue to be held as Separate Trust Shares in accordance with the provisions of this Article, and (B) the

beneficiary may not exercise such power in favor of the beneficiary, the creditors of the beneficiary, the beneficiary's estate, or the creditors of the beneficiary's estate. If the exercise of such limited power of appointment would result in negating the use of minimum distributions under the tax laws and Internal Revenue Service Regulations, (I) the provisions of this subparagraph shall be of no effect, (II) the exercise of such limited power of appointment shall be null and void.

(iv) Notwithstanding anything above or herein to the contrary, a beneficiary shall not have the power to exercise such limited power of appointment in favor of any individual beneficiary older than the Oldest Primary Beneficiary or to any non-individual.

(v) Any of such beneficiary's Separate Trust Share not effectively appointed by him or her pursuant to this subparagraph shall be distributed in accordance with the provisions of subparagraph (b), below.

(b) Upon a beneficiary's death, if any portion of a beneficiary's Separate Trust Share is to be distributed in accordance with the provisions of this subparagraph, the remaining balance of such Separate Trust Share shall be divided among such beneficiary's issue, on the principle of representation, subject to the provisions of Article 2, above, to continue to be held as Separate Trust Shares in accordance with the provisions of this Article. If such beneficiary has no living issue, such Separate Trust Share shall be distributed in accordance with the provisions of Paragraph 8.8, below.

8.7 Early Termination of Trust. The Settlers' intended purposes in creating Separate Trust Shares under the provisions of this Article are to conserve the principal of the trusts and IRAs payable to the trusts for the benefit of the Settlers' family, to achieve savings in income taxes, generation-skipping taxes and death taxes, and to provide for the financial needs



and benefit of the Settlers' issue. Notwithstanding whatever may be provided herein to the contrary, if in the opinion of the Trustee there are changes in the law, including tax law, or other circumstances which would frustrate the Settlers' purposes, or if in the Trustee's opinion the amount held in any Separate Trust Share herein created is insufficient to justify the administrative expense of continuing such trust share, the Trustee may terminate the trust share, either all or in part. The Trustees shall have the power to terminate a Separate Trust Share under this Paragraph without obtaining the approval of any court. On termination of a Separate Trust Share hereunder, the trust assets shall be distributed to the then living beneficiary or beneficiaries. In default thereof, the trust assets shall be distributed under the terms of Paragraph 8.8, below.

8.8 Failure of Beneficiaries. If at any time prior to final distribution hereunder, all the beneficiaries identified by the Settlers are deceased and no other disposition of the property is directed by this trust, the remaining property of a Separate Trust Share shall be distributed to the Settlers' issue, on the principle of representation, subject to the provisions of Article 2, above, provided that any such descendant born before the Oldest Primary Beneficiary (as defined below) shall be deemed deceased. In default thereof, the property shall be distributed to the Settlers' heirs at law, subject to the provisions of Article 2, above, regardless of how remote their degree of kinship is, provided that any such next of kin born before the Oldest Primary Beneficiary shall be deemed deceased.

8.9 Beneficiary of Retirement Asset. It is the Settlers' intention that all Retirement Assets received by a Separate Trust Share created under the provisions of this Article shall be paid to qualified beneficiaries as that term is used in the Regulations under IRC § 401(a)(9). Therefore, no benefit from Retirement Assets shall be used by a Separate Trust Share

for the payment of debts or other non-qualifying distributions at such time as the use would result in a Separate Trust Share not being a qualified beneficiary. In addition, no benefit shall be paid to a charity or any other person or entity that would not be a qualified beneficiary for purposes of determining required distributions under the provisions of IRC § 401(a)(9), except that such payment may be made before the beneficiaries of a Separate Trust Share must be determined, if, as a result of said payment, the non-qualifying beneficiary is eliminated as a beneficiary of the trust. This provision shall not apply to any specific bequest to a charity or for a nonqualified person or entity which is funded by Retirement Assets under express language herein.

8.10 Qualified Designated Beneficiary Trust. It is the Settlor's intention that a Separate Trust Share established under the provisions of this Article be a qualified designated beneficiary trust. In the event that the assets in a Separate Trust Share should be subject to any state or federal transfer tax as the result of the Settlor's death and sufficient assets do not exist to pay such taxes other than the Retirement Assets that are payable to a Separate Trust Share, the Trustee may, to the extent permitted by law, pay such taxes from the Retirement Assets. The payment of such taxes shall be based on the principal of equitable apportionment, with the qualified Retirement Assets of a Separate Trust Share paying only its pro rata portion of the total assessed tax. Furthermore, to the extent that the distribution from the Settlor's IRA to this trust results in the imposition of income taxes the Trustee shall also be authorized to pay said income taxes and to distribute additional funds from the IRA to pay local state and federal income taxes. Notwithstanding the preceding, the Trustee shall make no payments of taxes, to the extent that the payment of said taxes would result in this trust not being considered a beneficiary other than



a qualified person for purposes of determining required minimum distributions under IRC § 401(a)(9) and the Regulations thereunder.

8.11 Conversion of IRAs. The Trustee may convert IRAs held by a Separate Trust Share to Roth IRAs as those accounts are defined in Internal Revenue Code section 408A, to the extent permitted by law. The Trustee may convert qualified plans to IRAs or Roth IRAs and generally deal with IRAs and retirement accounts to the extent permitted by the applicable law (for example, the Trustee may convert - if allowed by applicable law at the time - a qualified plan to a Roth IRA as allowed under Notice 2008-30, Section II, Q&A 7).

8.12 Trustee's Limited Power to Amend. The Trustee is authorized to amend the terms of this Trust Agreement in any manner that may be required so that this Trust Agreement will comply with the current or future requirements as a Designated Beneficiary, as the term is defined under IRC §401(a)(9) and applicable regulations thereunder. Any such amendment may by its terms apply retroactively to the inception of the Trust agreement.

8.13 Non-Individual Beneficiaries.

(a) Notwithstanding any other provisions of this Trust agreement to the contrary, the Trustee may fully payout the interest of any beneficiary who is not an "individual," and is therefore not a qualified beneficiary within the meaning of IRC § 401(a)(9) and the Regulations and Proposed Regulations thereunder, by September 30 of the year following the year of the surviving Settlor's death, if in the Trustee's judgment failure to do so would result in acceleration of distributions from retirement accounts to the detriment of the other beneficiaries or the objectives of this Trust.

(b) In the event that the value of the beneficial interest of any beneficiary who is not a qualified "individual" is not readily ascertainable, the Trustee shall have

the authority to negotiate and finalize compromise settlement agreements with such beneficiary. It is intended that such settlements would be reached for the purpose of allowing the Trustee to pay out the interest of such nonqualified beneficiary thereby qualifying this Trust as a Trust for which the remaining qualified beneficiary's or beneficiaries' life expectancy will be used to determine required distributions. It is further provided that such settlements must be finalized prior to September 30 of the year following the year of the death of the Settlor/owner of Retirement Assets payable to this Trust.

8.14 Transfer of Qualified Plans. The Trustee may perform a trustee-to-trustee transfer of a qualified plan held by the Trust to an inherited IRA as outlined under Internal Revenue Code section 402(c)(11), to the extent permitted by law.

8.15 Definitions.

(a) "Retirement Assets" include retirement plans as defined in Internal Revenue Code § 401(a), IRAs, Roth IRAs, § 403(b) Plans, § 457 Plans, corporate or self-employed ("Keogh") pension plans, § 408(k) Plans, or any other qualified plans.

(b) "The Oldest Primary Beneficiary" is the oldest Trust beneficiary who is entitled to distributions under the terms of this Trust determined as of September 30<sup>th</sup> of the year following the year of the surviving Settlor's death.

(c) "Required Minimum Distribution(s)" shall be those amounts required to be distributed under IRC § 401(a)(9) and the Regulations promulgated thereunder.

(d) All references to "IRC" or "the Code" in this Trust agreement shall be deemed to be references to the Internal Revenue Code of 1986, as amended, and references to specific Sections of the Code or Treasury Regulations promulgated thereunder and references to



any state statutes shall be deemed to include references to any corresponding provisions of any successor Federal or State Revenue Act or Acts.

CONTINUED ON NEXT PAGE

## ARTICLE 9: PROVISIONS REGARDING THE TRUSTEE

### 9.1 Appointment of Trustees.

(a) General. Frank Vacek ("Frank"), Vera Vacek ("Vera"), and Derek R. Hunt ("Derek") shall serve as co-trustees (the "Co-Trustees").

(i) If Derek is unable or unwilling to continue to serve as Co-Trustee, then Hugh Mullen ("Hugh") shall serve as Co-Trustee with Frank and Vera.

(ii) If either of Frank or Vera is unable or unwilling to continue to serve, the other of them shall serve as Co-Trustee with Derek or Hugh, as the case may be. If both of Frank and Vera are unable or unwilling to continue to serve, Derek or Hugh shall serve as sole Trustee, as the case may be.

(iii) If only one (1) of Frank, Vera, Derek, or Hugh is able and willing to serve or to continue to serve, then that person shall serve as sole Trustee.

### (b) Trustees of Separate Trust Share.

(i) Notwithstanding anything to the contrary, after the deaths of both of the Settlor, if a Separate Trust Share (as defined in Paragraph 8.1(b), above) is established for the benefit of either of Milan Vacek ("Milan") or Jana Vacek ("Jana"), the Trustees of such Separate Trust Shares shall be as provided in subparagraph (a), above. Milan and Jana shall not serve as Trustee of his or her Separate Trust Share.

(ii) Notwithstanding anything to the contrary, after the deaths of both of the Settlor, if either of Derek R. Hunt ("Derek") or Hugh Mullen ("Hugh") is living, the Trustees of any Separate Trust Share shall be as provided in subparagraph (a), above. No beneficiary, except for Derek, shall serve as Trustee of his or her Separate Trust Share while either of Derek or Hugh is living.



(iii) Except as provided in subparagraphs (i) and (ii), above, after the deaths of the Settlers, the Trustees of any Separate Trust Share shall be as provided in subparagraph (a), above, subject to the following:

(A) Upon a beneficiary attaining age thirty (30), he or she shall serve as sole Trustee of one-third (1/3) of his or her Separate Trust Share.

(B) Upon a beneficiary attaining age thirty-five (35), he or she shall serve as sole Trustee of two-thirds (2/3) of his or her Separate Trust Share.

(C) Upon a beneficiary attaining age forty (40), he or she shall serve as sole Trustee of his or her entire Separate Trust Share.

(D) In order to achieve the purpose of allowing a beneficiary to be the sole Trustee of all or a portion of his or her Separate Trust Share at various ages, the Trustee shall have the power to divide such Separate Trust Share into separate trusts as provided in this document. In addition, the Trustee shall have the right to consolidate multiple Separate Trust Shares into one (1) Separate Trust Share as provided in this document. Except where specifically directed to the contrary, reference to a Separate Trust Share shall include reference to all Separate Trust Shares into which the original Separate Trust Share has been divided.

(iv) If any beneficiary is unable or unwilling to serve or to continue to serve as Trustee of his or her Separate Trust Share, such beneficiary shall have the power, in writing, to appoint a successor Trustee who shall act as Trustee if and when that beneficiary ceases to act in such capacity. In the absence of such an appointment, the successor of such beneficiary's Separate Trust Share shall be as provided in subparagraph (a), above.

CONTINUED ON NEXT PAGE

9.2 Actions by Trustees.

(a) All actions by the Trustees (including, without limitation, actions regarding investments and distributions) shall be taken only upon the unanimous vote of the Trustees then serving.

(b) (i) Co-Trustees May Act Alone. During any time that there are Co-Trustees serving, any one (1) may exercise any or all of the powers granted to the Co-Trustees and the signature of any one (1) shall be sufficient to bind the trust, Co-Trustees, trust estate, and the beneficiaries, their heirs, assigns, representatives and successors in interests. Any third party dealing with any person serving as Co-Trustee shall be fully protected in relying on the signature of that Co-Trustee. The powers which any one (1) Co-Trustee may exercise without the joinder of the other include, but are not limited to, banking, including both deposits and withdrawals of trust funds; execution of contracts, loans, either by or for the benefit of the trust, deeds, deeds of trust, and mortgages; and sales or exchanges of trust assets, including personal or mixed property, stocks, bonds and other securities with respect to any corporation, whether privately held or publicly traded; as well as the execution of any other documents reasonably necessary to effect any of the powers granted the Trustee.

(ii) Notwithstanding anything to the contrary, during any time that Co-Trustees are serving, any action taken with respect to real estate shall require the signature of all Co-Trustees.

9.3 Appointment of Successor Trustee or Co-Trustee.

(a) (i) If any individual is acting as Trustee hereunder and there is no named successor Trustee to that individual or the named successor is then unable or unwilling



to serve as Trustee hereunder, that individual shall have the power to appoint a successor Trustee who shall act as Trustee if and when that individual ceases to act in such capacity.

(ii) Except as provided above, in the event of a vacancy in the office of Trustee not otherwise provided for in this document, a successor Trustee shall be appointed by a majority of the adult beneficiaries currently entitled to distributions of income or, if none, a majority of adult beneficiaries who are entitled to distribution of income or principal in the discretion of the Trustee.

(iii) The person exercising the power to appoint a successor Trustee shall exercise that power by giving written notice of the appointment of the successor Trustee to each adult income beneficiary, the parent or guardian of each minor income beneficiary, and the conservator or guardian of the estate of each incompetent adult income beneficiary.

(b) An individual serving as sole Trustee of any trust hereunder may at any time designate one or more individuals or corporate trustees to serve as Co-Trustee(s) with him or her of a trust and to waive bond for any Co-Trustee so designated. This power to designate a Co-Trustee may be exercised only by delivering to the designee and to the then adult income beneficiary(ies) of such trust a signed and acknowledged writing specifically referring to this power. A designation may be revoked or amended by a subsequent designation that complies with the forgoing formalities. A designation may be for all or a portion of such Trustee's powers, and otherwise set forth terms and conditions of such service as are not inconsistent with this document.

CONTINUED ON NEXT PAGE

9.4 Resignation of Trustee.

(a) Any individual Trustee or Co-Trustee then in office may resign as Trustee or Co-Trustee, as the case may be, at any time by giving notice of his resignation to each adult income beneficiary, the parent or guardian of each minor income beneficiary, and the conservator or guardian of the estate of each incompetent adult income beneficiary of such trust ("Income Beneficiaries").

(b) If a corporate Trustee wishes to resign, it shall give notice of its intention to resign to each Income Beneficiary.

(c) A resignation shall take effect on the earlier of (i) the date specified in the resignation (which can be no earlier than thirty (30) days after the date of delivery of the written resignation, or (ii) an earlier effective date agreed to by the Income Beneficiaries and the resigning trustee.

(d) Upon the effective date of a resignation, the trustee shall be relieved of any further duties and responsibilities and shall not be liable or responsible for the acts of any successor trustee.

(e) Upon receiving notice of the resignation of a corporate trustee, the Income Beneficiaries shall appoint, as a successor corporate Trustee, in the place of the corporate Trustee (herein called the "outgoing corporate Trustee") any trust company qualified to engage in and conduct a trust business under the laws of the state in which the trust is being administered. Each appointment of a successor corporate Trustee hereunder shall be made by an instrument in writing setting forth such appointment and executed in duplicate, one of the originals of which instrument shall be delivered to the new appointee, and the second such original shall be delivered to the outgoing corporate Trustee, and the execution of such



instruments shall be conclusive evidence of the vacancy thereby filled. Every such successor corporate Trustee at any time acting hereunder shall have and be vested with all the rights, titles, powers and discretion hereunder of the outgoing corporate Trustee, to the same extent as if originally named the corporate Trustee. Upon the appointment of a successor corporate Trustee, the outgoing corporate Trustee shall cease to have any power or control over the trust estate, except such as is necessary to properly care for the trust estate pending the transfer to the successor corporate Trustee, and the outgoing corporate Trustee shall immediately transfer and deliver the entire trust estate to the successor corporate Trustee.

9.5 Automatic Resignation on Disability; Release of Medical Information.

(a) Any individual Trustee shall have automatically resigned, without further act on his part, when

(i) two (2) physicians authorized to practice medicine in the State of California (or any other place in which the Trustee resides), who are unrelated to either Settlor and the Trustee by blood or marriage, each sign a written declaration under penalty of perjury certifying that such physician has examined the Trustee and has concluded, based upon such examination, that by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration, or other similar cause, such Trustee is unable to exercise prudently his powers as Trustee in the best interests of the beneficiaries of the trust estate, and

(ii) such declarations are received by all other acting Trustees or, if there are none, by the successor Trustee or Trustees, or if no successor Trustee or Trustees are named herein, by all then income beneficiaries or their personal representatives. Any Settlor, beneficiary, Trustee, Co-Trustee or successor Trustee or Co-Trustee named in this Declaration

may require that the Trustee submit to such an examination, provided that the Trustee shall not be required to submit to an examination more frequently than once every six months. If such examination results in an automatic resignation of the Trustee, the cost of such examination shall be borne by the trust estate as a whole. If such examination does not result in the automatic resignation of the Trustee, the cost of such examination shall be (i) borne by the trust estate as a whole if the Settlor requested such examination, (ii) charged against the interest of the beneficiary requesting such examination, or (iii) if requested by a Trustee, Co-Trustee or successor Trustee who has no beneficial interest in this trust, shall be charged against such Trustee, Co-Trustee or successor Trustee individually.

(b) If a person is deemed to have automatically resigned as a Trustee pursuant to this Paragraph (the "Resigning Trustee"), the Resigning Trustee shall resume his or her status as a Trustee when

(i) two (2) physicians authorized to practice medicine in the State of California (or any other place in which the Trustee resides), who are unrelated to either Settlor, the Resigning Trustee or a serving Trustee by blood or marriage, each sign a written declaration under penalty of perjury certifying that such physician has examined the Resigning Trustee and has concluded, based upon such examination, that the Resigning Trustee is able to exercise prudently his powers as Trustee in the best interests of the beneficiaries of the trust estate, and

(ii) such declarations are received by all acting Trustees or, if there are none, by the successor Trustee or Trustees, or if no successor Trustee or Trustees are named herein, by all then income beneficiaries or their personal representatives. The Resigning Trustee, a Settlor, any beneficiary, Trustee, Co-Trustee or successor Trustee or Co-Trustee



named in this Declaration may request that the Resigning Trustee submit to such an examination. If such examination results in the Resigning Trustee resuming his or her status as a Trustee, the cost of such examination shall be borne by the trust estate as a whole. If such examination does not result in the Resigning Trustee resuming his or her status as a Trustee, the cost of such examination shall be (i) borne by the trust estate as a whole if the Settlor requested such examination, (ii) charged against the interest of the beneficiary requesting such examination, or (iii) if requested by the Resigning Trustee, a Trustee, Co-Trustee or successor Trustee who has no beneficial interest in this trust, shall be charged against such Trustee, Co-Trustee or successor Trustee individually.

(c) (i) Pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (42 USC §1320d and 45 CFR parts 160, 164) and the California Confidentiality of Medical Information Act ("CCMIA") (California Civil Code ("CC") Sections 56-56.37), or any successor statutes, each Resigning Trustee, and each person serving as a Trustee or Co-Trustee ("Serving Party") of any trust created under this Declaration authorizes any Health Care Provider (as defined below) to disclose his or her protected health information and medical information to a trustee, co-trustee, successor trustee, successor co-trustee or a beneficiary of this trust ("Requesting Party"), at the request of the Requesting Party, in the form of a written and signed opinion that the Serving Party does or does not have capacity to exercise prudently his or her powers as trustee of such trust in the best interests of the beneficiaries of the trust estate, along with a statement containing the health information sufficient to explain and support the opinion.

(ii) Although information disclosed by a Health Care Provider pursuant to this Paragraph is subject to redisclosure and may no longer be protected by the

privacy rules of the Health Insurance Portability and Accountability Act of 1996 (45 CFR Section 164), or any successor statute, California law prohibits the further disclosure of this information without a "new authorization". It is each Settlor's intention that this Paragraph be construed to be a "new authorization" that meets the requirements of California Civil Code Section 56.11 for purposes of California Civil Code Section 56.13 to permit further authorization by the Requesting Party of information received under this Paragraph for the purpose of establishing whether the Serving Party does or does not have capacity to exercise prudently his or her powers as trustee of such trust.

(iii) "Health Care Provider" is defined as any

(A) covered entity (including, but not limited to, any physician, health care professional, dentist, health plan, hospital, nursing home, clinic, laboratory, pharmacy, or any other covered health care provider),

(B) insurance company, and

(C) the Medical Information Bureau, Inc., or other health care clearinghouse that has provided treatment or services to a Settlor or that has paid for or is seeking to be paid for services.

9.6 Replacement of Corporate Trustee. At any time when a corporate Trustee is serving, it may be removed by the individual Trustee or if there is no individual Trustee then serving, then the corporate Trustee may be removed by a majority in interest of the beneficiaries of that trust who are then entitled to receive the income of that trust, either as a matter of right or in the discretion of the Trustee. For the purposes of this Paragraph, any minor beneficiary shall be represented by the guardian of his or her estate and any adult incompetent beneficiary shall be represented by the conservator or guardian of his or her estate. The individual Trustee or the



majority in interest of beneficiaries, as the case may be, shall appoint, as a successor corporate Trustee, in the place of the corporate Trustee (herein called the "outgoing corporate Trustee") any trust company qualified to engage in and conduct a trust business under the laws of the state in which the trust is being administered. Each appointment of a successor corporate Trustee hereunder shall be made by an instrument in writing setting forth such appointment and executed in duplicate, one of the originals of which instrument shall be delivered to the new appointee, and the second such original shall be delivered to the outgoing corporate Trustee, and the execution of such instruments shall be conclusive evidence of the vacancy thereby filled. Every such successor corporate Trustee at any time acting hereunder shall have and be vested with all the rights, titles, powers and discretion hereunder of the outgoing corporate Trustee, to the same extent as if originally named the corporate Trustee. Upon the appointment of a successor corporate Trustee, the outgoing corporate Trustee shall cease to have any power or control over the trust estate, except such as is necessary to properly care for the trust estate pending the transfer to the successor corporate Trustee, and the outgoing corporate Trustee shall immediately transfer and deliver the entire trust estate to the successor corporate Trustee.

9.7 Application for Appointment of Trustee. There shall be a Trustee serving at all times. If a successor Trustee is not appointed within ninety (90) days after giving notice of removal or resignation, the outgoing Trustee, or any beneficiary, shall apply to a court of competent jurisdiction for appointment of a successor.

9.8 Transfer From Outgoing to Successor Trustee. Every successor Trustee at any time acting hereunder shall have and be vested with all the rights, titles, powers and discretion hereunder of the outgoing Trustee, to the same extent as if originally named the Trustee hereunder, and upon the appointment of a successor Trustee the outgoing Trustee shall

cease to have any power or control over the trust estate, except such as is necessary to properly care for the same pending the transfer to the successor Trustee, and the outgoing Trustee shall immediately transfer and deliver to the successor Trustee the entire trust estate; provided, however, that the outgoing Trustee may retain a reasonable reserve, out of the principal of the trust, to cover its expenses in connection with the settlement of its accounts, but in that case the accounting must be presented within sixty (60) days after the appointment of the successor.

9.9 Delegation of Powers. Any individual Co-Trustee shall have the power to delegate to the other Co-Trustee any or all of his or her powers as a Co-Trustee. This power of delegation shall be exercised by the delivery by such individual Co-Trustee to the other Co-Trustee of written notice specifying the powers delegated and the delegation shall terminate upon delivery by such individual Co-Trustee to the other Co-Trustee of written notice of termination. The Co-Trustee so delegating his or her powers shall incur no liability to any beneficiary of the trust estate with respect to the exercise of any power so delegated during the period of such delegation.

9.10 No Bond. No individual who serves as a Trustee shall be required to give or post any bond or undertaking to insure the faithful performance of his or her duties as Trustee, whether acting as Co-Trustee or as sole Trustee.

9.11 Fiduciary Relationship. It is intended all Trustees hereunder shall act as fiduciaries and not as holders of powers for their own benefit. Accordingly and in order to eliminate the negative tax implications which might otherwise be drawn from various broadly worded provisions of this Trust Agreement, the following specific restrictions shall apply to all fiduciaries acting hereunder.

CONTINUED ON NEXT PAGE



(a) Except as otherwise expressly provided herein, each fiduciary, in the exercise of the powers and discretions conferred upon such fiduciary by the Trust Agreement, shall be guided by the best interests, as a whole and in a broad sense, of the beneficiaries hereunder, both present and contingent.

(b) Notwithstanding the broad generality of the administrative powers granted to the fiduciaries hereunder by the terms of this Trust Agreement nor any of the powers which may be accorded to trustees generally pursuant to law, neither the Trustees nor any other person or persons shall purchase, exchange or otherwise deal with or dispose of any of the assets held in trust hereunder for less than adequate consideration in money or money's worth. The foregoing shall not, however, be construed to prohibit any fiduciary hereunder from taking any action pursuant to the express provisions of this Trust Agreement, nor from abandoning property reasonably deemed by such fiduciary to be of insufficient value to warrant the expense of retention.

(c) No fiduciary who is under a legal obligation to support and/or educate any beneficiary shall, under any circumstances, partake in any decisions relating to any discretionary distributions which might be used for the support and/or education of such beneficiary.

(d) Except in the case of agents from time to time duly appointed by any Trustee hereunder, no person acting in a nonfiduciary capacity shall have any power either to vote or direct the voting of any stock or other securities constituting any part of the property of any trust hereunder or to direct investments or veto proposed investments as to any trust hereunder.

CONTINUED ON NEXT PAGE

(e) Any power which any one fiduciary may have to remove another fiduciary shall be exercised only in furtherance of trust purposes and not as a means of improperly influencing the manner in which discretions granted exclusively to that other fiduciary are to be exercised. Thus, if one fiduciary removes another under circumstances which indicate to the removed fiduciary that a substantial purpose of such removal was to influence improperly or change the way in which some trustee's discretion (held exclusively by the thus removed fiduciary) is or may be exercised, such fiduciary, within thirty (30) days of receipt of the notice of removal, shall deliver to the fiduciary who gave such notice of removal an affidavit substantiating those circumstances, in which event such removal shall be void for all purposes unless and until a court of proper jurisdiction has determined such alleged improper influence was not in fact a substantial purpose of such attempted removal.

9.12 Liability of Trustee.

(a) No individual Trustee shall be liable to any beneficiary of any trust created under this instrument for such Trustee's acts or failure to act, unless such acts or failure to act result from such Trustee's willful misconduct or gross negligence.

(b) The Trustee shall not be responsible for any act, omission, or wrongdoing of any investment advisor, real property manager, real estate agent or broker or other agent involved in the management of trust assets unless the Trustee fails to use reasonable care in the selection or supervision of such agents.

(c) No corporate Trustee shall be liable to any beneficiary of any Trust created under this instrument for such Trustee's acts or failure to act, unless such acts or failure to act result from such Trustee's willful misconduct or negligence.

CONTINUED ON NEXT PAGE



(d) No successor Trustee shall be liable for any act, default or omission of any predecessor Trustee. Unless requested in writing by a competent adult beneficiary to do so, no successor Trustee shall have any duty to investigate or review any action of any predecessor Trustee and such successor Trustee may accept the accounting records of the predecessor Trustee without further investigation without incurring any liability to any person claiming or having an interest in the trust estate.

9.13 Payments Before Notice of Event. Until the Trustee shall receive written notice of any birth, marriage, death, or any other event upon which the right to payments from this trust may depend, the Trustee shall incur no liability to persons whose interests may have been affected by the event for disbursements made in good faith.

9.14 Compensation. The Trustee shall be entitled to reasonable compensation for services rendered as Trustee. If the Trustee is an institution, it shall be entitled to reasonable compensation for services rendered as Trustee in accordance with its published fee schedule in effect at the time such compensation is paid. If Co-Trustees are serving, compensation shall be divided between them as they may agree, or if they are unable to agree, then as the court may decide upon application under the California Probate Code or any other applicable statute. The Trustee shall be entitled to reimbursement from the trust fund for all expenses incurred in executing the trust and in connection with the settlement of accounts and the transfer and delivery of the trust estate to a successor.

9.15 Power to Insure. The Trustee may carry, at the expense of the trust, insurance of the kinds (including, but not limited to, fiduciary liability insurance) and in the amounts that the Trustee, in his or her sole discretion, considers advisable to protect the trust

estate against any hazard or situation and the Trustee personally against liability with respect to third persons.

CONTINUED ON NEXT PAGE



#### ARTICLE 10: POWERS OF THE TRUSTEE

To carry out the purposes of the trusts established by this instrument and subject to any limitations stated elsewhere in this instrument, the Trustee is vested with the powers granted in this Article with respect to the trust estate and every part of it, in addition to those powers now or hereafter conferred by law and may engage in any course of action or investment strategy consistent with the standards of the Uniform Prudent Investor Act under the California Probate Code. The enumeration of certain powers of the Trustee shall not limit his general powers; but rather the Trustee, subject always to the discharge of his fiduciary obligations and all of the limitations specified in this instrument, shall be vested with and have all the rights, powers and privileges which an absolute owner of the same property would have. In exercising discretion under this instrument, the Trustee shall at all times act in a fiduciary capacity.

10.1 General. To manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property and to create restrictions, easements and other servitudes on trust property.

10.2 Retention of Assets. To retain all or any part of the property transferred to the trust estate for so long as he, in his discretion, shall deem advisable.

10.3 Investments. To invest and reinvest assets and property and to purchase or acquire and retain for the account of the trust estate such properties as men of prudence, discretion and intelligence purchase for their own account, having regard not to speculation but to the permanent disposition of their funds, and considering the probable income, as well as the probable safety of their capital. In making investment decisions (especially regarding the prudence, income and safety of a particular investment), the Trustee shall have regard to the overall investment of the entire trust estate, so that, for example, a portion of the entire trust

estate may be invested in relatively more speculative securities provided that such investment is balanced by a portion of the entire trust estate being invested in relatively secure securities. The assets and property purchased, acquired and retained by the Trustee by way of investment may include, but not by way of limitation, every kind of property, real, personal and mixed and interests therein, specifically including, but not by way of limitation, corporate obligations of every kind, preferred and common stocks (including the stock of the corporate Trustee) and general and limited partnership interests including in partnerships engaged in trade or business, all in a manner conforming with the then existing law. Investments authorized shall include interests in the common trust funds maintained by any corporate trustee and any mutual funds, closed-end investment companies and other common or commingled investment funds including such funds advised, managed or maintained by any corporate trustee and for which the trust is an eligible participant. The Trustee is expressly authorized to open and maintain security dealer margin accounts, and have the right to sell securities short and maintain long against short positions, and buy and sell call stock options and put stock options.

10.4 Leases. To lease trust property for terms within or beyond the term of the trusts, for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

10.5 Abandonment of Property. To abandon any real or personal property which the Trustee shall deem to be worthless or not of sufficient value to warrant keeping or protecting; to abstain from the payment of taxes, water rents, assessments, and the expenses of repairs, maintenance and upkeep of any such property; to permit any such property to be lost by tax sale or other proceedings, or to convey any such property for a nominal consideration or without consideration.



10.6 Borrowing. To borrow money and encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise, for the debts of the trust, or for the Settlor's debts, or for the joint debts of the trust, the Settlor and/or a co-owner of the property in which the trust has an interest, and to lend or advance funds to or for the trusts for any trust purpose, each such loan or advance with interest at the then current rate to be repaid out of the appropriate trust estate.

10.7 Litigation. To commence or defend litigation with respect to the trusts or any property of the trust estate as the Trustee may deem advisable, and to compromise or otherwise adjust any claims or litigation against or in favor of the trusts, all at the expense of the trust estate.

10.8 Securities. To have, respecting securities, all the rights, powers and privileges of an owner, including the power to pay assessments and other sums deemed by the Trustee necessary for the protection of the trust estate; to hold securities or other property in the name of the Trustee or in the name of a nominee without disclosing any fiduciary relationship; to give proxies; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through exercise of any of the foregoing powers; to consent to the subordination, modification, renewal, or extension of any debenture, note, bond, mortgage, open account indebtedness or other obligations, or any term thereof or of any guarantee thereof or to the release of such guarantee.

CONTINUED ON NEXT PAGE

10.9 Employment of Advisors. To employ custodians, attorneys, accountants, investment counselors and others to assist in the administration of the trust estate and to rely upon the advice given by them. Reasonable compensation for the services rendered by such persons, firms and corporations shall be paid out of income or principal as the Trustee, in his discretion, shall determine and shall not decrease the compensation to which the Trustee is entitled.

10.10 Principal and Income.

- (a) Except as otherwise provided in this instrument,
  - (i) the trustee shall determine principal and income of the trust estate and from time to time apportion and allocate receipts, expenses, and other charges between those accounts according to the provisions of the California Uniform Principal and Income Act (UPAIA), or any successor statute, and
  - (ii) If this instrument or the UPAIA does not provide for allocation of an income or expense item, the trustee has reasonable discretion to determine the characterization.
- (b) Notwithstanding anything to the contrary, if it is intended that a trust created under this instrument qualify for a marital deduction,
  - (i) the Trustee shall not allocate to principal any amounts received which may disqualify such marital deduction, and any such attempted allocation shall not be effective as to such trust, and
  - (ii) and if the Trustee establishes a reserve for depreciation, the Trustee shall have the discretion to choose the amount of the reserve to be retained and the



assumptions on which the reserve will be calculated as long as the aggregate return of all investments of such trust from time to time is reasonable in light of existing circumstances.

(c) For distributions made with respect to stocks, bonds, obligations for the payment of money, or other securities, the Trustee shall allocate to income such portions as shall be equal to the federal or state income tax payable by the income beneficiary of such trust with respect to such payments. The remainder of these distributions shall be allocated to principal or income as provided in this instrument or, to the extent not so provided, by the UPAA.

10.11 Budget Periodic Payments. To budget as far as practicable estimated annual income and expenses so as to equalize periodic income payments.

10.12 Bank Accounts. To open and maintain one or more savings accounts and checking accounts with any bank or savings and loan association, wherever located, whether within or without the United States of America, even if such bank is serving as Trustee; to deposit to the credit of such account or accounts all or any part of the funds belonging to the trust estate that may at any time be in the possession of the Trustee whether or not such funds may earn interest; from time to time to withdraw a portion or all of the funds so deposited by check or other instrument signed by the Trustee or by such other person or persons as the Trustee may from time to time authorize, and any such bank or such association is hereby authorized to pay such check or other instrument and also to receive the same for deposit to the credit of any holder thereof when so signed and properly endorsed, without inquiry of any kind, and payments when so made by such bank or such association shall not be subject to criticism or objection by any person concerned or interested in any way in the trusts.

CONTINUED ON NEXT PAGE

10.13 Move Trust. To remove all or any part of the trust estate and to transfer the place of administration of the trusts or any of them to any location outside of the State of California, whether within or without the United States of America.

10.14 (a) Life Insurance. To exercise all rights granted an absolute owner of life insurance, including but not limited to borrowing upon and pledging such policies for a loan or loans, surrendering them for their cash surrender value, or surrendering or joining in the surrender of such policies for predated policies having an aggregate value equal to the policies at surrender, and taking any other action granted an absolute owner. Notwithstanding anything to the contrary, a Trustee may not make any decision or have any "incident of ownership" (as defined in Section 2042 of the Internal Revenue Code of 1986, or any successor statute, and the related regulations) with respect to an insurance policy. Decisions with respect to any such insurance policy shall be made by the Co-Trustee, if any, or if there is no Co-Trustee, by the successor Trustee. Therefore, if policies on the life of the Survivor are included in the trust estate, all Co-Trustees other than the Survivor, if a Co-Trustee is then acting, and if not, the successor Trustee to the Survivor, shall exercise all powers conferred on the Trustee with respect to such policies. The Trustee shall charge all premiums on policies against the income, or if the income is insufficient, against the principal, of the trust which is the beneficiary of the insurance policy or policies. Unless specifically agreed to in writing, the Trustee shall have no obligation to pay the premiums on any such policies.

(b) Proceeds of Life Insurance. All policies of life insurance and all proceeds of life insurance payable on the life of the Survivor shall be owned by and allocated to the Decedent's Trust.

CONTINUED ON NEXT PAGE



10.15 Loans to Estate or Trusts. To lend trust funds to the probate estate of either Settlor and to any testamentary trust established by either of their Wills and, after the death of either of them, to any inter vivos trust established by one or both of them, said loans to be with or without interest or security and on such other terms as the Trustee, in his discretion, may deem reasonable.

10.16 Purchases from Estate or Trusts. To purchase property from the probate estate of either Settlor and from any testamentary trust established by either of their Wills and, after the death of the Survivor, from any inter vivos trust established by one or both of them, at the fair market value of said property. If there is any question as to the market value of any such property, it shall be fixed by the Trustee and the executor or administrator of said probate estate or the trustee of said trust and their determination as to such value shall be conclusive. If they are unable to agree or if the Trustee shall also be serving as the executor or administrator of said probate estate, or as the trustee of said trust, such value shall be determined by an appraiser whose determination shall be conclusive. The expense of such appraisal shall be borne equally by this trust and said probate estate or said trust.

10.17 Limitations re: Life Insurance. If any proceeds of life insurance policies on a Settlor's life are paid to the Trustee by reason of such Settlor's death, then subject to the provisions of the following sentence but notwithstanding the foregoing provisions of this paragraph or any other provision of this Trust, the Trustee is expressly prohibited from and shall have no right to use any part thereof to pay any tax, liability or expense which may be payable on such Settlor's account or to use the same or any part thereof in any other manner for the benefit of such Settlor's probate estate. However, to the extent that there are no other assets available

for such purposes, such proceeds, if otherwise taxable as a part of such Settlor's estate for Federal estate tax purposes, may be used for the purposes mentioned in the preceding sentence.

10.18 S Corporation Stock.

(a) Notwithstanding anything to the contrary in this trust document, it is the Settlers' intention that any trust created hereunder which holds stock in an "S Corporation" (as defined in Section 1361(d) of the Internal Revenue Code of 1986) ("Code"), or any successor statute, shall qualify as an eligible shareholder of such stock. Accordingly, any power or discretion contained herein which may prevent such trust from being an eligible holder of such stock shall be null and void. Without limiting the foregoing, if the trust shall hold shares of stock in an S Corporation ("S Corporation Shares"), the S Corporation Shares shall be held in a separate trust and from such separate trust, the Trustee shall distribute to the beneficiary all the net income (within the meaning of Code Section 643(b)) attributable to the S Corporation Shares in semi-annual or other convenient installments, but not less often than annually. In order to accomplish the above purposes, the Trustee, in the Trustee's sole discretion, may at any time divide the principal of a separate trust for a beneficiary into two (2) or more separate trusts, one share to be held as a separate trust and distributed under the provisions contained in this trust document for such beneficiary, and the remaining share or shares to be held as separate Qualified Subchapter S Trusts in accordance with the provisions of Code Section 1361(d)(3). If, and only if, the Trustee, in the Trustee's sole discretion, determines that the Settlers' intention to qualify this Trust as a Qualified Subchapter S Trust may not be accomplished, the Trustee may amend this Trust to accomplish said intention, subject to the following conditions and limitations:

(i) No such amendment shall be made except to qualify this Trust as a Qualified Subchapter S Trust.



(ii) All such amendments shall be in the form of a decree of the court having jurisdiction over this trust, upon petition by the Trustee and after such notice to parties and interests as such court may direct.

(iii) The Trustee, in the Trustee's sole discretion, may request that such amendment take effect as of the effective date of the trust (which date shall be the date of division of the trust under this Paragraph into separate shares as provided herein or any subsequent date).

(b) Notwithstanding anything to the contrary, with respect to any trust created by this Agreement which is intended to be (or is) a Qualified Subchapter S Trust:

(i) During the life of the income beneficiary, there shall be only one current income beneficiary of the trust within the meaning of Section 1361(d)(3)(A) of the Code.

(ii) During the life of the current income beneficiary, distributions of income or principal from the trust shall be made only to the current income beneficiary within the meaning of Section 1361(d)(3)(A) of the Code.

(iii) The income interest of the current income beneficiary in the trust will terminate on the earlier of the death of the current income beneficiary or the termination of the trust.

(iv) If the trust terminates during the life of the current income beneficiary, all remaining assets of the trust, including any accumulated and undistributed income, shall be distributed to the current income beneficiary.

(v) All the income of the trust as defined in Section 643(b) of the Code shall be distributed currently to the current income beneficiary (within the meaning of

Section 1361(d)(3)(B) of the Code). Further, any income that is accrued, accumulated or undistributed on the death of the current income beneficiary shall be distributed in a manner permitted by Section 1361(d)(3)(B) of the Code.

(c) Except as specifically provided herein to the contrary, no transfer of any S Corporation Shares shall be made to any transferee whose ownership of such Shares will terminate the S Corporation election (whether such person is an ineligible shareholder, or such ownership would cause the corporation to have more than the maximum number of shareholders as permitted pursuant to the Code), or who otherwise would cause the corporation to fail to qualify as a "small business corporation" as defined in Code Section 1361.

10.19 Guarantees. Either Settlor, while serving as Co-Trustee or Trustee, as the case may be, may guarantee the indebtedness of any person or entity, including either or both of the Settlers, whether or not said guarantee is for a Trust purpose or in any way benefits the Trust; and to effectuate such guarantees, to execute such documents as may be requested by the creditor and agreed to by the Settlor serving as Co-Trustee or Trustee, as the case may be. Any such guarantees, at the sole discretion of the Settlor serving as Co-Trustee or Trustee, as the case may be, may be secured by any or all of the assets of the Trust.

10.20 Environmental Matters. In addition to all other powers, rights and privileges conferred on the Trustee under this document, the Trustee shall also have the following rights, powers and privileges with respect to environmental matters.

(a) Inspection of Property and Records Prior to Acceptance.

(i) Prior to acceptance of this trust by any proposed or designated Trustee (and prior to acceptance of any asset by any proposed, designated or acting



Trustee), such Trustee or proposed or designated Trustee shall have the right to take the following actions at the expense of the trust estate:

(A) to enter, inspect and take samples for laboratory analysis from any existing or proposed trust asset for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any hazardous substance (as defined under any applicable federal, state or local environmental law or regulation) into, onto, beneath or emanating from the asset; and

(B) to review public records and records of the currently acting Trustee or of the Settlor (or of any partnership, limited liability company or corporation in which either the trust or the Settlor holds an interest) for the purpose of determining whether the asset is in compliance with all federal, state or local environmental laws and regulations, including those records relating to permits, licenses, notices, reporting requirements and governmental monitoring of hazardous waste or hazardous substances.

(ii) The right of the Trustee or proposed or designated Trustee to enter and inspect assets and records of a partnership, limited liability company or corporation under this Paragraph is equivalent to the right under state law of a partner, member or shareholder to inspect assets and records under similar circumstances.

(iii) Acts performed by a proposed or designated Trustee under this Paragraph shall not constitute acceptance of the trust.

(iv) If an asset of the trust is discovered to contain any hazardous substance or to potentially subject the trust estate to liability to any third party or governmental agency under any environmental law, rule, regulation or common law or to otherwise not be in compliance with any environmental law, rule, regulation, directive or order,

the Trustee may decline to act as Trustee solely as to such asset, and accept the trusteeship as to all other assets of the trust. A court of competent jurisdiction shall appoint a receiver or Special Trustee to hold and manage the rejected asset under the preceding sentence, pending its final disposition. Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to the Trustee.

(b) Termination, Bifurcation or Modification of Trust Due to Environmental Liability.

(i) If the trust estate holds one or more assets, the nature, condition, or operation of which could potentially subject the trust estate to liability under any federal, state or local environmental law, rule, regulation or common law, the Trustee may take one or more of the following actions, if the Trustee, in its discretion, determines that such action is in the best interests of the trust and its beneficiaries:

(A) modification of trust provisions, granting the Trustee such additional powers as are required to protect the trust and its beneficiaries from liability or damage arising under any federal, state or local environmental law, rule, regulation or common law;

(B) bifurcation of the trust; or

(C) appointment of a receiver or Special Trustee, by a court of competent jurisdiction, to administer any Trust property or business which could potentially subject the trust estate to liability under any federal, state or local environmental law, rule, regulation or common law.

(ii) With court approval, the Trustee may terminate the trust or partially or totally distribute the trust estate to its beneficiaries.



(iii) In order to protect the interests of the trust, the Trustee and the beneficiaries of the trust, it is the intent of the Settlor that the Trustee shall have the widest discretion in identification of and response to administration problems connected to potential environmental liability to the trust estate and the Trustee.

(c) The Trustee shall have the power to take, on behalf of the trust, any action necessary to prevent, abate, or otherwise remedy any actual or threatened violation of any federal, state or local environmental law, rule or regulation, relating to any asset, which is or has been held by Trustee as part of the trust estate.

(d) Indemnification of Trustee from Trust Assets for Environmental Expenses.

(i) The Trustee shall be indemnified and reimbursed from the trust estate for any liabilities, loss, damages, costs or expenses arising out of or relating to federal, state or local environmental laws, rules, regulations or common law, as amended or as arises from time to time (hereinafter "Environmental Expenses").

(ii) Environmental Expenses shall include, but shall not be limited to:

(A) costs of investigation, analysis, removal, remediation, response or other cleanup costs of contamination by hazardous substances, as defined under any applicable federal, state or local environmental law, rule or regulation or common law;

(B) legal fees and costs arising from any judicial, investigative or administrative proceeding relating to any federal, state or local environmental law, rule or regulation;

(C) civil or criminal fees, fines or penalties, incurred under any federal, State or local environmental law, rule or regulation; and

(D) fees and costs payable to environmental consultants, engineers or other experts, including legal counsel, relating to any federal, State or local environmental law, rule or regulation or to the investigation or cleanup of any hazardous substances.

(iii) The right to indemnification or reimbursement shall extend to Environmental Expenses relating to:

(A) any real property or business enterprise which is or has been at any time owned or operated by the Trustee as part of the trust estate; and

(B) any real property or business enterprise which is or has been at any time owned or operated by a corporation, partnership or association in which the Trustee holds or has held at any time an ownership or management interest as part of the trust estate.

(iv) The Trustee shall have the right to reimbursement for incurred Environmental Expenses without the prior requirement of expenditure of its own funds in payment of such Environmental Expenses, and shall have the right to pay Environmental Expenses directly from trust assets.

(v) This right of indemnification or reimbursement shall apply to all Environmental Expenses, except those resulting from the Trustee's intentional wrongdoing, bad faith or reckless disregard of fiduciary obligation.

(vi) If the assets of the trust estate are insufficient, or there is insufficient liquidity in the trust estate to satisfy the obligation of indemnification or



reimbursement of the Trustee from the trust estate for Environmental Expenses, the Trustee shall have the right to receive written indemnification and reimbursement covenants for such Environmental Expenses directly from the Settlor and the beneficiaries.

CONTINUED ON NEXT PAGE

## ARTICLE 11: ADMINISTRATIVE PROVISIONS

11.1 Consideration of Other Assets. If the Trustee is authorized to make discretionary distributions of principal or income, or both, to any beneficiary, then in determining whether to make such distribution and the amount to be paid, the Trustee shall take into consideration, to the extent that the Trustee may deem appropriate, any other income and financial resources which the beneficiary may have and which are known to the Trustee and which are reasonably available for those purposes.

11.2 Distributions to Incompetent Persons. If the Trustee is required to distribute or pay any monies to or use or expend monies for the benefit, support or maintenance of a minor, conservatee or an incompetent person, each such distribution or payment may, in the discretion of the Trustee, be made without the intervention of any guardian, conservator or court to the person with whom such beneficiary resides or directly to such beneficiary if, in the opinion of the Trustee, said beneficiary is able to manage and deal with money properly, or the Trustee may make such distributions or payments directly for the benefit of the beneficiary or to the guardian or conservator of such beneficiary or to the custodian of his assets under the California Uniform Transfers to Minors Act (or under the comparable law of any other state in which said beneficiary resides) to be held until such person attains age twenty-five (25), but the Trustee may, in his discretion, require such reports and take such steps as he shall deem necessary or appropriate to assure and enforce the proper application of such monies.

11.3 Discharge of Support Obligations. Any other provisions of this instrument notwithstanding, income or principal of the trust estate shall not be utilized to discharge in whole or in part the legal obligations of any person, from time to time existing, to support any of the beneficiaries of the trusts created by this instrument, unless the court having jurisdiction over the



administration of said trusts determines that such person is financially or otherwise unable to provide such support. When determining the legal obligation of any person to support any of the beneficiaries, the existence of the beneficiary's trust and the funds available by it shall not be taken into consideration.

11.4 Spendthrift Provision. No interest of any beneficiary in the principal or income of any trust established hereunder shall be subject to the claims of his creditors or others or to attachment, execution or other legal process prior to its actual receipt by the beneficiary and no beneficiary shall have any right to assign, alienate, encumber or hypothecate his interest in principal or income.

11.5 Separate Shares. Each share into which the trust estate is divided pursuant to the provisions of this instrument shall constitute and be administered as a separate trust. There need be no physical segregation or division of the various trusts established 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.

11.6 Consolidation of Similar Trusts. If at any time the Trustee is administering a trust for the benefit of a beneficiary, and there exists one or more other trusts created for the benefit of the same beneficiary, the Trustee may, in the Trustee's sole discretion, administer the assets of the various trusts together and hold them in a single trust, as long as:

(a) The Trustee determines that administration as a single trust will be consistent with the intent of the persons who established the trusts (including the intent with respect to the tax consequences of the trusts, present and future financial objectives of the trusts and their beneficiaries, the need or desirability of having the same or different Trustees for various trusts or shares, and any other considerations the Trustee may deem appropriate to these

decisions), and will facilitate trust administration without defeating or impairing beneficial interests; and

(b) The terms of the various trusts are substantially identical.

11.7 Power To Divide Trusts.

(a) Except as otherwise provided to the contrary in this trust document or as it might jeopardize the right to a marital deduction or prejudice an inclusion ratio of zero for GST purposes, the Trustee may, at any time and from time to time, and without court approval (for tax or administrative reasons) divide any trust hereunder into two or more separate trusts, each of which shall have the same provisions as the original trust from which it was established, and references in this trust document to the original trust shall refer to the separate trusts derived from it.

(b) If a trust is divided into separate trusts, the Trustee may, at any time prior to a combination of such trusts, take any and all actions consistent with such trusts being separate entities including, without limitation, making different tax elections with respect to each separate trust, and expending principal and exercising any other discretionary powers differently with respect to each separate trust. The donee or other holder of a power of appointment with respect to a trust so divided may exercise such power differently with respect to the separate trusts created. In addition, if property is directed to be added to any trust hereunder, the Trustee may: (i) hold such additional property as one or more separate trusts having terms identical to the terms of the trust to which it was to be added; and (ii) allocate such additional property on a non-pro rata basis among several trusts, if any, into which the trust to which such additional property is required to be added was previously divided (including an allocation of all such additional property to one of such trusts). No Trustee shall be liable for



any good faith exercise of a power described in or otherwise authorized by this Paragraph and, in the event any such good faith exercise of such a power results in a detriment to one or more beneficiaries, the Trustee shall be exonerated and otherwise held harmless with respect to any such detriment.

11.8 Power To Obtain Benefits Under Welfare And Institutions Code. The Trustee shall have the power to explore and implement Medi-Cal planning strategies and options and to plan and accomplish asset preservation in the event a Settlor or beneficiary needs long-term health and nursing care. Such planning shall include, but is not necessarily limited to, the power and authority to: (a) make home improvements and additions to a Settlor's or beneficiary's family residence; (b) pay off in part or in full the encumbrance, if any, on a Settlor's or beneficiary's family residence; (c) purchase a family residence, if a Settlor or beneficiary does not own one; (d) purchase a more expensive family residence; and (e) make gifts of assets for estate planning purposes.

11.9 Treatment As Administrative Trust. The Trustee, in its sole and absolute discretion is authorized to hold, administer and manage all or a portion of the trust estate as a single administrative trust during the period of time (the "Closing Period") beginning with a Settlor's death and continuing until the later of

- (a) two (2) years from the death of such Settlor, or
- (b) the full and complete payment of all expenses and Taxes (as such term is defined in this document) and all distributions to the beneficiaries have been made, including assets the Trustee has used to establish a reserve for payment of trust expenses and Taxes.

CONTINUED ON NEXT PAGE

No beneficiary shall be entitled to demand payment or distribution of his or her share before the end of the closing period, but the Trustee, in the Trustee's sole and absolute discretion, may make partial or complete distribution of any share at such times and in such amounts as the Trustee determines to be equitable. Retention of a beneficiary's share shall not affect his or her right to the income from it, if any, or his or her power or disposition over such property.

11.10 Distribution in Kind or Non Pro Rata. In any case in which the Trustee is required, pursuant to the provisions hereof, to divide any trust property into parts or shares for the purpose of distribution or otherwise, the Trustee is authorized, in the Trustee's discretion, to make such division and distribution in kind, including undivided interests in any property, or partly in kind and partly in money, at valuations determined by the Trustee, and for this purpose the Trustee is authorized to make such sales of the trust property as the Trustee shall deem necessary on such terms and conditions as the Trustee shall see fit. In making any division or partial or final distribution of the trust estate, the Trustee shall be under no obligation to make a prorata division, or to distribute the same assets to beneficiaries similarly situated; but rather, the Trustee may, in the Trustee's discretion, make a non-prorata division between trusts or shares and non-prorata distributions to such beneficiaries, as long as the respective assets allocated to separate trusts or shares, or distributed to such beneficiaries, have equivalent or proportionate fair market values. The Trustee may, at the Trustee's election, disregard the cost or other income tax bases of such assets.

11.11 Termination for Small Principal. If at any time the share of the trust estate which is being held for any beneficiary has a value of less than Twenty Thousand Dollars (\$20,000), or if the Trustee shall at any time determine that the value of said share has become so low in relation to the cost of administering the same that the continuance of the trust for the



beneficiary thereof pursuant to its terms will defeat or substantially impair the accomplishment of the purposes of the trust, the Trustee shall have the right, in his sole discretion, to terminate the trust as to said share whereupon the Trustee shall distribute to the beneficiary thereof all of the principal and undistributed income, if any, which is then being held for him or her. Notwithstanding the foregoing, if a beneficiary of a share is serving as a Trustee hereunder, he or she shall have no power to participate in any decision to terminate the trust as to said share, and if there is no Trustee who is not also a beneficiary of said share, it may be terminated only in the discretion of the court having jurisdiction over the administration of the trust.

11.12 Rule Against Perpetuities. No trust created hereunder shall extend beyond the period permitted by law and, unless terminated at an earlier date under the foregoing provisions, each trust established hereunder shall terminate twenty-one years after the death of the last survivor of the beneficiaries in being at the time of the death of the first Settlor to die. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust in the proportions in which they are, at the time of termination, entitled to receive the income; provided, however, that if the rights to income are not then fixed by the terms of the trust, distribution under this clause shall be made to those who are then authorized, in the discretion of the Trustee, to receive income payments. If there are no such beneficiaries then living, the principal and undistributed income of said trust shall be distributed in accordance with the provisions of the last paragraph of ARTICLE 7.

11.13 Accountings Until Survivor's Death. During the lifetime of either Settlor, the Trustee may account to the Settlers or the Survivor, and their written approval shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of the trust, including unborn and contingent beneficiaries.

11.14 Accountings After Survivor's Death.

(a) After the deaths of both Settlers, in addition to any accounting required under the California Probate Code ("Probate Code"), the Trustee shall prepare and deliver, at least annually, a written accounting regarding the trust's administration to each beneficiary entitled to current income distribution or, if there are no current income beneficiaries, to each beneficiary entitled to current distributions out of income or principal in the discretion of the Trustee. If a person entitled to receive an accounting is a minor or is under a disability, the accounting shall be delivered to his parents or the guardian of his person if he is a minor or to the guardian or conservator of his person if he is under any other disability.

(b) Subject to Probate Code Section 16461(b) or its successor provision, a beneficiary's failure to object to an item disclosed in an accounting by the Trustees within one hundred eighty (180) days after the beneficiary's receipt of the accounting shall constitute the beneficiary's release of the Trustees with respect to that item, provided that the Trustees shall have complied with the requirements of Probate Code Section 16461(c)(3) or its successor provision.

11.15 Notice of Fiduciary Relationship.

(a) The Trustee is empowered upon the Trustee's appointment as Trustee to file Form 56 under Internal Revenue Code Section 6903 and Treas. Reg. Section 301.6903-1 with the Internal Revenue Service Center where the return of the person for whom the Trustee is acting was required to file his or her tax returns.

(b) When the Trustee ceases to be Trustee, the Form 56 shall also be filed with the Internal Revenue Service notifying the Internal Revenue Service that the Trustee's fiduciary authority has terminated.



11.16 Survival Presumptions.

(a) If the Settlers die simultaneously or in an unknown order, the trust estate shall be divided, administered and distributed as if the Settlor-husband was the first to die.

(b) If any person named or referred to herein, (other than the surviving Settlor) shall die under such circumstances that there is no sufficient evidence that death occurred otherwise than simultaneously with one of the Settlers, it shall be deemed, for the purposes of construing and applying the provisions of this trust, that the Settlor survived such person.

CONTINUED ON NEXT PAGE

## ARTICLE 12: MARITAL DEDUCTION PROVISIONS

12.1 Limitation on Powers. It is the Settlor's intention that the Survivor's Trust and the Marital Trust (or the Qualified Marital Trust, if an election is made to qualify only a portion of the Marital Trust for the marital deduction) qualify for the marital deduction allowable under the federal estate tax law. Therefore, anything in this instrument to the contrary notwithstanding, the Trustee shall exercise the powers and discretion as to the Survivor's Trust and the Marital Trust granted in this instrument and by statute only in a manner consistent with said intention and with the allowance of the marital deduction to the extent provided in this instrument. Any powers and discretion granted to the Trustee which may disqualify the Decedent's estate for said deduction shall not be effective as to said trust. Without limiting the generality of the foregoing, unproductive or underproductive property shall not be held as an asset of the Survivor's Trust or the Marital Trust for more than a reasonable time during the lifetime of the Survivor without his or her consent.

12.2 Funding of Marital Deduction Gifts. In funding the marital deduction gift made in ARTICLE 6, the Trustee shall satisfy the pecuniary amount in cash or in kind, or partly in cash and partly in kind, with assets eligible for the marital deduction allowed under provisions of the federal estate tax law. Assets allocated in kind shall be valued on the date or dates they are distributed or allocated to the Marital Trust, and in making this allocation the Trustee shall select assets, including cash, which are fairly representative, on the date of allocation, of appreciation or depreciation subsequent to the date of valuation for federal estate tax purposes in the value of all property available for this purpose. Nothing contained in this Declaration shall be construed to limit the discretion of the Decedent's Executor to elect to value the Decedent's



estate for federal estate tax purposes as of the date of the Decedent's death or as of an alternate valuation date.

12.3 QTIP Election.

(a) The Settlers expressly authorize the Trustee, in the Trustee's sole and absolute discretion, to elect to have the Marital Trust, or any portion of it, treated as qualified terminable interest property. It is the Settlers' intention that the Trustee make such election unless there is a compelling reason not to do so, such as the death of the Survivor within a short time after the death of the Decedent. The Trustee shall not be liable to any beneficiary under this Trust by reason of making or not making such election, unless resulting from the Trustee's own willful misconduct or negligence.

(b) If an election is properly made to qualify only a portion of the Marital Trust for the federal estate tax marital deduction, the Marital Trust shall be divided into separate Qualified and Non-Qualified portions, each to be administered as a separate Qualified or Non-Qualified trust during the lifetime of the Survivor, and designated as the "Qualified Marital Trust" and the "Non-Qualified Marital Trust", respectively. Except where specifically directed to the contrary, reference to the Marital Trust shall include reference to both the Qualified Marital Trust and the Non-Qualified Marital Trust.

CONTINUED ON NEXT PAGE

### ARTICLE 13: GENERATION SKIPPING TAX PROVISIONS

#### 13.1 Generation Skipping Transfer Tax Election.

(a) If the Trustee makes an election to have the Marital Trust, or any portion of it, treated as qualified terminable interest property, the Trustee is further authorized to make an election under Section 2652(a)(3) of the Internal Revenue Code of 1986, or any successor statute, to treat the Decedent as the transferor of such property for purposes of the generation skipping transfer tax ("GSTT"). If the Trustee makes such an election and if the value of the Marital Trust (or the Qualified Marital Trust, if an election is made to qualify only a portion of the Marital Trust for the marital deduction) exceeds the amount of the Decedent's GSTT exemption ("GSTT Exemption") available at the Decedent's death and not otherwise allocated, the Trustee shall divide the Marital Trust or the Qualified Marital Trust, as the case may be, into two (2) separate trusts to be designated the "Exempt Marital Trust" and the "Non-Exempt Marital Trust." The Exempt Marital Trust shall consist of that amount of property equal in value to the amount of the Decedent's GSTT Exemption not otherwise allocated and which is available at the Decedent's death for allocation to the Exempt Marital Trust. The Non-Exempt Marital Trust shall consist of the balance of the Marital Trust or the Qualified Marital Trust, as the case may be. This division of the Marital Trust or the Qualified Marital Trust, as the case may be, into two (2) separate trusts shall result in the Exempt Marital Trust having a GSTT inclusion ratio of zero (0) and the Non-Exempt Marital Trust having a GSTT inclusion ratio of one (1). Notwithstanding the foregoing, the Trustee may elect to have the Decedent treated as the GSTT transferor for an amount greater than the "exempt portion" of the Marital Trust to which the Trustee makes an allocation from or of the Decedent's GSTT Exemption.

CONTINUED ON NEXT PAGE



(b) If the Trustee exercises his discretion to create an Exempt Marital Trust and a Non-Exempt Marital Trust, each of such trusts shall be subject to all provisions applicable to the Marital Trust from which they were established and, except where specifically directed to the contrary, reference to the Marital Trust shall include reference to both the Exempt Marital Trust and the Non-Exempt Marital Trust.

(c) In allocating a Settlor's GSTT Exemption, the Trustee may include or exclude any property of which the Settlor is the transferor for GSTT purposes including, but not limited to, property transferred before that Settlor's death. The Trustee may base the decision on prior transfers, gift tax returns, and other information available to the Trustee.

(d) The Trustee shall preserve the character of the Exempt Marital Trust and the Non-Exempt Marital Trust. Thus, upon termination of such a trust, if the assets of such trust are to be added to another trust, the Trustee shall not combine or add such assets to a trust of different character, even if this requires creating more separate trusts with the same terms. For example, if the assets of an Exempt Marital Trust are to be added to another trust upon such Exempt Marital Trust's termination, such trust's assets shall be added only to the assets of an exempt trust even if it is necessary to create another exempt trust with the same terms. If there is no appropriate recipient trust for such trust assets, then a new trust of that character shall be established with the same terms and provisions as those of the trust that would otherwise have received that property under the original trust terms.

(e) The Trustee shall have the authority, in the Trustee's discretion, to combine any trust with any other trust having the same inclusion ratio, as well as to combine trusts with different inclusion ratios, provided their inclusion ratios are maintained unchanged through substantially separate and independent shares of different beneficiaries under Section

2654(b) of the Internal Revenue Code of 1986, or any successor statute. In deciding whether and how to exercise this discretion, the Trustee may consider efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and their beneficiaries, present and future financial objectives of the trusts and their beneficiaries, the need or desirability of having the same or different Trustees for various trusts or shares, and any other considerations the Trustee may deem appropriate to these decisions.

13.2 Testamentary General Power of Appointment.

(a) Except as provided below, if a beneficiary dies prior to becoming entitled to receive the entire balance of the share of the trust estate set aside for such person, the beneficiary shall have a testamentary general power of appointment to appoint all or any portion of his or her share of the trust estate to such one or more persons and entities, on any terms and conditions, either outright or in trust, and in any amounts and proportions that he or she may appoint.

(b) Notwithstanding anything to the contrary, such general power of appointment shall only apply

(i) to the portion of the trust estate which is not exempt from generation-skipping transfer taxes, and

(ii) to the extent that both

(A) the existence or exercise of the general power of appointment will result in the elimination of a generation-skipping transfer tax that would have been imposed upon the death of the beneficiary but for the existence or exercise of such general power of appointment, and



(B) the total estate, inheritance and other death taxes imposed upon the death of the beneficiary because such property is included in the gross estate of the beneficiary as a result of the existence of the general power of appointment will be less than the total generation-skipping transfer tax that will result if such property is not included in the gross estate of the beneficiary for estate, inheritance or other death tax purposes.

(c) Notwithstanding anything above or anything herein to the contrary, if such share consists of Retirement Assets (as defined in this Trust), a beneficiary shall not have a power to exercise the testamentary general power of appointment in favor of any individual older than the Oldest Primary Beneficiary (as defined in this Trust) or to any non-individual.

13.3 Liability of Trustee. The Trustee shall not be liable to any beneficiary under this Trust by reason of making or not making any GSTT election or allocation, or by reason of exercising or not exercising any discretion relating to the GSTT, unless resulting from the Trustee's own willful misconduct or gross negligence.

13.4 Restrictions on Elections or Allocations. Notwithstanding anything to the contrary, a Trustee may not make or participate in any (i) GSTT election or allocation decision that would result in the person having a general power of appointment over property that person would not otherwise have such a power over, or (ii) grant of a testamentary general power of appointment to himself. If such person is a Co-Trustee, this decision shall be made by all Trustees other than such person. If such person is the sole Trustee, this decision shall be made by the person or institution named herein as the successor Trustee to such person. If this restriction results in no Trustee being able to make an election or allocation, a person shall be appointed as Trustee for those purposes in the same manner as a successor Trustee would otherwise be appointed under this Trust.

13.5 "Trustee" Defined. For purposes of this Article, the term "Trustee" shall be deemed to refer to the person whom the provisions of the Internal Revenue Code of 1986, or any successor statute ("IRC"), or Treasury Regulations authorize to make the transferor election for qualified terminable interest property under IRC Section 2652(a)(3) and to allocate the exemption under IRC Section 2631(a). However, if the Executor of a Settlor's Will has the authority under the IRC to take any actions with respect to the GSTT, the term "Trustee" shall include the Executor.

CONTINUED ON NEXT PAGE



#### ARTICLE 14: TAXES

14.1 General. Unless specifically provided to the contrary in this Trust or in the Will of a Settlor, all federal, state and foreign estate, inheritance or other death taxes, interest and penalties (collectively "Taxes") imposed on or by reason of the inclusion of any assets in the gross taxable estate of either Settlor may be paid by the Trustee and charged to, prorated among, or recovered from the trust estate or the persons entitled thereto as provided in the California Probate Code and applicable provisions of the Internal Revenue Code. Notwithstanding anything to the contrary, if the trust estate giving rise to Taxes has been divided into shares so that a portion of the trust estate is to be held in trust(s) which are exempt for the generation-skipping transfer tax or any successor tax ("Exempt Share") and the other portion is to be distributed to or held in non-Exempt Shares, the Taxes shall be paid by the Trustee, to the extent possible, from the non-Exempt Share. The trustee may seek reimbursement for Taxes from the recipients of assets subject to Taxes to the fullest extent permitted by law.

14.2 Marital Trust. Notwithstanding anything to the contrary, (i) if the Marital Trust has been divided into a Qualified Marital Trust and Non-Qualified Marital Trust, then any Taxes attributable to (or which would otherwise be recoverable from) the Qualified Marital Trust shall first be charged to and paid from the Non-Qualified Marital Trust and then, if necessary, from the Survivor's Trust, and (ii) if the Marital Trust has been divided into an Exempt Marital Trust and a Non-Exempt Marital Trust, then any Taxes attributable to (or which would otherwise be recoverable from) the Exempt Marital Trust shall first be charged to and paid from the Non-Exempt Marital Trust and then, if necessary, from the Survivor's Trust. To the extent that estate taxes are paid from the Survivor's Trust, the trustee of the Survivor's Trust shall not exercise the Internal Revenue Code section 2207A right of recovery with respect to that trust.

14.3 Generation-Skipping Transfer Taxes. All generation skipping transfer taxes shall be paid as provided by applicable law.

14.4 Reserves. The Trustee may establish such reserves out of income and principal, following the death of each Settlor as the Trustee considers necessary for the payment of such taxes.

CONTINUED ON NEXT PAGE



ARTICLE 15: INTEREST

No interest shall be paid on any gift, legacy or right to income under this instrument; provided, however, that there shall be paid all interest, if any, which must be paid in order to entitle the Decedent's estate to the benefit of the maximum marital deduction to which it would otherwise be entitled, or as required for generation-skipping transfer tax purposes with respect to a share of the trust estate for a beneficiary.

CONTINUED ON NEXT PAGE

ARTICLE 16: GENERAL PROVISIONS

16.1 No Contest.

(a) If any beneficiary should contest (as defined in California Probate Code Section 21310, or any successor statute thereto) any protected instrument (as defined below) or any one or more of its terms, then for all purposes the provisions of this document shall be construed and all property held in trust hereunder shall be held and disposed of as though such person had predeceased both of the Settlers and as though such person had no surviving descendants. This clause shall be interpreted to preclude all actions against which a no contest clause can be enforced under the laws of the State of California, including without limitation, the following actions:

- (i) A challenge to the validity of a protected instrument (as defined below) or any one or more of its terms;
- (ii) An action or proceeding to determine the character of property; and
- (iii) A petition for settlement or for compromise affecting the terms of a protected instrument.

- (b) For purposes of this Paragraph, a "protected instrument" includes
- (i) this instrument,
  - (ii) either of the Settlers' wills and any existing codicils thereto,
  - (iii) any beneficiary designation previously executed by either of the Settlers (including, without limitation, the beneficiary designation for any insurance policy, retirement plan (as defined below), ESOP or payable on death account),



(iv) any existing document in which either of the Settlers exercises a power of appointment,

(v) any existing document signed by either of the Settlers creating a joint tenancy interest,

(vi) any existing deed or other instrument effecting a transfer of real property by either of the Settlers,

(vii) any existing revocable or irrevocable trust of which either of the Settlers is a settlor and any existing amendment thereto, and

(viii) any premarital, postnuptial or property status agreement to which either of the Settlers are parties and any existing amendment thereto.

For purposes of this Paragraph, "retirement plan" means any retirement plan, arrangement or trust, including, without limitation, qualified retirement plans, IRAs, Roth IRAs, 401k plans, pension plans, annuities (including private annuities), employee benefit plans and deferred compensation (including payments received directly from an entity as defined in California Probate Code Section 16350).

(c) The Trustee is authorized to defend, at the expense of the trust estate, any contest or other attack of any nature on this trust or any of its provisions.

16.2 "Decedent" and "Survivor" Defined. The first to die of the Settlers is sometimes called the "Decedent", and the survivor of them is sometimes called the "Survivor".

16.3 Powers of Appointment.

(a) Except as otherwise specifically provided, all provisions regarding distribution of any trust shall be subject to the exercise of any power of appointment over such trust given in this instrument.

(b) Any power of appointment given a person in this instrument may be exercised by the holder or donee of the power only in a written instrument (including, but not limited to, a valid Will or codicil) executed by such holder or donee and on file with either (1) the Trustee (if the holder or donee is someone other than the Survivor), (2) the successor Trustee (if the holder or donee is the Survivor), or (3) the attorney for the trust over which the power is exercisable (regardless of who the holder or donee is). Such written instrument, to be effective, shall specifically refer to the power of appointment being exercised. Any exercise of a power of appointment may subsequently be revoked or modified in the same manner that the power of appointment could have been exercised.

(c) If upon the expiration of six (6) months after the death of any person holding a power of appointment given him or her, no written instrument purporting to exercise said power shall have been brought to the attention of the Trustee, any property may be distributed according to the terms of this instrument as if the power had not been exercised. If a written instrument purporting to exercise said power shall be subsequently located, the Trustee shall not be liable to the appointees under such exercise, and the rights of such appointees and the persons receiving property from the Trustee shall be governed by applicable law.

(d) Any power of appointment given a person in this instrument may be exercised by the holder or donee thereof even if (1) all of the assets constituting the trust over which the power is exercised shall not have been received by the Trustee on the date of the death of the beneficiary, and (2) the holder or donee is a minor.

16.4 "Children" and "Issue" Defined. The terms "children" and "issue" and derivations thereof as used herein shall include children and other issue who were legally adopted prior to attaining majority, and a child or other issue in gestation shall be considered as



then living for purposes hereof if such individual is later born alive. An illegitimate child shall be treated as an issue of his or her mother for purposes of this instrument, but shall not be treated as an issue of his or her father unless the parent and child relationship exists under the California Uniform Parentage Act existing from time to time.

16.5 "Heirs at Law" Defined. Whenever any payment or distribution is required to be made to "heirs at law" hereunder, such person or persons shall be determined according to the laws of succession of the State of California then in effect relating to separate property not acquired from a predeceased spouse.

16.6 Gender and Number. Whenever the context so requires, the masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others.

16.7 "Education" Defined. The term "education" shall be construed to include vocational training, college, graduate and professional study, so long as the same is, in the sole discretion of the Trustee, pursued to advantage by the beneficiary, at an institution of the beneficiary's choice which is approved by the Trustee; and in determining payments to be made for such education, the Trustee shall take into consideration the beneficiary's related living and travel expenses to the extent that they are reasonable.

16.8 Severability. Should any part, clause, provision or condition of this instrument be held to be void, invalid or inoperative, such invalidity shall not affect any other provision hereof which shall be effective as though such invalid provision had not been contained herein.

16.9 California Law. All matters pertaining to the validity, construction and effect of this instrument shall be governed by the laws of the State of California.

16.10 Headings and Titles. The headings or titles of the various articles of this Declaration of Trust are inserted solely for convenience of reference, and are not a part of nor are they intended to govern, limit or aid in the construction of any provisions hereof.

EXECUTED on 12-19-14, at Canyon Country Ca., California.

Frank Vacek, By Deek Skunt  
as his attorney in fact  
Frank Vacek, Trustee

Vera Vacek Trustee  
Vera Vacek, Trustee

We certify that we have read the foregoing Declaration of Trust and Trust Agreement and that it correctly states the terms and conditions under which the trust estate is to be held, managed and disposed of by the Trustee. We approve the Declaration of Trust and Trust Agreement in all respects and request that the Trustee execute it.

EXECUTED on 12-19-14, at Canyon Country Ca., California.

Frank Vacek, By Deek Skunt  
as his attorney in fact  
Frank Vacek, Settlor

Vera Vacek Settlor  
Vera Vacek, Settlor

Frank Vacek, being unable to write, made his mark in our presence and requested the first of the undersigned to write his or her name, which he or she did, and we now subscribe our names as witnesses thereto.

\_\_\_\_\_  
Witness 1 [Print Name]

\_\_\_\_\_  
Witness 2 [Print Name]

\_\_\_\_\_  
Witness 1 [Signature]

\_\_\_\_\_  
Witness 2 [Signature]

NOTARY PAGE FOLLOWS



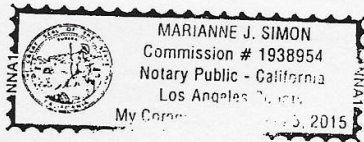
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On 12/19/14, before me, Marianne J. Simon Notary Public, personally appeared Frank Vacek and Vera Vacek, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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.



Marianne J. Simon  
Notary Public in and for  
said County and State

