

Living Trust

This Living Trust Agreement (“Agreement”), dated _____, between _____ (“Grantor” or “Beneficiary”) of _____ and _____ (“Trustee”).

In consideration of the mutual covenants and promises set forth in this Agreement, Grantor and Trustee agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to establish a Trust to receive and manage assets for the benefit of Grantor during Grantor’s lifetime, and to further manage and distribute the assets of Trust upon the death of Grantor.

2. **FUNDING OF TRUST.** This Trust shall be funded with assets transferred to this Trust by Grantor at the time of creating this Trust, or at any later time. During the lifetime of Grantor, any interest in community property transferred into or out of this Trust shall retain its original character and such property shall not be commingled. This Trust may also receive property from any person or entity that is acting under the authority granted to that person or entity by Grantor. It is also expected that this Trust may receive assets pursuant to the terms of Grantor’s Last Will and Testament.

3. **MANAGEMENT OF TRUST ASSETS.** Trustee shall manage and distribute Trust assets for the benefit of Grantor and Grantor’s successor(s) in interest in accordance with the terms of this Agreement.

4. **PAYMENTS DURING GRANTOR’S LIFETIME.** During Grantor’s lifetime, Trustee shall pay all of the net income of this Trust, and also such sums from principal as Grantor may request at any time in writing, to or for the benefit of Grantor, or as Grantor may designate. Such payments shall be made at least every __ days. Grantor may change the amount of the payments at any time by providing written notice to Trustee. Any excess income shall be added to principal at the discretion of the Trustee.

A. **Payments During a “Disability” of Grantor.** During any period that Grantor has a “disability”, Trustee may pay to or for the benefit of Grantor such amounts of income and principal as Trustee believes in Trustee’s sole discretion to be required for (i) Grantor’s support, comfort and welfare, (ii) Grantor’s accustomed manner of living, or (iii) any purpose that Trustee believes to be in the best interest of Grantor.

B. **Disability Defined** For the purposes of this Trust. “Disability” shall mean a legal disability or the inability to provide prompt and intelligent consideration to financial matters by reason of illness or mental or physical disability. The determination of whether Grantor has a disability shall be made by Grantor’s most recent attending physician. Trustee shall be entitled to rely on written notice of that determination.

5. **DEATH OF GRANTOR.** Upon the death of Grantor, and after the payment of Grantor’s just debts, funeral expenses, and expenses of last illness, the following distributions shall be made:

A. **Specific Distributions.** The following specific distributions shall be made from the assets of the Trust. However, such distributions (other than distributions, if any, to Grantor’s spouse) shall be made only if the Grantor’s spouse does not survive Grantor.

_____ shall be distributed to _____
_____. If this beneficiary does not survive Grantor and Grantor’s spouse, this bequest shall be distributed with the residuary assets of this Trust.

B. Tangible Personal Property. Upon the death of Grantor and subject to the preceding provisions of this Trust, all clothing, jewelry, automobiles, household furniture and furnishings, recreational equipment, all personal effects used by Grantor about Grantor's person or home, and other items of tangible personal property shall be distributed to _____ of _____. If this person does not survive Grantor, the tangible personal property shall be distributed to _____ of _____. If this person does not survive Grantor and Grantor's spouse, the tangible personal property shall be distributed with the residuary assets of this Trust.

C. Residuary Assets. The residuary assets of this Trust shall be distributed to _____ of _____. If such beneficiary does not survive Grantor and Grantor's Spouse, the residuary assets shall be distributed to the following beneficiaries in the percentages as shown: ___% to _____ of _____; ___% to _____ of _____ and ___% to _____ of _____. If any of these people do not survive Grantor and Grantor's spouse, this share shall be distributed proportionately to the other distributee(s) listed under this provision.

6. TRUSTEE POWERS. Trustee, in addition to other powers and authority granted by law or necessary or appropriate for proper administration of Trust, shall have the following rights, powers, and authority without order of court and without notice to anyone:

A. Receive Assets. To receive, hold, maintain, administer, collect, invest and re-invest the trust assets, and collect and apply the income, profits, and principal of the Trust in accordance with the terms of this instrument.

B. Receive Additional Assets. To receive additional assets from other sources including assets received under the Will of Grantor or any other person.

C Standard of Care. To acquire, invest, reinvest, exchange, retain, sell, and mortgage estate and trust assets, exercising the judgment and care, under the circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of that standard, Trustee is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other corporate obligation, and stocks, preferred or common, that persons of prudence, discretion and intelligence acquire or retain for their own account, even though not otherwise a legal investment for trust funds under the laws and statutes of the United States or the state under which this instrument is administered.

D. Retain Assets. To retain any asset, including uninvested cash or original investments, regardless of whether it is of the kind authorized by this instrument for investment and whether it leaves a disproportionately large part of the estate or trust invested in one type of property, for as long as the Trustee deems advisable.

E. Dispose of or Encumber Assets. To sell, option, mortgage, pledge, lease or convey real or personal property, publicly or privately, upon such terms and conditions as may appear to be proper, and to execute all instruments necessary to effect such authority.

F. Settle Claims. To compromise, settle, or abandon claims in favor of or against Trust.

G. Manage Property. To manage real estate and personal property, borrow money, exercise options, buy insurance, and register securities as may appear to be proper.

H. Allocate Between Principal and Income. To make allocations of charges and credits as between principal and income as in the sole discretion of the Trustee may appear to be proper.

I. Employ Professional Assistance. To employ and compensate counsel and other persons deemed necessary for proper administration and to delegate authority when such delegation is advantageous to the trust.

J. Distribute Property. To make division or distribution in money or kind, or partly in either including disproportionate in-kind distributions, at values to be determined by Trustee, and Trustee's judgment shall be binding upon all interested parties.

K. Enter Contracts. To bind the Trust by contracts or agreements without assuming individual liability for such contracts.

L. Exercise Stock Ownership Rights. To vote, execute proxies to vote, join in or oppose any plans for reorganization, and exercise any other rights incident to the ownership of any stocks, bonds or other properties of Trust.

M. Duration of powers. To continue to exercise the powers provided in this Agreement after the termination of Trust until all the assets of Trust have been distributed.

N. Hold Trust Assets as a Single Fund. To hold the assets of Trust, shares, or portions of Trust created by this instrument as a single fund for joint investment and management, without the need for physical segregation, dividing the income proportionately among them. Segregation of the various trust shares need only be made on the books of Trustee for accounting purposes.

O. Compensation. To receive reasonable compensation for Trustee's services under this Agreement and be exonerated from and to pay all reasonable expenses and charges of Trust.

P. Loans to Beneficiaries. To make loans to any trust beneficiary for the purpose of providing the beneficiary with the funds necessary to take advantage of exceptional business opportunities or to provide for the needs of the beneficiaries and their families.

Q. Methods of Distribution. To make payments to or for the benefit of any beneficiary (specifically including any beneficiary under any legal disability) in any of the following ways: (a) directly to the beneficiary, (b) directly for the maintenance, welfare and education of the beneficiary, © {Year} {Company name}.ry. Trustee shall not be obliged to see to the application of the funds so paid, but the receipt of the person to whom the funds were paid shall be full acquittance of Trustee.

7. ADDITIONAL TRUSTEE PROVISIONS. These additional provisions shall apply regarding Trustee:

A. Grantor as Trustee. If at any time Grantor is Trustee, Grantor may appoint a successor Trustee, to become effective immediately or upon any stated contingency, by making such designation in writing. Such designee shall become the successor Trustee upon acceptance of the terms and conditions of this Agreement.

B. Successor Trustee. If at any time a Trustee cannot serve because of the Trustee's disability (as previously defined), death, or other reason, _____ of _____ is designated as the successor Trustee, without bond. If such designee(s) is/are unable to serve for any reason, _____ of _____ is designated as the alternate successor Trustee, without bond. Such designee(s) shall become the successor Trustee(s) upon acceptance of the terms and conditions of this Agreement.

C. Resignation of Trustee. Any Trustee may resign by giving written notice to the beneficiaries to whom income could then be distributed. Such resignation shall take effect on such date specified in the notice, but not earlier than thirty (30) days after the date of delivery of such written resignation unless an earlier effective date shall be agreed to by the income beneficiaries.

D. Adult Beneficiary Rights. If Trustee resigns or for any reason ceases to serve as Trustee, and if the successor Trustee(s) designated by the Grantor, if any, fail or cease to serve as Trustee, then the adult beneficiaries to whom income could then be distributed, together with the adult beneficiaries to whom principal would be distributed if the Trust were then to terminate, may by majority action in writing appoint a successor Trustee. If agreement of a majority of the beneficiaries cannot be obtained within sixty (60) days, a successor Trustee shall be appointed by the court having general jurisdiction of the Trust. Any successor Trustee appointed shall have all the rights conferred upon the original Trustee and shall be bound by the provisions of this Trust.

E. Accounting. Trustee shall provide an accounting to the Beneficiary (or beneficiaries) on at least a quarterly basis. If a beneficiary has a "disability", Trustee shall provide the accounting to a guardian or conservator, if any.

F. Bond. No bond shall be required of any Trustee.

8. RIGHT TO DIRECT INVESTMENTS. At any time that Trust has investments, and provided that Grantor does not have a "disability", Grantor may direct any Trustee to purchase, sell, or retain any trust investment.

9. REVOCATION OR AMENDMENT. During Grantor's lifetime, Grantor may revoke at any time, and/or the Grantor may amend, this Agreement by delivering to Trustee an appropriate written revocation or amendment, signed by Grantor. If Trustee consents, the powers of revocation, but not the power of amendment, may be exercised by a duly appointed and acting attorney-in-fact for Grantor for the purpose of withdrawing assets from Trust.

10. GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of _____.

11. PERPETUITIES SAVINGS CLAUSE. Despite any other provision of this Agreement to the contrary, trust created by this Agreement shall terminate no later than 21 years after the death of the last surviving beneficiary of this Agreement who is living at the time of the death of Grantor.

12. SEVERABILITY. If any portion of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

13. MISCELLANEOUS PROVISIONS.

A. Paragraph Titles and Gender. The titles given to the paragraphs of this Trust are inserted for reference purposes only and are not to be considered as forming a part of this Trust in interpreting its provisions. All words used in this Trust in any gender shall extend to and include all genders, and any singular words shall include the plural expression, and vice versa, specifically including “child” and “children”, when the context or facts so require, and any pronouns shall be taken to refer to the person or persons intended regardless of gender or number.

B. Thirty Day Survival Requirement. For the purposes of determining the appropriate distributions under this Trust, no person or organization shall be deemed to have survived Grantor, unless such person or entity is also surviving (or in existence) on the thirtieth day after the date of the Grantor’s death.

C. Common Disaster. If Grantor and Grantor’s spouse die under circumstances such that there is no clear or convincing evidence as to the order of their deaths, or if it is difficult or impractical to determine which person survived the death of the other person, it shall, for the purpose of distribution of Grantor’s life insurance, property passing under any will or other contracts, if any, and property passing under this Trust, be conclusively presumed that Grantor predeceased the death of Grantor’s spouse, and notwithstanding any other provision of this Trust, Grantor’s spouse (or Grantor’s spouse’s estate as the case may be) shall receive the distribution to which Grantor’s spouse would otherwise be entitled to receive without regard to a survivorship requirement, if any.

D. Liability of Fiduciary. No fiduciary who is a natural person shall, in the absence of fraudulent conduct or bad faith, be liable individually to any beneficiary of Grantor’s trust estate, and Grantor’s trust estate shall indemnify such natural person from any and all claims or expenses in connection with or arising out of that fiduciary’s good faith actions or nonactions of the fiduciary, except for such actions or nonactions which constitute fraudulent conduct or bad faith. No successor trustee shall be obliged to inquire into or be in any way accountable for the previous administration of the trust property.

E. Spouse. Grantor is married to _____ and all references in this Trust to “Grantor’s spouse” are references to _____.

F. Children. The names of Grantor’s children are: _____.
All references in this Trust to ” Grantor’s child” or ” Grantor’s children” include the above child or children, and any other children born to or adopted by the Grantor after the signing of this Trust.

Grantor

Trustee

Generic Form © {Year} {Company name}.