

REVOCABLE LIVING TRUST

This Revocable Living Trust Agreement, (hereinafter "Trust"), is being made on **[NOTARY DATE]**, by and between JOHN C. SAMPLE and JOAN C. SAMPLE of the State of California, herein after referred to as the Trustors and the Trustees designated below and shall be governed and administered in accordance with the following terms and provisions.

ARTICLE I NAME OF TRUST

1. **NAME OF TRUST:** This may be referred to as **THE SAMPLE REVOCABLE LIVING TRUST** and is created in accordance with the California Probate Code.

Purposes of Trust. The primary purposes of this trust are:

- a. *Care of Settlers.* To provide for our care and maintenance as long as either of us is living;
- b. *Avoid Conservatorship.* To facilitate management of the trust property in the event of the incapacity of one or both of us;
- c. *Transfer Property at Death.* To facilitate transfer of the trust property on our deaths; and
- d. *Tax Planning.* To provide opportunities for reducing or postponing taxes that might be imposed as a result of our deaths.

WHEREAS, we desire to establish a trust of which, during our lifetimes and the lifetime of the survivor of us, we are the exclusive recipients of the economic benefits;

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

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

ARTICLE II IDENTIFICATION

2. **TRUSTORS AND CHILDREN:** The Trustors of this trust are **JOHN C. SAMPLE and JOAN C. SAMPLE**, a married couple residing at **123 ELM ST, OAK, CA 12345-6789**. If either of us shall cease to act for any reason (including either a court or physician declared incapacity), during our joint lifetimes, the other of us shall act as sole Trustee of the trust. After the death of either of us, the survivor of us shall act as sole Trustee of the trust.

The principal place of administration of this trust is the Trustor(s) place of residence, regardless of the residence of the Trustee(s). As used herein, the term "Trustor(s)" shall mean all Trustor(s) of this trust, whether one or more. The Trustor(s) are married and either one or both the parents of the following child(ren):

JACK C. SAMPLE
JOAN C. SAMPLE

**ARTICLE III
TRUSTEE APPOINTMENT**

3. **TRUSTEE APPOINTMENTS:** The Trustor(s) hereby appoint **JOHN C. SAMPLE and JOAN C. SAMPLE**, the Trustor(s), as Trustees of the Trust. If either of us shall cease to act for any reason,(including either a court or physician declared incapacity) during our joint lifetimes, the other of us shall act as sole Trustee of the trust. After the death of either of us, the survivor of us shall act as sole Trustee of the trust.

In the event that both of us cease to act for any reason, we shall be succeeded by, and the Trustor(s) hereby appoint, **JOHN C. SAMPLE, JR. and JOAN C. SAMPLE** as Successor Trustee(s). If neither the first or second Trustee are able to serve as Trustee for any reason, then the Trustor(s) hereby appoints **UNCLE BOB SAMPLE** as Successor Trustee(s). The Trustee(s) shall have all the powers as provided in this agreement and the laws of the State of California.

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

We may, during our joint lifetimes, appoint individuals or corporations as co-Trustees or successor Trustees, by a written instrument other than a Will delivered to the other Trustee(s), if any are then-acting. Upon the death of the first of us, the survivor may appoint, by the same method, individuals, or corporations as co-Trustees or successor Trustees. If the survivor of us is incapacitated, the person who has been nominated to serve as successor Trustee may designate his or her successor, if there is no named successor to that successor Trustee or if the person designated as his or her successor is unable or unwilling to serve.

If there is no Trustee acting hereunder, then a majority of the adult remainder beneficiaries shall appoint a successor Trustee or co-Trustees by an instrument in writing, which appointment must be effective upon the date the last Trustee fails to qualify or ceases to act; provided however, if the Trustee who is being replaced was not related or subordinate (within the meaning of §672(c) of the Code) to the beneficiaries holding this power to appoint, the power to appoint a new Trustee or co-Trustees shall be limited to the appointment of a Trustee (or of co-Trustees) who is also not related or subordinate (within the meaning of §672(c) of the Code) to the beneficiaries holding this power to appoint. For purposes of this Paragraph, "beneficiaries" shall exclude charitable organizations.

**ARTICLE IV
ASSETS OF TRUST**

4. **ASSETS OF TRUST:** All rights, title, and interest in and to all real and personal property, tangible or intangible, and those listed on the attached Schedule "A," is hereby assigned, conveyed, and delivered to the Trustee for inclusion in this Trust.

All property now or hereafter subject to the terms hereof shall be deemed to be our community and/or quasi-community property and the proceeds thereof shall continue to retain its character as community and/or quasi-community property during our joint lifetimes (also hereinafter called the "community estate"). It is our intention that the Trustee shall have no more extensive power over the community estate than either of us would have had under California law then in effect

which govern the management of community property had this Trust Agreement not been created, and this Trust Agreement shall be interpreted to achieve this intention. This limitation shall terminate on the death of either of us.

We, and/or any other person, may add to the principal of the trust by deed, will, or otherwise

4.1 “FOREIGN TRUST” SAVINGS PROVISION. It is our intent that all trusts created by this Trust qualify as “United States Persons” under §7701(a)(30)(E) of the Code, and one or more United States Persons (as defined in §7701(a)(30)(A) through (C) of the Code) shall always have the authority to control all substantial decisions under this Trust. Any power, fiduciary or otherwise, to the extent such power is a power to make a “substantial decision” (as defined in Treasury Regulation §301.7701-7) which, by the terms of this Trust, would otherwise be held by a person who is not a “United States Person,” shall be only exercised by the Trustee, co-Trustee or Special Trustee (as hereinafter defined) who is a United States Person. Furthermore, any person who does not reside in one of the fifty (50) states of the United States or the District of Columbia shall be deemed to not be a “United States Person” for the application of this provision.

5. ADDITIONS TO TRUST PROPERTY: Additional property may be conveyed to the Trust by the Trustor(s), or any other third party at any time. Trustor(s) may execute such other documents as is necessary to effectuate the assignment of property to this Trust. We, and/or any other person, may add to the principal of the trust by deed, will, or otherwise.

6. RIGHTS TO TRUST ASSETS: Except as specifically provided herein, the Beneficiaries of this Trust shall have no rights to any assets of the Trust.

7. HOMESTEAD EXCEPTION: Trustors reserve the right to use, occupy and reside upon any real property placed in this Trust as their permanent residence during their lives. Trustors shall have the right to reside in the property rent free and without charge except for the payment of the following: (1) all mortgages, costs, and expenses (2) all property taxes, and (3) reasonable expenses of upkeep and maintenance. Trustors retain the legal right to use and benefit from the property in all respects. It is the intent of this provision to retain for the Trustors the requisite beneficial interest and possessor right in and to such real property needed to retain their qualification for any exception, such as a homestead exemption, freeze of tax rates and/or valuation granted to any individual or individuals so qualifying.

ARTICLE V TRUSTEE POWERS AND OTHER PROVISIONS

8. POWERS: The Trustor(s) does hereby grant to the Trustee all powers necessary to deal with any and all property of the Trust as freely as the Trustor(s) could do individually. The Trustee shall, at all times and in all actions, act as a fiduciary in good faith. Trustee is hereby granted all powers contained herein and all powers conferred upon Trustee under applicable statutes and laws of the State of California, to the broadest extent possible, including, but limited to, all of the powers authorized by the California Probate Code. All powers granted to the Trustee by this Trust Agreement are ministerial in nature and are not intended to create or alter substantial rights. Without limiting the foregoing general statement of powers, the Trustee powers include, but shall not be limited to, the following:

Subject to the provisions and limitations set forth expressly herein, the Trustee shall have, in general, the power to do and perform any and all necessary acts and things in relation to the

trust in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon the Trustee be exhausted by the use thereof, but each shall be continuing. In addition to the above, the Trustee shall have all of the powers authorized by §§ 16200, et seq., of the California Probate Code (as though such powers were set forth herein) and, in addition, the Trustee is specifically authorized and empowered to exercise those powers hereinafter set forth in this Article V.

(A) **AGREEMENTS.** To carry out the terms of any valid agreements which we, or either of us, may have entered into during our lifetimes regarding property owned by the trust.

(B) **ASSET TITLE.** To hold securities or other property in the Trustee's name as trustee, or in "street name," or in bearer form.

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

(D) **CLOSELY-HELD BUSINESS.**

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

(a) The Trustee may carry out the terms of any option or buy-sell agreements into which we, or either of us, may have entered.

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

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

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

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

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

(g) The Trustee may participate in any incorporation, dissolution, merger, reorganization, or other change in the form of the Business and, where appropriate, deposit securities with any protective committees and participate in any voting trusts.

(h) The Trustee may delegate to others discretionary power to take any action with respect to the management and affairs of the Business that we, or either of us, could have taken as the owner of the Business.

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

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

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

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

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

(5) "The Business" Defined. "The Business" means any interest owned by either or both of us, the Trust, or some combination of them, representing in the aggregate at least Five Percent (5%) of the total equity interests in any actively-conducted trade or business, whether incorporated or unincorporated. The term "the Business" shall also include, but not be limited to, any five percent or greater equity interests in any general and/or limited partnerships, as well as membership interests in any limited liability company formed, operated, beneficially owned by, or participated in (to the extent of five percent or more) by either of us prior to our death. The term "the Business" does not include any interests that are regularly traded on an established exchange or over-the-counter.

(E) **CONTRACTS.** To enter into contracts which are reasonably incident to the administration of the trust.

(F) **DEAL WITH FIDUCIARIES.** To buy from, sell to, and generally deal with the Trustee individually and as a fiduciary.

(G) **DEPRECIATION RESERVE.** The Trustee shall not be required to establish any reserve for depreciation or to make any charge for depreciation against any portion of the income of the trust.

(H) **DIGITAL ASSETS AND ELECTRONIC COMMUNICATIONS.** To exercise all powers over any digital device, digital asset, user account and electronically stored information, including any user account and digital asset that currently exists or may exist as technology develops, whether the same is in the name of this trust or the name of either of us (such accounts shall include, without limitation, electronic banking accounts, "cryptocurrency" accounts, electronic investment accounts, debt management accounts, automatic bill payment directives, and social media accounts). Such powers include, but are not limited to, changing and circumventing the username and password to gain access to such user accounts and information; accessing any of the passwords or other electronic profile data from applicable electronic record host entities; transferring or withdrawing funds or other digital assets among or from such user accounts; opening new user accounts in the name of the trust; all as the Trustee determines is necessary or advisable. The Trustee shall have full authority to access, manage, control, delete and terminate any electronically stored information and communications of the trust or which either of us has an interest to the fullest extent allowable under the federal Electronic Communications Privacy Act of 1986, 18 USC 2510 et seq., as amended from time to time, the Revised Uniform Fiduciary Access to Digital Assets Act (Part 20, Division 2 of the California Probate Code) and any other federal, state or international law; and, to take any actions which an individual owner would be authorized to take under all applicable terms of service, terms of use, licensing and other account agreements or laws. To the extent a specific reference to any federal, state, local or international law is required in order to give effect to this provision, we specifically provide that it is our intention to so reference such law, whether such law is now in existence or comes into existence or is amended after the date of this Trust Agreement.

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

(J) **INDEBTEDNESS.** With respect to any indebtedness owed to the trust, secured or unsecured:

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

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

(K) **INVEST AND REINVEST.** To invest, reinvest, change investments and keep the trust invested in any kind of property, real, personal, or mixed, including by way of illustration but not limitation, oil and gas royalties and interests; precious metals; common and preferred stocks of any corporation; bonds; notes; debentures; trust deeds; mutual funds or common trusts, including such funds administered by a Trustee; interests in Limited Liability Companies; interests in partnerships, whether limited or general and as a limited or general partner; intending hereby to authorize the Trustee to act in such manner as the Trustee shall believe to be in the best interests of the trust and the beneficiaries thereof. The Trustee is specifically vested with the power and authority to open, operate and maintain securities brokerage accounts wherein any securities may be bought and/or sold on margin, and to hypothecate, borrow upon, purchase and/or sell existing securities in such account as the Trustee shall deem appropriate or useful and, further, while we, or either of us, are acting as a Trustee, such account(s) may deal in commodities, options, futures contracts, hedges, puts, calls and/or straddles (whether or not covered by like securities held in the brokerage account). These powers shall be construed as expanding the "standards of care" rule of the California Trust Code (Division 9 of the California Probate Code beginning with § 15000) or in the Uniform Prudent Investor Act (as it may otherwise apply).

(L) **LIFE INSURANCE.** To purchase insurance on the life of any person or persons, including the lives of either of us.

(M) **LOANS.** To borrow for the trust from any person, corporation or other entity, including the Trustee, at such rates and upon such terms and conditions as the Trustee shall deem advisable, and to pledge and/or hypothecate as security any of the assets of the trust for the benefit of which such loan is made by mortgage, deed of trust or otherwise for the debts of the trust or the debts of either of us, or to guarantee the debt of either of us; to lend money upon such terms and such conditions as the Trustee deems to be in the best interests of the trust and the beneficiaries thereof, including the lending of money from one trust to any other trust created hereunder and to borrow on behalf of one trust from any other trust created hereunder, and further including the right to lend money to the probate estate (if any) of either of us, but in such event such loans shall be adequately secured and shall bear the then prevailing rate of interest for loans to such persons or entities for the purposes contemplated.

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

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

(P) **PURCHASE.** To purchase property at its fair market value as determined by the Trustee from the probate estate (if any) of either of us.

(Q) **QUALIFICATION FOR GOVERNMENT BENEFITS.** The Trustee is authorized to take any actions that the Trustee determines to be appropriate or necessary in connection with the qualification for or receipt of government benefits for either of us, including benefits (whether income, medical, disability, or otherwise) from any agency (whether state, federal, or otherwise), such as Social Security, Medi-Cal, Medicare, or state supplemental programs. In particular, we authorize and direct the Trustee, upon receiving written notice from either of us, the conservator of either of us, or the person holding a Durable Power of Attorney for either of us, to partition all of the community property of the Trust for the purpose of transmuting such community property to be the separate property of either of us. Upon such partition, if one of us is incompetent, the Trustee shall have the authority to divide our residence and our other assets between us in whatever manner is required to maximize any such government benefits or to maximize the non-incapacitated spouse's "Community Spouse Resource Allowance" ("CSRA") and/or "Minimum Monthly Maintenance Needs Allowance" ("MMMNA") as those terms are defined in the Medicare Catastrophic Coverage Act, as amended, or similar state laws or regulations. We authorize and encourage the Trustee to engage in estate planning, financial planning, Medi-Cal planning, long term care planning and/or asset preservation planning, to such extent and in such manner, as the Trustee shall deem necessary or advisable. Pursuant to this authority and notwithstanding any other provision of this Trust Agreement, the Trustee may also transfer any portion of the Trust Estate without limitation to the beneficiaries hereunder, including the Trustee if the Trustee is one such beneficiary, or to another trust established for the benefit of the beneficiaries hereunder, including the Trustee if the Trustee is one such beneficiary, in the complete discretion of the Trustee, even if doing so may be considered self-dealing. Any transfers made pursuant to this authority shall, for all purposes, be deemed to have been "in my best interest" if: (1) made in accordance with the provisions of this Paragraph; and (2) made in the context of estate planning, financial planning, Medi-Cal planning, long term care planning and/or asset preservation planning.

(R) **RECEIVE ASSETS.** To receive, take possession of, sue for, recover and preserve the assets of the trust, both real and personal, coming to its attention or knowledge, and the rents, issues and profits arising from such assets.

(S) **RETENTION OF TRUST PROPERTY.** To retain, without liability for loss or depreciation resulting from such retention, any assets received by the Trustee or any property that may from time to time be added to the trust or any trust created hereunder; or any property in which the funds of any trust may from time to time be invested, for such time as the Trustee shall deem best, even though such property may represent a large percentage of the total property of the trust or it would otherwise be considered a speculative or inappropriate investment. This authority shall be construed as expanding the “standards of care” rule of the California Trust Code (Division 9 of the California Probate Code beginning with § 15000) or in the Uniform Prudent Investor Act (as it may otherwise apply); however, this authority shall not supersede any right otherwise granted to the surviving spouse under this Trust Agreement to compel that certain trust assets be made productive.

(T) **SAFE DEPOSIT BOXES.** To hire a safe deposit box and/or space in a vault and to surrender or relinquish any such safe deposit box and/or space in a vault.

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

(V) **SUBCHAPTER S STOCK.** Before the date on which any “S Corporation Shares” (defined below) would otherwise pass to or be treated as held by an “Ineligible Trust” (defined below), the Trustee may elect to hold these S Corporation Shares in one or more separate trusts or trust shares on the terms set forth in this Paragraph. The Trustee may elect to hold such S Corporation Shares under the section entitled “Qualified Subchapter S Trusts” or the section entitled “Electing Small Business Trusts,” as the Trustee shall deem appropriate, considering the changes that such provisions would require from the terms and conditions under which such shares would otherwise be held under this Agreement.

(1) Qualified Subchapter S Trusts. Any S Corporation Shares held under this section shall be held on the following terms:

(a) Each trust held under this section shall be a separate trust or substantially separate and independent share, as defined in § 1361(d)(3) of the Code, held for the benefit of one beneficiary. Any reference in this section to a beneficiary's separate trust shall refer equally to any substantially separate and independent trust share.

(b) Until the “QSST Termination Date” (defined below), the Trustee shall annually distribute all of the trust's “Net Income” (defined below) to the sole beneficiary of each trust held under this section, together with as much of that trust's principal as is appropriate under the standard contained in the trust to which such S Corporation Shares would otherwise have been held. The

Trustee shall not distribute income or principal to anyone other than the beneficiary to whom Net Income is distributable until the QSST Termination Date.

(c) Upon the QSST Termination Date, the Trustee shall distribute the remaining trust assets to the beneficiary to whom Net Income was then distributable.

(d) The Trustee shall elect under § 1361(d)(2) of the Code to cause each trust held under this section to be treated as a Qualified Subchapter S Trust for Federal income tax purposes.

(e) The Trustee shall administer any trust under this section as a Qualified Subchapter S Trust, as defined in § 1361(d)(3) of the Code.

(f) The Trustee shall allocate any S Corporation Shares that will be held under this section to the one trust under this section that is not the Ineligible Trust or, if there is more than one trust under this section that is not the Ineligible Trust, between or among those separate trusts, based on each beneficiary's interest in the income of the Ineligible Trust that would otherwise have held those shares. If no beneficiary was entitled to income of such Ineligible Trust at that time, the Trustee may allocate any S Corporation Shares to the one trust under this section that is not the Ineligible Trust or, if there is more than one trust under this section that is not the Ineligible Trust, between or among those separate trusts for the beneficiaries of such Ineligible Trust, in such manner as the Trustee shall deem appropriate.

(2) Electing Small Business Trusts. Any S Corporation Shares held under this section shall be held on the following terms:

(a) The Trustee shall apportion to the trusts under this section a reasonable share of the unallocated expenses of all trusts under this Agreement, in a manner consistent with the applicable Code and Regulations.

(b) The Trustee shall make the election required by § 1361(e)(3) of the Code to qualify the trust under this section as an Electing Small Business Trust, under § 1361(e) of the Code.

(c) The Trustee shall administer each trust under this section as an Electing Small Business Trust, under § 1361(e) of the Code.

(3) Implementation. The Trustee shall manifest the Trustee's selection of the form in which the trust shall hold any S Corporation Shares by written notice to all persons who would be eligible or entitled at the time of such writing to receive income from the Ineligible Trust that would otherwise hold such S Corporation Shares.

(4) Definitions. The following definitions apply for purposes of this Paragraph:

(a) "Ineligible Trust" means a trust whose ownership of any S Corporation Shares would cause the termination of that corporation's election to be taxed under subchapter S of the Code.

(b) "Net Income" means income, as defined in § 643(b) of the Code.

(c) "S Corporation Shares" means shares of any stock of a corporation that then operates, or that the Trustee shall deem likely to operate in the future, under an election to have its earnings taxed directly to its stockholders under subchapter S of the Code.

(d) "QSST Termination Date" means the earlier of the date on which the beneficiary of a trust under this Paragraph dies and the date on which such trust no longer holds any S Corporation Shares.

(5) Application. None of the foregoing provisions of this Paragraph shall apply with respect to any S Corporation Shares that would, but for the provisions of this Paragraph, be held in any trust any portion of the disposition to which would qualify for the Federal estate and/or gift tax marital deduction.

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

(X) **GENERAL POWERS.** To do any and all other acts necessary, proper or desirable for the benefit of the trust and its beneficiaries, and to effectuate the powers conferred upon the Trustee hereunder, including the purchase and sale of real property.

8.1 TRUSTEE AUTHORITY.

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

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

(C) Prior to delivering the trust estate to a successor Trustee or to making any partial or complete distribution of principal hereunder (other than a distribution that is made in the exercise of the Trustee's discretion and does not terminate the trust), the Trustee may require an approval of the Trustee's accounts and a release and discharge from all beneficiaries having an interest in the distribution. If any beneficiary or

beneficiaries shall refuse to provide a requested release and discharge, the Trustee may require court settlement of such accounts; all of the Trustee's fees and expenses (including attorneys' fees) attributable to court approval of such accounts shall be paid by the trust involved to the extent that the accounts are approved.

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

(E) In the event any Trustee hereunder is precluded by any other provision of this Trust Agreement or by the laws of any state from acting as a Trustee in such state, the Trustee may appoint a "Special Trustee" qualified to act and may delegate to such Special Trustee the exercise of all or any of the powers conferred upon a Trustee hereunder. A Special Trustee shall in no way be responsible for the matters not delegated to it. Any appointment of a Special Trustee and the delegation of powers to such Special Trustee shall be made by a written, acknowledged instrument.

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

(G) If Co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion, the determination of the majority shall be binding, but the dissenting Trustee or co-Trustees shall bear no liability or accountability for any act or transaction entered into as a result of the enforcement of the majority rule if such Trustee or co-Trustees shall have dissented in writing in advance of such act or transaction. If only two co-Trustees are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion on which they cannot agree, such conflict shall be settled by a Trust Protector, if one has been named. If no Trust Protector is then acting, such conflict shall be settled in accordance with the laws of the State of California (if no such laws then exist, in accordance with the then current rules of the American Arbitration Association) and the findings of such arbitration may be enforced by any Court having jurisdiction thereof; provided however, prior to submitting any such conflict to arbitration, the co-Trustees must first attempt to resolve the conflict through formal mediation

(H) Notwithstanding any power of individual signature contained in this Trust Agreement or hereafter conferred on the Trustees, no one co-Trustee shall have the right, power or authority to make any unilateral decision affecting the trust, other than of a purely ministerial nature.

(I) RELEASE OF HEALTHCARE INFORMATION, INCLUDING HIPAA AUTHORITY. We intend for the Trustee to be treated as we would regarding the use and disclosure of our individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. 1320d and 45 CFR 160-164, and the California Confidentiality of Medical Information Act ("CMIA"), California Civil Code § 56. We authorize any physician, healthcare professional, dentist, health plan, hospital, clinic, laboratory, pharmacy or other covered health provider, any insurance company or medical information bureau or other health care clearinghouse that has provided treatment or services or that has paid for or is seeking payment from either of us for such services to give, disclose, and release, either orally or in writing, to the Trustee or Trustees, without restriction, all of our individually identifiable health information and medical records regarding any past, present or future medical or mental health condition.

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

(J) LIFE INSURANCE. Upon the death of either of us, the Trustee shall proceed immediately to collect the net proceeds of policies, if any, on our lives which are then payable to the Trustee and shall hold such proceeds for the purposes and upon the trusts provided in this Trust Agreement. Payment to the Trustee by an insurance company of the proceeds of such policies and receipt of such proceeds by the Trustee shall be a full discharge of the liability of such insurance company with respect to such proceeds, and no insurance company need inquire into or take notice of this Trust Agreement or see to the application of such payments. The Trustee may prosecute and maintain any litigation necessary to enforce payment of such policies.

(K) DISTRIBUTION OF RETIREMENT ACCOUNTS AT THE DEATH OF THE EMPLOYEE/OWNER/PARTICIPANT. Unless any provision herein set forth in Paragraph 22 to the contrary, on the death of either of us as the participant of a Retirement Account and from which Account benefits are directed (by a beneficiary designation) to be distributed to this trust, the Trustee shall hold, administer and distribute such benefits in accordance with this Paragraph.

(1) The Trustee shall create one share for each child of the participant, either who is living on date of the participant's death or who is deceased on such date of death but has one or more descendants living on such date. The Trustee shall divide any share created for a deceased child of into separate shares for such deceased child's descendants, by right of representation. As thus divided, the Trustee shall administer each share created above under this subparagraph (1) as a separate trust (the "Separate Trust") for the benefit of the person for whom the share was created and shall administer the Separate Trust as provided in this Paragraph; provided, however, the share for any chronically ill beneficiary as defined in §72(m)(7) of the Code or any disabled beneficiary as defined in §7702B(c)(2) of the Code for whom a separate "Special Needs Trust" (hereinafter the "SNT") has been created under any other provision of this Agreement or as separate existing trust previously created by the participant shall be added to such SNT and thereafter be held, administered and distributed as a part thereof. For purposes of this Paragraph, the person for whom a particular Separate Trust was created is referred to as

the "Primary Beneficiary." The Trustee shall take the necessary steps to ensure that each Separate Trust is treated as a "separate account," as that term is used in Treasury Regulation §1.401(a)(9)-8, A-2(a)(2) & A-3.

(2) Notwithstanding anything herein to the contrary, the assets that are subject to the provisions of this Paragraph shall not be subject to the claims of any creditor of the participant's estate, they shall not be used for the satisfaction of any distributions to a "non-designated beneficiary" (as that term is defined in Treas. Reg. §1.401(a)(9)-4, Q&A 1), nor shall they be applied to the payment of debts, taxes or other claims or charges against the participant's estate hereinabove described in Paragraph 6.E. unless and until all other assets available for such purposes have been exhausted, and even then only to the minimum extent that would be required under applicable law in the absence of any specific provision on this subject in this Trust, and, under no circumstances, shall they be used for such purpose after September 30th of the year following the death of the participant.

(3) The purpose of each Separate Trust is to qualify all benefits from a Retirement Account which allow a payout option under §401(a)(9)(H) of the Code so that the required minimum distributions from such Retirement Account may be calculated and paid to each Separate Trust over the maximum period permitted by said Code section based on the characterization of the Primary Beneficiary of such Separate Trust as either a "Designated Beneficiary" or an "Eligible Designated Beneficiary" pursuant to §401(a)(9)(E) of the Code. The Trustee shall interpret the terms of each Separate Trust consistent with such purpose. Prior to September 30th of the year following the year of the participant's death, the Trustee shall have the power to amend the terms of this Agreement to the minimum extent necessary to accomplish such purpose. Any such amendment shall be effective ab initio, retroactive to the date of the participant's death. The Trustee may only exercise such amendment power one time, and once exercised such amendment shall be irrevocable.

(4) Withdrawal and Distribution of Retirement Plan Assets:

(a) The Trustee of each Separate Trust shall take whatever steps are required to assure that any interest such Separate Trust has in a Retirement Account, to the extent not previously distributed, is (and will at all times remain) immediately distributable on demand to such Separate Trust.

(b) In the event the Primary Beneficiary is characterized as an "Eligible Designated Beneficiary", the Trustee of the Primary Beneficiary's Separate Trust shall withdraw only the required minimum distribution from each Retirement Account payable to such Separate Trust, unless more than the required minimum distribution is necessary for the health, education, maintenance and support of the Primary Beneficiary in the Trustee's discretion.

(c) In the event the Primary Beneficiary is characterized as a "Designated Beneficiary", the Trustee of the Primary Beneficiary's Separate Trust may withdraw any amount from each Retirement Account payable to such Separate Trust; provided, however, that the Trustee of such Trust must withdraw the remaining required minimum distribution from each Retirement Account payable to such Trust pursuant to §401(a)(9)(H) of the Code (for example, no later than December 31st of the year which contains the tenth anniversary of the date of the participant's death).

(d) The Trustee may distribute so much, none, or all of the net income and principal of the Separate Trust, to or for the use of the Primary Beneficiary, in such proportions, amounts, and at such times as the Trustee, in the Trustee's discretion, may deem advisable to provide for the Primary Beneficiary's health, education, maintenance and support. Any net income of the Separate Trust not distributed to or for the use of the Primary Beneficiary shall be accumulated and added to principal.

(5) We grant the Primary Beneficiary a testamentary limited power of appointment (hereinafter referred to as the "LPA") to appoint the Primary Beneficiary's Separate Trust only to the descendants of the participant. The LPA can be exercised only in the Primary Beneficiary's Will (or a valid codicil to the Will) specifically referring to this LPA.

(6) The following instructions are subject to any exercised power of appointment granted to a Primary Beneficiary pursuant to this Paragraph. Upon the death of a Primary Beneficiary and if such Primary Beneficiary's Separate Trust is still entitled to receive benefits from any Retirement Account, the Trustee shall divide the deceased Primary Beneficiary's Separate Trust into shares for the deceased Primary Beneficiary's then-living issue, by right of representation; provided however, if the deceased Primary Beneficiary has no surviving issue, then the Trustee shall divide the deceased Primary Beneficiary's Separate Trust into shares for the participant's then-living issue, by right of representation. As thus divided, the Trustee shall hold each share of the deceased Primary Beneficiary's Separate Trust as a separate sub-trust for the benefit of the person for whom the share was created and shall administer each such sub-trust as provided in this Paragraph. If the participant is not survived by issue, then the Trustee shall distribute the deceased Primary Beneficiary's Separate Trust in the manner hereinafter set forth for the distribution of the remainder of the Trust Estate.

(7) When a Separate Trust created hereunder is no longer entitled to receive benefits from any Retirement Account, until the death of the Primary Beneficiary, the Trustee shall continue to have the discretionary powers to distribute or accumulate the income and principal of the Separate Trust as hereinabove set forth in subsection (4)(d). When a Separate Trust created hereunder is no longer entitled to receive benefits from any Retirement Account, upon the death of the Primary Beneficiary, the Trustee shall distribute the remaining income and principal (if any) of such Separate Trust to the deceased Primary Beneficiary's then-living issue, by right of representation. If the deceased Primary Beneficiary has no surviving issue, then the Trustee shall divide the deceased Primary Beneficiary's Separate Trust to the participant's then-living issue, by right of representation; provided however, if participant is not survived by issue, then the Trustee shall divide and distribute the deceased Primary Beneficiary's Separate Trust, free of trust, one-half (1/2) to the heirs of each spouse; the identities and respective shares of such heirs to be determined according to the laws of the State of California in effect at the date of execution of this Trust Agreement. Upon distribution, such Separate Trust shall thereafter terminate.

(8) When a Separate Trust which was divided upon the death of the Primary Beneficiary thereof into separate sub-trusts and any such sub-trust is no longer entitled to receive benefits from any Retirement Account, the Trustee shall distribute the remaining income and principal (if any) of such sub-trust to the beneficiary thereof and such sub-trust shall thereafter terminate.

(9) Notwithstanding anything herein to the contrary, upon distribution and/or termination of any Separate Trust or any separate sub-trust, the Separate Trust's or each such separate sub-trust's interest in all Retirement Benefits and all assets derived therefrom, shall be payable, whether outright, in trust, or pursuant to the exercise of a power of appointment, only (i) to an identifiable individual or individuals, or (ii) to a trust that has no beneficiary other than an identifiable individual or individuals. The designation of any non-identifiable individual or entity [see Treasury Regulation 1.401(a)(9)-4, Q&A-5] who is disqualified as a beneficiary pursuant to the preceding sentence shall be treated as if such beneficiary was deceased or did not then exist as of the date of the participant's death.

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

(M) **POWERS OF INVASION.** A discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for "health, support, maintenance or education" (or a similar use of such terms) shall be considered to be in compliance with §§ 2041 and 2514 of the Code and any exercise of such power shall be limited by those sections. Notwithstanding § 16081(c) of the California Probate Code, any other discretionary power given to a Trustee of any trust created hereunder to invade or utilize the principal of such trust for any other purpose shall be deemed to be a broader power if a clear reading of the terms of such power would so indicate. Further, notwithstanding § 16081(c) of the California Probate Code, any discretionary power to make distributions of income or principal of any trust created hereunder which is given to a current beneficiary as sole Trustee is specifically intended to be given to such sole Trustee and the right of any other beneficiary to have another Trustee appointed for the purpose of making such discretionary distributions is hereby specifically waived.

9. **AUTHORITY TO ACT:** The approval of any court, the Trustor(s), or any beneficiary of any Trust created by this Trust shall not be required for any dealings with the Trustee of this Trust, and any person so dealing with the Trustee of this Trust shall assume that the Trustee has the same power and authority to act as any individual does in the management of his or her own affairs. Further, upon presentation of a copy of this page and any other page of this Trust, any person shall accept same as conclusive proof of the terms and authority granted by this Trust and shall assume that no conflicting terms or direction are contained in any of the omitted pages.

ARTICLE VI TRUST ADMINISTRATION DURING LIFE OF TRUSTOR(S)

10. **MANAGEMENT OF TRUST PROPERTY:** All property of the Trust shall be managed by the Trustee at the direction of the Trustor(s). The Trustee shall collect all income of the Trust and shall pay from the income such amounts and to such persons as the Trustor(s) may from time to time direct. In the absence of direction from the Trustor(s), the Trustee may accumulate the net income of the Trust or may disburse any portion of the net income to or for the benefit of the Trustor(s). The Trustee is also authorized to pay from the principal of this Trust all amounts necessary for the health or maintenance of the standard of living of the Trustor(s).

During our joint lifetimes, we shall be equally entitled to the entire net income of the jointly owned property and/or the community estate (as hereinabove defined) held by the trust. At the written request of both of us, the Trustee shall pay to either spouse so much of the principal of the jointly owned property and/or the community estate held by the trust as we shall request or shall make such gratuitous transfers of the principal of the jointly owned property and/or the community estate held by the trust as we both shall direct. During our joint lifetimes, the Trustee shall also pay to each party, or shall apply for such spouse's benefit, the entire net income of such spouse's separate property (if any) held by the trust. At the written request of the spouse who contributed any separate property to the trust, the Trustee shall pay to such spouse so much of the principal of such separate property as he or she shall request. In the absence of any specific direction, the Trustee is also authorized to pay over or apply the net income and/or the principal of the trust for the support and maintenance of any person or persons who is dependent upon our financial support; further, the Trustee may also make gifts in favor of our issue, and any spouse of such issue. In this context, a gift "in favor of" a person includes but is not limited to a gift to a trust, an account under the Uniform Transfers to Minors Act of any jurisdiction, and a Tuition Savings Account or Prepaid Tuition Plan as defined under § 529 of the Code. Provided however, the aggregate amount of any gifts made in any one calendar year to any one individual shall not exceed the amount that may be made free of federal gift tax.

10.1 **INDEPENDENT ACTION OF TRUSTEE(S):** The Trustee(s), JOHN C. SAMPLE and JOAN C. SAMPLE, may act without unanimous consent or action, and may be done independently by either Trustee, concerning the management or administration of the Trust. Co-Trustees may open a checking account for the trust which provides for single signature authority.

11. **INCAPACITY OF TRUSTOR(S):** During any period of incapacitation of the Trustor(s), as defined in this Trust Agreement, the Successor Trustee may apply or expend all or part of the income and principal of this Trust, or both, for the health and maintenance of the Trustor(s), in his or her accustomed manner of living. Provided sufficient resources exist for the care and maintenance of the Trustor(s), during any period of incapacity of the Trustor(s), the Successor Trustee is further authorized to make distributions to or for the benefit of any issue of the Trustor(s) who has no other financial resources and who requires said distribution for their health or support. The Successor Trustee shall consider all financial resources available to a beneficiary, including, but not limited to, the ability of said beneficiary and his or her spouse, if any, to earn a living prior to making an invasion of this Trust. Under no circumstances may a Successor Trustee exercise this power for his or her own benefit.

As a guide to the Trustee, it is our intent that we, and the survivor of us, shall remain in our primary residence as long as it is medically reasonable and, if we should need convalescent care, that we be able to return home as soon as it is medically reasonable; the expense of home care shall be of secondary importance. This paragraph is for the guidance of the Trustee only and should not be considered by any third party as a restriction or limitation on the Trustee's powers to manage the trust in the Trustee's absolute discretion.

12. **RESERVATION OF RIGHTS:** Except during periods of incapacitation as defined by this Trust Agreement, or if stated otherwise in Paragraph 22, upon delivery to the Trust of a written instrument, signed and acknowledged by the Trustor(s), the Trustor(s) does hereby reserve during his or her lifetime the following rights:

- (A) To revoke this Trust Agreement in its entirety and to recover any and all remaining property of the Trust after payment of all Trust administration expenses in

accordance with California Code Section 15401. During our joint lifetimes, this Trust Agreement may be revoked in whole or in part by an acknowledged instrument in writing signed by either of us which shall refer to this Trust Agreement and to this specific power and which shall be delivered to the then-acting Trustee and the other spouse. In the event of such revocation, the jointly owned property and/or the community estate (as hereinabove defined) held by the trust shall revert to both of us as if this Trust Agreement had not been created and any separate property held by the trust shall revert to the spouse who contributed such separate property and shall constitute spouse's separate property as if this Trust Agreement had not been created.

(B) To alter or amend this instrument in any and every particular, at any time, and from time to time in accordance with the California Probate Code Section 15402. We may, at any time during our joint lifetimes, amend any of the terms of this Trust Agreement by an acknowledged instrument in writing signed by both of us which shall refer to this Trust Agreement and to this specific power and which shall be delivered to the then-acting Trustee.

(C) To change, at any time and from time to time, the identity or number, or both, of the Trustee and/or Successor Trustee.

(D) To withdraw from the operation of this Trust, at any time, and from time to time, any or all of the Trust property.

(E) **REVOCATION AND AMENDMENT AFTER THE FIRST DEATH.**

(1) On the death of the first of us, the surviving spouse shall have the power to amend, revoke, or terminate the entire trust in whole or in part.

(2) Revocation and amendment shall be made in the manner as herein above provided in Paragraphs 12 A. and B.

(3) After the death of the surviving spouse, the trust may not be amended or revoked.

(F) **POWERS PERSONAL TO US.** Our powers to revoke or amend this Trust Agreement are personal to us and shall not be exercisable on our behalf by any conservator or other person, except the revocation or amendment may be authorized, after notice to the Trustee, by the Court that appointed a conservator and/or a guardian of either of us. Notwithstanding the previous sentence, in the event that either of us appoint an "Attorney-in-Fact," we reserve the right to confer upon such Attorney-in-Fact the power (1) to add property to the trust with the consent of the Trustee; (2) by written instrument delivered to the Trustee, to withdraw any property held hereunder (to the extent that we would individually have that power); and, (3) if specifically authorized in such appointment, by written instrument delivered to the Trustee, to modify or amend or revoke the trust (provided that the duties of the Trustee may not be increased or the Trustee's fees reduced without the consent of the Trustee). Any such appointment shall be made by a written, acknowledged instrument.

(G) **TANGIBLE PERSONAL PROPERTY.** While either of us is living, we reserve the right to retain the control, use and possession of any or all of the tangible personal property included in the trust. We expressly limit the Trustee's responsibility with respect

to the property so retained to the Trustee's function as the holder of legal title until we (or the survivor of us) surrender our right to the use and possession of any such property or until the death of both of us. In addition, we shall have the right, exercisable by written notice to the Trustee on terms specified by us, to direct the sale, transfer, gift or other disposition of any such property, with or without consideration, and the Trustee shall take all actions necessary to comply with the terms of such notice. In the event we surrender any such property to the Trustee, or upon our deaths, the Trustee shall take possession, preserve and maintain such property. The Trustee shall be responsible and accountable only for that tangible personal property which is actually in the Trustee's possession or control or, if retained by us, is found by application of reasonable diligence at the death of the survivor of us or at such time that the Trustee asserts control.

(H) **RESIDENTIAL PROPERTY.** We reserve the right to have complete and unlimited, possession, use and control of any real property which may ever constitute an asset of the trust estate and which is occupied by us for residential purposes, thereby retaining the requisite beneficial interest and possessory rights in and to such real property to comply with the "Homestead" laws of the State in which such property is located, so that such requisite beneficial interest and possessory rights constitute in all respects "equitable title to real estate". Notwithstanding anything to the contrary contained in this Trust Agreement, our interest in such real property shall be an interest in real property, and not personalty, and such real property shall be deemed to be our homestead; such use and control shall be without rent or other accountability to the Trustee. As part of such use and control, we, and not the Trustee, shall have the responsibility to manage such property, pay taxes, insurance, utilities and all other charges against the property, and may, at our option, charge such expenses to the trust, or may request reimbursement for any advances made for such purposes.

(I) **REVERSE MORTGAGE.** We reserve the right to obtain and/or enter an agreement for a Home Equity Conversion Mortgage loan (or any form of "Reverse Mortgage" loan) and in the event any real property is encumbered or conveyed as security for repayment of a Home Equity Conversion Mortgage loan (or any form of "Reverse Mortgage" loan) to us, or the survivor of us, the Trustee shall ensure that the trust will abide by written instruments or agreements which either of us have executed in connection with any such loan; further, the Trustee will immediately notify the lender and any servicer of the loan, in writing, of any of the following events:

- (1) The death of the survivor of us;
- (2) Any change of occupancy by the survivor of us;
- (3) Any conveyance of the property; or,
- (4) Any transfer of any beneficial interest in the property.

ARTICLE VII DISTRIBUTIONS DURING LIFETIME OF TRUSTOR(S)

13. **GENERAL DISTRIBUTIONS:** During the term of this Trust, the Trustee shall hold, manage, invest and reinvest the trust estate, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this ARTICLE VII.

During our joint lifetimes, we shall be equally entitled to the entire net income of the jointly owned property and/or the community estate (as hereinabove defined) held by the trust.

The following options are available to the Trustee regarding the distribution of principal or income to or for a beneficiary:

(A) Payments may be made directly to the beneficiary as an allowance, in such amounts as the Trust may deem advisable.

(B) Payments may be made to the Guardian of the beneficiary.

(C) Payments may be made to a relative of the beneficiary upon agreement of such relative to expend such income or principal solely for the benefit of the beneficiary. Said agreement may include a custodianship under the Uniform Transfers (or Gift) to Minors Act of any state.

(D) The Trustee may expend such income or principal directly for the beneficiary. After making a distribution as provided above, the Trustee shall have no further obligation regarding distribution.

(E) In making distributions of income or principal, the Trustee shall be mindful of the Beneficiaries health, education, support, maintenance, comfort and general welfare needs.

14. **RESIDENCE:** A residence may be purchased or otherwise obtained by the Trustee for the benefit of an income beneficiary of any Trust for use by the beneficiary and his or her family. Rent shall not be charged to said beneficiary and expenses of maintaining such residence may be borne by the Trust, the beneficiary, or partly by each, as the Trustee may deem proper.

15. **OTHER PAYMENTS:** At the request of any Trustor(s) in writing, the Trustee shall make lump sum or periodic payments to any third party designated by such Trustor(s).

ARTICLE VIII TRUST ADMINISTRATION AFTER FIRST TRUSTOR(S)' DEATH

16. **TRUSTEE:** Upon the death of the Trustor(s), the Successor Trustee(s) shall continue to administer the assets of this Trust, as well as any other property received by this Trust from any source and shall distribute said assets as provided herein.

The first of us to die shall be called the "Deceased Spouse" and the survivor of us shall be called the "Surviving Spouse". On the death of the Deceased Spouse, the entire trust estate shall continue in trust for the benefit of the Surviving Spouse, without exception, and with the full power of revocation. During the lifetime of the Surviving Spouse, the Trustee shall pay to him or her, or apply for his or her benefit, the entire net income from the entire trust estate. During the lifetime of the Surviving Spouse, the Trustee, in the Trustee's sole discretion, may additionally pay to or apply for the Surviving Spouse's benefit such principal distributions as the Trustee deems necessary for the Surviving Spouse's health, support, comfort, enjoyment, welfare and maintenance. In addition to payments for the Surviving Spouse's benefit, the Trustee is specifically authorized to initiate or continue any payments to a dependent person in the manner hereinabove set forth in Paragraph 13; the initiation, continuation, amount and extent of such

support shall be in the Trustee's sole and absolute discretion. The Trustee shall exercise in a liberal manner the power to invade the principal of the trust estate for the Surviving Spouse, since it is our intent that the comfort, welfare and happiness of the Surviving Spouse is primary and the rights of the remaindermen in the trust shall be considered of secondary importance.

(B) **DISTRIBUTION UPON DEATH OF FIRST TRUSTOR:**

(1) Following the death of the first Trustor, and prior to the death of the Surviving Trustor, the Trustee shall pay to or for the benefit of the Surviving Spouse (Surviving Trustor), at the Trustee's sole and full discretion, so much of the income and principal as the Trustee deems necessary including but not limited to the health, maintenance, education, support, and happiness of the Surviving Trustor.

(C) **DISCLAIMER TRUST**

(1) **Purpose of Disclaimer Trust.** In this Division, a disclaimer is a Surviving Trustor's (Settlor's) refusal to accept a transfer of property (or a particular right or interest in property) from the Deceased Trustor (Settlor). Disclaimers are sometimes used to fine-tune an estate plan after the death of the Deceased Settlor, thereby saving substantial taxes. This is particularly true if family wealth has significantly increased or if it is determined that the Surviving Settlor has an unexpectedly short life expectancy. The provisions in this Division are intended to provide the Surviving Settlor with increased opportunities to use disclaimers in appropriate cases. The Settlor's understand that it is important to consult a tax professional promptly after the death of the Deceased Settlor about the possible benefits of a disclaimer. The Surviving Settlor has no obligation whatever to make any disclaimers.

(2) **Disclaimer of Property Passing to Surviving Settlor.** The Surviving Settlor (or the personal representative of a deceased Surviving Settlor) shall have the right to disclaim any property of the Deceased Settlor distributable to the Survivor or the Survivor's Trust. In the event of such a disclaimer, the disclaimed property shall be held and administered by the trustee as a separate trust known as the Disclaimer Trust. The trustee shall pay to the Surviving Settlor all income of the Disclaimer Trust in quarter-annual or more frequent intervals, plus as much of the principal as the trustee in its discretion determines is appropriate for the Surviving Settlor's health, education, and support. In exercising its discretion, the trustee may take into account other income and resources available to the Surviving Settlor to such extent, if any, as the trustee deems appropriate.

(3) **Surviving Settlor's Disclaimer of Mandatory Income Interest.** If the Surviving Settlor also disclaims the right to receive mandatory income distributions from the Disclaimer Trust without disclaiming rights to principal, income shall be added to principal and the Trustee shall pay to the Surviving Settlor as much of the trust property as the trustee in its discretion determines is appropriate for the Surviving Settlor's health, education, and support. In exercising its discretion, the trustee may consider other income and resources available to the Surviving Settlor to such extent, if any, as the trustee deems appropriate.

(4) **Surviving Settlor's Disclaimer of All Rights in Disclaimer Trust.** If the Surviving Settlor disclaims all rights to principal and income with respect to all or a fractional share of the Disclaimer Trust, the property so disclaimed shall be distributed in the manner provided in the next paragraph, except that solely for the purpose of applying the survivorship requirements in the next paragraph, the Surviving Settlor will be deemed to have died on the date of death of the Deceased Settlor.

16.1 **NON-CITIZEN SURVIVING SPOUSE.** If the surviving spouse is not a U.S. Citizen, and acting as an initial trustee, the trustee(s) shall elect to treat the Trust as a qualified domestic Trust, and shall select the trustee(s), each of whom is a U.S. Citizen or domestic corporation, to serve with the surviving spouse, until the surviving spouse becomes a U.S. Citizen, in order to then elect, in writing, to serve as the sole trustee. The trustee(s) shall pay to the surviving spouse, or apply for the spouse's benefit, all of the income of the Decedent's Trust in monthly or other installments not less often than quarterly. In addition, the trustee(s) shall pay to the surviving spouse, or apply for the spouse's benefit, those amounts of the principal of the Decedent's Trust as, in the discretion of the trustee(s) appear necessary for the spouse's health, support and maintenance.

ARTICLE IX TRUSTOR(S)' DEATH

17. **BENEFITS PAYABLE TO TRUST:** Upon the death of the Trustor(s), the Surviving Trustee or if none, the Successor Trustee(s), is hereby authorized to take any and every action necessary to collect any and all benefits payable to the Trust, including but not limited to proceeds from life insurance policies, retirement plans, or IRA's. The Trustee is further authorized to collect any and all tax refunds, health insurance proceeds, refunds under any contract, death benefits, or any other item payable to the Trustor(s)' estate.

18. **LIABILITIES OF TRUSTOR(S)' ESTATE:** Prior to the distribution of any assets of this Trust, the Trustee may, at his or her sole and absolute discretion, pay to the Trustor(s)' estate from the principal or income of the Trust, any, or all, of the Trustor(s)' just debts, funeral expenses, and administration expenses of the Trustor(s)' estate. Alternatively, the Trustee may, but is not obligated to, pay such expenses directly.

19. **TAXES:** Upon the death of the Trustor(s), all estate and inheritance taxes that become due and payable upon all of the property comprising the Trustor(s)' gross estate, without regard to how such property passes, shall be paid by the Trustee either to the estate of the Trustor(s) or to the appropriate tax agency. The Trustee shall have the right of contribution as provided by Section 2207 and 2207A IRC, if applicable.

20. **ADDITIONAL DISTRIBUTIONS:** The Trustee is hereby authorized to pay the Probate Estate of the deceased Trustor(s) as much of the income and principal of this Trust as the Trustee deems necessary for any purpose, in addition to the other distributions of this Trust.

21. **GIFTS:** The Successor Trustee(s) shall, upon the death of the Trustor(s), make such gifts of the tangible personal property of the Trustor(s) held or acquired by this Trust as may be directed by Paragraph 22 of this trust, the Trustor(s)' Will or any list, letter, or other writing of the Trustor(s) permitted by the Will of the Trustor(s), or as may be directed by a list, letter or other writing designated as Schedule B of this Trust, if and whenever made. All costs of storing, packing, shipping, and insuring such gifts shall be paid by the Trust.

22. **(A) BENEFICIARIES AND DISTRIBUTIONS:** Upon the death of both Trustors, unless otherwise specified, the following distributions shall be made from the property of this Trust after payment of the Trustor(s)' just debts, funeral expenses, expenses of any last illness, and the other distributions otherwise provided for in this Trust:

(1) The Trustee shall distribute such items of our tangible personal property as may then be included in the Trust Estate in accordance with any written instructions left by us, or by

the survivor of us, and the remainder of such personal property, or all of it if no such instructions are left, to the residue of the Trust Estate.

SPECIFIC GIFTS:

None.

(2) The remainder of the trust estate shall be distributed equally (unless otherwise stated) to the following:

**JACK C. SAMPLE
JOAN C. SAMPLE**

(3) The following directives, contingencies and/or restrictions, if any, shall apply to the trust estate:

NONE.

(3.1) Unless a provision contained in Paragraph 22(A)(3) violates California and/or Federal Law, any provision contained in Paragraph 22(A)(3) will supersede and/or supplement any provision contained in this Trust Agreement that is contrary, conflicts, or is in opposite.

(B) DISPOSITION OF TRUST ESTATE ON DEATH OF THE SURVIVING TRUSTOR: Unless otherwise specified in Paragraph 22(A), if any of the children or beneficiary of the Trustors survives the Surviving Trustor, but none of the children or beneficiary are under the age of twenty-one (21) years (or any age or restriction as designated above in paragraph 22(A)) at the time of the death of the Surviving Trustor, the Trustee shall divide the Trust property (including all income then accrued but uncollected and all income then remaining in the hands of the Trustee) into as many shares of equal market value or pursuant to the stated percentages above, as are necessary to create one share for each of the Trustor's children who survive the Surviving Trustor and one share for each of the Trustor's children who predecease the Surviving Trustor and who have left issue surviving him or her (if the plan is set up per stirpes). The Trustee shall distribute one share outright to each of the Trustor's beneficiary or beneficiaries. The Trustee shall distribute each share created for a deceased child or deceased beneficiary, to the then-living issue of that child or beneficiary, with those issues to take that share of the trust property as their deceased parent would have received. If all individual issue of a deceased child have reached the age of 21 years (or age as designated above) at the death of the Surviving Trustor, the Trustee shall distribute the share created for that deceased child or beneficiary outright to those issue; if any individual issue of a deceased child has not reached the age of 21 years at the death of the Surviving Trustor, the Trustee shall continue to hold, administer, and distribute the share created for the deceased child or beneficiary in a separate trust for all then-living issue of that deceased child or beneficiary according to the terms set forth applicable to the Sprinkling Trust for Issue.

If any children (or beneficiaries) of the Trustor surviving the Surviving Trustor are under the age of 21 years at the time of the death of the Surviving Trustor, the property shall be held, administered, and distributed by the Trustee, in trust, according to the terms set forth in this article applicable to the Sprinkling Trust.

If at any time before full distribution of the trust estate the Trustors and all the Trustor's issue are deceased, and no other disposition of the property is directed by this instrument, the remaining portion of the trust shall then be distributed to the Trustor's legal heirs according to the laws of succession of the State of California then in force.

We have intentionally, and not as a result of any mistake or inadvertence, omitted in this Trust Agreement to provide for any other children of either of us and/or the issue of such child, if any, however defined by law, presently living.

(C) SPRINKLING TRUST. Unless otherwise specified in Paragraph 22(A), Each share of portion of the Trust estate, or of the Trust property of any other Trust created by this Trust instrument, that is allocated to a Sprinkling Trust for the benefit of the beneficiaries when such beneficiary is under the age of twenty-one (21) years or any age as specified in ¶22(A), or person who suffers from substance abuse, or a person who the Trustee determines is incapacitated, or a person whose financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to such person shall be held, administered, and distributed by the Trustee as a separate Trust, as follows:

Distributions to Such Persons. If any person otherwise entitled to outright distribution of any property from any trust created by this document, is under the age of 21, or any age specified in ¶22(A), at the time the right to distribution vests, the trustee shall not make the distribution, but shall, instead, retain the property that would otherwise be distributed in a separate trust for the benefit of the underaged person ("Beneficiary"). The separate trust shall be administered as follows:

(1) Unproductive Property. The trustee shall hold as unproductive property any property that the trustee in its discretion determines should be preserved for distribution in kind to Beneficiary, including, in particular, tangible personal property of sentimental value. Such property shall be distributed to Beneficiary at such time as the trustee deems appropriate, but no later than the time of distribution of the remaining property (age 21 unless otherwise specified).

(2) Periodic Distributions. The trustee shall pay to or for the benefit of Beneficiary, quarter-annually or at more or less frequent intervals, or at intervals as specified in ¶22(A), as much of the income and principal of the trust as the trustee in its discretion considers advisable for Beneficiary's support, health, and education, including professional education, after taking into consideration other resources of Beneficiary, the resources of the trust, and the likely future needs of Beneficiary within the trust term.

(3) Power to Delay Distributions. Despite the foregoing distribution provisions, the trustee may delay any distribution until a time no later than Beneficiary's death if the trustee determines that it is reasonably certain that the distributions are not in the Beneficiary's best interests because the beneficiary is incompetent, suffers from substance abuse, or because Beneficiary's financial circumstances are such that failure to delay distributions will actually reduce the trust benefits to Beneficiary.

(4) Beneficiary's Failure to Survive. If Beneficiary dies before final distribution, the trust shall terminate, and the remaining trust property shall be distributed to such persons, including Beneficiary's estate and creditors, as Beneficiary may appoint under the provisions of this trust for exercising a power of appointment. If this appointment power is not effectively exercised with respect to any trust property, that property shall be

distributed to the then surviving issue of Beneficiary, per capita at each generation, and, if none, then to the then living siblings of the Beneficiary, with the then living issue of deceased siblings taking the shares of deceased siblings per capita at each generation; and, if none, then to the persons entitled to the Beneficiary's estate under the California laws of succession, or as directed in ¶22(A).

(5) Trustee. The trustee of any trust established under this paragraph shall have the power to name successors and may amend the trust to provide for administration of the trust by multiple trustees in such manner as the trustee deems appropriate. The trustee is encouraged to provide a trustee arrangement that results in more than one adult having access to the books and records of the trust during Beneficiary's minority. The provisions of this document concerning trustees shall continue to apply to this trust to the extent not inconsistent with exercises of the powers of the trustee granted in this subparagraph.

(D) **DISTRIBUTION IF SPECIAL NEEDS TRUST REQUIRED.** Unless otherwise specified in Paragraph 22(A), In the event any beneficiary entitled to receive a distribution from the trust estate is also receiving government benefits that would impair the beneficiary's continued right to receive the government benefits, then the funds that were to be distributed to the beneficiary shall instead be held, administered, and distributed by the Trustee for the benefit, welfare, and education of the beneficiary, pursuant to the provisions set forth below.

(1) The primary beneficiary of this trust has a disability that substantially impairs the beneficiary's ability to provide for the beneficiary's own care or custody and constitutes a substantial handicap. The purpose of this trust is to provide financial aid that is supplemental to, rather than a replacement for, government benefits provided to the beneficiary, without disturbing government benefits that would be available to the beneficiary if the trust did not exist. The Trustee shall hold, administer, and distribute all property allocated to the trust for the benefit of the following beneficiary during the beneficiary's lifetime, unless this trust is earlier terminated.

(2) In accordance with the purpose of this trust and subject to the guidelines provided below, the Trustee may pay to or apply for the benefit of the beneficiary as much of the trust net income as the Trustee determines, in the Trustee's sole discretion, to be necessary or desirable to meet the beneficiary's special needs. "Special needs" are items or services that the Trustee considers necessary for the beneficiary's health, protection, and welfare and that cannot, in the Trustee's opinion, be provided by grants, services, and supplies available through any public agency, office, or department of California, any other state, or the United States. "Special needs" may include funds, items, or services that enhance the beneficiary's quality of life. Examples of funds, items, or services meeting special needs are incidental spending money, travel funds, personal items such as radios and televisions, gifts on the beneficiary's behalf to friends and relatives, a paid companion, health care services, supplies, and special equipment, training programs, and rehabilitation supplemental to those that the beneficiary is entitled to receive under a government assistance program. The Trustee is neither obligated nor compelled to make any distribution. Any undistributed income shall be accumulated and added to principal.

(3) The Trustee shall seek support and maintenance for the beneficiary from all available public resources, including but not limited to Social Security payments, Supplemental Security Income, Social Security Disability Insurance, Veterans Administration benefits of every kind, and any payments administered by the California Department of Health. If the Trustee receives government assistance benefits on the beneficiary's behalf, the Trustee shall collect, expend, and account for those benefits separately from, and not commingle them with, all other assets of this trust.

(4) The Trustee shall not use or distribute trust assets that will:

(a) Make the beneficiary ineligible for public benefits otherwise available to the beneficiary from any public agency, office, or department of California, any other state, or the United States;

(b) Cause the trust assets to bear all or part of any costs of treatment, equipment, or other assistance that would otherwise be paid by a government agency or benefits program; or

(c) Pay for services, including residential care, rendered to the beneficiary by any government agency or unit.

(E) **NO-CONTEST CLAUSE.** Pursuant to § 21310, et seq., of the California Probate Code, in the event any beneficiary under this trust shall, singly or in conjunction with any other person or persons, undertake any of the following actions then the right of that person to take any interest given him or her by this Trust Agreement shall be determined as it would have been determined had the person predeceased the survivor of us without being survived by issue:

(1) Contests in any court the validity of this Trust Agreement and/or of the last Will of either of us;

(2) Seeks to obtain adjudication in any proceeding in any court that this Trust Agreement, or any of its provisions, and/or that the last Will, or any provisions therein, of either of us is void, except to the extent permitted by § 21380 of the California Probate Code;

(3) Seeks otherwise to set aside this Trust Agreement or any of its dispositive provisions;

(4) Seeks to obtain adjudication in any proceeding in any court challenging the transfer of any property to or from this trust on the grounds that such property was not ours at the time of the transfer or at the time of our death; and/or

(5) Files a creditor's claim against the estate of either of us or prosecutes an action against either of our estates or this trust for any claim for damages or services alleged to have been incurred during the lifetime of either of us (this subparagraph shall not apply to a creditor's claim filed by a beneficiary solely for reimbursement of administrative costs, expenses, funds advanced in the preservation of the estate of either of us or for sums advanced for the payment of the last illness and/or funeral expenses of either of us).

The Trustee is hereby authorized to defend, at the expense of the trust, any contest or other attack of any nature on this Trust Agreement or any of its provisions. A "contest" shall include any action described above in an arbitration proceeding and shall not include any action described above solely in a mediation not preceded by a filing of a contest with a court, notwithstanding the foregoing; further, a "contest" shall not include a responsive pleading, such as an objection, response, or answer, filed by a beneficiary in defense of a characterization or transfer of property.

If California law governs the foregoing provisions of this Paragraph, then California Probate Code § 21311 shall apply and the foregoing provisions of this Paragraph may only be enforced against the following types of contests:

- (1) a direct contest that is brought without probable cause;
- (2) a pleading to challenge a transfer of property on the grounds that it was not the transferor's property at the time of the transfer; and/or,
- (3) the filing of a creditor's claim or prosecution of an action based on it.

The terms "direct contest" and "pleading" have the same meanings as set forth in California Probate Code § 21310. All trusts created in this agreement are "protected instruments" as provided in California Probate Code § 21310(e).

(F) **DISTRIBUTION OF REAL PROPERTY TO CHILDREN OF TRUSTORS.** If a real property distribution is given to a child or to children, then the transaction is to be considered exempt from property tax reassessment pursuant to Rev & T C § 63.1, Cal Const art XIII A, § 2(h), subject to the requirements of California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment.

23. **DEATH OF BENEFICIARY:** Unless otherwise specified in Paragraph 22(A), Should a named beneficiary die before a complete distribution of this Trust is made, that beneficiary's share shall go Per Stirpes. However, if that Beneficiary leaves no living issue, then that beneficiary's share shall go to the surviving Beneficiaries (unless otherwise designated). If at any time before full distribution of the trust estate the Trustors and all the Trustor's issue are deceased, and no other disposition of the property is directed by this instrument, the remaining portion of the trust shall then be distributed to the Trustor's legal heirs according to the laws of succession of the State of California then in force.

ARTICLE X TRUSTEE PROVISIONS

24. **THIRD PARTIES:** Any person dealing in good faith with the Trustee shall deal only with the Trustee and shall presume the Trustee has full power and authority to act on behalf of the Trust. Confirmation or approval of any beneficiary shall not be required for any transaction with the Trustee. No Trustee of this trust shall be personally liable for contracts entered into on behalf of the trust unless the Trustee fails to reveal his or her representative capacity and identify the trust estate in the contract. Further, the Trustee shall not be personally liable for contracts or torts in connection with the administration of the trust, unless the Trustee is personally at fault.

25. **COMPENSATION:** Unless otherwise stated elsewhere, any beneficiary of this Trust serving as Trustee shall do so without compensation for his or her services, except that the Trustee shall be reimbursed for reasonable expenses incurred in the administration of the Trust. Any Trustee not a beneficiary hereunder shall be compensated at the rate customarily charged by commercial trust companies for services as a Trustee of an inter vivos trust in the State of California, unless such compensation is waived by the Trustee.

26. **BOND AND QUALIFICATIONS:** Bond shall not be required of the Trustee or any Successor Trustee. The Trustee and any Successor Trustee shall not be required to qualify in any court and is hereby relieved of the requirement of filing any document and accounting in any court or for any beneficiary.

27. **SUCCESSOR TRUSTEE(S):** No Successor Trustee shall be responsible for acts of any prior Trustee. In the event a vacancy in the office of Trustee occurs and there is no Successor Trustee, the existing Trustee, if one, and the beneficiaries may agree to a non-judicial change in the Trustee by amendment to this trust agreement. No person shall be required to apply to any court in any jurisdiction for confirmation of said appointment. A Successor Trustee of a trust shall succeed to all the powers, duties and discretionary authority of the original Trustee. Any appointment of a specific bank, trust company, or corporation as Trustee is conclusively presumed to authorize the appointment or continued service of that entity's successor in interest in the event of a merger, acquisition, or reorganization, and no court proceeding is necessary to affirm the appointment or continuance of service.

28. **REMOVAL OF SUCCESSOR TRUSTEES:** A Successor Trustee may be removed by the last individual to serve as Trustee, however, if that person is deceased or incapacitated, the Successor Trustee may be removed by a majority vote in interest in Trust income. Said removal must be in writing, stating the reasons for removal and indicate the Successor Trustee, which must be a corporate Trustee.

Removal of a Successor Trustee shall be permitted only for the convenient administration of the Trust and not for the purpose of influencing the exercise of the discretionary powers of a Successor Trustee as granted by this instrument.

Removal of a Successor Trustee shall be effective upon delivery of the notice of removal. The removed Trustee shall have a reasonable period of time to transfer assets to his or her successor. In the event the Successor Trustee believes that his or her removal is improper, he or she may, but shall not be required to, apply to a court of competent jurisdiction, at his or her expense, for a declaration of the propriety of the removal. In that event, the removal shall be effective only upon the order of said court and after any appeal. In the event the Successor Trustee prevails, he or she shall be entitled to reimbursement from the Trust for reasonable costs and attorney's fees associated with such action.

29. **DELEGATION OF POWERS:** Any management function of any Trust may be delegated by any Trustee to any Successor Trustee, even if such Successor Trustee is not then serving as Trustee. The terms of such delegation of power shall be any conditions agreed to by the Trustees which are not detrimental to the Trust. Provided, however, that the Trustee shall not delegate ALL of the Trustee's duties and responsibilities.

30. **RESIGNATION OF TRUSTEE:** Any Trustee may resign by writing filed among the trust papers effective upon the Trustees' discharge. The resigning Trustee, or other interested party, shall provide notice to all adult income beneficiaries and other adult beneficiaries of the

Trust. The resignation shall be effective upon agreement of all parties entitled to notice, or thirty days after notice, whichever occurs first.

31. **NONLIABILITY FOR ACTION OR INACTION BASED ON LACK OF KNOWLEDGE OF EVENTS:** When the happening of any event, including but not limited to such events as marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of the trust, a Trustee who has exercised reasonable care to ascertain the happening of the event is not liable for any action or inaction based on lack of knowledge of the event. A corporate Trustee is not liable prior to receiving such knowledge or notice in its trust department office where the trust is being administered.

32. **TRUSTEE AS A BENEFICIARY:** Notwithstanding any other provision herein or of California Laws, a Trustee who is also a beneficiary of the trust may exercise powers to make:

- (A) Discretionary distributions of either principal or income to or for the benefit of the Trustee;
- (B) Discretionary allocations of receipts or expenses as between principal and income; or
- (C) Discretionary distributions of either principal or income to satisfy a legal obligation of the Trustee.

33. **WAIVER OF ACCOUNTING:** Except as otherwise provided herein, neither this trust, nor any Trustee, shall be required to provide an accounting to any Beneficiary or court.

ARTICLE XI TRUST ADMINISTRATION

34. **ALLOCATION TO PRINCIPAL AND INCOME:** All expenses and all receipts of money or property paid or delivered to the Trustee may be allocated to principal or income in the sole discretion of the Trustee. The Trustee, in a reasonable and equitable manner, shall also have the discretion to allocate, in whole or in part:

- (A) Expenses of administration of the Trust to income or principal.
- (B) Fees of the Trustee to income or principal.
- (C) Any expense of Trust administration or administration of its assets which are deductible for Federal Income Tax purposes to income.
- (D) The gains or losses from option trading, and capital gains distributions from utility shares, on mutual funds, or tax managed funds to income.
- (E) To income or principal, distributions from qualified or non-qualified pension plans, profit sharing plans, IRA accounts or deferred compensation arrangements.

To the extent that division of any Trust is directed, the Trustee may administer any Trust physically undivided until actual division becomes necessary. Further, the Trustee may add the assets of the Trust for any beneficiary to any other trust for such beneficiary having substantially the same provisions for the disposition of trust and principal, whether or not such trust is created

by this agreement. The Trustee may commingle the assets of several trusts for the same beneficiary, whether or not created by this agreement, and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of the account only, and to allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several trusts as a single estate shall not defer the vesting of any whole or fractional share of a trust for its beneficiary at the times specified.

35. **ALIENATION:** Excepting the Trustor(s), no income or principal beneficiary of any Trust shall have any right or power to anticipate, pledge, assign, sell, transfer, alienate or encumber his or her interest in the Trust, in any way. No interest in any Trust shall, in any manner, be liable for or subject to the debts, liabilities or obligations of such beneficiary or claims of any sort against such beneficiary.

36. **TERMINATION OF TRUST:** Should the aggregate principal of any Trust at any time be valued at Twenty Thousand Dollars (\$20,000) or less, the Trustee may, in his or her sole discretion, terminate such Trust and distribute the assets of the Trust to the beneficiaries in proportion to each beneficiary's share of the Trust.

37. **ELECTIONS:** The Trustee and the Personal Representative of the Trustor(s)' estate will have various options in the exercise of discretionary powers, and may exercise any such discretion without incurring liability to any beneficiary, nor shall any beneficiary have the right to demand a reallocation or redistribution of Trust income or principal as a result of the proper action of the Trustee or Personal Representative, subject only to the requirement that the Trustee and the Personal Representative act in good faith and within the bounds of their fiduciary duty. Specifically, the Trustee or Personal Representative may make certain elections for Federal Income Tax and Estate Tax purposes, which may affect the administration of Trust income or principal, including but not limited to, in the case of a Non-Citizen spouse, making an election as a Qualified Domestic Trust pursuant to IRC 2056.

38. **BENEFICIARY DESIGNATION:** Upon written designation by the Trustor(s) of a beneficiary for a qualified plan or IRA benefits made payable to this Trust, the Trustee shall distribute the right to receive such benefits to the designated beneficiary. If no such designation of beneficiary exists, the Trustor(s) grants to the Trustee the power, on behalf of the Trustor(s), to distribute the right to receive such benefits as part of the share which is otherwise to be distributed to any beneficiary, and such person shall be Trustor(s)' designated beneficiary. It is intended that the operation of this paragraph qualify under the requirements of 401(a)(9) and 408(a)(6) IRC and it shall be interpreted in all regards in accordance with this intent.

39. **CERTIFICATE OF TRUST:** The Trustee is hereby authorized and granted all powers necessary to execute a Certificate of Trust, describing any Trust matter, including but not limited to a description of the trust terms, the administrative powers of the Trustee and the identity of any current Trustee. Any person receiving an original or photocopy of said Certificate of Trust shall be held harmless from relying on same and shall not be obligated to inquire into the terms of the Trust or maintain a copy of the Trust.

40. **REGISTRATION OF TRUST ASSETS:** Assets of the Trust during the Trustor(s)' lifetime shall be registered as follows: JOHN C. SAMPLE and JOAN C. SAMPLE, Trustee(s), or his or her successors in Trust, under THE SAMPLE REVOCABLE LIVING TRUST, dated [NOTARY DATE], and any amendments thereto.

41. **TAX IDENTIFICATION:** This Trust shall be identified during the Trustor(s)' lifetime by the either Trustor(s)' Social Security Number. Upon the Trustor(s)' death, the Trustee shall then apply to the IRS for a tax identification number for the Trust and any other Trust created by this Trust Agreement.

42. **SPENDTHRIFT CLAUSE:** The interest of any Beneficiary of this Trust in the income and principal shall not be subject to claims of his or her creditors, or others, or be liable to attachment, execution, or other process or law and no Beneficiary shall have the right to encumber, hypothecate, or alienate his or her interest in any of the trust in any manner except as provided herein. The interest of any beneficiary (whether entitled to current income or possessing only a future interest) in either the income or principal of the trust or any part of it shall not be alienated or in any other manner assigned or transferred by such beneficiary; and such interest shall be exempt from execution, attachment and other legal process which may be instituted by or on behalf of any creditor or assignee of such beneficiary; nor shall any part of such interest be liable for the debts or obligations (including spousal and/or child support, except as required under California law) of any such beneficiary. This paragraph is intended to impose a "Spendthrift Trust" on all interests held for any beneficiary. The rights of beneficiaries to withdraw trust property are personal and may not be exercised by a legal representative, attorney-in-fact, or others. **IT IS OUR INTENT THAT THE PRECEDING SPENDTHRIFT CLAUSE AND THE PROTECTIONS IT PROVIDES BE CONSIDERED A MATERIAL PURPOSE OF THIS TRUST AND ANY SUBSEQUENT TRUST CREATED HEREUNDER.**

43. **PERPETUITIES CLAUSE:** All Trusts created by this instrument and interest therein shall vest in their then beneficiary twenty-one years after the death of the last of the issue of the Trustor(s) who was alive when the Trustor(s) died, notwithstanding any provision of this Trust to the contrary. No provision of an instrument creating a trust, including the provisions of any further trust created, and no other disposition of property made pursuant to exercise of a power of appointment granted in or created through authority under such instrument is invalid under the rule against perpetuities, or any similar statute of common law, during the said time period.

Regardless of any other provision herein, the maximum duration for any trust created hereunder is the longest period that property may be held in trust under the applicable statutes of the state then governing the situs of administration of the trust. If, under those rules, such maximum duration of a trust must be determined (or alternatively determined) with reference to the death of the last survivor of a group of individuals alive upon the death of the survivor of us, or at such other time that the application of such rules limiting the duration of a trust is deemed to begin, those individuals shall consist of all beneficiaries (including future and/or contingent) of this trust (as hereinafter named) alive at the death of the survivor of us. Any trust created hereunder must end immediately prior to such maximum duration and, thereupon, the Trustee shall pay over the principal, free from such trust, to the person or persons then entitled to receive the net income.

ARTICLE XII TERMS AND DEFINITIONS

The terms below, as used throughout this Trust, shall have the following meaning:

44. **INCAPACITATED:** (a) In the case of a question or dispute, a Trustee's incapacity (whether the Trustee is either of us or a successor) is evidenced by written opinion of two (2) physicians that the Trustee is unable to effectively manage his or her own property or financial affairs, whether as a result of age, illness, use of prescription medications, drugs or other substances, or any other cause;

(b) If there is no question or dispute, a Trustee's incapacity is established by the written opinion of only one doctor;

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

(d) An individual is deemed restored to capacity whenever the individual's personal or attending physician provides a written opinion that the individual is able to effectively manage his or her own property and financial affairs and such individual shall then resume the position of Trustee or co-Trustee held immediately prior to the incapacitation;

45. **REHABILITATION:** For the purposes of this Trust Agreement, as a Trustee or a Beneficiary, shall be deemed rehabilitated when he or she is no longer under a legal disability or when, in the written opinion of two doctors currently practicing medicine, he or she is able to properly manage his or her own affairs. Upon rehabilitation, his or her successors shall relinquish all powers and be relieved of all duties, and the rehabilitated party shall resume all duties and powers he or she had prior to incapacity.

46. **GUARDIANSHIP:** During any period of incapacity or incompetence, the Trustor(s) does hereby nominate as Guardian of the Trustor(s) property the same person(s) in name and order of succession who serve as Trustee as provided herein.

47. **SURVIVORSHIP:** This Agreement shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

48. **APPLICABLE LAW:** This Trust Agreement is intended to create a California trust and all of the terms and provisions hereof shall be interpreted according to the California Trust Code (Division 9 of the California Probate Code beginning with § 15000), except as shall be specifically modified herein. Nevertheless, the Trustee may change the situs of administration of the trust from one jurisdiction to another, thereby allowing this trust to be regulated and governed by the laws of another jurisdiction. Such action may be taken for any purpose the Trustee deems appropriate including minimization of taxes.

49. **TRUSTEE AND TRUST:** The term "Trustee" refers to the single, multiple and Successor Trustee, who at any time may be appointed and acting in a fiduciary capacity under the terms of this agreement. Where appropriate, the term "Trust" refers to any trust created by this agreement.

50. **GENDER-SINGULAR AND PLURAL:** Where appropriate, words of the masculine gender include the feminine and neuter; words of the feminine gender include the masculine and neuter; and words of the neuter gender include the masculine and feminine. Where appropriate, words in the plural or collective sense include the singular and vice-versa.

51. **IRC:** The term "IRC" refers to the Internal Revenue Code and its valid regulations.

52. **SERVE OR CONTINUE TO SERVE:** A person cannot "serve or continue to serve" in a particular capacity if they are incapacitated, deceased, have resigned, or are removed by a court of competent jurisdiction.

53. **ISSUE:** The term “issue,” unless otherwise designated herein, shall include adopted “issue” of descendants and lineal descendants, both natural and legally adopted indefinitely. Such terms shall specifically exclude individuals adopted out of the family of the Trustor(s) or out of the family of a descendant of the Trustor(s). The word “living” shall include unborn persons in the period of gestation.

54. **NOTICE:** No person shall have notice of any event or document until receipt of written notice. Absent written notice to the contrary, all persons shall rely upon the information in their possession, no matter how old, without recertification, verification, or further inquiry.

55. **MERGER:** The doctrine of merger shall not apply to any interest under any Trust.

56. **REPRESENTATION:** In any Trust matter a beneficiary whose interest is subject to a condition (such as survivorship) shall represent the interests in the Trust of those who would take in default of said condition. The members of a class shall represent the interest of those who may join the class in the future (e.g. living issue representing unborn issue). The legal natural guardian of a person under a legal disability shall represent the interests of the disabled person.

57. **GOVERNING LAW.** This Trust is intended to create a California trust and all of the terms and provisions hereof shall be interpreted according to the California Trust Code (Division 9 of the California Probate Code beginning with §15000), except as shall be specifically modified herein. Nevertheless, the Trustee may change the situs of administration of the trust from one jurisdiction to another, thereby allowing this Trust to be regulated and governed by the laws of another jurisdiction. Such action may be taken for any purpose the Trustee deems appropriate including minimization of taxes.

58. **CONFLICT RESOLUTION AND SEVERABILITY.** In order to save the cost of court proceedings and promote the prompt and final resolution of any dispute with regard to the interpretation of this Trust or the administration or distribution of our trust, we direct that any such dispute shall be settled by arbitration administered by the American Arbitration Association under its Arbitration Rules for Wills and Trusts then in effect. Nevertheless, the following matters shall not be arbitrable: (1) questions regarding the competency of either of us; or (2) attempts to remove a fiduciary. In addition, arbitration may be waived by all sui juris parties in interest.

The arbitrator(s) shall be a practicing lawyer licensed to practice law in the State of California (or such other state whose laws then govern this Trust) and whose practice has been devoted primarily to wills and trusts for at least ten (10) years. The arbitrator(s) shall apply the substantive law (and the law of remedies, if applicable) of the State of California (or such other state whose laws then govern this Trust). The arbitrator's decision shall not be appealable to any court, but shall be final and binding on any and all persons who have or may have an interest in this Trust, including unborn or incapacitated persons, such as minors or any person for whom a conservator has been appointed or any other protective order has been made.

Further, if any provision of this Trust is invalid, that provision shall be disregarded, and the remainder of this Trust shall be construed as if the invalid provision had not been included.

59. **DECLARATION OF TRUST.** Unless otherwise stated in this trust agreement, We, hereby declare that all assets of every kind and description and wheresoever situated which we jointly or individually presently own or hereafter acquire (regardless of the means by which acquired and/or the record title in which held; including, by way of illustration and not limitation,

all real property, investments, bank accounts, etc.), other than any Individual Retirement Accounts or other type of plan which is tax deferred under the Internal Revenue Code of 1986, as amended, are transferred to and the same shall be owned by our revocable living trust.

The foregoing declaration and transfer shall apply even though "record" ownership or title, in some instances, may, presently or in the future, be registered in our respective individual names, in which event such record ownership shall hereafter be deemed held in trust even though such trusteeship remains undisclosed. This declaration and transfer shall constitute an intention to transfer the above-listed assets to the above-mentioned trust for purposes of the ruling in Estate of Heggstad (1993), 16 Cal.App.4th 943. This declaration may be terminated by either of us by written notice to the Trustee of the above-mentioned trust.

[Remainder of page intentionally omitted]

SAMPLE

SAMPLE

SAMPLE

IN WITNESS WHEREOF, on [NOTARY DATE], JOHN C. SAMPLE and JOAN C. SAMPLE
Trustors and Trustees have signed this Instrument.

JOHN C. SAMPLE, TRUSTOR/TRUSTEE

JOAN C. SAMPLE, TRUSTOR/TRUSTEE

State of Michigan)
) ss.
County of Macomb)

Acknowledged by JOHN C. SAMPLE and JOAN C. SAMPLE, before me on [NOTARY
DATE].

Signature: _____
Notary, Public, State of Michigan, County of Macomb

THE SAMPLE REVOCABLE LIVING TRUST

Schedule A

This Schedule "A" should list property assets put into trust when the trust is created.

All property now or hereafter subject to the terms hereof shall be deemed to be our community and/or quasi-community property and the proceeds thereof shall continue to retain its character as community and/or quasi-community property during our joint lifetimes (also hereinafter called the "community estate"). It is our intention that the Trustee shall have no more extensive power over the community estate than either of us would have had under California law then in effect which govern the management of community property had this Trust Agreement not been created, and this Trust Agreement shall be interpreted to achieve this intention. This limitation shall terminate on the death of either of us.

The sum of Ten Dollars (\$10.00) in cash.

TOGETHER WITH:*

123 ELM ST, OAK, CA 12345-6789

567 MAPLE ST., OAK, CA 23456-9654
