

JOHN R. AND DENYSE M. DAVIS FAMILY TRUST

NAME OF TRUST: JOHN R. AND DENYSE M. DAVIS FAMILY TRUST  
dated July 17, 1998.

TRUSTORS: JOHN R. DAVIS (also known as J.R. DAVIS)  
and DENYSE M. DAVIS

SUCCESSOR TRUSTEE: MATTHEW TAYLOR DI CORI → CHRISTINE  
ELIZABETH DI CORI

HEALTH CARE AGENTS FOR HUSBAND: MATTHEW TAYLOR DI CORI → CHRISTINE  
ELIZABETH DI CORI

HEALTH CARE AGENTS FOR WIFE: MATTHEW TAYLOR DI CORI → CHRISTINE  
ELIZABETH DI CORI

HUSBAND'S CHILD: BRADLEY AUSTIN DAVIS

MANNER IN WHICH ASSETS SHOULD BE TITLED: JOHN R. DAVIS and DENYSE M. DAVIS,  
Trustees, or the Successor, under the  
JOHN R. AND DENYSE M. DAVIS FAMILY TRUST  
dated July 17, 1998.

THIS SUMMARY IS NOT A PART OF THE TRUST.  
FOR MORE DETAILS CONSULT THE TRUST DOCUMENT AND  
THE OTHER SECTION OF THIS BOOK. THE ABOVE NAMED  
INDIVIDUALS ARE NOT NECESSARILY LISTED IN THE ORDER  
IN WHICH THEY WILL ACT.

JOHN R. AND DENYSE M. DAVIS FAMILY TRUST

The Law Firm Of

**RICHARD O. BARNDT**

5090 Shoreham Place, Suite 215

San Diego, CA 92122

Phone (619) 554-1712

Fax (619) 455-6260

JOHN R. AND DENYSE M. DAVIS FAMILY TRUST

TABLE OF CONTENTS

DECLARATION OF TRUST . . . . . 1

    A. Name of Trust . . . . . 1

    B. Marital and Family Status . . . . . 1

    C. Citizenship of Trustors . . . . . 1

    D. Character of Property as Community or Separate . . . 1

SUCCESSOR TRUSTEES . . . . . 2

    A. Designation of Trustee . . . . . 2

        1. During Lifetime of Both Trustors . . . . . 2

        2. Upon Incompetency and/or Death of One of the Trustors . . . . . 2

        3. Upon Incompetency and/or Death of Both Trustors . . . . . 2

    B. Delegation of Powers/Banking Authority . . . . . 2

    C. Failure to Name a Successor Trustee; Removal of a Corporate Trustee . . . . . 3

    D. Waiver of Bond . . . . . 3

TRUSTORS' POWER TO AMEND AND REVOKE THIS TRUST . . . . . 3

    A. During Joint Lifetimes of Trustors . . . . . 3

    B. After Death of One Trustor . . . . . 4

    C. Persons Who May Exercise Power To Revoke Or Amend . . 4

    D. Trustee's Retention of Reserve Upon Revocation . . . 4

DISTRIBUTIONS DURING THE JOINT LIFETIMES OF THE TRUSTORS . . . 4

    A. Community Property . . . . . 4

        1. Payment Upon Demand . . . . . 4

        2. Invasion by Trustee . . . . . 5

        3. Distribution to Dependents Upon Incompetency of the Trustors . . . . . 5

        4. Private Home Nursing Care . . . . . 5

B.	Separate Estate . . . . .	6
1.	Payment Upon Demand . . . . .	6
2.	Invasion by Trustee . . . . .	6
3.	Distribution to Dependents Upon Incompetency of Trustor . . . . .	6
DIVISION OF TRUST AND PAYMENT OF EXPENSES UPON DEATH OF FIRST TRUSTOR . . . . .		7
A.	Division into Separate Trusts . . . . .	7
1.	Survivor's Trust . . . . .	7
a.	Entire Trust Estate . . . . .	7
b.	Less Any Amount Passing to the Exemption Trust by Way of Disclaimer . . . . .	7
2.	Exemption Trust . . . . .	7
a.	Property Received from the Survivor's Trust as the Result of Disclaimer . . . . .	7
b.	Special Directions to Trustee . . . . .	8
3.	Non Pro Rata Allocations . . . . .	9
4.	Permissible Deferral of Division . . . . .	9
B.	Payment of Expenses, Debts and Death Taxes . . . . .	9
PAYMENTS DURING LIFETIME OF SURVIVING SPOUSE . . . . .		10
A.	From Survivor's Trust . . . . .	10
1.	Payment of Net Income . . . . .	10
2.	Withdrawal of Principal by Surviving Spouse . . . . .	10
3.	Invasion of Principal by Trustee . . . . .	10
B.	From Exemption Trust . . . . .	10
1.	Payment of Net Income . . . . .	10
2.	Invasion of Principal by Trustee for Surviving Spouse's Needs . . . . .	11
3.	Invasion of Income and Principal by Trustee for Trustors' Children's and Other Beneficiaries' Needs . . . . .	11
4.	Exercise of Foregoing Invasion Powers When Surviving Spouse is Trustee . . . . .	12
C.	Limitations Re: Exemption Trust . . . . .	12
INITIAL DISTRIBUTIONS ON DEATH OF SURVIVING SPOUSE . . . . .		12
A.	Survivor's Trust Distributed According to General Power of Appointment, if Exercised by Survivor . . . . .	12
B.	Payment of Expenses, Debts and Death Taxes . . . . .	12
DISTRIBUTIONS TO BENEFICIARIES . . . . .		13
A.	Division Into Separate Shares . . . . .	13
1.	Share for BRADLEY AUSTIN DAVIS . . . . .	13
2.	Share for MATTHEW TAYLOR DI CORI . . . . .	13
3.	Share for CHRISTINE ELIZABETH DI CORI . . . . .	14

4.	Share for THE TAILHOOK EDUCATIONAL FOUNDATION, INC. . . . .	14
B.	Outright Distribution To All Beneficiaries . . . . .	14
C.	Distribution if No Other Disposition . . . . .	14
	GENERATION SKIPPING TAX PROVISIONS . . . . .	14
A.	Explanation of this Section . . . . .	14
B.	Allocation of Trustors' GST Tax Exemptions . . . . .	15
1.	Trustee's Power to Combine and Divide Trusts . . . . .	15
2.	Same Terms and Provisions for Divided Trusts . . . . .	15
3.	Exempt (and Non-Exempt) Character of Property to be Preserved . . . . .	16
4.	Trustee's Investment Power; Distributions . . . . .	16
5.	Trustee's Exoneration . . . . .	16
C.	Beneficiary's General Power of Appointment . . . . .	16
	TRUSTEE PROVISIONS . . . . .	17
A.	Trustee Powers . . . . .	17
1.	Invest . . . . .	17
2.	Retain Property . . . . .	17
3.	Abandon Property . . . . .	17
4.	Hold Property in Name of Trustee . . . . .	17
5.	Operate and Sell Business . . . . .	18
6.	Manage Securities . . . . .	18
7.	Sell and Lease . . . . .	18
8.	Purchase Bonds . . . . .	19
9.	Purchase Treasury Bonds . . . . .	19
10.	Purchase Assets from Probate Estate . . . . .	19
11.	Lend to Probate Estate . . . . .	20
12.	Lend to Individuals . . . . .	20
13.	Borrow . . . . .	20
14.	Purchase Insurance . . . . .	20
15.	Employ Professionals . . . . .	20
16.	Pay Expenses of Administration . . . . .	20
17.	Litigate . . . . .	21
18.	Make Tax Elections . . . . .	21
19.	Determine Principal and Income . . . . .	21
20.	Exercise Discretion in Payment of Income and Principal . . . . .	22
21.	Accept Gifts . . . . .	22
22.	Pay Gift Taxes . . . . .	22
23.	Pay Death and Generation Skipping Taxes of Beneficiaries . . . . .	22
24.	Permit Beneficiaries to Use or Reside Upon Trust Assets . . . . .	23
25.	Construction of Powers . . . . .	23
26.	Qualified Subchapter "S" Trust . . . . .	23
B.	Resignation of Trustee . . . . .	24

C.	Release or Restriction of Trustee Powers . . . . .	24
D.	Liability of Trustee . . . . .	24
E.	Trustee Fees . . . . .	25
F.	Physical Division of Property Not Required . . . . .	25
G.	Trustee Accounting . . . . .	25
H.	Special Directions Regarding Personal Property . . . . .	26
	TRUSTEES ENVIRONMENTAL POWERS . . . . .	26
A.	Trustee Authorized to Inspect Property Prior to Acceptance . . . . .	26
1.	Actions at Expense of Trust Estate . . . . .	26
a.	Enter Property . . . . .	26
b.	Review Records . . . . .	27
2.	Rights Equivalent to Partner, Member or Shareholder . . . . .	27
3.	Right to Still Refuse Acceptance of Trusteeship . . . . .	27
4.	Right to Accept Trusteeship Over Other Assets Only . . . . .	27
5.	Right to Reject Asset . . . . .	27
B.	Termination, Bifurcation Or Modification Of The Trust Due To Environmental Liability . . . . .	27
1.	Trustee's Powers over Hazardous Waste Property . . . . .	27
a.	Modify Trust . . . . .	27
b.	Bifurcate Trust . . . . .	28
c.	Appoint A Special Trustee . . . . .	28
d.	Abandon Property . . . . .	28
2.	Terminate Trust or Distribute Other Assets . . . . .	28
3.	Broad Discretion . . . . .	28
C.	Trustee's Powers Relating to Environmental Laws . . . . .	28
D.	Indemnification of Trustee From Trust Assets For Environmental Expenses . . . . .	28
1.	Indemnification and Reimbursement for Good Faith Actions . . . . .	28
a.	Environmental Expenses Defined . . . . .	29
b.	Properties and Businesses Covered . . . . .	29
2.	Right to Pay Expenses Directly From Trust . . . . .	29
3.	Right to Lien Trust Assets . . . . .	29
E.	Exoneration Of Trustee For Good Faith Acts Relating To Environmental Law . . . . .	29
F.	Allocation of Environmental Expenses and Receipts Between Principal and Income . . . . .	30

SPECIAL CO-TRUSTEE PROVISIONS . . . . .	30
A. Prohibited and Void Trustee Powers . . . . .	30
B. Exercise of Prohibited or Void Power by an Existing Independent Co-Trustee . . . . .	30
C. Exercise of Prohibited or Void Power if No Existing Independent Co-Trustee . . . . .	31
1. Appointment of Special Co-Trustee . . . . .	31
2. Waiver of Bond . . . . .	31
3. Limited Responsibilities of Special Co-Trustee . . . . .	31
MISCELLANEOUS TRUST PROVISIONS . . . . .	31
A. Use of Family Residence . . . . .	31
B. Government Assistance and Medi-Cal Planning . . . . .	32
C. Insurance . . . . .	33
1. Payment of Premiums . . . . .	33
2. Retention of Interests by Owner . . . . .	33
3. Collection of Proceeds . . . . .	33
4. Purchase of Additional Insurance . . . . .	34
D. Distributions . . . . .	34
1. Manner of Division and Distribution of Trust Property . . . . .	34
2. Retention of Reserve for Liabilities . . . . .	34
3. Successor Beneficiary's Right to Income . . . . .	35
4. Creditor's Rights -- Spendthrift Provisions . . . . .	35
5. Distributions to Minors or Incompetents . . . . .	35
6. Reimbursement of Guardian or Conservator . . . . .	36
7. Reimbursement of Costs Incurred in Implementing Durable Power of Attorney . . . . .	36
8. Ancillary Administration . . . . .	36
9. Notice of Exercise of a Power of Appointment by Will . . . . .	36
E. Termination of Trusts . . . . .	37
1. Rule Against Perpetuities . . . . .	37
2. Termination When Trusts No Longer Economical . . . . .	37
F. Interpretation of Trust Agreement . . . . .	38
1. Definitions . . . . .	38
a. "Children", "Grandchildren" and "Issue" . . . . .	38
b. "Code" and/or "Treasury Regulations" . . . . .	38
c. "Education" . . . . .	38
d. Determination of "Incompetency" . . . . .	38
e. "Trust Estate" . . . . .	39
f. "Trustee" . . . . .	39
2. Requirement of Survival of Beneficiaries . . . . .	39
3. Simultaneous Death of Trustors . . . . .	39

4.	Disinheritance . . . . .	40
5.	Prohibition Against Contest . . . . .	40
6.	Confidentiality . . . . .	41
7.	Choice of Law, Gender, Number and Headings . .	42



JOHN R. AND DENYSE M. DAVIS FAMILY TRUST

DECLARATION OF TRUST

JOHN R. DAVIS (also known as J.R. DAVIS) and DENYSE M. DAVIS hereinafter collectively referred to in this instrument as the "Trustee", declare that JOHN R. DAVIS and DENYSE M. DAVIS hereinafter referred to in this instrument as the "Trustors", have transferred and delivered certain property to the Trustee, concurrent with the execution of this Agreement and without consideration. (JOHN R. DAVIS is also sometimes referred to as "Trustor-Husband" and DENYSE M. DAVIS is also sometimes referred to as "Trustor-Wife".) The Trustors may transfer additional property to the Trustee either by lifetime or testamentary transfer. All of the above described property, together with any other property transferred to the Trustee with the intent to become subject to this trust, shall be held in trust for the uses and purposes and subject to the terms and conditions hereinafter set forth and shall be collectively referred to as the "Trust Estate".

A. Name of Trust: This trust shall be known, for the purpose of identification, as the JOHN R. AND DENYSE M. DAVIS FAMILY TRUST during the Trustors' joint lifetime and each separate trust created in this Trust Agreement following their joint lifetime, unless otherwise provided, may be referred to by adding or substituting the name of the beneficiary of such separate trust.

B. Marital and Family Status: The Trustors are married and have no children of their marriage Trustor-Husband has one child from a previous marriage, namely, BRADLEY AUSTIN DAVIS. The Trustors have no other children, nor issue of deceased children, either living or deceased.

C. Citizenship of Trustors: The Trustors declare that, as of the date of this trust, Trustor-Husband is a citizen of the United States of America and Trustor-Wife is a citizen of the United States of America.

D. Character of Property as Community or Separate: The Trustors intend that the community, separate or quasi-community property character of any property becoming part of the Trust Estate, the income therefrom and the proceeds thereof, shall be retained while both of the Trustors are living and said property remains part of the Trust Estate (up through the date during their joint lifetime that said property is withdrawn from the trust, in the event it is so withdrawn); provided, however, any written property agreement by the Trustors on the same date as this trust or hereafter shall control the characterization of property as

community, quasi-community or separate. It is the Trustors' intention that the Trustee shall have no more extensive power over any community property transferred to the Trust Estate than either of the Trustors would have had under applicable California law had this trust not been created, and this instrument shall be so interpreted to achieve this intention. This limitation shall terminate on the death of either Trustor.

#### SUCCESSOR TRUSTEES

A. Designation of Trustee: The order of succession of Trustee shall be as follows:

1. During Lifetime of Both Trustors: During their joint lifetime, the Trustors shall collectively act as the Trustee of this trust.

2. Upon Incompetency and/or Death of One of the Trustors: Upon the death, incompetency, inability or unwillingness of one of the Trustors to act, then the surviving or other Trustor shall serve as sole Trustee of the trusts created herein (subject to any limitations set forth in the section of this Trust Agreement entitled "Special Co-Trustee Provisions").

3. Upon Incompetency and/or Death of Both Trustors: Upon the death, incompetency, inability, or unwillingness to act of both the Trustors, then MATTHEW TAYLOR DI CORI shall act as Trustee of the trusts created herein. In the event of the death, incompetency, inability or unwillingness to act of MATTHEW TAYLOR DI CORI, then CHRISTINE ELIZABETH DI CORI shall act as Trustee of the trusts created herein. The last named individual to act shall have the right to designate by Will or other written instrument a successor Trustee. The above provisions may be limited as set forth in the section of this Trust Agreement entitled "Special Co-Trustee Provisions."

B. Delegation of Powers/Banking Authority: Any individual, corporation, bank or trust company serving as Co-Trustee (if any such Co-Trustee is appointed hereunder) may delegate any or all of such Co-Trustee's powers, duties and discretions to one or more of the others serving as Co-Trustee by an instrument in writing delivered to the other Co-Trustee and revoke such designation at will in the same manner; provided, however, the foregoing shall not apply to the "Special Co-Trustee" appointed elsewhere hereunder. For example, a Co-Trustee may authorize withdrawals of trust funds from any savings and/or checking account upon the signature of one of the others serving as Co-Trustee. Also a Co-Trustee may authorize the opening and maintaining of bank accounts or safe deposit boxes in the name of the Co-Trustee with any bank, trust company or savings and loan association authorized and doing business in any state of the United States of America, and to authorize such bank, trust company or savings and loan association to make distribution to or for the benefit of the beneficiaries

hereof. Additionally, if a corporation, bank or trust company and an individual serve as Co-Trustee, the individual Co-Trustee shall not be obligated (but may be obligated if he or she wishes) to sign or countersign checks for disbursements of trust funds held by the corporation, bank or trust company. The delegating Co-Trustee shall incur no liability to any beneficiary of any trust created hereunder with respect to the administration of such trust during the period of any such delegation. Whenever the Trustors are collectively acting as the "Trustee", they shall be treated as "Co-Trustees" for purposes of this subparagraph.

C. Failure to Name a Successor Trustee; Removal of a Corporate Trustee: If all the Trustees and successor Trustees in the above subparagraphs are unable to act as Trustee, and no successor Trustee is named, a successor Trustee shall be appointed by an instrument signed by a majority in number of the beneficiaries to whom the Trustee is to or may distribute the income at the time of appointment. The guardian or conservator of the estate of a beneficiary under legal disability, or the parents or surviving parent or guardian of the person of a minor beneficiary for whose estate no guardian has been appointed, may, in carrying out the provisions of this subparagraph, act and receive notice for the beneficiary and sign any instrument for him. In no event shall a successor Trustee appointed under this subparagraph be a beneficiary who has, or may have, any interest in the Trust Estate, or be a person who has an obligation of support with respect to any such described beneficiary. If there is a corporate Trustee acting hereunder, a majority in number of the beneficiaries to whom the Trustee is to or may distribute the income may remove said corporate Trustee and appoint a successor corporate Trustee. Notwithstanding the foregoing provisions of this subparagraph, the ability of the beneficiaries to appoint a successor Trustee may be limited as set forth in the section of this Trust Agreement entitled "Special Co-Trustee Provisions."

D. Waiver of Bond: No Trustee shall be required to furnish bond hereunder.

#### TRUSTORS' POWER TO AMEND AND REVOKE THIS TRUST

A. During Joint Lifetimes of Trustors: During such time as both of the Trustors are living, the Trustors shall have the right, at any time, to amend any of the provisions of this trust, or any amendment thereto, by an agreement in writing executed by both of the Trustors and delivered to the Trustee, and to revoke this trust in whole or in part by an instrument in writing executed by both of the Trustors or by one of them (upon reasonable advance written notice to the other Trustor) and delivered to the Trustee. In the event of such revocation, any portion of the Trust Estate having its source in community property shall revert to the Trustors as their community property, and any portion of the Trust Estate having its source in separate or quasi-community property shall revert to the contributing Trustor as his or her separate or quasi-community property; provided, however, any written property

agreement executed by the Trustors on the same date as this trust or hereafter shall control the characterization of property as community, quasi-community or separate and such property shall revert to the Trustors accordingly. Furthermore, either Trustor, while competent, acting alone, may, at any time, with respect to such Trustor's share of the community property or separate property contributed to the Trust Estate by such Trustor, by written notice signed by such Trustor and delivered to the Trustee and the other Trustor, revoke this trust as it pertains to such Trustor's share of the Trust Estate.

B. After Death of One Trustor: After the death of the Trustor first to die, the Surviving Spouse, as defined below, shall thereafter have the right at any time to revoke the Survivor's Trust, in whole or in part, by an instrument in writing executed by the Surviving Spouse and delivered to the Trustee and the right to amend any of the provisions of this trust only insofar as it relates to the Survivor's Trust, or to any amendment thereto, by a writing executed by the Surviving Spouse and delivered to the Trustee. Upon the death of the Trustor first to die, the Exemption Trust shall become irrevocable and shall not be subject to amendment. From and after the death of the Surviving Spouse, the entire trust created herein shall be irrevocable and non-amendable.

C. Persons Who May Exercise Power To Revoke Or Amend: The powers of revocation and amendment set forth in this Trust Agreement may be exercised by the Trustors or by someone acting under a valid Durable Power of Attorney, after giving proper notice to the Trustee, or by the Court that may have appointed a guardian or conservator for either or both Trustors. The Court is encouraged to approve revocation, amendment or modification of the Trust in order to minimize tax liability, provide for the benefit of Trustors' beneficiaries and/or enhance both the Trustors' and such beneficiaries' eligibility for public benefit programs.

D. Trustee's Retention of Reserve Upon Revocation: If this instrument is revoked with respect to all or a major portion of the assets subject to the instrument, the Trustee shall be entitled to retain such sufficient assets as the Trustee deems reasonably necessary to secure payment of expenses or liabilities lawfully incurred by the Trustee in the administration of the trust, including Trustee's fees that have been earned, unless the Trustors, or either of them, shall indemnify the Trustee against such expenses and liabilities.

#### DISTRIBUTIONS DURING THE JOINT LIFETIMES OF THE TRUSTORS

A. Community Property. During such time as both of the Trustors are living, the community property portion of the Trust Estate shall be distributed as follows:

1. Payment Upon Demand: Upon written demand by the Trustors, or either of them (upon reasonable advance notice to the

other Trustor), the Trustee shall pay to or apply for the benefit of either or both of the Trustors the net income and/or principal of the community property portion of the Trust Estate, up to the whole thereof, in such installments as directed by the written demand. Any payment or application of income and/or principal of the community property portion of the Trust Estate to the Trustors, or either of them, shall be deemed to have been made upon such written demand.

2. Invasion by Trustee: The Trustee shall be authorized to distribute to or apply for the benefit of either or both of the Trustors such reasonable amounts from the net income and/or principal of the community property portion of the Trust Estate as such Trustee may, from time to time, deem necessary for the proper health, maintenance, support, comfort, welfare and education of the Trustors, in accordance with their accustomed standard of living. The Trustee shall exercise these powers to invade principal in a liberal manner and the rights of the remaindermen in the trust shall be considered of secondary importance.

3. Distribution to Dependents Upon Incompetency of the Trustors: In the event of the incompetency of both of the Trustors or of the inability or unwillingness of both of the Trustors to act as Trustee, then the successor Trustee may pay to or apply for the benefit of those individuals who are dependent upon the Trustors so much of the income and principal of the community property portion of the Trust Estate as such Trustee may, from time to time, deem necessary for the proper health, support, maintenance and education of such persons; and the Trustee, in his absolute discretion, shall determine who is a "dependent" individual for these purposes; provided, however, no income or principal shall be so paid or applied unless and until such Trustee determines, in his discretion, that the size of the entire Trust Estate and any other assets outside the Trust Estate which may be known to such Trustee will adequately provide for the probable future needs of both of the Trustors during their lifetime; and provided, further, that the Trustee in so paying or applying income or principal shall keep in mind the Trustors' dispositive wishes as expressed later in this Trust Agreement.

4. Private Home Nursing Care: If at any time either or both Trustors are unable to care for themselves, Trustors desire that the Trustee not admit them, or either of them, to a nursing home, convalescent home, or related facility, unless: (1) significant medical monitoring is needed, or (2) 24-hour care is needed, coupled with the fact that the Trustor is totally mentally incompetent. It is Trustors' further desire that the Trustee provide nursing care to the Trustors, or either of them, in the family residence, so long as the Trust Estate contains adequate funds for such upkeep. Trustors authorize and direct the Trustee to take such steps as are necessary to honor Trustors' desires, as expressed above, including, but not limited to, modifying the residence, hiring homecare providers (including round-the-clock

nursing care), obtaining such equipment as might assist in homecare, or taking such other measures as the Trustee considers advisable under the circumstances. In exercising the Trustee's discretion, the Trustee shall take into consideration the community and/or separate property character of the Trust Estate and any other income or financial resources available to the Trustors so far as known to Trustee. If the Trustee also happens to be the Trustor who may be considered incompetent, as defined herein, then the Successor Trustee, upon qualifying, shall assume the requisite responsibility and authority.

B. Separate Estate. During such time as both of the Trustors are living, the separate property portion of the Trust Estate shall be distributed as follows:

1. Payment Upon Demand: Upon written demand of the Trustor whose separate property was transferred to the trust, the Trustee shall pay to (or apply for the benefit of) said Trustor the net income and/or principal of said Trustor's separate property, up to the whole thereof, in such installments as directed by the written demand. Any payment or application of income and/or principal of the Trustor's separate property to said Trustor shall be deemed to have been made upon such written demand.

2. Invasion by Trustee: From the separate property of a Trustor, the Trustee shall be authorized to distribute to said Trustor or for said Trustor's benefit such reasonable amounts from the net income and/or principal of said Trustor's separate property up to the whole thereof as such Trustee may, from time to time, deem necessary for the proper health, maintenance, support, comfort, welfare and education of said Trustor, in accordance with said Trustor's accustomed standard of living. Furthermore, if the Trustee determines that the other Trustor is in need of funds for health, maintenance or support, and the community property of the Trust Estate and the separate property of the other Trustor is exhausted or the Trustee determines that it is impractical to raise funds from the said community and separate property, the Trustee may distribute to or for the benefit of the other Trustor such needed amounts from the net income and/or principal up to the whole thereof. The Trustee shall exercise these powers to invade principal in a liberal manner and the rights of the remaindermen in the trust shall be considered of secondary importance.

3. Distribution to Dependents Upon Incompetency of Trustor: In the event of the incompetency of a Trustor or of the inability or unwillingness of a Trustor to act as Trustee, then the successor Trustee may pay to or apply for the benefit of those individuals who are dependent upon said Trustor so much of the income and principal of said Trustor's separate property portion of the Trust Estate as such Trustee may, from time to time, deem necessary for the proper health, support, maintenance and education of such persons; and the Trustee, in his absolute discretion, shall determine who is a "dependent" individual for these purposes; provided, however, no income or principal shall be so paid or

applied unless and until such Trustee determines, in his discretion, that the size of the entire Trust Estate and any other assets outside the Trust Estate which may be known to such Trustee will adequately provide for the probable future needs of both of the Trustors during their lifetime; and provided, further, that the Trustee in so paying or applying income or principal shall keep in mind the dispositive wishes as expressed later in this Trust Agreement of the Trustor whose separate property is to be invaded.

**DIVISION OF TRUST AND PAYMENT OF  
EXPENSES UPON DEATH OF FIRST TRUSTOR**

A. Division into Separate Trusts. Hereinafter, the first Trustor to die shall be called the "Deceased Spouse" and the surviving Trustor shall be called the "Surviving Spouse." On the death of the Deceased Spouse, the Trustee shall divide the Trust Estate, including without limitation any property received from the probate estate of the Deceased Spouse, or otherwise, into separate trusts, as follows:

1. Survivor's Trust: The Survivor's Trust shall be funded as follows:

a. Entire Trust Estate: The Survivor's Trust shall include the entire remaining Trust Estate.

b. Less Any Amount Passing to the Exemption Trust by Way of Disclaimer: Notwithstanding the foregoing, the property passing to the Survivor's Trust shall be reduced by any property of the Trust Estate passing directly to the Exemption Trust as a result of the exercise of the power of disclaimer set forth in subparagraph 2 immediately following below.

2. Exemption Trust: The Exemption Trust shall be funded as follows:

a. Property Received from the Survivor's Trust as the Result of Disclaimer: Notwithstanding anything in this Trust Agreement to the contrary, the Surviving Spouse is expressly authorized to disclaim his or her interest in all or any portion of the property allocable to the Survivor's Trust pursuant to subparagraph 1 above. In the event of such disclaimer, and notwithstanding any contrary provisions, the property which is the subject of said disclaimer shall be allocated directly to the Exemption Trust. The Surviving Spouse shall have no power to determine who shall receive the disclaimer property upon his or her death pursuant to Code Section 2518 and the related Regulations. Notwithstanding any other provision in this Trust Agreement to the contrary, if the provisions of the Exemption Trust are in conflict with Code Section 2518, or the related Regulations, Temporary Regulations, or Proposed Regulations (or the applicable California law), the powers granted to the Surviving Spouse and the Trustee with respect to the Exemption Trust shall be revised to comply with

Code Section 2518 and the related Regulations, Temporary Regulations, and Proposed Regulations (and California law) before the Exemption Trust is established. It is the intention of the Trustors to allow the Surviving Spouse the maximum flexibility to use and control the assets of the Exemption Trust consistent with the terms provided in this Trust Agreement, provided no conflict exists with Federal or California law relating to disclaimers. If the Surviving Spouse is not permitted more than an income interest in the Exemption Trust because of Federal or California law, this provision is hereby made part of the Trust Agreement. If the Surviving Spouse is not permitted to act as Trustee or Co-Trustee of the Exemption Trust because of Federal or California law, the successor Trustee or Co-Trustees named in this Agreement shall act as Trustee or Co-Trustees, as the case may be, of the Exemption Trust. The intent of the Trustors with respect to the Exemption Trust is to establish a separate trust to hold assets which will be exempt from the Federal estate tax at the death of the Deceased Spouse and at the death of the Surviving Spouse but still allow maximum flexibility to the Surviving Spouse, and all provisions of the Exemption Trust should be construed consistent with this express intent.

b. Special Directions to Trustee: The determination with respect to all matters concerning the selection or value of particular assets set aside in the Exemption Trust, except as may have been already set forth in the above referred disclaimer provided such disclaimer is valid under Code Section 2518, including the determination of any matters in connection therewith which have not previously been determined by the tax authorities, shall be made by the Trustee and shall be conclusive upon all parties howsoever interested in this trust. Notwithstanding the foregoing, the Trustee is directed, to the extent possible, in allocating property to the Exemption Trust, to allocate thereto the largest possible amount of: (i) property that does not qualify for the federal estate tax marital deduction; (ii) any stock in or share of a corporation which may qualify for redemption pursuant to Code Section 303, or any successor statute thereto applicable to the Trust Estate; (iii) any unmaturred life insurance policies; and (iv) any United States Government Bonds which are redeemable at par in payment of federal estate taxes (except that the Trustee should allocate such bonds to the Survivor's Trust to the extent such bonds exceed the amount needed to pay the estate tax due by reason of the death of the Deceased Spouse). Furthermore, notwithstanding the foregoing, any allocation of assets among the Survivor's Trust, the Exemption Trust, Exempt Generation-Skipping Trust and Non-Exempt Generation-Skipping Trust shall, with respect to each such trust, be comprised of assets having an aggregate market value at the time of such allocation fairly representative of the net appreciation or depreciation in the value of the property available for such allocation between the date of valuation for federal estate tax purposes and the date or dates of said allocation and selection.



3. Non Pro Rata Allocations: It is expressly contemplated that the interest of each Trustor in community property of the Trust Estate is an interest in the property as whole. Accordingly, in effecting an actual division of community property and distribution of it to the Survivor's and Exemption Trusts, if any, the Trustee may, in his sole and binding discretion, allocate individual community property assets on a non pro rata basis, so long as any non pro rata allocation to the Exemption Trust is equalized in value by a non pro rata distribution to the Survivor's Trust.

4. Permissible Deferral of Division: Whenever the Trustee is directed to make a distribution of trust assets, or a division of trust assets into separate trusts or shares, either in this section of the Trust Agreement or under any other section of this Trust Agreement, the Trustee may, in the Trustee's discretion, defer such distribution or division until practicable. When the Trustee so defers distribution or division of the Trust Estate, the deferred division or distribution shall be made as if it had taken place at the time prescribed in this instrument in the absence of this paragraph, and all rights given to the beneficiaries of such Trust Estate under other provisions of this instrument shall be deemed to have accrued and vested as of such prescribed time. Any deferral of division, with respect to property intended to fund the federal estate tax marital deduction, shall not go beyond the time which would permit that property to qualify for the marital deduction.

B. Payment of Expenses, Debts and Death Taxes: Upon the death of the Deceased Spouse, the Trustee may pay the expenses of the Deceased Spouse's last illness, funeral and burial, any professional fees or other administrative costs incurred as a result of the Deceased Spouse's death (including such fees or costs incurred in administering the Deceased Spouse's probate estate), any debts or obligations of the Deceased Spouse which the Trustee determines to be just, and shall pay any inheritance, estate or other death taxes, including interest and penalties, that may, by reason of the Deceased Spouse's death, be due upon or in connection with the Trust Estate, any portion thereof, or any assets which may become a part of the Trust Estate as a result of the death of the Deceased Spouse, unless the Trustee shall determine in the absolute discretion of the Trustee that other provisions have been made for the payment of such expenses, debts and taxes. All such expenses, debts and taxes that may be paid from the Trust Estate shall be charged against and paid from the principal of the Exemption Trust (if such Exemption Trust is established) without apportionment, deduction or adjustment among the beneficiaries of such Trust; provided, however, administrative costs and debts allocable to the Surviving Spouse's share of the community property in the Trust Estate shall be charged against the Survivor's Trust and the Exemption Trust in accordance with the California law in effect at the date of death of the Deceased Spouse, but the charges against the Survivor's Trust shall not exceed the value of the community property in the Trust Estate allocable to the Survivor's Trust.

## PAYMENTS DURING LIFETIME OF SURVIVING SPOUSE

A. **From Survivor's Trust:** The Survivor's Trust shall be held, administered and distributed during the lifetime of the Surviving Spouse as follows:

1. **Payment of Net Income:** From the time of death of the Deceased Spouse, the Trustee shall pay to or apply for the benefit of the Surviving Spouse all the net income of the Survivor's Trust in monthly or other convenient installments, but no less frequently than annually, for as long as the Surviving Spouse lives.

2. **Withdrawal of Principal by Surviving Spouse:** In addition to the net income of the Survivor's Trust payable to the Surviving Spouse pursuant to the provisions above, the Trustee shall distribute to the Surviving Spouse such portion or portions of the principal of the Survivor's Trust, up to the whole thereof, as the Surviving Spouse may from time to time demand in writing during the Surviving Spouse's lifetime and competency. So long as the Surviving Spouse is competent, no limitation shall be placed by the Trustee on the Surviving Spouse as to either the amount of or the reasons for such invasion or invasions of principal from the Survivor's Trust and the Trustee shall comply with and shall have no responsibility to inquire into or to determine for what purpose any such withdrawals are being made.

3. **Invasion of Principal by Trustee:** If the net income from the Survivor's Trust shall be insufficient to provide for the proper health, support, maintenance, comfort, welfare and education of the Surviving Spouse in accordance with the standard of living to which he or she shall have been accustomed during the life of the Deceased Spouse, the Trustee, if the Surviving Spouse is unable or unwilling to exercise his or her invasion power set forth in the paragraph immediately above may, as often as the Trustee deems necessary, pay or distribute to or for the benefit of the Surviving Spouse such additional amounts of the principal of the Survivor's Trust, up to and including the whole thereof. The Trustee shall make liberal exercise of the discretionary power given by this paragraph and the rights of the remaindermen of this trust shall be considered secondary. One of the primary purposes of the Trustors in creating the Survivor's Trust is to provide, to the fullest extent to which it is in their power to do so, that after the death of the Deceased Spouse, the Surviving Spouse will be able to continue to enjoy the same standard of living as that which he or she was enjoying prior to the death of the Deceased Spouse.

B. **From Exemption Trust:** The Exemption Trust shall be held, administered and distributed during the lifetime of the Surviving Spouse as follows:

1. **Payment of Net Income:** From the time of death of the Deceased Spouse, the Trustee shall pay to or apply for the

benefit of the Surviving Spouse all of the net income of the Exemption Trust, in monthly or other convenient installments, but not less frequently than annually, for as long as the Surviving Spouse lives.

2. Invasion of Principal by Trustee for Surviving Spouse's Needs: If at any time, in the reasonable discretion of the Trustee, the Surviving Spouse should for any reason be in need of funds for his or her proper health, support, maintenance and education in accordance with the standard of living to which he or she shall have become accustomed during the lifetime of the Deceased Spouse, such Trustee may pay to or apply for the benefit of the Surviving Spouse such amounts from the principal of the Exemption Trust, up to the whole thereof, as such Trustee may, from time to time, in accordance with the above set forth standard, deem necessary for the Surviving Spouse's use and benefit; provided, however, that such Trustee shall not make any payments from the principal of the Exemption Trust, as hereinabove provided, unless and until the Survivor's Trust shall have been completely exhausted or such Trustee shall determine that it is impractical to raise funds from the Survivor's Trust.

3. Invasion of Income and Principal by Trustee for Trustors' Children's and Other Beneficiaries' Needs: Notwithstanding the provisions of subparagraph above entitled "Payment of Net Income" and subject to the following conditions hereinafter set forth in this subparagraph, if the Trustors' children and/or any one or more of said children's respective from time to time living children, grandchildren and/or issue, or other individuals who were dependent upon the Deceased Spouse, shall in the reasonable discretion of the Trustee be in need of funds for such person's proper health, support, maintenance or education, such Trustee may pay to or apply for the benefit of such person so much of the income and principal of the Exemption Trust as such Trustee in the reasonable discretion of said Trustee deems proper or necessary for that purpose; and the Trustee, in his absolute discretion, shall determine who is a "dependent" for these purposes; provided, however, no income or principal of the Exemption Trust shall be paid to or for the benefit of such persons pursuant to the provisions of this subparagraph unless and until such Trustee, after first taking into account that the Exemption Trust has been created primarily for the benefit of the Surviving Spouse, shall conclude that the size of the Survivor's Trust and the Exemption Trust and any other assets, income and/or sources of support available to the Surviving Spouse outside of these trusts which may be known to such Trustee will, in the opinion of such Trustee, exceed the probable future needs of the Surviving Spouse during his or her lifetime; furthermore, such payments shall not be made from the Exemption Trust unless and until the Survivor's Trust shall have been completely exhausted or the Trustee shall determine that it is impractical to raise funds from the Survivor's Trust; and, finally, in making any distributions pursuant to this subparagraph, the Trustee shall keep in mind the dispositive wishes of the Deceased Spouse as expressed later in this Trust Agreement.

The powers granted pursuant to this subparagraph shall not be construed to constitute a general power of appointment.

4. **Exercise of Foregoing Invasion Powers When Surviving Spouse is Trustee:** If the Surviving Spouse is then acting as Trustee of the trusts created herein, the Surviving Spouse shall not exercise any of the invasion powers granted the Trustee in this Paragraph entitled "From Exemption Trust" unless such exercise is permitted under the section of this trust entitled "Special Co-Trustee Provisions"; if such exercise is not so permitted, the provisions of the section entitled "Special Co-Trustee Provisions" shall determine who shall exercise said invasion powers in lieu of the Surviving Spouse.

C. **Limitations Re: Exemption Trust:** It is Trustors' intent that the balance of the Exemption Trust at the Surviving Spouse's death shall not be included in the gross estate of the Surviving Spouse for Federal Estate Tax purposes. Neither the Surviving Spouse nor the Trustee shall take any action or shall have any power that will cause inclusion of the Exemption Trust in the Surviving Spouse's estate for estate tax purposes, at the Surviving Spouse's death.

#### INITIAL DISTRIBUTIONS ON DEATH OF SURVIVING SPOUSE

A. **Survivor's Trust Distributed According to General Power of Appointment, if Exercised by Survivor:** On the death of the Surviving Spouse, the Trustee shall distribute any remaining balance of the Survivor's Trust, including principal and accrued or received and undistributed income, to such one or more persons and entities, including the Surviving Spouse's own estate, and the creditors of the Surviving Spouse's estate, and on such terms and conditions, either outright or in trust, and in such proportion as the Surviving Spouse shall appoint by the last unrevoked Will, codicil or other written instrument filed with the Trustee prior to death and specifically referring to and exercising this power of appointment. This power of appointment shall be exercisable by the Surviving Spouse alone and in all events. Any portion of the Survivor's Trust not distributed under this paragraph shall be added to, and become part of, the Exemption Trust and thereafter be so administered in all respects.

B. **Payment of Expenses, Debts and Death Taxes:** On the death of the Surviving Spouse and subject to any power of appointment exercised by the Surviving Spouse, the Trustee may pay the expenses of the Surviving Spouse's last illness, funeral and burial, any professional fees or other administrative costs incurred as a result of Surviving Spouse's death, any debts or obligations of the Surviving Spouse which the Trustee deems just, and any inheritance, estate or other death taxes, including interest and penalties, that may, by reason of the Surviving Spouse's death, be due upon or in connection with the Trust Estate, any portion thereof, or any assets which become a part of the Trust Estate as a result of the

death of the Surviving Spouse, unless the Trustee shall determine in the reasonable discretion of the Trustee that other provisions have been made for the payment of such expenses, debts and taxes. All such expenses, debts and taxes that may be paid from the Trust Estate shall be charged against and paid from the principal of the Survivor's Trust (prior to its unappointed and undistributed balance, if any, being added to the Exemption Trust as set forth in the provisions above), or if it has been exhausted, against and from the Exemption Trust, in either case without apportionment or charge against any person.

#### DISTRIBUTIONS TO BENEFICIARIES

Upon the death of the Surviving Spouse (and following the payment of expenses, debts and taxes, and exercise of power of appointment, if any, as provided above), the Trustee shall hold, manage and distribute the remaining balance of the Exemption Trust, as augmented by any additions thereto, including any portion of the Survivor's Trust not disposed of under the Surviving Spouse's power of appointment, any property received from the probate estate of the Trustors, or either of them, and including any income accrued or received and undistributed (except as otherwise provided under the foregoing provisions hereof) as follows:

A. Division Into Separate Shares: The Trustee shall divide the remainder of the Trust Estate into four (4) separate shares and distribute said shares as follows. If any share lapses (as set forth below), then that share shall be divided and added to the other shares in proportion to their relative percentages to be distributed as if it had been an original part thereof. If all of the shares lapse (as set forth below), then the remainder of the Trust Estate shall be distributed as set forth below in the paragraph entitled "Distribution If No Other Disposition". The decisions of the Trustee as to the assets to constitute each such share shall be conclusive, subject to the requirement that said shares shall be of the respective values specified.

1. Share for BRADLEY AUSTIN DAVIS: Twenty-Five percent (25%) of the remainder of the Trust Estate shall be distributed to a share for BRADLEY AUSTIN DAVIS, if surviving. If said individual fails to survive, then this share shall be distributed to said individual's issue, each of said issue to take by right of representation. If there are no such issue then surviving, this share shall lapse.

2. Share for MATTHEW TAYLOR DI CORI: Twenty-Five percent (25%) of the remainder of the Trust Estate shall be distributed to a share for MATTHEW TAYLOR DI CORI, if surviving. If said individual fails to survive, then this share shall be distributed to said individual's issue, each of said issue to take by right of representation. If there are no such issue then surviving, this share shall lapse.

3. Share for CHRISTINE ELIZABETH DI CORI: Twenty-Five percent (25%) of the remainder of the Trust Estate shall be distributed to a share for CHRISTINE ELIZABETH DI CORI, if surviving. If said individual fails to survive, then this share shall be distributed to said individual's issue, each of said issue to take by right of representation. If there are no such issue then surviving, this share shall lapse.

4. Share for THE TAILHOOK EDUCATIONAL FOUNDATION, INC.: Twenty-Five percent (25%) of the remainder of the Trust Estate shall be distributed to a share for THE TAILHOOK EDUCATIONAL FOUNDATION, INC., located in San Diego, California, if said entity is then in existence. If said entity is not then in existence, this share shall lapse.

B. Outright Distribution To All Beneficiaries: Each such share and/or subshare, if any, set aside for any beneficiary of the Trustors under any provision of this document shall be distributed to such individual if he or she has attained the age of twenty-one (21) years. If such individual has not attained said specified age, the share and/or subshare set aside for him or her shall be distributed to the then acting Trustee of this Trust to hold for such individual as Custodian Under the California Uniform Transfers To Minors Act until such individual attains age twenty-one (21).

C. Distribution if No Other Disposition: Any share or portion of a share of any trust created hereunder which is not disposed of under any other provisions of this Trust shall go and be distributed one-half (1/2) to Trustor-Husband's respective heirs at law; and one-half (1/2) to Trustor-Wife's respective heirs at law. Their identities and respective shares shall be determined in all respects as though the death of either Trustor, as the case may be, had occurred immediately following the event requiring distribution, and shall be determined according to the laws of the State of California then in force governing the distribution of separate property not acquired from a parent, grandparent, or previously deceased spouse.

#### GENERATION SKIPPING TAX PROVISIONS

A. Explanation of this Section: The purpose of this Section of the trust and the desire of the Trustors is to eliminate or reduce the burden on the Trustors' family and issue resulting from the application of the federal generation skipping transfer tax under Chapter 13 of the Code, including any future amendments thereto (hereinafter referred to as the "GST Tax"). The Trustors direct the Trustee and any court of competent jurisdiction to interpret the provisions of this Section in accordance with the Trustors' desire stated above, since the Trustors, when creating this trust, are aware that the provisions of said GST Tax are very complex and as yet there are few court rulings to aid in their interpretation. The Trustors request that, before the Trustee or any beneficiary acts in accordance with the provisions of this

Section, they seek professional advice from an attorney who specializes in estate planning, in order that they may avoid any unintentional triggering of negative GST Tax consequences.

B. **Allocation of Trustors' GST Tax Exemptions:** The Trustee (or such other person or persons whom Code provisions, Treasury Regulations or court rulings authorize to make elections or allocations with regard to the Trustors' GST Tax exemptions) is instructed to allocate such exemptions in good faith, without a requirement that such allocation be proportionate, equal or in any particular manner equitably impact any or all of the various transferees or beneficiaries of property subject to or affected by such allocations. When allocating such exemptions, the Trustee may include or exclude any property of which the Trustors are the transferors for GST Tax purposes, including property transferred before the Trustors' death, and may take into account prior transfers, gift tax returns and other relevant information known to the Trustee.

1. **Trustee's Power to Combine and Divide Trusts:** If a trust hereunder would be partially exempt from GST Tax by reason of an allocation of GST Tax exemption to it, before the allocation the Trustee in his discretion may divide the trust into two separate trusts of equal or unequal value, to permit allocation of the exemption solely to one trust which will be entirely exempt from GST Tax. The Trustee of any trust shall have authority, in the Trustee's sole discretion, to combine that trust with any other trust or trusts having the same exempt or nonexempt character, including trusts established (during life or at death) by the Trustors or any of their issue; and the Trustee may establish separate shares in a combined trust if and as needed to preserve the rights and protect the interests of the various beneficiaries if the trusts being combined do not have identical terms or if separate shares are otherwise deemed desirable by the Trustee. These powers to combine and divide trusts may be exercised from time to time, and may be used to modify or reverse their prior exercise. In deciding whether and how to exercise this authority the Trustee may take account of efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and 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.

2. **Same Terms and Provisions for Divided Trusts:** Except as expressly provided in this Trust Agreement, when a trust otherwise to be established is divided under the foregoing provisions into exempt and non-exempt trusts or otherwise into separate trusts, each trust shall have the same provisions as the original trust from which it is established, and references in this Trust Agreement to the original trust shall collectively refer to the separate trusts derived from it.

3. Exempt (and Non-Exempt) Character of Property to be Preserved: On termination, partial termination, subdivision or distribution of any of the separate trusts created by this Trust Agreement, or when it is provided that separate trusts are to be combined, the exempt (zero inclusion ratio) or the non-exempt (inclusion ratio of one) generation-skipping character of the property of the trusts shall be preserved. Accordingly, when property is to be added to or combined with the property of another trust or trusts, or when additional trusts are to be established from one or more sources, non-exempt property or trusts shall not be added to or combined with exempt property or trusts, even if this requires the establishment of additional separate trusts with the same terms and provisions, unless the Trustee believes that economic efficiency or other compelling considerations justify sacrificing their separate generation-skipping characteristics.

4. Trustee's Investment Power; Distributions: Without limiting the foregoing, the Trustors specifically authorize (but do not require) the Trustee, in administering different trusts wholly or in part for the benefit of a particular beneficiary or group of beneficiaries, to adopt different investment patterns and objectives for different trusts based on their generation-skipping ratios, and to prefer making distributions from non-exempt trusts to beneficiaries who are non-skip persons for generation-skipping purposes and from exempt trusts to those who are skip persons. Upon division or distribution of an exempt trust and a nonexempt trust hereunder, the Trustee may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

5. Trustee's Exoneration: The Trustors expressly exonerate the Trustee from any liability arising from any exercise or failure to exercise these powers, provided the actions (or inactions) of the Trustee are taken in good faith.

C. Beneficiary's General Power of Appointment: Should a beneficiary die prior to the creation of his or her separate share of the Trust Estate or die subsequent to the creation of such share but before complete distribution of such share, and as a result of said death a portion of the Trust Estate would be subject to GST Tax but for the provisions of this paragraph, the beneficiary may, pursuant to a general power of appointment exercised in his or her last Will (but not in a codicil) or other writing delivered to the Trustee prior to his or her death and specifically referring to this Trust Agreement, provide for such share to pass to the beneficiary's estate, the creditors of that estate, or any other persons or entities, in accordance with the terms set forth below. The asset value subject to such general power of appointment shall be the maximum amount, if any, which, when added to the beneficiary's net taxable estate (computed prior to said power), will cause the federal estate tax marginal rate to increase until it equals the GST Tax marginal rate; but in no case shall such general power of appointment exceed the asset value of such beneficiary's share. To the extent the beneficiary does not



effectively exercise the general power of appointment, the unappointed asset value shall be held, administered and distributed in accordance with the other provisions of this Trust Agreement.

#### TRUSTEE PROVISIONS

A. **Trustee Powers:** In order to carry out the purposes of the trusts hereinabove created and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the following powers, in addition to those now or hereafter conferred by law, affecting the respective trusts in the Trust Estate:

1. **Invest:** It is the Trustors' express desire and intention that the Trustee shall have full power to invest and reinvest the trust funds without being restricted to forms and investments that the Trustee may otherwise be permitted to make by law; and the investments need not be diversified; provided, however, that the aggregate return of all investments of the Survivor's Trust shall from time to time be reasonable in light of then existing circumstances. The Trustee is empowered to invest and reinvest all or any part of the Trust Estate in such property as the Trustee in his discretion may select including but not limited to common or preferred stocks, put and call options, commodities, commodities futures contracts, currency trading, shares of investment trusts and investment companies, bonds, debentures, mortgages, deeds of trust, mortgage participations, notes, and real estate.

2. **Retain Property:** The Trustee is empowered to continue to hold any property, including all assets received by the Trustee (from any and all sources), as long as the Trustee may deem it advisable, the profits and losses thereon to inure or be chargeable to the Trust Estate and not to the Trustee. Provided, however, no property underproductive or unproductive of a reasonable income shall constitute an asset of the Survivor's Trust for more than a reasonable time after the receipt of such property without the consent of the Surviving Spouse and the Surviving Spouse may compel the Trustee to sell such property.

3. **Abandon Property:** The Trustee is empowered to abandon any property or interest in property belonging to the trust when, in the Trustee's discretion, such abandonment is in the best interests of the trust and its beneficiaries. The Trustee shall be indemnified against all expenses, liabilities and losses incurred as a result of such abandonment, except loss due to the Trustee's own negligence or malfeasance.

4. **Hold Property in Name of Trustee:** Only if the Trustee is a corporation, bank, trust company or other non-individual, and said Trustee has posted adequate bond, may the Trustee cause any or all securities or other property, real or personal, belonging to the Trust Estate, to be held or registered

in the name of the Trustee, or in the name of a nominee, or in such other form as the Trustee deems best, with or without disclosing the trust relationship. The Trustee shall be reimbursed from principal or income for any loss or expense incurred by reason of the Trustee's fiduciary ownership or holding of any property of the Trust Estate.

5. Operate and Sell Business: Subject to any Buy and Sell Agreement then in force, the Trustee is empowered to continue to hold, incorporate, enter into any general or limited partnership agreement, form a limited liability company, or make other changes in the form of the organization of the business or investment activity, or to invest and reinvest, all or any part of the Trust Estate in any business or interest in a business, including, but not limited to, partnership interests, shares in closely held corporations and membership in a limited liability company, and thereafter to operate or to sell or liquidate them as the Trustee shall consider advisable. The Trustee may perform all acts and employ all personnel the Trustee determines to be proper in the conduct of the business, without liability for any resulting loss, except loss due to the Trustee's own negligence or malfeasance.

6. Manage Securities: The Trustee is empowered to have, respecting securities, all the rights, powers and privileges of owners, including but not limited to the power to vote, to give proxies, to pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust Estate; 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, options, subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers. In addition to the foregoing, the Trustee, individually or through a designated agent-in-fact, shall have the power to engage in all types of trading strategies, including but not limited to spreads and straddles and short sales; to open, operate and maintain margin accounts with brokerage firms wherein any securities, commodities, commodity futures contracts, and put and call options may be bought and/or sold on margin, and to otherwise hypothecate, borrow upon, purchase and/or sell existing securities and commodities (including "sell short against the box") in such account as the Trustee may deem appropriate or useful. Provided, however, that in the event a Trustor is a Trustee, the power to vote any shares of stock of a controlled corporation which are held by the Exemption Trust shall be vested solely in a Special Co-Trustee (as hereinafter defined). As used herein, the words "controlled corporation" shall be identical in meaning to the definition set forth in Code Section 2036(b)(2).

7. Sell and Lease: To manage, control, grant options on, sell (for cash or on deferred payments within or beyond the term of the trust), convey, exchange, partition, divide, improve,

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

8. Purchase Bonds: To purchase bonds and pay such premiums in connection with the purchase as the Trustee, in the Trustee's discretion, considers advisable, provided, however that each premium shall be repaid periodically to principal out of the interest on the bond in such reasonable manner as the Trustee shall determine and, to the extent necessary, out of the proceeds on the sale or other disposition of the bond; to purchase bonds at such discount as the Trustee, in the Trustee's discretion, considers advisable, that each discount shall be accumulated periodically as interest in such reasonable manner as the Trustee, in the Trustee's discretion, shall determine and, to the extent necessary, paid out of the proceeds on the sale or other disposition of the bond or out of principal.

9. Purchase Treasury Bonds: To purchase, at less than par, obligations of the United States of America that are redeemable at par in payment of any federal estate tax liability of either Trustor in such amounts as the Trustee deems advisable. The Trustee shall exercise the Trustee's discretion and purchase such obligations if the Trustee has reason to believe that either Trustor is in substantial danger of death, and may borrow funds and give security for that purpose. The Trustee shall resolve any doubt concerning the desirability of making the purchase in favor of making the purchase, and shall purchase such amount as the Trustee, in the Trustee's sole discretion, deems advisable. The Trustee shall not be liable to either Trustor, any heir of either Trustor, or any beneficiary of this trust for losses resulting from purchases made in good faith. Notwithstanding anything in this instrument to the contrary, the Trustee is directed to pay the federal estate tax due on each Trustor's death in an amount not less than the par value plus accrued interest of such obligations that are eligible for redemption in payment of the Deceased Spouse's taxes, without apportionment or charge against any beneficiary of the Trust Estate or transferee of property passing outside the Trust Estate. The legal representative of the Deceased Spouse's estate, or if none was appointed, the Trustee acting under this instrument, shall select the redemption date of such obligations. The direction to use accrued interest on Treasury bonds for payment of federal estate taxes shall not deprive the Surviving Spouse of any income to which the Surviving Spouse may be entitled pursuant to the provisions of the Survivor's Trust created hereunder, and such income shall be taken into consideration in determining the share of income to which the Surviving Spouse is entitled under the terms of the Survivor's Trust.

10. Purchase Assets from Probate Estate: The Trustee shall be authorized to purchase any assets from the probate estate

of either Trustor at their fair market value and upon such terms and in such amounts as such Trustee may deem advisable.

11. Lend to Probate Estate: The Trustee shall be authorized to loan funds or assets belonging to the Trust Estate to the probate estate of either Trustor upon such terms and in such amounts as such Trustee may deem advisable.

12. Lend to Individuals: To lend money to any beneficiary under this trust (including the Trustors) or to a trust for the benefit of any such beneficiary provided that any such loan shall be adequately secured and shall bear a reasonable rate of interest.

13. Borrow: To borrow money for any trust purpose upon terms and conditions as the Trustee may deem proper and to obligate the Trust Estate for repayment; to encumber the Trust Estate or any of its property by mortgage, deed of trust, pledge or otherwise, using such procedure or procedures to consummate the transaction or transactions as the Trustee may deem advisable (including securing or guaranteeing a loan to either or both Trustors in their individual capacities for a purpose not connected with this Trust). The Trustee may advance funds to the Trust Estate, such advances to bear interest at current bank rates and to be a first lien on, and be repaid out of, principal and/or income. The Trustee shall have the power to borrow money on behalf of one trust from any other trust provided for in this Trust Agreement, and to obligate the borrowing trust to repay such borrowed money provided such loan shall be adequately secured and bear interest at current bank rates.

14. Purchase Insurance: To carry insurance of such kinds and in such amounts as the Trustee, in the Trustee's discretion, considers advisable, at the expense of the trust, to protect the Trust Estate and the Trustee personally against any hazard arising in connection with the Trustee's administration of the Trust Estate.

15. Employ Professionals: To employ any custodian, attorney, accountant, corporate fiduciary, investment counselor, attorney-in-fact, or any other agents or employees as the Trustee deems necessary to assist the Trustee in the administration of this trust. Reasonable compensation for all services performed by these agents and employees shall be paid from the Trust Estate out of either income or principal as the Trustee in the Trustee's discretion shall determine, and shall not decrease the compensation, if any, to which the Trustee is entitled. The Trustee shall also be authorized to appoint an attorney-in-fact under a special power of attorney to act as a co-signatory on any bank accounts held in the name of the trust.

16. Pay Expenses of Administration: Out of gross income or principal, or out of both, as the Trustee may deem advisable, to

pay and discharge all costs, charges, liens and other expenses incurred in the care, administration or preservation of the Trust Estate, including compensation to the Trustee (if provided for elsewhere hereunder).

17. **Litigate**: To commence or defend, at the expense of the trust, such litigation with respect to the trust or any property of the Trust Estate as the Trustee considers advisable, and to compromise, submit to arbitration, or otherwise adjust any claims or litigation against or in favor of the trust. The Trustee's powers under this paragraph shall apply during the term of the trust and after distribution of trust assets. However, the Trustee shall have no obligations or duties with respect to any litigation or claims occurring after distribution of trust assets unless the Trustee is adequately indemnified by the distributees for any loss in connection with those matters.

18. **Make Tax Elections**: To make, or refrain from making, elections, consents and disclaimers permitted under any applicable income, gift, estate or inheritance tax law without regard to the effect of any such election on the interest of any beneficiary of a trust created hereunder; and, if any such election shall be made, to apportion, or refrain from apportioning, any benefits thereof among the respective interests of the beneficiaries of such trusts, all in such manner as the Trustee deems appropriate, without liability to any person howsoever interested in this trust so long as said election and decision to apportion or not to apportion benefits is made in good faith; provided, however, the Surviving Spouse shall be prohibited from exercising any power under this paragraph with regard to the Exemption Trust, and such power shall instead be exercised by the Special Co-Trustee appointed elsewhere hereunder.

19. **Determine Principal and Income**: The Trustee shall determine what is principal or income of the Trust Estate, and apportion and allocate any and all receipts and expenses between these accounts, in accordance with the provisions of the Principal and Income Law of the State of California from time to time existing. Except as to all matters governed by the provisions of the Principal and Income Law which are not discretionary under such Law, the Trustee shall have reasonable discretion to determine what is principal or income, and apportion and allocate all receipts and expenses between these accounts, including the right to elect whether or not to set aside a reserve for depreciation, amortization or depletion, or for repairs, improvement or upkeep of any real or personal property, or for repayments of debts of the Trust Estate. The exercise of such discretion, within the above set forth limitations, shall be conclusive on all persons interested in the Trust Estate. The powers herein conferred upon the Trustee shall not in any event be so construed as allowing an individual to exercise the Trustee's discretion except in a fiduciary capacity.

20. Exercise Discretion in Payment of Income and Principal: Subject to any express provisions otherwise set forth in this Trust Agreement, in exercising any discretionary authority with respect to the payment of net income or principal of the Trust Estate or any share thereof to any beneficiary under any of the provisions hereinabove set forth, the Trustee shall take into consideration any income of or other means of health, maintenance, support and education available to such beneficiary from sources outside this trust that may be known to such Trustee; and the determination of such Trustee with respect to the necessity for and the amounts of any payments from net income or principal to be made to or for the benefit of any beneficiary, as herein provided, shall be conclusive upon all persons howsoever interested in this trust. However, one of the primary concerns of the Trustors in creating these trusts is the welfare of the income beneficiaries and therefore, although the discretion of such Trustee wherever granted herein shall be absolute, it is the desire of the Trustors that it be exercised liberally for such income beneficiaries.

21. Accept Gifts: The Trustee shall be authorized to accept gifts from any individual who desires to contribute to the principal of the respective trusts created hereunder. Such acceptance of any additional gift shall be in the sole and absolute discretion of the Trustee.

22. Pay Gift Taxes: If at any time any gift tax becomes due from either of the Trustors, by reason of the Trust Estate or any interest therein being includable for such tax purposes, such gift tax, together with interest, penalties, costs, Trustee's compensation and attorney's fees, in the discretion of the Trustee, may be paid by the Trustee from the Trust Estate, unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of the Trust Estate or any interest therein so included.

23. Pay Death and Generation Skipping Taxes of Beneficiaries: Upon the death of any beneficiary other than the Trustors, any estate, inheritance, succession or other death taxes (including any generation skipping transfer taxes), duties, charges or assessments, together with interest, penalties, costs, Trustee's compensation and attorneys' fees, which shall become due by reason of the Trust Estate or any interest therein being includable for such tax purposes (other than the portion of the Survivor's Trust funded by the Deceased Spouse's property) may be paid by the Trustee from the Trust Estate, unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of the Trust Estate or the separate trust so included. If the Trustee considers that any distribution from a trust hereunder other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the Trustee shall augment the distribution by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same

against the trust to which the tax relates. If the Trustee considers that any termination of any interest in or power over trust property hereunder is a taxable termination subject to a generation-skipping tax, the Trustee shall pay the tax from the trust property to which the tax relates, with adjustment of the relative interests of the beneficiaries. If the tax is imposed in part by reason of trust property hereunder and in part by reason of other property, the Trustee shall pay that portion thereof which the value of the trust property bears to the total property taxed, taking into consideration deductions, exemptions and other factors which the Trustee deems pertinent. The Trustee may make any such payments directly, or to a personal representative or other fiduciary, and the Trustee may rely upon a written statement of such fiduciary as to the amount and propriety of such taxes, interest, penalties and other costs, and shall be under no duty to see to the application of any funds so paid.

24. Permit Beneficiaries to Use or Reside Upon Trust Assets: The Trustee may permit any beneficiary to reside upon or occupy any real property in the Trust Estate or use any personal property in the Trust Estate, upon such terms, provisions and conditions as the Trustee determines.

25. Construction of Powers: Unless specifically limited, all discretions conferred upon the Trustee shall be absolute and their exercise conclusive on all persons interested in the Trust Estate. The enumeration of certain powers of the Trustee shall not limit the Trustee's general or implied powers, and the Trustee, subject always to the discharge of the Trustee's fiduciary obligations and duties and subject to the limitations elsewhere herein stated, is vested with and shall have all the rights, powers and privileges which an absolute owner of the same property would have.

26. Qualified Subchapter "S" Trust: Notwithstanding any other provision of this Trust Agreement, it is the intention of the Trustors that the Trustee shall have the right, in his sole and binding discretion, keeping in mind the dispositive wishes of the Trustors as set forth elsewhere in the Trust Agreement, to bifurcate any and all Trusts created hereunder, at any time or from time to time after the death of the Trustors, to create trusts which hold subchapter "S" business stock and shall at all times constitute Qualified Subchapter "S" Trusts ("QSST") within the meaning of Code Section 1361, and the corresponding provisions of California law. The above provisions may be limited as set forth in the section of this Trust Agreement entitled "Special Co-Trustee Provisions". To that end, all such QSSTs shall be subject to the following rules:

(1) During the life of the current income beneficiary there shall be only one (1) income beneficiary of a QSST;

(2) Any principal distributed during the life of the current income beneficiary may be distributed only to such beneficiary;

(3) The income interest of the current income beneficiary in the QSST shall terminate on the earlier of such beneficiary's death or the termination of the QSST;

(4) Upon termination of the QSST during the life of the current income beneficiary, the QSST shall distribute all of its assets to such beneficiary; and

(5) All of the income (within the meaning of Code Section 643 (b)) shall be distributed (or shall be required to be distributed) currently to one (1) individual who is a citizen or resident of the United States.

B. **Resignation of Trustee:** Any Trustee may at any time resign from the respective trusts hereby created by depositing in the United States mail, postage prepaid, a notice of such resignation addressed to the person or persons then entitled to receive payments hereunder at the addresses of such person or persons last known to such Trustee, and such resignation shall take effect at the expiration of sixty (60) days from the date of mailing of such notice and the affidavit of the Trustee as to the date of mailing of such notice shall be conclusive evidence of its mailing. When such resignation takes effect, the next succeeding Trustee named in or designated in accordance with the Section of this trust entitled "Successor Trustees" shall act; in the event of the failure, refusal or inability to obtain a successor Trustee to act, the then resigning Trustee or any beneficiary of the Trust Estate may secure the appointment of a successor Trustee by a court of competent jurisdiction, at the expense of the Trust Estate.

C. **Release or Restriction of Trustee Powers:** The Trustee may release or restrict the scope of any power that the Trustee may hold in connection with the trusts created herein, whether such power is expressly granted in this instrument or implied by Law. The Trustee shall exercise this power in a written instrument executed by the Trustee, specifying the powers to be released or restricted and the nature of the restriction.

D. **Liability of Trustee:** No Trustee designated in this instrument shall be liable to any beneficiary or to any heir of either Trustor for the Trustee's acts or failure to act, except for willful misconduct or gross negligence. Until the Trustee receives written notice of any birth, marriage, death or other event upon which the right to payments from these trusts may depend, the Trustee shall incur no liability to persons whose interests may have been affected by that event for disbursements made in good faith. No Trustee shall be liable or responsible for any act, omission or default of any other Co-Trustee, provided that the Trustee shall have had no knowledge of facts that might reasonably be expected to put the Trustee on notice of it. No successor



Trustee shall be liable or responsible in any way for any act, omission or default of a predecessor Trustee nor for any loss or expense occasioned by anything done or neglected to be done by any predecessor Trustee. Unless requested in writing within sixty (60) days of appointment by an adult beneficiary (or a guardian, conservator or other fiduciary of the estate of a minor or incompetent beneficiary) of the trust, no successor Trustee shall have any duty to investigate or review any action of a predecessor Trustee and may accept the accounting records of the predecessor Trustee showing assets on hand without further investigation and without incurring any liability to any person claiming or having an interest in the trust.

E. Trustee Fees: The Trustors shall receive no compensation for serving as Trustee. If any other individual serves as Trustee, such individual shall be entitled to reasonable compensation for his services. If in the course of events a corporation, bank or trust company shall act as Trustee, it shall be entitled to compensation in accordance with its fee schedules in effect and from time to time existing, but in no event to exceed the fee customarily charged by other corporations, banks and trust companies doing business in the same county as the Trustee for administration of similar trusts and similar portfolios.

F. Physical Division of Property Not Required: Property need not be physically divided between the respective trusts created herein, except to the extent necessary for distribution, or necessary to qualify the Survivor's Trust for the marital deduction, in accordance with Code Section 2056, but at all times the Trustee shall keep records and books of accounts with respect to each such trust whereby all of its assets, income and liabilities will be clearly distinguishable from each other trust created herein.

G. Trustee Accounting: While both Trustors are living, the Trustee shall account only to the Trustors, as often as they so request, 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. After the death of either Trustor, the Trustee shall render an accounting when so requested in writing by the Surviving Spouse or by any other adult beneficiary (or, if a beneficiary is a minor, by the parents or the guardian or conservator of his person), but the Trustee shall in no event be required to render an accounting more frequently than once annually. Accountings shall be made by delivering a written accounting to each beneficiary entitled to current income distribution or, if there are no current income beneficiaries, to each beneficiary entitled to current distribution out of income or principal in the Trustee's discretion and to each remaindermen in being. If any person entitled to receive an accounting is a minor, the accounting shall be delivered to his parents or the guardian of his person, and if any person entitled to receive an accounting is under a disability, the accounting shall be delivered to the

guardian or conservator of his person. Unless any beneficiary, including parents, guardians or conservators of beneficiaries, shall deliver a written objection to the Trustee within 90 days after receipt of the Trustee's account, the account shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of the trust, including unborn and unascertained beneficiaries. After settlement of the account by agreement of the parties objecting to it, or by expiration of the 90-day period, the Trustee shall no longer be liable to any beneficiary of the trust, including unborn and unascertainable beneficiaries, in respect to transactions disclosed in the account, except for the Trustee's intentional wrongdoing or fraud. In addition to any accounting which may be required of the Trustee under the above, an accounting shall be rendered by any Trustee within 60 days after his resignation or removal. Nothing contained in this paragraph shall be deemed to give the Trustee acting hereunder the power to alter or amend the terms of this trust.

H. Special Directions Regarding Personal Property:

Notwithstanding the foregoing, there may be various items which may have sentimental value to certain of the Trustors' friends or relatives. Such items are deemed by the Trustors to be of insufficient consequence to warrant their disposition in this trust. Also, there may be various small monetary bequests to persons or charities which the Trustors may from time to time choose to make, but concerning which the Trustors do not desire to require any mandatory disposition hereunder. Thus, the Trustors may from time to time by written letter or other instrument, not constituting a holographic will or codicil or amendment to any trust, indicate an alternative distribution of such items, from that provided above. The Trustors recognize and intend that such alternative disposition shall only be directive and not be binding on the Trustee or any beneficiary hereunder. However, the Trustors request, but do not require, that each beneficiary in receipt of property specified in such written letter comply with its directions regarding such property's distribution.

**TRUSTEES ENVIRONMENTAL POWERS**

A. Trustee Authorized to Inspect Property Prior to Acceptance:

1. Actions at Expense of Trust Estate: 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. Enter Property: To enter and inspect any existing or proposed asset of the Trust (or of any partnership, limited liability company or corporation in which the Trust holds an interest) for the purpose of determining the existence,

location, nature, and magnitude of any past or present release or threatened release of any hazardous substance; and

b. **Review Records:** To review records of the currently acting Trustee or of the Trustor (or of any partnership, limited liability company or corporation in which the Trust holds an interest) for the purpose of determining compliance with environmental laws and regulations, including those records relating to permits, licenses, notices, reporting requirements, and governmental monitoring of hazardous waste.

2. **Rights Equivalent to Partner, Member or Shareholder:**  
The right of the proposed or designated Trustee to enter and inspect assets and records of a partnership, limited liability company or corporation under this provision is equivalent to the right under state law of a partner, member or shareholder to inspect assets and records under similar circumstances.

3. **Right to Still Refuse Acceptance of Trusteeship:**  
Acts performed by the proposed or designated Trustee under this provision shall not constitute acceptance of the trust.

4. **Right to Accept Trusteeship Over Other Assets Only:**  
If an asset of the Trust is discovered upon environmental audit by the acting Trustee or any proposed or designated Trustee to be contaminated with hazardous waste or otherwise not in compliance with environmental law or regulation, 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. The Trustee, in his discretion, may petition a court to appoint a receiver or special Trustee to hold and manage the rejected asset, pending its final disposition.

5. **Right to Reject Asset:** 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 The Trust Due To Environmental Liability:**

1. **Trustee's Powers over Hazardous Waste Property:** If the Trust Estate holds one or more assets, the nature, condition, or operation of which is likely to give rise to liability under, or is an actual or threatened violation of any federal, state or local environmental law or regulation, the Trustee may take one or more of the following actions, if the Trustee, in the Trustee's sole and binding discretion, determines that such action is in the best interests of the Trust and its beneficiaries:

a. **Modify Trust:** Modification of trust provisions, upon court approval, granting the Trustee such additional powers as are required to protect the trust and its beneficiaries from liability or damage relating to actual or

threatened violation of any federal, state or local environmental law or regulations, with it being the Trustors' desire that the Trustee keep in mind the Trustors' dispositive wishes expressed elsewhere in the Trust and that the Trustee consider and weigh any potentially negative federal and state income, gift, estate or inheritance tax consequences to the Trustee, Trust and its beneficiaries;

b. Bifurcate Trust: Bifurcation of the Trust to separate said asset from other assets of the Trust Estate;

c. Appoint A Special Trustee: Appointment of a special Trustee to administer said asset; and/or

d. Abandon Property: Abandonment of such asset.

2. Terminate Trust or Distribute Other Assets: With court approval, the Trustee may terminate the Trust or partially or totally distribute the Trust Estate to beneficiaries.

3. Broad Discretion: It is the intent of the Trustors that the Trustee shall have the widest discretion in identification of and response to administration problems connected to potential environmental law liability to the Trust Estate and the Trustee, in order to protect the interests of the Trust, the Trustee and the beneficiaries of the trust.

C. Trustee's Powers Relating to Environmental Laws: The Trustee shall have the power to take, on behalf of the Trust, any action necessary to prevent, abate, avoid, or otherwise remedy any actual or threatened violation of any federal, state, or local environmental law or regulation, or any condition which may reasonably give rise to liability under any federal, state, or local environmental law or regulation, including, but not limited to, investigations, audits, and actions falling within the definition of "response" as defined in 42 U.S.C. §9601(25), or any successor statute, 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:

1. Indemnification and Reimbursement for Good Faith Actions: Trustee shall be indemnified and reimbursed from the Trust Estate for any liabilities, loss, damages, penalties, costs or expenses arising out of or relating to federal, state or local environmental laws or regulations (hereinafter "environmental expenses"), except those resulting from the Trustee's intentional wrongdoing, bad faith or reckless disregard of his fiduciary obligation.

a. **Environmental Expenses Defined:** Environmental expenses shall include, but not be limited to:

(i) Costs of investigation, removal, remediation, response, or other cleanup costs of contamination by hazardous substances, as defined under any environmental law or regulation;

(ii) Legal fees and costs arising from any judicial, investigative or administrative proceeding relating to any environmental law or regulation;

(iii) Civil or criminal fees, fines or penalties incurred under any environmental law or regulation; and

(iv) Fees and costs payable to environmental consultants, engineers, or other experts, including legal counsel, relating to any environmental law or regulation.

b. **Properties and Businesses Covered:** This right to indemnification or reimbursement shall extend to environmental expenses relating to:

(i) Any real property or business enterprise, which is or has been at any time owned or operated by Trustee as part of the Trust Estate; and

(ii) Any real property or business enterprise, which is or has been at any time owned or operated by a corporation, limited liability company or partnership, in which Trustee holds or has held at any time an ownership or management interest as part of the Trust Estate.

2. **Right to Pay Expenses Directly From Trust:** Trustee shall have the right to reimbursement for incurred environmental expenses without the prior requirement of expenditure of Trustee's own funds in payment of such environmental expenses, and the right to pay environmental expenses directly from Trust assets.

3. **Right to Lien Trust Assets:** Trustee shall have a primary lien against assets of the trust for reimbursement of environmental expenses, which are not paid directly from Trust assets.

E. **Exoneration Of Trustee For Good Faith Acts Relating To Environmental Law:** Trustee shall not be liable to any beneficiary of the Trust or to any other party for any good faith action or inaction, relating to any environmental law or regulation, or for the payment of any environmental expense (as defined above); provided, however that Trustee shall be liable for any such action, inaction or payment which is a breach of Trust and is committed in bad faith, or with reckless or intentional disregard of his fiduciary obligations.

F. Allocation of Environmental Expenses and Receipts Between Principal and Income: Trustee may, in the Trustee's discretion, allocate between income and principal of the Trust Estate environmental expenses (as defined above) and reimbursements or other funds received from third parties relating to environmental expenses. In making such allocation, the Trustee shall consider the effect of such allocation upon income available for distribution, the value of Trust principal, and the income tax treatment of such expenses and receipts. Trustee may, in the Trustee's discretion, create a reserve for payment of anticipated environmental expenses.

#### SPECIAL CO-TRUSTEE PROVISIONS

Notwithstanding anything herein to the contrary, the powers, duties or discretionary authority granted hereunder to any Trustee shall be limited as follows:

A. Prohibited and Void Trustee Powers: Unless limited by an ascertainable standard as defined in Code Section 2041, no Trustee shall participate in the exercise of any discretionary authority to allocate receipts and expenses to principal or income, any discretionary authority to distribute principal or income, or any discretionary authority to terminate any trust created hereunder, if distributions could then be made to the Trustee or the Trustee has any legal obligation for the support of any person to whom distributions could then be made. Any other power, duty or discretionary authority granted to a Trustee shall be absolutely void to the extent that either the right to exercise such power, duty or discretionary authority or the exercise thereof shall in any way result in a benefit to or for such Trustee which would cause such Trustee to be treated as the owner of all or any portion of any of the trusts created herein for purposes of federal or state income, gift, estate or inheritance tax laws, or cause any disclaimer of an interest or benefit hereunder to be disqualified under Code Section 2518. Notwithstanding the foregoing, this Paragraph shall not apply during the joint lifetimes of the Trustors and nor shall it apply to the Surviving Spouse at all with respect to the Survivor's Trust. Should a Trustee be prohibited from participating in the exercise of any power, duty, or discretionary authority, or should a power, duty or discretionary authority granted to a Trustee be absolutely void, as a result of the foregoing, then such power, duty or discretionary authority may be exercised in accordance with the following paragraphs.

B. Exercise of Prohibited or Void Power by an Existing Independent Co-Trustee: In the event that the right to exercise or the exercise of any power, duty or discretionary authority is prohibited or void as provided above, or is prohibited elsewhere in this Trust Agreement with respect to "incidents of ownership" of life insurance, the remaining Co-Trustee, if any, shall have the right to exercise and may exercise said power, duty or

discretionary authority, provided the Co-Trustee is independent within the meaning set forth in Code Section 674(c).

C. Exercise of Prohibited or Void Power if No Existing Independent Co-Trustee: In the event there is no independent Co-Trustee capable of exercising any power, duty or discretionary authority which is prohibited or void as provided above, then the following procedure shall apply:

1. Appointment of Special Co-Trustee: MATTHEW TAYLOR DI CORI is hereby appointed Special Co-Trustee of the trusts created herein. In the event of the death, incompetency, inability or unwillingness to act of MATTHEW TAYLOR DI CORI, then CHRISTINE ELIZABETH DI CORI is hereby appointed Special Co-Trustee of the trusts created herein. The last named individual to act shall have the right to designate by Will or other written instrument a successor Special Co-Trustee who is independent within the meaning set forth in Code Section 674(c).

2. Waiver of Bond: No bond shall be required of any individual acting as Special Co-Trustee hereunder.

3. Limited Responsibilities of Special Co-Trustee: The responsibilities of the Special Co-Trustee shall be limited to the exercise of the power, duty or discretionary authority prohibited or void as provided above, and said Special Co-Trustee shall not be concerned with, nor shall have, any authority with respect to any other aspects of administration of the Trust Estate.

#### MISCELLANEOUS TRUST PROVISIONS

A. Use of Family Residence: Notwithstanding anything to the contrary hereinabove, from and after the death of the Deceased Spouse, the Surviving Spouse at the Surviving Spouse's election shall have the right to possess and occupy during his or her life the real property in the Trust Estate that the Surviving Spouse and the Deceased Spouse were using for their principal residence without any obligation upon the Surviving Spouse to pay rent. While the Surviving Spouse shall possess and occupy said residence, the Surviving Spouse shall manage, care for and protect it. The Trustee shall pay a portion (set forth below) of any mortgage or trust deed payments (both principal and interest), any property taxes, assessments, insurance, maintenance and repairs on all such property, or any rent or lease payments, out of principal and/or income of the Exemption Trust. The portion of such payments and expenses paid by the Trustee shall be an amount that is or was proportionate to the Exemption Trust's respective interest in such property. The remaining portion of such payments and expenses shall be paid by the Surviving Spouse personally or, pursuant to his or her instruction, shall be paid from the Survivor's Trust. The Trustee may exchange said residence for other residential property or sell said residence only with the consent of the Surviving Spouse, if competent to give such consent, or if the

Surviving Spouse is not competent to give such consent, with the consent of the Surviving Spouse's attorney in fact, and, if the Surviving Spouse or the Surviving Spouse's attorney in fact, as the case may be, so requests, use the funds of the Trust Estate to purchase, rent or lease other residential property selected by the Surviving Spouse, or the Surviving Spouse's attorney in fact, as the case may be. Any sale or purchase may be solely for cash or partly for cash and partly on credit; and at such price and upon such terms as shall be mutually agreed upon by the Trustee and the Surviving Spouse. The purchase price for other such residential property, or the value of the other such residential property which is rented or leased, however, shall not exceed the selling price, less selling expenses, of the property sold, unless the Surviving Spouse shall contribute the amount of such excess, as determined by the Trustee, either by paying or by agreement to exonerate or indemnify the Trust Estate against any liability for the amount of such excess. The Surviving Spouse shall not be obligated to give security for his or her liability under such agreement of exoneration or indemnification. In the event that the Trustee sells any such residence and the Surviving Spouse does not request the purchase, rental or lease of another residence, the Trustee shall invest and reinvest the proceeds of any such sale or distribute same in accordance with the other provisions herein. The right, title and interest of the Surviving Spouse and of the Trustee in any other residential property acquired under the provisions of this paragraph shall be proportionate to their respective contributions to the purchase price. The right, title and interest of the Trust Estate in any other residential property received in exchange or by purchase, shall be subject to all the terms and conditions of this paragraph, including the provisions hereof relating to possession and occupancy, sale or exchange, and the acquisition of other residential property in the place thereof. If any such residence possessed or occupied by the Surviving Spouse is located on realty used for commercial or farming purposes, this paragraph shall apply only with respect to the residential structures thereon, along with the land on which they stand and the land reasonably necessary for the exercise of the right of ingress thereto and egress therefrom, and the Trustee in the Trustee's discretion may continue to use the balance of the real property for commercial or farming purposes. If the Surviving Spouse is acting as Trustee hereof at the time the Trustee is called upon to exercise any of his powers, duties or discretionary authority set forth above in this paragraph, then such powers, duties and discretionary authority may be limited as set forth in the Section hereof entitled "Special Co-Trustee Provisions." This paragraph shall also apply to the principal residence of the Trustors, or either of them, in the event both Trustors are living but neither is acting as Trustee, in which case the Trustor (or Trustors) residing on the premises shall be treated as the "Surviving Spouse" for purposes of the foregoing and references to the "Survivor's" and "Exemption" Trusts shall be irrelevant.

B. Government Assistance and Medi-Cal Planning: The Trustee shall have the power to deal with governmental agencies and to make



applications for, receive and administer benefits on behalf of the Trustors, including but not limited to, if applicable: Medi-Cal, Social Security, Medicare, Medicaid, Supplemental Security Income, In-Home Support Services, and any other government resources and community support services available to the elderly; i.e. California Department on Aging, Federal Older Americans Act, Nursing Home Ombudsman, "Senior Day Care" programs, and senior centers. The Trustee shall also have the power to explore and implement Medi-Cal planning strategies and options, to plan and accomplish asset preservation in the event a Trustor needs long-term health and nursing care. Such planning shall include, but is not necessarily limited to, the power and authority to: (1) make home improvements and additions to the Trustors' family residence; (2) pay off partly or in full the encumbrance, if any, on the Trustors' family residence; (3) purchase a family residence, if the Trustors do not own one; and (4) purchase a more expensive family residence.

C. **Insurance**: The rights, powers and obligations of the Trustee and of the owner of any life insurance policy, the proceeds of which are payable to any trust created hereunder, shall be as follows:

1. **Payment of Premiums**: The Trustee may, but shall not be required to, pay premiums, assessments or other charges upon any of the policies owned by or payable to the Trust Estate, or otherwise keep all or any of them binding contracts of insurance. In the event that the Trustee intends not to pay any premium, assessment or other charge with respect to any policy held by the Trustee, or otherwise intends to cancel, convert or substantially modify any such policy, the Trustee shall first give the insured, or the fiduciary of the person of an insured under disability, at least fifteen (15) days advance written notice of the Trustee's intention to take such action.

2. **Retention of Interests by Owner**: Should any trust created herein own or hold at any time, a life insurance policy or policies insuring the life of any Trustee, said Trustee shall not be deemed to own said policy in his individual capacity, nor shall he have the power to exercise or exercise any of the "incidents of ownership" (as the term is defined by Code Section 2042) of any policy or policies. Said incidents of ownership shall be deemed to be owned and shall be exercised, if at all, only by the Special Co-Trustee in accordance with the provisions of the Section hereof entitled "Special Co-Trustee Provisions." The foregoing limitations on the power of the Trustee relating to life insurance policies shall not apply to insurance policies which a Trustee owns or holds in his individual, rather than fiduciary, capacity.

3. **Collection of Proceeds**: Upon receipt of proof of death of the insured and upon receiving possession of the policies, the Trustee shall use reasonable efforts to collect the proceeds of the insurance policies payable to such Trustee under their terms and is authorized to do all things necessary or expedient thereto,

to make such agreements or settlements of any such policy or policies, or to take such action thereon as such Trustee shall deem advisable; provided, however, that such Trustee need not, except in the sole discretion of such Trustee, enter into or maintain any litigation to enforce payment of any such policy or defend any action relating to any such policy unless and until such Trustee shall have been indemnified to the satisfaction of such Trustee against all expenses and liabilities which may be incurred therein. The receipt given by such Trustee to an insurance company shall release the insurance company from all liability upon any insurance policies contained in the Trust Estate.

4. **Purchase of Additional Insurance:** The Trustee may apply for and receive life insurance on the life of any beneficiary under this trust.

D. **Distributions:** The following provisions shall apply to distributions from the Trust Estate:

1. **Manner of Division and Distribution of Trust Property:** Upon any division (other than the funding of the Survivor's Trust with the Deceased Spouse's property) or partial or final distribution of the Trust Estate, the Trustee may divide, partition, allot and distribute the Trust Estate in undivided interests or in kind, or such Trustee may sell all or any part of such property and make such division or distribution in cash, or partly in cash and partly in kind, at valuations as of the date of division or distribution of the Trust Estate. The Trustee shall be under no obligation to make a pro rata division of individual assets, or to distribute the same assets to beneficiaries similarly situated. Rather, the Trustee may, in the Trustee's discretion, make non-pro rata division of individual assets between trusts or shares and non-pro rata 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 value (when so required elsewhere herein). The income tax basis of assets allocated or distributed non-pro rata need not be equivalent and may vary to a greater or lesser amount, as determined by the Trustee in his discretion, and no adjustment need be made to compensate for any difference in basis. The decision of the Trustee as to what constitutes a proper division and/or distribution of the Trust Estate shall be binding upon all beneficiaries.

2. **Retention of Reserve for Liabilities:** The Trustee, in the Trustee's discretion, may withhold from any distribution, at the time specified for distribution, all or any part of the property subject to distribution, without the payment of interest, as long as the Trustee, in the Trustee's discretion, shall determine that such property may be subject to conflicting claims, to tax deficiencies, or to liabilities, contingent or otherwise, which were incurred by the Trustors or were properly incurred in administration of the trust, except that the Trustee shall distribute all net income of the Survivor's Trust at least annually

to the Surviving Spouse. Any property so withheld from distribution shall bear reasonable interest from the date so withheld until the time the property is actually distributed.

3. **Successor Beneficiary's Right to Income:** Except as otherwise provided with respect to the Survivor's Trust, whenever the right of any beneficiary to payments from net income or principal hereunder shall terminate, either by reason of death or otherwise, all such payments accrued or undistributed by the Trustee at the date of such termination shall be distributed to the beneficiary entitled to the next successive interest thereunder; and income earned but not received by the Trustee at the time of the death of an income beneficiary shall not be apportioned but shall pass to the next successive income estate; likewise, the Trustee shall not be required to prorate taxes and other current expenses between successive beneficiaries. This provision shall not apply to income accrued on Treasury bonds redeemed in payment of the Trustors' federal estate tax.

4. **Creditor's Rights -- Spendthrift Provisions:** No beneficiary under the trusts created herein (other than the Surviving Spouse, with respect to the principal and income of the Survivor's Trust) shall assign, transfer or convey, anticipate, pledge, hypothecate or otherwise encumber his or her interest hereunder, and neither the principal of these trusts nor any income of these trusts shall be liable for any debt of any beneficiary, any beneficiary's spouse, divorced spouse or others, or be subject to any bankruptcy proceedings or claim of creditors of said persons (including said persons' spouse or divorced spouse), or be subject to any judgments so rendered; and all of the income and principal of these trusts shall be transferable, payable and deliverable only to the beneficiaries designated hereunder at the time they are entitled to take same under the terms of the trusts created herein. Should the Trustee so desire, the Trustee may as a condition precedent, withhold payments of principal or interest under this trust until personal order for payment is given or personal receipt furnished by each such beneficiary as to his share. The Trustee may, alternatively in his discretion, deposit in any bank designated in writing by a beneficiary to his or her credit, income or principal payable to such beneficiary. The Trustee may, also alternatively in his discretion, pay to or for the benefit of the beneficiary only those amounts the Trustee determines necessary for the health, support, maintenance and education of the beneficiary according to his or her accustomed standard of living and accumulate excess amounts in the trust. Nothing contained in this paragraph shall be considered as restricting in any way the exercise of any power of appointment granted hereunder.

5. **Distributions to Minors or Incompetents:** The Trustee may apply payments for the benefit of any beneficiary, make payments to the guardian of the person or estate of or to the parent of the beneficiary, if a minor, to the guardian or conservator of the estate or person, if the beneficiary is under a disability, or to any beneficiary's duly appointed custodian, if

any (under the California Uniform Transfers to Minors Act, as the same is now in effect or hereafter amended). Subject to any express provisions otherwise set forth in this Trust Agreement, sums necessary for support and education may be paid directly to minor beneficiaries who, in the judgment of such Trustee, have attained sufficient age and discretion to render it probable that the moneys will be properly expended.

6. Reimbursement of Guardian or Conservator: The Trustors do not desire that any Guardian or Conservator of any current income beneficiary (including Trustors, or either of them) or any other suitable individual with whom such beneficiary resides should incur personal expense in providing for the health, support and maintenance of such beneficiary. The Trustee is authorized, in his discretion, to disburse funds from such beneficiary's Trust Estate for the purpose of reimbursing such Guardian, Conservator or other suitable individual with whom such beneficiary resides, for reasonable expenses incurred in providing for the health, support or maintenance of such beneficiary. The Trustee shall construe his authority liberally to permit payments reasonably necessary to ease the financial burden on such Guardian or Conservator of such beneficiary or other suitable individual with whom such beneficiary resides and on such Guardian's, Conservator's or suitable individual's family resulting from such beneficiary's presence in such Guardian's, Conservator's or suitable individual's household.

7. Reimbursement of Costs Incurred in Implementing Durable Power of Attorney: Any person acting as attorney in fact under a valid Durable Power of Attorney executed by either Trustor, shall be entitled to payment of or reimbursement for all reasonable costs and expenses actually incurred or paid by such attorney in fact on behalf of either Trustor and to payment of reasonable compensation, unless prohibited by such document. It is the Trustors' desire that the Trustee interpret this provision liberally in favor of the attorney in fact and act promptly upon any such request for payment or reimbursement by the Attorney in Fact.

8. Ancillary Administration: If at any time any trust property is situated in a jurisdiction in which any Trustee is unable or unwilling to act, any Trustee able or willing to act or, if none, such person or corporation as may be appointed by the Trustee or Trustees herein appointed (the "Principal Trustee") shall act as Trustee with respect to that property, and such Trustee and every successor Trustee so appointed shall exercise the powers granted by this instrument only upon the direction of the Principal Trustee. The net income from that property and any net proceeds of its sale shall be paid over to the Principal Trustee.

9. Notice of Exercise of a Power of Appointment by Will: In determining whether and to what extent a power of appointment has been exercised by Will, the Trustee may rely upon any instrument admitted to probate in any jurisdiction as the Will

of the holder of the power. The Trustee may act as if the holder of the power died intestate if the Trustee has no notice of a Will within three (3) months after the holder's death. This subparagraph shall not affect the rights of an appointee or beneficiary against any distributee.

**E. Termination of Trusts:**

1. **Rule Against Perpetuities:** Having in mind the rule against perpetuities, and notwithstanding anything herein to the contrary, each of the trusts created herein, unless sooner terminated in accordance with the provisions elsewhere herein, shall in any event cease and terminate upon the expiration of twenty-one (21) years from and after the date of death of the last survivor of the Trustors and the trust beneficiaries and their issue who are in being on the date of death of the Deceased Spouse. The principal and undistributed income of a trust terminated pursuant to this paragraph shall be distributed to the then income beneficiaries of that trust in the same proportion that the beneficiaries are entitled to receive income when the trust terminates. If at the time of such termination the rights to income are not fixed by the terms of the trust, distribution under this paragraph shall be made, by right of representation, to the persons who are entitled or authorized in the Trustee's discretion, to receive trust payments.

2. **Termination When Trusts No Longer Economical:** Notwithstanding any other provision of this Trust Agreement, should the principal of any trust created under any provision of this Trust Agreement be or become, according to the discretion of the Trustee, sufficiently small in value that the administration thereof is no longer economically desirable, that the cost of administration is disproportionate to the value of the assets, and that the continuation thereof is no longer in the best interest of the beneficiary or beneficiaries, then the entire principal and all accumulated income of such trust shall be distributed outright to the person or persons entitled at the time to the income therefrom in the proportions in which they were entitled to receive the income, and upon such termination, the rights of all other persons who might otherwise have an interest as succeeding life income beneficiaries or as remaindermen shall cease. If the beneficiary is still a minor, the Trustee may designate a custodian and transfer the principal and accrued income of the beneficiary's trust to the custodian for the benefit of the minor under the California Uniform Transfers to Minors Act until such beneficiary attains majority. A receipt from the custodian shall be a complete discharge of the Trustee as to the amount so paid. Should the Trustee also be a beneficiary of any such trust or should for any other reason this power to terminate a trust be construed as possibly constituting a general power of appointment for tax purposes, then the power shall pass to the next successor Trustee or the Special Co-Trustee (if any) named in this Agreement.

F. Interpretation of Trust Agreement:

1. Definitions: Certain words of art used herein shall be defined as follows:

a. "Children", "Grandchildren" and "Issue": The term "issue" shall refer to lawful lineal descendants of all degrees. The terms "issue", "child", "children", "grandchild" and "grandchildren" shall refer to individuals conceived, born or adopted during a valid marriage and any individuals born out of wedlock only if a parent and child relationship existed between an individual and his or her deceased parent; but shall not include any stepchildren. The terms "issue", "grandchild" and "grandchildren" shall include adopted persons, except that it shall exclude any person whose adoption occurs after such person has reached the age of majority, as defined by the laws of the state of California, or the state of residence of the adopted individual at the date of the adoption.

b. "Code" and/or "Treasury Regulations": All references to the term "Code" and/or "Treasury Regulations" shall mean the United States Internal Revenue Code of 1986, as amended, and the Regulations thereunder, and any successor Code and Regulations, unless specifically stated otherwise.

c. "Education": Whenever provision is made in any trust created herein for any payment for the "education" of a beneficiary, the term "education" shall be construed to include, but not limited to, private primary and secondary school, vocational training, college, university and postgraduate study, so long as the Trustee determines it is pursued to advantage by the beneficiary, at an institution of the beneficiary's choice and in determining payments to be made for such primary, secondary, vocational, college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and travel expenses to the extent that they are reasonable.

d. Determination of "Incompetency": For purposes of this trust, the term "incompetency" and/or "incapacity" shall mean any physical or mental incapacity, whether by reason of accident, illness, advanced age, mental deterioration or similar cause, which makes it impracticable for a person to give prompt, rational and prudent consideration to financial matters and, in the case of a Trustee, the successor Trustee may commence to act as Trustee hereunder without liability for assuming the position of Trustee after delivering written notice thereof to such incapacitated person and to such of the Trustors as are then living. A person shall conclusively be deemed to be incapacitated as described in the preceding sentence if a conservator of the person or estate, or both, of such person has been appointed by a court having jurisdiction over such matters or two (2) attending physicians of such person, who are licensed to practice and who are not related by blood or marriage to such person, have stated in

writing that such incapacitation exists. Upon the court determination of the person's capacity or upon the revocation of the writings of the two (2) attending physicians or upon written determination of capacity by two (2) other attending physicians, who are licensed to practice and who are not related by blood or marriage to such person, subject to written notice being given to the successor Trustee, the original Trustee removed for "incompetency" or "incapacity" shall be reinstated as Trustee. Each person who signs this instrument or an acceptance of Trusteeship hereunder does, by so signing, waive all provisions of law relating to disclosure of confidential medical information insofar as that disclosure would be pertinent to any inquiry under this paragraph. No Trustee shall be under any duty to institute any inquiry into a person's possible incompetency or incapacity, but the expense of any such inquiry reasonably instituted may be paid from trust assets.

e. **"Trust Estate"**: "Trust Estate" shall mean the property originally transferred to the Trustee by the Trustors or by either Trustor and any cash, securities or other property which the Trustee may, at any time, hold or acquire for the uses and purposes and upon the terms and conditions set forth in this trust. All references in this Trust Agreement to the "trust" or the "Trust Estate", unless otherwise specifically provided herein, are intended to and shall be deemed to refer to each of the separate trusts hereinabove provided for, collectively, and the Trust Estate of each such trust.

f. **"Trustee"**: Any and all references herein to the term "Trustee" shall, where the context so requires, be deemed to mean the Trustee originally named herein or any successor Trustee or Co-Trustee (except only where a specific Trustee is otherwise expressly identified) during such time as the successor Trustee or Co-Trustee shall be acting.

2. **Requirement of Survival of Beneficiaries**: For purposes of this trust, a person shall be considered not to be living at the time provided hereunder for him to succeed to any beneficial interest in the Trust Estate if he should die within thirty (30) days thereafter. In the event any beneficiary partially or totally renounces or disclaims a gift hereunder, he shall be deemed not to be living at the aforesaid time for the purpose of distribution of the gift (or part thereof) so renounced or disclaimed.

3. **Simultaneous Death of Trustors**: If both Trustors should die simultaneously, or under such circumstances as it cannot be established by clear and convincing evidence who predeceased the other, it shall be conclusively presumed for all purposes of this Trust Agreement that the Trustor first to die shall be the Trustor who has the larger "gross estate" for federal estate tax purposes after reduction for any deductions allowed by Code Sections 2053 and 2054.

4. Disinheritance: The Trustors declare that, except as otherwise provided in this trust, they have intentionally and with full knowledge omitted to provide herein for any of their heirs who may be living at the time of the death of either of said Trustors.

5. Prohibition Against Contest: If any devisee, legatee or beneficiary, under this trust or any amendment to it, no matter how remote or contingent such beneficiary's interest appears, or any legal heir of Trustors, or either of them, or any person claiming under any of them, directly or indirectly does any of the following, then in that event Trustors specifically disinherit each such person, and all such legacies, bequests, devises and interests given to that person under this trust or any amendment to it or any other trust document created by Trustors at any time shall be forfeited and shall be distributed as provided elsewhere herein as though he or she had predeceased Trustors without issue:

- (a) unsuccessfully challenges the appointment of any person named as a Trustee in said trust or any amendment to it, or unsuccessfully seeks the removal of any person acting as a Trustee;
- (b) objects in any manner to any action taken or proposed to be taken in good faith by the Trustee under said trust or any amendment to it, whether the Trustee is acting under court order, notice of proposed action or otherwise, and said action or proposed action is later adjudicated by a court of competent jurisdiction to have been taken in good faith;
- (c) objects to any construction or interpretation of said trust or any amendment to it, or the provisions of either, that is adopted or proposed in good faith by the Trustee, and said objection is later adjudicated by a court of competent jurisdiction to be an invalid objection;
- (d) claims entitlement to (or an interest in) any asset alleged by the Trustee to belong to the probate or trust estate, whether such claim is based upon a community or separate property right, Marvin rights, a contract or other right or device, and said claim is later adjudicated by a court of competent jurisdiction to be invalid;
- (e) files a creditor's claim against the assets of the probate or trust estate and such claim is later adjudicated by a court of competent jurisdiction to be invalid;
- (f) anyone other than Trustors attacks or seeks to impair or invalidate (whether or not any such attack or attempt is



successful) any designation of beneficiaries for any insurance policy on Trustors' life or any designation of beneficiaries for any pension plan, Keogh, SEP or IRA account;

- (g) in any other manner contests this trust or any amendment to it executed by Trustors, or in any other manner, attacks or seeks to impair or invalidate any of its provisions;
- (h) conspires with or voluntarily assists anyone attempting to do any of the above acts.

Expenses to resist any above contest or other attack of any nature upon any provision of this trust or any amendment to it shall be paid from the trusts created hereunder as expenses of administration.

In the event that any provision of this paragraph is held to be invalid, void or illegal, the same shall be deemed severable from the remainder of the provisions in this paragraph and shall in no way affect, impair or invalidate any other provision in this paragraph. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

Notwithstanding the foregoing, the provisions of this paragraph shall not be deemed to apply to the Surviving Spouse in connection with the Survivor's Trust; however, such provisions shall apply to the Surviving Spouse in connection with the Exemption Trust. The provisions of this paragraph shall not apply to any disclaimer by any person of any benefit under this trust or amendment to it.

6. **Confidentiality**: Any transfer agent or other person dealing with these trusts created herein (hereafter referred to as a "third party") shall be entitled to rely upon a copy of those portions of this instrument and any amendments hereto, consisting of the Sections entitled "Declaration of Trust," "Trustors' Power to Amend and Revoke This trust," "Successor Trustees," "Trustee Provisions," "Special Co-Trustee Provisions," "Miscellaneous Trust Provisions" and signatures, which partial copy shall be verified as a true copy of such portions then in effect by the Trustee then acting or the attorney or agent for such Trustee. Such third party shall incur no liability to these Trusts, the Trustors, or any beneficiary hereunder, for acting upon an order or request of the Trustee made pursuant to the terms hereof as set forth in such partial copy, and shall not be required to see to the disposition of any proceeds or the faithful discharge of the Trustee's duties hereunder. In no event shall any third party have access to a copy of the portion hereof consisting of Sections other than those delineated above, except as may be determined in the discretion of the Trustee.

7. Choice of Law, Gender, Number and Headings: This trust has been accepted by the Trustee and will from time to time be administered in the State of California or in the state in which the Trustee resides or has its principal place of business and its validity, construction and all rights thereunder shall be governed by the laws of the State of California or by the laws of the state where the Trustee resides or has its principal place of business whichever laws the Trustee considers to be more favorable from the standpoint of executing this trust. As used in the Trust Agreement, the masculine, feminine and neuter gender and the singular or plural number shall each be deemed to include the others wherever the context so indicates. If any provision or provisions of this Trust Agreement shall be invalid or unenforceable, the remaining provisions thereof shall continue to be fully effective. The headings in this instrument are inserted for the convenience of reference and are not to be considered in the construction hereof.

Executed at San Diego, California, on July 17, 1998.

We certify that we have read the foregoing instrument 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 instrument in all particulars and request that the Trustee execute it.

"Trustors"

*John R. Davis*  
\_\_\_\_\_  
JOHN R. DAVIS

*Denyse M. Davis*  
\_\_\_\_\_  
DENYSE M. DAVIS

Accepted by:

"Trustee"

*John R. Davis*  
\_\_\_\_\_  
JOHN R. DAVIS

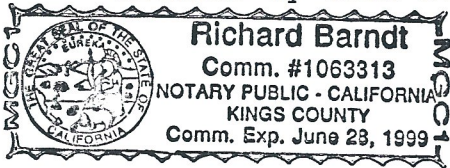
*Denyse M. Davis*  
\_\_\_\_\_  
DENYSE M. DAVIS

ACKNOWLEDGMENTS

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On July 17, 1998, before me, RICHARD BARNDT, Notary Public, personally appeared JOHN R. DAVIS and DENYSE M. DAVIS, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



*Richard Barndt*  
\_\_\_\_\_  
Notary Public in and for said  
County and said State

(Seal)