

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 20-CV-81205-RAR

SECURITIES AND EXCHANGE
COMMISSION,
Plaintiff,

v.
COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a/ PAR FUNDING,

NOTICE OF PETITION IN NEVADA STATE COURT

Relief Defendant, The LME 2017 Family Trust (“Trust”), files this Notice to advise this Court that the Trust, through separate counsel, Solomon Dwiggins & Freer, Ltd., has filed a petition in Nevada State Court styled *In the Matter of the Trust of: Matter of the LME 2017 Family Trust, dated March 20, 2017*, Case No. P-20-105233-T (“Petition”). The purpose of the Petition is to confirm Lisa McElhone and Joseph Laforte as Co-Family Trustees and Premier Trust, Inc. as Independent Trustee of the Trust, and to ask the Nevada State Court to assume *in rem* jurisdiction over the administration of the Trust.¹ See Exhibit 1.

The undersigned was advised late yesterday that the Petition has been scheduled for hearing on February 5, 2020 in Clark County District Court in Nevada. The undersigned has asked counsel for the Trust in Nevada to provide notice of the hearing to the SEC and the Receiver.

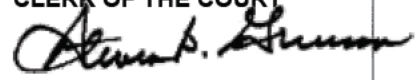
Respectfully submitted,

Alejandro O. Soto

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¹ Counsel for the Trust in Nevada provided notice in the Petition of the pendency of this action and the orders issued by this Court appointing the Receiver.

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Steven D. Grierson
CLERK OF THE COURT



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CASE NO: P-20-105233-T
Department 26

10 *Attorneys for Premier Trust, Inc.,*
11 *Independent Trustee*

DISTRICT COURT
CLARK COUNTY, NEVADA

12 In the Matter of
13 THE LME 2017 FAMILY TRUST, dated
14 March 20, 2017,
15
16 an Irrevocable Trust

Case No.:
Dept.:
Hearing Date:
Hearing Time:

PETITION TO ASSUME *IN REM* JURISDICTION OVER THE LME 2017 FAMILY TRUST AND TO CONFIRM TRUSTEES

17 Premier Trust, Inc., as Independent Trustee of The LME 2017 Family Trust, dated March
18 20, 2017, by and through its counsel of record, Alexander G. LeVeque, Esq. and Joshua M. Hood,
19 Esq., of the law firm of Solomon Dwiggin & Freer, Ltd., hereby submits its Petition to Assume
20 *In Rem* Jurisdiction Over The LME 2017 Family Trust and to Confirm Trustees (the "Petition").
21 This Petition is made and based upon the Memorandum of Points and Authorities, pursuant to
22 NRS 164.005, NRS 164.010, and NRS 153.031(1)(k), all attached exhibits, and any oral argument
23 that this court may entertain at the time of hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of Relevant Facts.

24 1. The LME 2017 Family Trust was created on March 20, 2017 (the "Trust"), by Lisa
25 McElhone ("Lisa"), as Settlor. *See*, Trust, a true and correct copy of which is attached hereto as
26 **Exhibit 1.**

27 2. Pursuant to the preamble of the Trust, Lisa and Joseph W. LaForté ("Joseph") are
28 nominated as the Family Trustees. *Id.*, at preamble.

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TRUST AND ESTATE ATTORNEYS



3. The preamble of the Trust further nominates Premier Trust, Inc. (“Premier Trust”) as the Independent Trustee. *Id.*, at preamble

4. Section 11.6 of the Trust, in relevant part, provides that the Trust is “governed by and administered under the laws of the state of Nevada.” *Id.*, at § 11.6.

5. Premier Trust is a trust company domiciled and conducting business in Clark County, Nevada.

6. The Trust contains assets that are administered in Clark County, Nevada.

7. The names, ages, relationships, and residences of the persons interested in the Trust so far as known to Premier Trust are as follows:

<u>Names</u>	<u>Age</u>	<u>Relationship</u>	<u>Residence</u>
Lisa McElhone	Adult	Settlor/Co-Family Trustee	[REDACTED] Haverford, Pennsylvania 19041
Joseph LaForte	Adult	Co-Family Trustee/Beneficiary	[REDACTED] Haverford, Pennsylvania 19041
Premier Trust, Inc.	N/A	Independent Trustee	[REDACTED] Las Vegas, Nevada 89103

II. Petition to Assume *In Rem* Jurisdiction Over Trust and Confirm Trustees

8. NRS 164.010(1), in relevant part, provides that “[u]pon petition of any person appointed as trustee of an express trust by any written instrument other than a will...the district court of the county in which any trustee resides or conducts business at the time of the filing of the petition or in which the trust has been domiciled as of the time of the filing of the petition shall assume jurisdiction of the trust as a proceeding in rem unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.” NRS 164.010(1).

9. NRS 153.031(1), in relevant part, provides that “[a] trustee...may petition the court regarding any aspect of the affairs of the trust, including: (k) appointing or removing a trustee. NRS 153.031(1)(k).

10. Premier Trust is domiciled in and administering the Trust in Clark County, Nevada

11. No other court has assumed jurisdiction over the Trust or its assets.

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1 12. Moreover, Section 11.6 of the Trust provides that the Trust is governed and
2 administered pursuant to the laws of the State of Nevada.

3 13. Based upon the foregoing, Premier Trust respectfully requests that this Court
4 assume *in rem* jurisdiction over the Trust,¹ and confirm the following as trustees: (i) Lisa, as Co-
5 Family Trustee; (ii) Joseph, as Co-Family Trustee; and (iii) Premier Trust, as Independent
6 Trustee.

7 **WHEREFORE**, Premier Trust, as Independent Trustee of the Trust, respectfully requests
8 that this Petition be set for hearing, and that after hearing the matters of this Petition, this Court
9 find that notice of the time and place of such hearing has been given in the manner required by
10 law, and that this Court enter its Orders and Decrees as follows:

11 1. That this Court assume *in rem* jurisdiction over The LME 2017 Family Trust,
12 dated March 20, 2017;

13 2. That this Court confirm Lisa McElhone as Co-Family Trustee of The LME 2017
14 Family Trust, dated March 20, 2017;

15 3. That this Court confirm Joseph LaForte as the Co-Family Trustee of The LME
16 2017 Family Trust, dated March, 2017;

17 4. That this Court confirm Premier Trust, Inc. as the Independent Trustee of The
18 LME 2017 Family Trust, dated March, 2017; and

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26 _____
27 ¹ Note: Premier Trust is requesting that this Court assume *in rem* jurisdiction over the assets of the Trust, save
28 and except for any assets subject to the jurisdiction of the receiver in Securities Exchange Commission v. Complete
Business Solutions, Inc. d/b/a Par Funding, *et al.*, Case No. 20-CIV-81205-RAR, USDC, Southern Dist. of Fla. *See*,
e.g. Order Granting Plaintiff's Securities and Exchange Commission's Motion for Appointment of Receiver and
Amended Order Appointing, a true and correct copies of which are collectively attached hereto as **Exhibit 2**.

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5. For such other and further relief as this Court deems proper and just.

Dated this 11th day of December, 2020.

SOLOMON DWIGGINS & FREER, LTD.



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VERIFICATION

I, Mark Dreschler, of Premier Trust, Inc., declare under penalty of perjury of the laws of the State of Nevada, as follows:

That I am the Petitioner in the foregoing PETITION TO ASSUME IN REM JURISDICTION OVER THE LME 2017 FAMILY TRUST AND TO CONFIRM TRUSTEES, and know the contents thereof; that the same is true to my knowledge, except those matters stated therein on information and belief, and as to such matters, I believe them to be true.

Dated this ___ day of December, 2020.

PREMIER TRUST, INC.
Mark Dreschler

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Exhibit 1

Exhibit 1

TRUST AGREEMENT

FOR

THE LME 2017 FAMILY TRUST

Prepared by:

LAW OFFICES OF
OSHINS & ASSOCIATES, LLC
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THE LME 2017 FAMILY TRUST

THIS TRUST AGREEMENT is made this 20th day of March 2017, by and among LISA McELHONE (hereinafter referred to as the "Grantor"), LISA McELHONE and JOSEPH W. LAFORTE (hereinafter, with their successors, sometimes referred to as the "Family Trustees" and sometimes as the "Family Trustee") and PREMIER TRUST, INC. (hereinafter, with its successors and assigns, referred to as the "Independent Trustee"). The Family Trustees and the Independent Trustee collectively sometimes referred to as the "Trustee" and sometimes as the "Trustees." Either initial Family Trustee may act alone to bind the trust; provided however, this sentence is not intended and shall not be interpreted to give the Family Trustee the power to bind the trust with respect to any decision specifically vested in the Independent Trustee alone.

WITNESSETH:

WHEREAS, the Grantor desires to establish a MegatrustSM and to transfer and assign to the Trustees all of the Grantor's right, title and interest in and to the assets listed on Schedule "A" attached hereto and incorporated herein by reference.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the Grantor does hereby irrevocably assign, convey, transfer and deliver to the Trustees, IN TRUST, all of her right, title and interest in and to the assets listed on Schedule "A".

TO HAVE AND TO HOLD the same and any such other property which the Trustees may hereinafter at any time hold or acquire pursuant to the terms hereof (all of which property is hereinafter collectively referred to as the "trust property" or "trust estate"), IN TRUST, for the following uses and purposes and on the conditions hereinafter set forth.

MEGATRUSTSM is a servicemark of Richard A. Oshins of Oshins & Associates, LLC, Las Vegas, Nevada; Jonathan G. Blattmachr of Milbank, Tweed, Hadley & McCloy, New York, New York and Los Angeles, California; Lawrence Brody of Bryan, Cave, McPheeters & McRoberts, St. Louis, Missouri; and Alfred J. Olsen and Susan K. Smith of Olsen-Smith, Ltd., Phoenix, Arizona.

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ARTICLE I

NAME, PURPOSE AND BENEFICIARIES OF TRUST

1.1 Name of Trust. This Trust Agreement shall be known and identified as "THE LME 2017 FAMILY TRUST," and each separate trust created in this instrument may be referred to by either adding the name of the primary beneficiary or such other name as is designated by the Trustees.

1.2 Purpose of Trust and Special MegatrustSM Guidance. This trust is designed as a MegatrustSM and, therefore, in exercising the broad discretions given to the Trustees with respect to the management, distributions, and investments, etc. of the various trusts herein the Trustees shall take into account the following MegatrustSM features:

A. The Grantor desires to benefit the beneficiaries while attempting to protect the trust property from the claims of creditors (including, but without limitation, possible claims from spouses, ex-spouses, governmental agencies, etc.);

B. The Grantor desires to reduce or eliminate all wealth transfer taxes on trust assets;
and

C. The Grantor desires to help the beneficiaries of each separate trust hereunder reduce or eliminate their own income and wealth transfer taxes.

In accomplishing the aforementioned goals, the Trustees are encouraged to provide the beneficiaries of the various trusts hereunder with the liberal "use" and "enjoyment" (such as described in Section 5.8 below) of trust property (free of charge) rather than make a distribution of trust assets to the beneficiaries. The Grantor intends that to the extent their own means of support are adequate, the trust beneficiaries generally should provide for their own living expenses and purchase their own depreciable or consumable property. Therefore, distributions from any separate trust held hereunder shall not be made until consideration has first been given to the advisability of: (i) the Trustees acquiring assets for the "use" and "enjoyment" of the trust beneficiaries; and (ii) the beneficiaries using their own assets and resources for living expenses, consumables and the acquisition of depreciable properties, in order to reduce the amount of the taxable estates of such beneficiary or beneficiaries and thereby minimizing the amount of the future transfer taxes of such beneficiaries.

The foregoing is to guide the Trustees only and, notwithstanding such guidance, the discretion of the Trustees is absolute and shall be exercised by the Trustees in accordance with the Trustees' best judgment, guided by what appear to be the best interests, as interpreted by such Trustees alone, of the primary beneficiary of such trust and such beneficiary's family as a whole, as seems appropriate in carrying out the Grantor's original intent hereunder.

1.3 Beneficiaries of Trust. The trust created hereby shall be primarily for the use and benefit of the Grantor's spouse and other beneficiaries named herein.

ARTICLE II

IRREVOCABILITY AND RENUNCIATION OF INTERESTS

2.1 Irrevocability and Renunciation of Interests. This Trust Agreement is irrevocable and the Grantor shall have no right whatsoever to alter, amend, revoke or terminate this trust, in whole or in part, either alone or in conjunction with any other person or persons. By this Trust Agreement, the Grantor intends to and does hereby relinquish absolutely all possession or enjoyment of, or the right to the income from, the trust property, and the Grantor hereby releases, renounces and disclaims all interests whatsoever which might be construed to defeat such intention. Neither the creation of this trust nor any distribution of income or principal hereof, shall be deemed or considered to discharge or relieve the Grantor from the obligation to support any dependent of the Grantor.

2.2 Informed Grantor. The Grantor has been advised of the difference between revocable and irrevocable trusts and hereby declares this Trust Agreement and the trust estate(s) created hereby are irrevocable. The Grantor also recognizes that the Grantor may be taxed on the trust income that is not distributed to the Grantor, and waives any right to be reimbursed for the income taxes on such income.

2.3 Restrictions Relating to Grantor. Notwithstanding any other provision of this Trust Agreement, no powers enumerated herein or accorded to trustees generally pursuant to law, singly or as a whole, shall be construed to permit any trust distribution to or for the benefit of a beneficiary which would have the effect of discharging any legal obligation of the Grantor (including any obligation which the Grantor may have at any time relating to the support and/or education of any beneficiary hereunder). If at any time any person other than the Grantor makes an inter vivos gift addition to any trust hereunder (other than to a trust as to which he or she then has any general power of appointment) such person ("the donor") shall be deemed thereafter to be an additional "Grantor" with respect to the addition to the trust receiving such gift ("the donee trust") for the purposes of the renunciation and restriction provisions set forth above and for the purposes of all limitations, exceptions, restrictions and exclusions referring to the Grantor contained in other provisions of this Trust Agreement (but, in either case, only insofar as they relate to the donee trust and the additions made by such donor).

DISPOSITIVE PROVISIONS DURING REMAINDER OF GRANTOR'S LIFETIME

2.4 During Remainder of Grantor's Lifetime. During the remainder of the lifetime of the Grantor, the trust's assets shall be administered as follows:

2.4.1 Discretionary Distributions of Income and/or Principal. The Independent Trustee, in its sole, absolute and unreviewable discretion (but after taking into consideration all factors including the purpose of the trust and special guidance provisions contained in Section 1.2), shall have the power, the exercise of which shall be absolutely binding on all persons interested now or in the future in this trust, to distribute to or apply for the benefit, enjoyment or use of (herein sometimes collectively referred to as the "benefits") any one or more of the following permissible distributees:

- A. The Grantor's spouse, and/or
- B. The descendants of the Grantor who are then living (even though not now living), including a descendant whose parent or parents are then living,

so much of the income or principal, or both, of the trust estate, in equal or unequal proportions, and at such time or times as such Independent Trustee shall deem appropriate for such beneficiaries' benefit, care, comfort, enjoyment or for any other purposes. Any net income not distributed shall be accumulated and added to principal. In exercising the discretions conferred in this section, the Independent Trustee may pay more to or apply more for some beneficiaries than others and may make payments to or applications of benefits for one or more beneficiaries to the exclusion of others, if such Independent Trustee deems this necessary or appropriate in light of the circumstances, the size of the trust estate and the probable future needs of the beneficiaries.

2.4.2 Grantor's Veto Power over Trust Distributions. During the remainder of the lifetime of the Grantor, at least thirty (30) days prior to making any payment or application of income or principal to a beneficiary, the Independent Trustee shall advise the Grantor in writing of such Trustee's intention to pay over or apply income or principal to such beneficiary, and the Grantor may veto any such intended payment or application by directing the Independent Trustee in writing not to make the payment or application, and if such veto is exercised by the Grantor, the Independent Trustee shall not make the intended payment or application to such beneficiary.

2.4.3 Special Power of Appointment During Life of Grantor. During the Grantor's lifetime, the Grantor shall have the power to "appoint" (i.e., to direct the transfer of) any part or all of the corpus of this net assets of this trust to such one or more persons or entities other than the Grantor, the Grantor's estate, the Grantor's creditors or the creditors of the Grantor's estate, on such terms and conditions, either outright or in trust, and in such amounts and proportions as the Grantor shall appoint by a writing delivered to one of the then Trustees hereunder specifically referring to and exercising this power of appointment.

2.4.4 Special Power of Appointment at Death of Grantor. Upon the death of the Grantor, the Trustee(s) shall distribute the balance of this trust, including both principal and accrued or undistributed income, to such one or more persons or entities other than the Grantor, the Grantor's estate, the Grantor's creditors or the creditors of the Grantor's estate, and on such terms and conditions, either outright or in trust, and in such proportions as the Grantor shall "appoint" (i.e., direct the transfer of) by Will or Codicil specifically referring to and exercising this power of appointment.

2.4.5 Renunciation of Veto Power and Powers of Appointment. The Grantor retains the right to renounce 1) the power to veto distributions set forth in Section 2.4.2 herein; and 2) the special powers of appointment set forth in Sections 2.4.3 and/or 2.4.4 herein. In order to be effective, any said renunciation(s) shall be made by written instrument delivered to the Trustees.

2.4.6 Guidance Regarding Permissible Distributions and Benefits. In exercising the discretionary powers with respect to providing benefits under this Section 2.4, the Trustees shall be mindful of the fact that the Grantor's primary concern in establishing this trust is the present and future welfare of the Grantor's spouse. In providing benefits hereunder to permissible distributees as hereinabove provided, the Grantor's secondary concern is the present and future welfare of the Grantor's children, and additionally, by way of guidance, the Grantor desires but does not direct that older generations of descendants have priority over lower generations of descendants. Finally, The Grantor requests such Trustees be liberal in conferring benefits hereunder, particularly for the health (after taking into account any private or governmental medical insurance or other medical payments to which such persons may be entitled), education (including the highest forms of education) and reasonably comfortable support of the permissible distributees. Consistent with the objectives of providing liberally for the personal and financial welfare of the beneficiaries, such Trustees are to have broad discretion in planning and making either distributions of trust assets or making the use and enjoyment of trust assets available to the beneficiaries.

2.4.7 Upon the Death of the Grantor. As soon as is conveniently possible after the death of the Grantor (to the extent not effectively appointed pursuant to Sections 2.4.3 and 2.4.4 above), if the Grantor's spouse survives the Grantor, the Trustee shall divide the trust estate, including all property received as a result of the Grantor's death, into two parts, each part to be administered as a separate trust, to be known respectively as the "Marital Deduction Trust" (which shall be funded pursuant to Section 2.4.9 below and administered pursuant to Section 2.5) and the "Megatrustsm" (which shall be funded pursuant to Section 2.4.8 below and administered pursuant to Article III); but if the Grantor's spouse does not survive the Grantor, the Trustee shall instead distribute the entire trust estate (to the extent not effectively appointed) to the "Megatrustsm" (to be held and administered as provided in Article III hereof).

2.4.8 Megatrustsm. If the Grantor's spouse survives the Grantor, there shall be allocated to the "Megatrustsm" all assets not subject to a state estate tax and the federal estate tax in the estate of the Grantor and a sum equal to the smaller of:

- A. the largest amount that can pass free of all applicable state estate taxes were it to pass to an individual other than the Grantor's Spouse. This value shall be determined after being reduced by reason of all other dispositions of property included in the Grantor's gross estate for which no

deduction is allowed in computing the Grantor's state estate taxes, and administration expenses and other charges to principal that are not claimed and allowed as a state estate tax deduction; or

B. the largest amount that can pass free of federal estate tax by reason of the unified credit and the state death tax credit (provided use of this credit does not require an increase in the state death taxes paid) allowable to the Grantor's estate, but no other credit, reduced by the total value for federal estate tax purposes of all interests that pass or have passed from the Grantor not qualifying for the marital or charitable deduction, and after taking into account charges to principal that are not allowed as deductions in computing the Grantor's federal estate tax.

For purposes of establishing the sum referred to herein, the values finally fixed in the federal estate tax proceeding relating to the Grantor's estate shall be used. The Trustee shall select and allocate the cash, securities and other property, including real estate and interests therein to constitute the Family Trust, using for this purpose values current at the time or times of allocation.

2.4.9 Marital Deduction Trust. If the Grantor's spouse survives the Grantor, the Trustee shall allocate to the "Marital Deduction Trust", the dispositive provisions of which are contained in Section 2.5 herein, the balance of the trust estate not otherwise allocated to the Megatrust as provided in Section 2.4.8 above.

2.4.10 Coordination With Other Documents. If the Grantor has by the use of a formula clause in another document sought to qualify property for the marital deduction, but the Grantor has failed to provide for the order in which the marital deduction dispositions under that other document and this trust are to occur, the Grantor directs the Trustee of this trust to consult with the fiduciary charged with making distributions under the other document to determine whether to take the marital deduction in this trust, or under the other document, or in both, and, if the latter, to what extent it shall be taken in each. If agreement cannot be reached, the Trustee of this trust shall consult with the executor of the Grantor's estate and such executor's decision shall be binding and conclusive.

2.4.11 Tax Apportionment. If any property transferred or made payable to the trust by the Grantor (or by any other person) is included in the Grantor's (or such other person's) gross estate for federal and/or state estate tax purposes, and any federal estate tax or any state estate tax or inheritance tax is due upon the death of the Grantor (or such other person), the Trustees shall, upon certification by the personal representative of the Grantor's (or such other person's) estate, pay over to such personal representative from the portion of the trust estate which will be subject to federal and/or state estate tax, the amount necessary to pay the trust's proportionate share of all estate and inheritance taxes, and any payment shall be charged to principal without apportionment.

2.5 Marital Deduction Trust (Qualified Terminable Interest Property Trust). Upon the death of the Grantor, the trust's assets directed to be distributed according to the terms of the Marital Deduction Trust under this Section 2.5 shall be administered as follows:

2.5.1 Income Payments. The Trustees shall pay to or apply for the benefit of the Grantor's spouse, in quarter-annual or more frequent installments, all of the net income of this trust. Any income accrued but not distributed at the Grantor's spouse's death shall be distributed to the estate of the Grantor's spouse.

2.5.2 Principal Distributions. The Independent Trustee, in its absolute discretion, shall have the power, the exercise of which shall be binding on all remaindermen hereunder, to apply for the benefit of or distribute to the Grantor's spouse so much of the principal of the Marital Deduction Trust (up to the whole thereof) as such Independent Trustee deems appropriate for the Grantor's spouse's benefit, care, comfort, enjoyment, or for any other purposes. In exercising these discretionary powers, such Trustee shall be mindful of the fact that the Grantor's primary concern in establishing this trust is the welfare of the Grantor's spouse, and that the interests of the remaindermen are to be subordinate to those of the Grantor's spouse.

2.5.3 Payment of Grantor's Spouse's Death Taxes, Expenses, Etc. Unless the Grantor's spouse's Will directs otherwise, the Marital Deduction Trust (or, if two trusts are being held pursuant to Section 2.5.4, first from the trust as to which the special election provided by §2652(a)(3) of the Internal Revenue Code is not applicable) shall pay

(or reimburse the Grantor's spouse's estate for paying) all federal estate taxes (including interest and penalties, if any) which it causes (i.e., the difference between what the Grantor's spouse's said taxes were and what they would have been had no part of any Marital Deduction Trust being held hereunder been included in the gross estate of the Grantor's spouse pursuant to §2044 of the Internal Revenue Code) to the full extent provided in §2207A of the Internal Revenue Code. Funeral, last illness, and administration expenses, debts, and other proper charges against the Grantor's spouse's estate may be paid out of the assets of the Marital Deduction Trust to whatever extent the Trustees, in their sole and uncontrolled discretion, deem advisable in the best interest of the beneficiaries generally.

2.5.4 Trustee Guidance. The Grantor anticipates that the Grantor's executor (or the Trustee) may elect under the Internal Revenue Code, or an applicable state death tax law, to qualify all or a portion of the trust created by this Section 2.5 for the federal or state marital deduction. If the executor (or Trustee) shall also make an election pursuant to §2652(a)(3) of the Internal Revenue Code, the Trustee may divide the trust into two fractional share trusts, one as to which the election was made and to which the Grantor's GST exemption was allocated and the second being the balance of the trust principal. If the division is made, the Trustee shall, to the extent possible, pay from the second trust all death taxes on both trusts payable by reason of the death of the Grantor's spouse, and shall make distributions of principal to the Grantor's spouse's from the second trust until that trust is exhausted. If the Grantor's spouse's executor allocates the Grantor's spouse's GST exemption to a fractional share of the second trust, the Trustee may hold such fractional share as a separate trust, or merge it with the first trust.

2.5.5 Provisions Regarding Retirement Assets. Notwithstanding anything herein to the contrary, if retirement plan distributions are payable to the Marital Deduction Trust, the Trustee shall comply with the following guidelines.

A. Form of Distribution. The Trustee may elect to receive distributions from any pension, profit sharing, individual retirement account or other retirement plan ('Retirement Plan') for which the Marital Deduction Trust is named as beneficiary, in installments or in a lump sum, in compliance with the minimum distribution rules of the Internal Revenue Code, if applicable. In addition, the Trustee shall, by the end of the year, withdraw from the Retirement Plan and allocate to the Marital Deduction Trust all income earned on the Retirement Plan assets during the year, if such amount is greater than the required minimum distribution for such year, if the Grantor's spouse so elects. Upon receipt of any distributions or upon withdrawal of any income from the Retirement Plan, the Trustee shall distribute such Retirement Plan distribution or income directly to the Grantor's spouse.

B. Retirement Plan Expenses. In calculating "all income earned by the Retirement Plan," the Trustee shall allocate all Retirement Plan expenses (including income taxes and Trustee's fees) that are attributable to principal appreciation to principal, so that the amount of income earned by the Retirement Plan is not reduced by expenses that are allocable to principal.

2.5.6 Special Power of Appointment at Death of Grantor's Spouse. Upon the death of the Grantor's spouse, the Trustee(s) shall distribute the balance of this trust, including both principal and accrued or undistributed income, to such one or more persons or entities other than the Grantor's spouse, the Grantor's spouse's estate, the Grantor's spouse's creditors or the creditors of the Grantor's spouse's estate, on such terms and conditions, either outright or in trust, and in such proportions as the Grantor's spouse shall "appoint" (i.e., direct the transfer of) by Will or Codicil specifically referring to and exercising this power of appointment. Notwithstanding the foregoing:

A. The Grantor's spouse is expressly prohibited from exercising this special power of appointment, either directly or indirectly, in favor of the Grantor's spouse, the Grantor's spouse's estate, the Grantor's spouse's creditors or the creditors of the Grantor's spouse's estate, and is similarly prohibited from exercising such special power of appointment, either directly or indirectly, in favor of any donee to whom the Grantor's spouse owes a legal obligation to satisfy, in whole or in part, such legal obligation.

B. The special power of appointment shall not apply to any "incidents of ownership" with respect to life insurance policies insuring the life of the Grantor's spouse which are owned by the trust.

2.5.7 Upon the Death of the Grantor's Spouse. Upon the death of the Grantor's spouse, subject to proper provision being made for all of the obligations, payments, and distributions described in Section 2.5.3 above (to the extent provided in that Section), the Trustees shall distribute the then remaining principal of the trust estate, to the extent not effectively appointed pursuant to Section 2.5.6 above, to the trust established in Article III hereof.

ARTICLE III

MEGATRUSTSM DISPOSITIVE PROVISIONS

Upon the death of the Grantor, the trust estate allocated to the trust in this Article III shall be administered as follows:

3.1 During Remainder of Grantor's Spouse's Lifetime. During the remainder of the lifetime of the Grantor's spouse, the trust's assets shall be administered as follows:

3.1.1 Discretionary Distributions of Income and/or Principal. The Independent Trustee, in its sole, absolute and unreviewable discretion (but after taking into consideration all factors, including the purpose of the trust and special guidance provision contained in Section 1.2), shall have the power, the exercise of which shall be absolutely binding on all persons interested now or in the future in this trust, to distribute to or apply for the benefit, enjoyment or use of (herein sometimes collectively referred to as the "benefits") any one or more of the following permissible distributees:

- A. The Grantor's spouse, and/or
- B. The descendants of the Grantor who are then living (even though not now living), including a descendant whose parent or parents are then living,

so much of the income or principal, or both, of the trust estate, in equal or unequal proportions, and at such time or times as such Independent Trustee shall deem appropriate for such beneficiaries' benefit, care, comfort, enjoyment or for any other purposes. Any net income not distributed shall be accumulated and added to principal. In exercising the discretions conferred in this section, the Independent Trustee may pay more to or apply more for some beneficiaries than others and may make payments to or applications of benefits for one or more beneficiaries to the exclusion of others, if such Independent Trustee deems this necessary or appropriate in light of the circumstances, the size of the trust estate and the probable future needs of the beneficiaries.

3.1.2 Special Power of Appointment. At all times after the execution of this Trust Agreement, the Grantor's spouse shall have the power to "appoint" (i.e., to direct the transfer of) any part or all of the net assets of this trust to such one or more persons or entities other than the Grantor's spouse, the Grantor's spouse's estate, the Grantor's spouse's creditors or the creditors of the Grantor's spouse's estate, on such terms and conditions, either outright or in trust, and in such proportions as the Grantor's spouse shall appoint. Such power shall be exercisable (i) during the lifetime of the Grantor's spouse by a writing delivered to one of the then Trustees hereunder specifically referring to and exercising this power of appointment or (ii) upon death by Will or Codicil specifically referring to and exercising this power of appointment. Any date (or dates) or the time of the occurrence (such as the Grantor's spouse's death) may be designated by the Grantor's spouse as the effective date (or dates) of appointment. Notwithstanding the foregoing:

- A. The Grantor's spouse is expressly prohibited from exercising this special power of appointment, either directly or indirectly, in favor of the Grantor's spouse, the Grantor's spouse's estate, the Grantor's spouse's creditors or the creditors of the Grantor's spouse's estate, and is similarly prohibited from exercising such special power of appointment, either directly or indirectly, in favor of any donee to whom the Grantor's spouse owes a legal obligation to satisfy, in whole or in part, such legal obligation.
- B. The special power of appointment shall not apply to any "incidents of ownership" with respect to life insurance policies insuring the life of the Grantor's spouse which are owned by the trust.

3.1.3 After Grantor's Spouse's Death. Upon the death of the Grantor's spouse, any of the property not effectively appointed under the provisions of Section 3.1.2 above shall, without the necessity of physical segregation, be divided into as many equal shares as there are children of the Grantor then living, and children of the Grantor then

deceased leaving descendants then living. The Trustees shall allocate one such equal share for and in the name of each of the Grantor's living children and one such equal share in the name of each of the Grantor's deceased children for the group composed of the living issue of such deceased child. Each share shall constitute the principal of a separate "exempt family trust", the dispositive provisions of which shall be as provided in the rest of this Article III as follows.

3.2 Exempt Family Trust During Remainder of Primary Beneficiary's Lifetime. During the remainder of the lifetime of the child of the Grantor in whose name such trust stands (hereinafter referred to as the "primary beneficiary"), the trust's assets shall be administered as follows.

3.2.1 Discretionary Distributions of Income and/or Principal. The Independent Trustee, in its sole, absolute and unreviewable discretion (but after taking into consideration all factors including the purpose of the trust and special guidance provisions contained in Section 1.2), shall have the power, the exercise of which shall be absolutely binding on all remaindermen hereunder, to distribute to or apply for the benefit, enjoyment or use of any one or more of the following permissible distributees:

- A. The primary beneficiary, and/or
- B. The descendants of the primary beneficiary who are then living (even though not now living), including a descendant whose parent or parents are then living,

so much of the income or principal, or both, of the trust estate, in equal or unequal proportions, and at such times as such Independent Trustee deems appropriate for such beneficiaries' benefit, care, comfort, enjoyment or for any other purposes. Any net income not distributed shall be accumulated and added to principal. In exercising the discretions conferred in this section, the Independent Trustee may pay more to or apply more for some beneficiaries than others and may make payments to or applications of benefits for one or more beneficiaries to the exclusion of others, if such Independent Trustee deems this necessary or appropriate in light of the circumstances, the size of the trust estate and the probable future needs of the beneficiaries.

3.2.2 Special Lifetime Power of Appointment. At all times during the continuance of such trust, the primary beneficiary of such trust shall have the power to "appoint" (i.e., to direct the transfer of) any part or all of the net assets of this trust to or for the benefit of one or more of the group consisting of the primary beneficiary's descendants, and on such terms and conditions, either outright or in trust, and in such amounts and proportions as the primary beneficiary shall appoint by a writing delivered to one of the then Trustees hereunder specifically referring to and exercising this power of appointment. Notwithstanding the foregoing:

- A. The primary beneficiary is expressly prohibited from exercising this special power of appointment, either directly or indirectly, in favor of the primary beneficiary, the primary beneficiary's estate, the primary beneficiary's creditors or the creditors of the primary beneficiary's estate, and is similarly prohibited from exercising such special power of appointment, either directly or indirectly, in favor of any donee to whom the primary beneficiary owes a legal obligation to satisfy, in whole or in part, such legal obligation.
- B. The special power of appointment shall not apply to any "incidents of ownership" with respect to life insurance policies insuring the life of the primary beneficiary which are owned by the trust.

3.2.3 Special Power of Appointment at Death of Primary Beneficiary. Upon the death of the primary beneficiary, the Trustees shall distribute the balance of this trust, including both principal and accrued or undistributed income, to such one or more persons or entities other than the primary beneficiary, the primary beneficiary's estate, the primary beneficiary's creditors or the creditors of the primary beneficiary's estate, and on such terms and conditions, either outright or in trust, and in such proportions as the primary beneficiary shall "appoint" (i.e., direct the transfer of) by Will or Codicil specifically referring to and exercising this power of appointment. Notwithstanding the foregoing:

- A. The primary beneficiary is expressly prohibited from exercising this special power

of appointment, either directly or indirectly, in favor of the primary beneficiary, the primary beneficiary's estate, the primary beneficiary's creditors or the creditors of the primary beneficiary's estate, and is similarly prohibited from exercising such special power of appointment, either directly or indirectly, in favor of any donee to whom the primary beneficiary owes a legal obligation to satisfy, in whole or in part, such legal obligation.

B. The special power of appointment shall not apply to any "incidents of ownership" with respect to life insurance policies insuring the life of the primary beneficiary which are owned by the trust.

3.3 After Primary Beneficiary's Death. Upon the death of the primary beneficiary of such trust, the dispositive provisions of which are set forth in Section 3.2.1 above (or upon its creation after the death of the person who would have been its primary beneficiary) any of the property not effectively appointed under the provisions of Sections 3.2.2 and 3.2.3 above shall be continued in such trust (hereafter referred to as an "exempt interim trust") as follows:

3.3.1 Exempt Interim Trust While There Is a Child of Such Deceased Primary Beneficiary Under Age 23. So long as any of the children of such deceased primary beneficiary are living who are under age 23, the Independent Trustee, in its sole, absolute and unreviewable discretion (but after taking into consideration all factors including the purpose of the trust and special guidance provisions contained in Section 1.2), shall have the power, the exercise of which shall be absolutely binding on all persons interested now or in the future in this trust, to distribute to or apply for the benefit, enjoyment or use of the descendants of the deceased primary beneficiary who are living at the time of such distribution, so much of the income or principal, or both, of the trust estate, in equal or unequal proportions, and at such times as such Independent Trustee deems appropriate for such beneficiaries' benefit, care, comfort, use, enjoyment or for any other purposes. Any net income not distributed shall be accumulated and added to principal. In exercising the discretions conferred in this section, the Independent Trustee may pay more to or apply more for some beneficiaries than others and may make payments to or applications of benefits for one or more beneficiaries to the exclusion of others, if such Independent Trustee deems this necessary or appropriate in light of the circumstances, the size of the trust estate, and the probable future needs of the beneficiaries. When no child of the deceased primary beneficiary is living who has not attained age 23, the net assets of such trust shall be disposed of as provided in Section 3.3.2 below.

3.3.2 Disposition After There Is No Child of Such Deceased Primary Beneficiary Under Age 23. If, upon the death of the primary beneficiary of such exempt family trust (or upon its creation after the death of the person who would have been the primary beneficiary), there is no child of such deceased primary beneficiary then living who has not then attained at least 23 years of age or when no child of the deceased primary beneficiary is living who has not attained age 23, the trust estate shall be divided into as many equal shares as there are children of the deceased primary beneficiary then living, and children of the deceased primary beneficiary then deceased leaving descendants then living. The Trustees shall allocate one such equal share for and in the name of each living child of such deceased primary beneficiary, and one such equal share for and in the name of the group composed of the living descendants of a deceased child of such deceased primary beneficiary. Each such share shall be disposed of as follows:

A. The net assets comprising each share in the name of a then living child of such deceased primary beneficiary shall be transferred to a new separate "exempt family trust" in such child's name, the dispositive provisions of which are set forth in Section 3.4 below, and

B. The net assets comprising each share in the name of a child of such deceased primary beneficiary who is then deceased who has any descendants then living, subject to the charging of advances as provided in Section 3.6 below, shall be governed by Section 3.4 below (and its reference to this Article III and to this Section 3.3), in the same manner as if such deceased child of such deceased primary beneficiary had survived such primary beneficiary, become the primary beneficiary of an "exempt family trust" in his or her name and then died; and each such subshare shall be transferred to an "exempt interim trust" or "exempt family trust" for or in the name of the descendant(s) whose subshare it is (the dispositive provisions of which are set forth in Section 3.2.1 above, or this Section 3.3.2 and Section 3.4 below, depending upon whose subshare is involved).

3.3.3 Disposition If No Descendant of A Deceased Primary Beneficiary. If there are no descendants of such deceased primary beneficiary then living, the Trustees shall determine who is such deceased primary beneficiary's closest ancestor who is either (i) the Grantor or (ii) both (a) was a descendant of the Grantor and (b) has a descendant then living. Such Trustees then shall divide such balance into equal shares, one in the name of each child of such closest ancestor who is then living and one in the name of each such child who is then deceased who has any descendants then living. Finally, such Trustees shall dispose of such shares as follows:

A. The net assets comprising each share in the name of a then living child of such closest ancestor shall be transferred as an addition to (or initially to constitute or reconstitute) an "exempt family trust" in such child's name, the dispositive provisions of which are set forth in this Article III or Section 3.4 below, as the case may be; and

B. The net assets comprising each share in the name of a child of such closest ancestor who is then deceased who has any descendant then living shall be governed by Section 3.4 below (and its reference to Article III, and thus to this Section 3.3), in the same manner as if such deceased child of such closest ancestor had survived such primary beneficiary, become the primary beneficiary of a family trust in his or her name, and then died; and each such subshare shall be transferred as an addition to (or to initially constitute or reconstitute) an "exempt interim trust" or an "exempt family trust" for or in the name of the descendants whose subshare it is (the dispositive provisions of which are set forth in Section 3.2 above or this Section 3.3.3 and Section 3.4 below, depending on whose subshare is involved).

3.3.4 Disposition If No Descendants. If, at any time before full distribution of the trust estate, the Grantor's spouse and all of the Grantor's descendants are deceased and no other disposition of the property is directed by this trust instrument, the remaining portion of the trust shall then be divided into two (2) equal shares, which shall be distributed as follows: one (1) such equal share shall be distributed, outright and free of trust, to JAMIE McELHONE (the Grantor's sister), if she is then living, or if she is not then living, then to her descendants, per stirpes; and one (1) such equal share shall be distributed, outright and free of trust, to JAMES LAFORTE, if he is then living, or if he is not then living, then to his descendants, per stirpes.

3.4 Exempt Family Trust in Lower Generation Beneficiary's Name. The dispositive provisions of each exempt family trust that may at some time be created above in the name of a descendant of the Grantor shall be exactly identical to the dispositive provisions of the exempt family trust for an initial primary beneficiary under Sections 3.2 et seq. (and the family of that beneficiary) as set forth in this Article III except all references therein to "the primary beneficiary" of such trust shall be deemed to refer to such descendant in whose name such trust stands.

3.5 Guidance Regarding Permissible Distributions and Benefits. In exercising the discretionary powers with respect to providing benefits under this Trust Agreement, the Trustees shall be mindful of the fact that the Grantor's primary concern in establishing this trust is the present and future welfare of the Grantor's spouse. In providing benefits hereunder to permissible distributees as hereinabove provided, the Grantor's secondary concern is the present and future welfare of the Grantor's children, and additionally, by way of guidance, the Grantor desires but does not direct that older generations of descendants have priority over lower generations of descendants. Finally, the Grantor requests such Trustees be liberal in conferring benefits hereunder, particularly for the health (after taking into account any private or governmental medical insurance or other medical payments to which such persons may be entitled), education (including the highest forms of education) and reasonably comfortable support of the permissible distributees. Consistent with the objectives of providing liberally for the personal and financial welfare of the beneficiaries, such Trustees are to have broad discretion in planning and making either distributions of trust assets or making the use and enjoyment of trust assets available to the beneficiaries. The Trustees may take into account all factors which such Trustees shall deem relevant, including, but not limited to, immediate and future income and transfer tax consequences (for example, distributions enabling a distributee to make gifts or enabling a substitution of an estate tax for a generation-skipping transfer tax), the beneficiaries' current and anticipated support, education and career and investment objectives and, if and to the extent such Trustees deem it appropriate, the beneficiaries' other resources. Notwithstanding the foregoing, the Grantor desires that the Trustee should not permit a beneficiary who can be reasonably expected to secure his own economic support to become so financially dependent upon the support provided to him by a trust created under this Trust Agreement that he

loses his incentive to become productive in a manner that is reasonably commensurate with a person having the ability and being in the circumstances of such beneficiary.

3.6 Certain Distributions To Be Treated as Advances. In dividing the assets of the trust as provided in Sections 3.3.2 and 3.3.3 above, each share representing a child of the primary beneficiary (whether living or deceased) shall be charged with the total amount of the fair market value on the date of each of all distributions pursuant to Sections 3.1.1, 3.2.1 and 3.3.1 above which have been made to or for the benefit of such child or any of such child's descendants (a) at any time or times subsequent to such child attaining 23 years of age and (b) at any time or times prior thereto, but only to the extent such distributions were designated by the Independent Trustee as having been made to assist such child or descendant to marry, to acquire a home, or to enable such child or descendant to go into a business, vocation or profession; and each such share representing the descendants of a deceased child of the deceased primary beneficiary shall be charged with such descendants' proportionate share of the total amount which would have been charged against the share of such deceased child under this section had such child not died, as well as with the total amount of all such distributions which have been made to such child's descendants at any time or times after the child's death. However, no additional charge shall be made against any such shares for interest on such advances.

3.7 Retirement Plans and IRAs Payable to This Trust. Notwithstanding any provision herein to the contrary, with respect to any retirement plans, IRAs or other vehicles which are paid to one or more trusts herein and which require a designated beneficiary in order to determine the minimum distribution each year, the Grantor intends that the oldest beneficiary of each separate trust be the designated beneficiary of each such trust. In satisfying such intent, no part of any such IRA, retirement plan or other similar vehicle (or the proceeds from an IRA, retirement plan or other similar vehicle), may be appointed by power of appointment to an older beneficiary (e.g., an older spouse) or to a non-individual (e.g., a charity), nor shall such proceeds be distributed to, used for or appointed to an older beneficiary or a non-individual in any other manner that would defeat such intent (e.g., pursuant to Sections 3.3.3 or 3.3.4 hereunder). In the event an older beneficiary would be the recipient or beneficiary of such proceeds pursuant to Sections 3.3.3 or 3.3.4 hereunder, then such older beneficiary shall be treated as deceased at the time of allocation pursuant to Sections 3.3.3 or 3.3.4 hereunder, but only for purposes of allocating such proceeds. In the event a non-individual would be the recipient of such proceeds pursuant to Section 3.3.4 hereunder, then such proceeds shall be distributed to the Grantor's heirs-at-law subject to the limitations under this Section 3.7 regarding an older beneficiary.

ARTICLE IV

GENERATION SKIPPING TAX PROVISIONS

The following shall apply with respect to each trust hereunder.

4.1 Division into Exempt and Nonexempt Trusts. Each family trust and each interim trust created hereunder may be divided into an exempt family trust, a non-exempt family trust, an exempt interim trust or a non-exempt interim trust as provided herein. Notwithstanding the provisions of this Section 4.1, any lifetime transfers by the Grantor or by any other person to the Trustees of any separate trust or trusts hereunder that are not completed gifts for gift tax purposes shall not be divided into exempt and nonexempt trusts until such time as said transfers are completed gifts for gift tax purposes.

4.1.1 Exempt Trusts. In the event any property is to be transferred by the Grantor or by any other person to the Trustees of any separate trust or trusts hereunder (exempt and nonexempt), whether so identified by the transferor or only by reference to the provisions of Section 5.7 below, as an addition to such trusts, but without any specific designation as to which version, exempt or nonexempt, of such trusts is intended to receive such addition, the Trustees making such transfer (including, for this purpose, any other person making such a transfer) shall dispose of such additional property as follows:

A. The Trustees shall allocate on the effective date of such addition (i.e., the date of the transferor's death in the case of postdeath additions or the effective date of the gift or other addition in all other cases) to the "exempt family trust" a fraction of such addition of the trust the denominator of which is the value of the entire addition (as finally determined for federal estate or gift tax purposes) and the numerator of which is the maximum value which can be allocated to the "exempt family trust" without causing the inclusion ratio of "exempt family trust" (for generation skipping purposes) to be other than zero and without causing the inclusion ratio of the nonexempt family trust (for generation skipping purposes) to be other than one.

B. The Trustees shall allocate to the "nonexempt family trust" the remaining fraction, if any, of the trust addition.

4.1.2 Nonexempt Trusts. Except as expressly provided in this Trust Agreement, in all cases in which the Trustees divide the trusts into "exempt family trusts" and "nonexempt family trusts" pursuant to the foregoing direction to do so, the two trusts shall have the same terms and conditions; provided, however:

A. The Independent Trustees shall not make discretionary distributions from the income and/or principal of the exempt family trust to beneficiaries who are "non-skip persons" within the meaning of Section 2613(b) of the Internal Revenue Code until consideration has been given to the advisability of making such distributions out of the nonexempt family trust; and

B. The Independent Trustees shall not make discretionary distributions from the income and/or principal of the nonexempt family trust to beneficiaries who are "skip persons" within the meaning of Section 2613(a) of the Internal Revenue Code until consideration has been given to the advisability of making such distributions out of the exempt family trust.

4.2 Authorization to Create, Modify and Eliminate General Powers. The Trustee (other than a Trustee who is also a beneficiary) with respect to all or any part of the principal of any nonexempt family trust (including pecuniary amounts), by an instrument filed with the trust records, shall have the power in its sole and absolute discretion to:

A. Create a general testamentary power of appointment within the meaning of Section 2041 of the Internal Revenue Code in any beneficiary (including, but not limited to, requiring such power be exercised jointly, or otherwise impose conditions and limitations on its exercise); and

B. Eliminate or modify any such power for all or any part of such principal as to which such power was previously created; and

C. Divide the trust principal into two fractional shares based on the then portion of the trust that would be includible in the gross estate of the beneficiary holding such power if he or she died immediately before such division and each such part shall be administered as a separate trust unless the Trustee, in its sole and absolute discretion, shall thereafter combine such separate trusts into a single trust which it may do.

The power to create, eliminate or modify general powers of appointment may be exercised repeatedly and from time to time. In authorizing such actions, it is the Grantor's hope (but the Grantor does not direct) a general power of appointment will be kept in effect when the Trustee believes the inclusion of the property affected thereby in the beneficiary's gross estate may achieve a significant savings in transfer taxes by having an estate tax rather than a generation skipping transfer tax imposed on the property subject to the general power of appointment or significant income tax benefits. No Trustee shall be liable for any good faith exercise or nonexercise of power to create, modify or eliminate general powers of appointment in the manner prescribed above.

4.3 Authorization to Create Separate Trusts for Different Transferors. The Trustees, in their sole and absolute discretion, shall have the power to divide property in any trust hereunder with different transferors into separate trusts for different transferors, any of which separate trusts may have more than one transferor.

4.4 Power to Augment Distributions. If a Trustee, other than a Trustee who is also a beneficiary of that trust, in its sole and absolute discretion, considers any distribution from a trust hereunder (other than pursuant to a power to withdraw or appoint) a "taxable distribution" within the meaning of Section 2612(b) of the Internal Revenue Code, such Trustee may augment the distribution by an amount which the Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

4.5 Power to Pay Tax. If a Trustee, other than a Trustee who is also a beneficiary of that trust, in its sole and absolute discretion, considers any termination of an interest in trust property hereunder a taxable termination and subject to a generation skipping tax, the Trustees may pay the tax from the trust property to which the tax relates without adjustment of the relative interests of the beneficiaries.

4.6 Generation Skipping "Favorable Interpretation" Clause. All provisions of this Trust Agreement shall be construed to provide for or at least to permit divisions, distributions and administration of trusts and other dispositions in a timely manner consistent with the Grantor's objectives of efficiently using available generation skipping exemptions and that have inclusion ratios of either zero or one and are thus entirely exempt or entirely nonexempt.

ARTICLE V

ADMINISTRATIVE PROVISIONS

5.1 Delivery of Notices and Other Instruments.

A. Any notice or other instrument required or permitted to be given, made, executed, acknowledged or delivered hereunder shall be in writing duly executed by (or, where permitted hereunder, on behalf of) the party or parties giving, making or executing the same and shall be physically delivered or sent by certified or express mail (or equivalent postal or private express service) to all parties, if any, entitled thereto. (When so sent, such notice or communication shall be plainly addressed to such person at such person's last known address.) Any such instrument required to be given or sent to the estate of any deceased or incapacitated person shall be physically delivered or sent, in like manner, to the personal representative (or one of the personal representatives) of such person at such representative's last known address or, if there be no such personal representative known to the sender, to the estate of such person at his or her last known address.

B. If any instrument is sent by mail (or express service) as provided above, the day following the date of its receipt by the postal service (or such express service), as evidenced by a dated postal (or express) service receipt showing the addressee's name and proper address (as described above), shall be deemed to be the effective date of delivery of the notice or other communication contained in such instrument (in all other cases, the date of actual physical delivery shall be the effective date of delivery) and, except as such instrument may specifically provide for a later effective date, it shall be effective for all purposes from such date.

C. Copies of all trust related instruments of amendment, revocation, exercise of power, designation, release, disclaimer, etc., as well as of a Trustee's resignation, removal, appointment and/or acceptance, the original of which shall be attached hereto, shall upon request be delivered promptly or sent by mail by the Trustees receiving or initiating the same to each interested party (i.e., the Grantor, the other then Trustee or Trustees, if any, of the affected trust or trusts, and each present beneficiary of the affected trust or trusts).

D. Until the Trustees shall have received written notice of any birth, death or other event upon which the right to receive payment from the trust estate may depend, they shall incur no liability for disbursements or distributions theretofore made in good faith.

E. Notwithstanding anything herein to the contrary and to the extent permitted by applicable law, the Trustee shall not provide notice of the existence of the trust to any beneficiary hereunder.

5.2 Trust Assets, Records and Reports.

A. From time to time, any one or more of the Trustees may have the care and custody of some or all of the assets comprising such trust. In the event the Independent Trustee does not have custody of all of the assets, then the Trustee with custody of the relevant assets shall fulfill any distribution pursuant to the instructions of the Independent Trustee, whether of principal or of income, to the beneficiaries under the Trust Agreement. Except as specifically provided otherwise in this Trust Agreement, or except where the Trustees decide otherwise, whenever a bank or trust company is acting as a Trustee of any trust hereunder, it shall have the sole responsibility for (i) making all payments of liabilities and administration expenses and (ii) maintaining full and accurate books of account and records of all financial transactions relative to such trust. In the event such corporate trustee does not have custody of all of the assets, then the Trustee with custody of the relevant assets shall fulfill any direction from such corporate trustee to make payments for liabilities and/or administration expenses. Each Trustee having the care and custody of some or all of the assets shall, at least quarterly, provide sufficient information for such corporate trustee to maintain full and accurate books of account and records of all financial transactions relative to such trust. Such corporate trustee shall not be liable for failing to keep or provide accurate books and records in the event the Trustee having the care and custody of some or all of the assets does not provide sufficient information to the corporate trustee. Such corporate trustee shall make the books of account and records of all financial transactions relative to such trust available at all reasonable times for

inspection by the then acting Trustee(s) of such trust, if any, the Grantor, if then living, each then presently vested income, principal and remainder beneficiary of such trust, and their respective representatives. Furthermore, such corporate fiduciary upon request shall furnish to each such person, with respect to each federal income tax accounting year of such trust, a complete beginning and ending inventory (showing both tax cost basis and such Trustee's reasonable estimate of fair market value) and an accounting summarizing all financial transactions for such period, thereby reconciling such ending inventory with the beginning inventory, fully reflecting all principal and income activity including all distributions of every kind. The distribution of the corporate trustee's usual periodic transaction statements for the trust shall satisfy this requirement.

B. During such period of time as there is no corporate fiduciary acting with respect to any trust hereunder, all of the aforesaid record keeping and reporting functions shall be performed by its Trustee or Trustees jointly (unless one shall delegate such functions to the other in the manner provided in Section 7.7).

5.3 Allocation Between Income and Principal.

A. Notwithstanding (i) any local practice or statutory or judicial rules of law to the contrary, nor (ii) any statute that purports to establish principles by which trustees must exercise discretion in making income and principal allocations, the receipts, proceeds, disbursements, accruals, federal income tax deductions, etc. of each trust hereunder shall be allocated between principal and income, and inventory values and depreciation and other reserves shall be established or not established, all as the Trustees of such trust (other than any who might directly or indirectly be financially affected thereby), in their sole discretion, deem:

(1) Expedient in carrying out what they judge would be the Grantor's original intent under the circumstances; and

(2) In accordance with some recognized, but preferably uncomplicated, trust accounting principle with respect thereto (when in doubt, allocations shall be made in such manner as will minimize taxes in the manner described in Section 8.1).

Furthermore, such Trustees are expressly authorized to allocate realized capital gains (i.e., receipts of all kinds treated as capital gains for federal tax purposes), in whole or in part, to income (by entry on the trust's books if, in their sole discretion, such Trustees believe to be in the best interests of the present and future beneficiaries of such trust (treating this as a tax discretion governed by Section 8.1)).

B. The foregoing grant of discretion shall not be limited to uncertainties in the application of local practice or statutory or judicial rules but rather shall grant the Trustees sole and absolute discretion, entirely overriding any and all such practices and rules, including any that may require specific reference to override its effects which are now or may at any time in the future become applicable to any trust hereunder, so that no one shall have standing to challenge the Trustees' discretionary allocations if made in good faith in accordance with the foregoing guidelines. Thus, to that extent, it is intended the Trustees' determinations as to these matters shall be final and binding on all interested parties.

C. If (but only as long as) local law applicable to any trust hereunder deprives its Trustees of the ability to exercise the foregoing discretions (e.g., by requiring such discretions to be exercised in accordance with certain statutory rules except as the trust instrument otherwise expressly provides as to each specific rule), then (i) the allocation of capital gains to income described above shall cease to be discretionary and shall instead be required whenever such allocation apparently will reduce the combined trust/beneficiary income taxes, but only in the case of trusts the income of which is not required to be distributed currently, (ii) carrying values and accounting years shall be the federal income tax cost basis and fiscal years, (iii) receipts, disbursements and other charges shall be allocated in whatever manner which will result in net trust accounting income being equal to "distributable net income" (or similar concept) within the meaning of Section 643(a) of the Internal Revenue Code (as from time to time amended), and (iv) there shall be no delayed income allocation out of the proceeds of unproductive or underproductive property under any circumstances. To

the greatest extent possible, the Trustees' determinations as to all of the foregoing matters shall be final and binding on all interested parties.

D. Upon the death of any income beneficiary hereunder, unless otherwise specifically provided to the contrary above, all trust income, if any, to which such beneficiary would be entitled for the current and three immediately preceding fiscal quarters that has not then actually been distributed shall be added to and disposed of as a part of the corpus of such trust. All income earned between the date of any trust terminating event and the date of actual receipt of the assets of any successor trust (or trusts) shall be treated as a part of the corpus of such successor trust (or trusts proportionately).

5.4 Charging of Advances. Whenever any trust assets are being divided into shares and, under the provisions of this Trust Agreement, the share of any person in such assets is required to be charged with any advance, the actual charging of such advance against such share shall be accounted for on a "hotchpot" basis; that is, as though the amount of such advance (based on the fair market value of the property constituting such advance on the effective date of such advance) was a part of and an increase in the trust assets being divided into shares and as though the amount of such advance had been allocated to and represented a prior partial distribution toward the share of the person who is charged with such advance.

5.5 Allocation of Receivables to Debtor's Share. Whenever any trust assets are being divided into shares and there is included among those assets a promissory note receivable (or similar monetary obligation due the trust involved) which its Trustees determine is owed directly or indirectly by any person who is directly or indirectly a beneficiary of one of those shares, (i) such receivable shall be valued at its then face amount (including accrued but unpaid interest thereon, if any), and (ii) in the making of such division into shares, such receivable(s) shall be allocated at such value to the share in which such debtor has a direct or indirect interest (but only insofar as the size of such share permits such allocation).

5.6 Permitted Methods of Distribution.

A. With respect to any sum or property, whether income or principal, which is required or permitted to be distributed out of any trust hereunder to or for the benefit of any person, whether or not such person is, at the time, a minor and whether or not the Trustees of such trust determine such person to be under any disability preventing such person from acting properly on such person's own behalf (irrespective of whether legally so adjudicated), such Trustees may make distribution of the same in any one or more of the following ways as such Trustees, from time to time, in their sole discretion, shall deem to be most expedient in the best interests of such person; namely, by paying, distributing or applying the same to:

- (1) Such person directly,
- (2) The duly appointed conservator, guardian or committee for such person, if any,
- (3) An apparently qualified individual (other than any donor to such trust) or bank who, in taking the same "as custodian for" such person under the appropriate state's Uniform Transfers to Minors Act,* indicates that such sum or property will be treated in all respects as "custodial property" for the benefit of such person in accordance with the provisions of such act of such state (whether or not such act permits custodial property of such an origin) (*or other uniform gifts to minors or similar act in that state),
- (4) The parent, spouse or other individual having the care and custody of such person (other than any donor to such trust) who, as such person's natural guardian, shall agree to preserve the same for the immediate or ultimate benefit of such person (or such person's estate), but who shall not be obligated to qualify as a legal guardian or account to any probate court therefor,

(5) The Trustee or Trustees of any trust, all of the assets of which are then fully and unqualifiedly withdrawable by such person,

(6) The direct payment of any educational, medical or other proper expense of such person (or any person to whose support or education such person would, in such Trustee's reasonable judgment, normally be expected to contribute), including expenses, such as taxes, repairs, etc., reasonably appropriate to preserving any assets belonging to such person, as long as such expense is not the legal obligation of any other person,

(7) The purchase of stocks, bonds, insurance (the term "purchase" shall include any premium payment), or other properties of any kind, the ownership of which is registered in the sole name of such person, or

(8) The making of a deposit into a bank, savings and loan association, brokerage or other similar account in the sole name of such person,

provided that distribution shall be made in the manner described in subparagraphs (3) and (4) above only if legally enforceable indemnification in favor of such person is received against anyone other than such person (or such person's estate) benefiting thereby (even through the discharge of an obligation to support such person). The receipt for or evidence of any such payment, distribution or application shall be a complete discharge and acquittance of such Trustee to the extent of such payment, distribution or application and, except for enforcement of any above described indemnification, such Trustee shall have no duty to see to the actual application of amounts so paid or distributed to others.

B. Notwithstanding the foregoing, however, where distributions are required to be made to or for the "direct" benefit of a person, only distributions made in the manner described in subparagraphs (1), (5), (6) (except for its parenthetical provision), (7) or (8) above shall be considered to have been made for the "direct" benefit of such person.

5.7 Additions to Trust.

A. At any time during the continuance of each trust (or trust subaccount) hereunder, its Trustees, in their sole discretion, after consideration of the possible tax consequences thereof to all concerned, are authorized to receive additions of cash or other properties to such trust (or subaccount), subject to any conditions to which such Trustees may agree (including holding such addition in a new trust or subaccount), from any source whatsoever without limitation, whether by gift, will or otherwise. However, subject to the trustee disclaimer provisions of Section 6.1M below, the Trustees (or, if any cannot or will not accept title to any particular property, a secondary trust Trustee (appointed pursuant to Section 5.12 below) as to that property) shall accept all assets that may be given or transferred to any trust, subaccount or Trustee hereunder pursuant to (i) any person's last will and testament, (ii) any exercise of any power of appointment, (iii) any beneficiary designation, or (iv) the express provisions of this or any other trust document of any kind (but this provision shall not apply to any particular property the acceptance of which in the sole judgment of the Trustees would carry with it liability in excess of that property's value). Realty may be added to a trust only on the written acceptance of its Trustee; provided, however, subject to the trustee disclaimer provisions of Section 6.1M below, realty added to a trust by the original Grantor who is a signatory to this Trust Agreement shall be accepted by the Trustee without written acceptance, or in the event a Trustee cannot or will not accept title to any particular property, such property contributed by the original Grantor shall be accepted by a secondary trust Trustee (appointed pursuant to Section 5.12 below).

B. Furthermore, at any time any person or persons may designate any trust hereunder as the beneficiary, primary or contingent, of any insurance, pension or other death benefit, relating to the life of anyone (such designation to be presumed to be revocable unless it is expressly irrevocable) and, until such benefit matures by reason of death, the Trustees shall have no responsibilities whatsoever with respect thereto, it being intended, unless and until the trust that is the designated beneficiary of such death benefit becomes the owner of the insurance policy involved (or other source of

such benefit), such trust arrangement shall be operative only with respect to such net proceeds as actually become payable by reason of death.

C. All such trust additions shall (i) include any income earned prior to actual receipt of the addition by the trust, (ii) be added to the principal of the trust, and (iii) thereafter be held, administered and disposed of as a part of such principal in accordance with the provisions of such trust as set forth herein.

D. Notwithstanding any other provision of this instrument, if property is transferred as an addition to any trust hereunder, the Trustee of such transferee trust, in his or her sole discretion, may decline to add such property to that transferee trust and instead hold and administer such property as a separate trust with provisions identical to the transferee trust, in which case such two identical trusts shall nevertheless be completely separate trusts for all purposes (as described in Section 5.9 below). If the transferee trust is one of two similar exempt and nonexempt trusts provided for herein (the provisions of the nonexempt trust being determined in part by reference to the provisions of the exempt trust), the provisions of such separate trust may instead be identical to either the exempt or nonexempt version of the transferee trust as such Trustees (other than any who might individually be financially affected thereby) shall deem most appropriate under the circumstances.

5.8 Use and Enjoyment of Trust Owned Personalty and Realty. Since this trust is a MegatrustSM, the Grantor desires the beneficiaries of the various trusts hereunder be given the liberal "use" and "enjoyment" of the trust property. For that purpose, except to the extent deemed not to be practical or advisable in the sole and absolute discretion of the Trustees, the primary beneficiary (or beneficiaries) of each trust hereunder may use, possess and enjoy (i) all of the tangible personal property at any time held by such trust and (ii) all real property that may at any time constitute an asset of such trust and that could be occupied or used by such beneficiary (or beneficiaries) for residential purposes, whether as a primary residence, seasonal residence or otherwise. Such use, possession and enjoyment may be without rent or other financial obligation and the Trustees of such trust, to the extent of its assets and except as they may be relieved of such obligation by such beneficiary (or beneficiaries), shall see to the timely payment of all taxes, insurance, maintenance and repairs, safeguarding and other charges related to the preservation and maintenance of each and every such property.

5.9 Merger and Severance of Trusts.

A. Should the Trustees of any separate trust under this instrument at any time also be the Trustees of any trust having substantially similar dispositive provisions for the benefit of the same beneficiaries (both present and contingent), whether created under this or some other Trust Agreement, such similar trusts, in the sole discretion of such Trustees and without court approval, may, subject to the restrictions otherwise contained in this Trust Agreement be merged and thereafter administered as one single trust under the trust instrument governing one of such trusts having a limitation on duration provision (see Section 9.1 below) that would not extend the duration of either of the trusts to be merged beyond the period otherwise permitted by its limitation on duration provision.

B. Where such a merger would be thus authorized but for:

- (1) Uncertainty as to whether the dispositive provisions are substantially similar (particularly where differences might be thought to result from differences in administrative provisions) or
- (2) Differences in (i) the identity of the Trustees of such otherwise mergeable trusts or (ii) the wording of the merger provision (or its absence) in such other trust instrument,

the Trustees of each otherwise mergeable trust under this Trust Agreement may, in their discretion, merge such trust into the other mergeable trust, whether under this or some other governing trust instrument, provided only such Trustees first obtain written consent to such merger:

(a) From the then Trustees of the trust into which the trust hereunder is to be thus merged and

(b) From the then beneficiary or beneficiaries (as that term is defined in Section 10.1B.(3) below) of each trust under this Trust Agreement which is to be affected by such merger, acting by majority vote if there be more than one, each such beneficiary being entitled to one vote, such vote to be cast by written ballot signed by such beneficiary, and, for these purposes, if a beneficiary is not then *sui juris*, his or her parent, spouse or legally appointed guardian (in that order of preference) shall take such action in his or her place and stead.

It is specifically provided that paired exempt and nonexempt trusts under this Trust Agreement (e.g., an exempt trust for the benefit of a descendant and a nonexempt trust for the benefit of that same descendant) may, at any time, be merged together under this Paragraph B into either the exempt or nonexempt version of the two trusts as the Trustees of those trusts (other than any who might individually be financially affected thereby) shall deem most appropriate under the circumstances.

C. Where such a merger would be thus authorized but for significant differences in the identity of the contingent remainder beneficiaries of such otherwise mergeable trusts, such trusts instead may be consolidated into a new trust created by the Trustees of such otherwise mergeable trusts under a new trust instrument executed by them having all of the same (or substantially the same) provisions as would apply on such a merger except those provisions relating to contingent remainder interests, which provisions shall be written in such manner as to preserve the relative interests of the different contingent remainder beneficiaries having an interest therein on the basis of the fair market value of the net assets of each trust entering into such consolidation as of the effective date of such consolidation as reasonably determined by such Trustees.

D. The Trustees of any trust hereunder, in the sole discretion of such Trustees and without court approval, may divide that trust at any time (before or after it is funded with assets) into two separate trusts (representing fractional shares of any property being divided as provided in Section 7.12.5 below), the terms of each being identical to those of the divided trust, for any purpose, including having the portions of the trust attributable to transfers from one or more different transferors within the meaning of the generation skipping transfer ("GST") tax law held in separate trusts or having the GST inclusion ratio with respect to each new trust be either one or zero. If a trust is divided into separate trusts, each trust's Trustees may at any time (prior to a later merger of such trusts) (i) make different tax elections, and (ii) expend principal and exercise any other discretionary powers with respect to such separate entities. Further, the holder of any power of appointment with respect to a trust so divided may exercise such power differently with respect to the separate trusts created by the division. The Trustees are hereby exonerated from any liability arising from any exercise or failure to exercise this severance discretion provided such action (or inaction) is taken in good faith.

E. Any merger, consolidation or severance described above shall become effective as of the effective date set forth in a statement of merger, consolidation, or severance signed by all affected Trustees and, where Paragraph B applies, the necessary affected beneficiary or beneficiaries, a copy of which shall become a part of the records of each trust affected by such merger, consolidation or severance. References in this and other instruments to (i) any trust which ceases to exist as a result of such a merger or consolidation shall thereafter be treated as references to the trust into which it was thus merged or consolidated and (ii) any trust which was severed into two trusts shall thereafter be treated as references to the two trusts (in their severance proportions unless some other proportions would, in view of the GST inclusion ratios, be deemed by the Trustees of both trusts to be more appropriate).

5.10 Physical Division of Trust Property Not Required. There need be no physical segregation or division of the various trusts except as may be required by the termination of any of the trusts, but the Trustees shall keep separate accounts for the different undivided interests.

5.11 Consolidated Administration of Separate Trusts. The Trustees may retain the trust estate of any separate trust hereunder in one or more consolidated funds or in any kind of property in which two or more separate trusts and/or

third parties shall have undivided interests and/or make joint investments for two or more separate trusts and/or third parties and loans between one or more such entities, with or without interest, may be evidenced by book entries alone. This provision is solely for the purpose of convenience in administration and nothing herein contained shall destroy the individual character of any such separate trust.

5.12 Secondary Trusts.

A. Anything herein provided to the contrary notwithstanding, if the Trustees of any trust hereunder at any time hold, acquire or wish to acquire as an asset or as assets of such trust (which trust is hereafter in this section referred to as the "beneficiary trust"), any particular property or properties with respect to which any then acting Trustees of such trust cannot or do not desire to hold or to accept legal title, title to that particular property or properties shall thereupon be transferred to and/or taken by one or more individuals who are *sui juris* or a trust institution (or his, her, their or its nominee or nominees) selected and appointed (in a writing accepted by the appointee(s)) by the then acting Trustee or Trustees of the beneficiary trust as the sole Trustee(s) of a separate trust hereunder which shall be known as a "secondary trust," the beneficiary of which shall be the beneficiary trust, and thereafter all such properties shall be held in the secondary trust for the sole benefit of the beneficiary trust.

B. At convenient intervals, but at least quarterly, all of the net receipts of the secondary trust shall be distributed to the beneficiary trust until such time as the secondary trust no longer holds any property whatever and therefore terminates. The Trustee of the beneficiary trust, in carrying out the dispositive provisions of such beneficiary trust as set forth herein, shall have the absolute authority to direct the Trustees of the secondary trust regarding all aspects of the administration of such secondary trust. Such additional funds or properties as the Trustee of the beneficiary trust deems to be necessary from time to time in the administration of a secondary trust may be transferred to the secondary trust by such Trustee from the beneficiary trust.

C. With respect to the properties of a secondary trust, its Trustees and such Trustees alone shall have all and singular the same powers, rights, privileges, elections and discretions and shall be subject to all and singular the same duties, limitations, liabilities and obligations as are conferred or imposed upon the Trustees by this Trust Agreement.

D. The Trustees of each secondary trust should, whenever conveniently possible, be the same person(s) as the then acting Co-Trustee(s) of its corresponding beneficiary trust. In the event of any vacancy in any office of Trustee of a secondary trust, such vacancy shall be filled by an individual who is *sui juris* or a trust institution selected and appointed (in a writing accepted by the appointee) by the then Trustees of its corresponding beneficiary trust.

5.13 Releases, Disclaimers and Renunciations.

A. Notwithstanding any statutory or judicial rule of law or other provisions herein to the contrary, any person entitled to any benefit or granted any power or right of any kind with respect to any trust hereunder may at any time release or disclaim and/or renounce any one or more of said benefits, powers or rights in whole or in part (leaving unaffected any benefits, powers and rights not expressly released, disclaimed or renounced) (i) in any manner provided by law, (ii) by a "transfer" meeting the requirements of Section 2518(c)(3) of the Internal Revenue Code, or (iii) by a written instrument executed by such person with all the formalities of a deed and delivered personally or sent by certified mail to any then acting Trustee of such trust. If such person is then incapacitated or deceased, his or her duly appointed personal representative may instead take such action on his or her behalf (without the necessity of any prior court authorization or approval of any kind). A partial release, disclaimer or renunciation of a power may take the form of a reduction in or limitation on either the objects in whose favor it would otherwise be exercisable or the standards by which it is or may be exercised.

B. If the documentation of such action refers to the action taken as a disclaimer and/or renunciation (and not as a release) and it is effective within the time period allowed by Section 2518 of the Internal Revenue Code, its effective date shall relate back to such prior time, if any, as of which the thus disclaimed and/or renounced benefit, power or right would otherwise irrevocably vest under the terms of this Trust Agreement in such person; provided, however,

that after a distribution of any part of a benefit hereunder has once been accepted or a power or right has actually been exercised (other than merely to effectuate the disclaimer), a purported disclaimer and/or renunciation of such benefit, power or right shall be treated as though it were a release.

C. Except as otherwise expressly provided in this Trust Agreement, to the extent the action thus taken is a release or disclaimer and/or renunciation:

(1) A right or power held in a nonfiduciary capacity shall thereafter be enjoyed and exercisable as though such person had died as of the effective date of such action;

(2) A right to part or all of the income of a trust hereunder, shall thereafter be disposed of as if such person had died as of the effective date of such action (if the trust does not provide for any alternate distribution and/or accumulation of the disclaimed income, it shall instead be distributed at the end of each subsequent calendar quarter to those who would receive the assets of such trust if the trust had terminated as of such quarter end); or

(3) All benefits in and with respect to all (or a part) of any trust hereunder, shall be disposed of as if such person had died as of the effective date of such release or disclaimer and/or renunciation.

5.14 Exercise of Power of Appointment. Where any trust property hereunder is subject to any power of appointment provided for herein which could have been exercised by the holder of that power by a will, such property may be disposed of by its Trustee on the basis that such power has not been thus exercised by will if, 90 days after the death of such holder, the Trustees have no knowledge or notice of any apparently unrevoked will or codicil, purporting to exercise such power; and, if there actually is a will or codicil which, in fact, effectively exercises such power, the appointees thereunder shall have recourse only against the recipients of such property and not against the Trustees (unless such distribution was made by such Trustees in bad faith). To the extent that two or more properly unrevoked exercises of any power of appointment are in conflict with each other, the terms of the most recently executed instrument or instruments shall govern. No will or other instrument shall be effective to exercise any power of appointment provided for herein unless such will or other instrument contains a specific reference to the specific power hereunder which such will or other instrument purports to exercise. No appointment in trust (other than in exercise of a general power of appointment) shall be valid if such trust (or any trust created through it) could continue beyond the perpetuities period specified in Section 9.1. Except for any general power specifically granted herein, which shall be exercisable at all times and in all events, no purported exercise of any power provided for herein shall be effective unless, at the time the instrument of exercise was executed, the person purporting to exercise such power had attained at least the "age of majority" then applicable to him or her and was not incapacitated. No Trustees hereunder shall incur any liability to any person by reason of having made distribution of any trust property subject to any power of appointment provided for herein which may be validly exercisable by the holder's will if such distribution has been made in accordance with the provisions of any instrument duly admitted to probate in any jurisdiction as the valid will or codicil of that person or is otherwise adjudicated to be such person's valid will or codicil by a court of competent jurisdiction. The holder of any power hereunder may appoint less than all of the property subject to such power, either fractionally, by amount, by specific items or otherwise, and may direct the reconstruction of appointed property into other forms of property. Before distributing any property which is subject to a power of appointment hereunder, either in accordance with an exercise or in default of exercise, the Trustees are authorized to require from each person to whom that property is distributable reasonable indemnification against all taxes and other claims which may reasonably be expected to be asserted against the property distributable to that person. Alternatively, the Trustees are authorized to reasonably retain specific assets or an amount, fraction or percentage of that property for a reasonable time as a reserve against those taxes or claims. Unless, by its own terms, it is specifically made irrevocable, each exercise of any power of appointment hereunder shall, at all times prior to the effective date of appointment set forth in the instrument exercising the power, be rescindable by the holder of that power by a similarly executed and delivered instrument of rescission. Distribution pursuant to any proper instrument of appointment shall be made on the effective date of appointment specified therein (or as soon thereafter as reasonably possible).

5.15 Environmental Hazards and Compliance with Environmental Laws.

A. Trustee Authorized to Inspect Property Prior to Acceptance.

(1) Prior to acceptance of this trust by any proposed Trustee (and prior to acceptance of any asset by such proposed, nominated or acting Trustee), such Trustee or proposed or nominated Trustee shall have the right to take the following actions at the expense of the trust estate:

(a) To enter and inspect any existing or proposed asset of the trust (or of any partnership, corporation or any legal entity in which the trust holds an interest) for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance; and

(b) To review records of the currently acting Trustee or of the Grantor (or of any partnership, corporation or any legal entity in which the trust holds an interest) for the purpose of determining compliance with environmental laws and regulations, including those records relating to permits, licenses, notices, reporting requirements, and governmental monitoring of hazardous waste.

(2) The right of the proposed or designated Trustee to enter and inspect assets and records of a partnership, corporation or any legal entity under this provision is equivalent to the right under state law of a partner, shareholder or member to inspect assets and records under similar circumstances.

(3) Acts performed by the proposed or designated Trustee under this provision shall not constitute acceptance of the trust.

(4) If an asset of the trust is discovered upon environmental audit by any proposed or designated Trustee to be contaminated with hazardous waste or otherwise not in compliance with environmental law or regulation, the Trustee may decline to act as Trustee solely as to such asset, and accept the trusteeship as to all other assets of the trust. The court shall appoint a receiver or special trustee to hold and manage the rejected asset, pending its final disposition.

(5) Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to the Trustee.

B. Termination, Bifurcation or Modification of Trust Due to Environmental Liability.

(1) If the trust estate holds one or more assets, the nature, condition, or operation of which is an actual or threatened violation of any federal, state or local environmental law or regulation, the Trustee may take one or more of the following actions, if the Trustee, in the Trustee's discretion, determines that such action is in the best interests of the trust and its beneficiaries:

(a) Modification of trust provisions, granting the Trustee such additional powers as are required to protect the trust and its beneficiaries from liability or damage relating to actual or threatened violation of any federal, state or local environmental law or regulation;

(b) Bifurcation of the trust;

(c) Appointment of a special Trustee to administer any trust property or business which fails to comply with federal, state or local environmental law and regulation; or

(d) Abandonment of such property or business.

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

(3) It is the intent of the Grantor that the Trustee shall have the widest discretion in identification of and response to administration problems connected to potential environmental law liability to the trust estate and the Trustee, in order to protect the interests of the trust, the Trustee and the beneficiaries of the trust.

C. Trustee's powers Relating to Environmental Laws. The Trustee shall have the power to take, on behalf of the trust, any action necessary to prevent, abate or otherwise remedy any actual or threatened violation of any federal, state or local environmental law or regulation relating to any asset which is or has been held by the Trustee as part of the trust estate.

D. Indemnification of Trustee from Trust Assets for Environmental Expenses.

(1) The Trustee shall be entitled to be indemnified and reimbursed from the trust estate for any liabilities, loss, damages, penalties, costs or expenses arising out of or relating to federal, state or local environmental laws or regulations (hereinafter "environmental expenses").

(2) Environmental expenses shall include, but not be limited to:

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

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

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

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

(3) This right to indemnification or reimbursement shall extend to environmental expenses relating to:

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

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

(4) The Trustee shall have the right to be reimbursed for incurred environmental expenses without the prior requirement of expenditure of the Trustee's own funds in payment of such environmental expenses, and the right to pay environmental expenses directly from trust assets.

(5) The Trustee shall have a primary lien against assets of the trust estate for reimbursement of environmental expenses which are not paid directly from trust assets.

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

E. Indemnification of Trustee for Environmental Expenses in Excess of Trust Estate.

(1) If the assets of the trust estate are insufficient, or there is insufficient liquidity on the trust estate to satisfy the obligation of indemnification or reimbursement of the Trustee from the trust estate for environmental expenses (as defined in paragraph D. above), the Trustee shall have the right to request in writing indemnification or reimbursement for such environmental expenses directly from the Grantor (but only with respect to any assets transferred to the trust estate by the Grantor) and the beneficiaries.

(2) Within 30 days of receipt of such written request, the Grantor (but only with respect to any assets transferred to the trust estate by the Grantor) and the beneficiaries shall transfer to the trust estate sufficient liquid assets to comply with such request for indemnification or reimbursement.

(3) Upon the death of the Grantor or of a beneficiary prior to the transfer to the trust estate of such liquid assets as were requested in writing by the Trustee pursuant to this paragraph, the obligation of the Grantor or of such beneficiary to transfer liquid assets to the trust estate shall constitute a lien upon the property of Grantor or of the beneficiary and the Grantor's or the beneficiary's estate, as the case may be, and a legally enforceable debt of Grantor or of such beneficiary.

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

F. Exoneration of Trustee for Acts Relating to Environmental Law. The Trustee shall not be liable to any beneficiary of the trust estate or to any third party for any good faith action or inaction relating to any environmental law or regulation, or for the payment of any environmental expense (as defined herein); provided, however, that the Trustee shall be liable for any such action, inaction or payment which is a breach of trust and is committed in bad faith, or with reckless or intentional disregard of the Trustee's fiduciary obligations hereunder.

G. Allocation of Environmental Expenses and Receipts Between Income and Principal.

(1) The Trustee may, in the Trustee's discretion, allocate between income and principal of the trust estate the following:

(a) Environmental expenses (as defined above); and

(b) Reimbursements or other funds received from third parties relating to environmental expenses.

(2) In making such allocation, the Trustee shall consider the effect of such allocation upon income available for distribution, the value of trust principal, and income tax treatment of such expenses and receipts.

(3) The Trustee may, in the Trustee's discretion, create a reserve for payment of anticipated environmental expenses.

ARTICLE VI

TRUSTEE POWERS

6.1 **In General.** With respect to each trust hereunder, during its existence and until such time after its termination as all of its assets have been distributed, its Trustees, in their discretion, shall have the power and are authorized to:

A. Enter upon and take possession of the trust property and invest and reinvest the same in real, personal and mixed assets, improved and unimproved, tangible and intangible, of any kind and nature whatsoever, foreign as well as domestic, that yield a high rate of income or no current income including, but without limitation, securities issued by an institution that is or may become a Trustee hereunder, common and preferred stocks (regardless of dividend arrearages), leverage type securities, options, puts and calls, fixed income bearing securities (secured or unsecured and notwithstanding default in interest), units of participation in limited partnerships, in real estate investment trusts and/or in common trust funds, investment trust stocks, mutual funds and other securities and investments of any kind, without regard to whether any such securities or investments are of a kind known to exist at the date of this instrument and whether any such investments shall be in (i) unseasoned or fledgling companies or securities that are (a) not listed on any stock exchange or public market nor registered with any securities commission, or (b) subject to contractual, legal or other restrictions (including "investment letter" restrictions), or (ii) oil, gas, and other mineral interests and natural resources, leasehold interests (including agricultural, business, etc.), commodities, currencies, collectibles, insurance and/or annuity contracts of any kind on the life of any person or persons, life estates, remainder interests, etc., not being limited by any present or future investment law and whether or not the same may be regarded by any statute, rule of law or otherwise as being proper investments for Trustees, all without regard to the "prudent man rule," to the relation any such investment may bear to the value of such trust or to the type or character of other investments in such trust, or to the effect such investment may have upon the diversification of the investments in such trust and even though such investment or reinvestment shall be when made or shall thereafter become unproductive of income, unmarketable, risky or speculative; and such investments may be purchased from or made in common with any person or persons notwithstanding that any such person may control such investment and/or may be, directly or indirectly, a beneficiary or a fiduciary hereunder; and any business partially or wholly owned by such trust may separately compensate any fiduciary and/or beneficiary hereunder for any services rendered directly to such business;

B. Retain, for as long as may be deemed desirable, all property in the form in which the same shall be acquired by such trust, without regard to any trust investment rules of any kind nor to the proportion that any one asset or class of assets may bear to the whole and without liability for any loss that may be incurred thereby;

C. Open checking, savings, custody, agency and cash and margin brokerage accounts and safe deposit boxes with any institution(s) empowered to accept the same, including any that may be a Trustee hereunder, either (i) in their names or any of their names (with or without disclosing fiduciary capacity), (ii) in the name of such trust (where an account is in the name of a trust, checks on that account and authorized signatures need not disclose the fiduciary nature of the account or refer to any trust or Trustee), or (iii) in the name of such trust's nominee(s), depositing therein any part or all of the funds and securities of such trust, and withdrawals therefrom and access thereto shall be permitted on the signature of any one or more of the Trustees and/or nominees, with the right and power to authorize withdrawals and/or access on the sole signature of any agent or agents designated in writing by such Trustees;

D. Employ such accountants, custodians, experts, counsel (legal and/or investment), and other agents as may be deemed advisable (notwithstanding such person or entity may be, or be affiliated in business with, any Trustees hereunder) and delegate discretionary powers to and rely upon information or advice furnished by them;

E. Sell (either for cash or partly for cash and partly on credit for any period, with or without security), option, convey, exchange (whether or not of like kind or similar use), lease (for any length of time regardless of the possible or actual prior termination of any trust), partition, plat, rezone, subdivide, improve and/or develop (and, where appropriate, dedicate for public use, demolish, construct, alter, reconstruct, change, etc.), repair, manage, operate or otherwise enter upon contracts or agreements regarding, deal with or dispose of any part or all of the trust property,

whether real, personal or mixed, at any time, for any purpose or purposes, in any manner, either public or private, and upon any terms and with any party, including any who may be, directly or indirectly, a beneficiary or a fiduciary hereunder or an estate or trust of or for such a person;

F. Abandon or demolish any trust property deemed to be of insufficient value to warrant the expense of retention or abstain from the payment of taxes, liens, rents, assessments, repairs, etc. on such property and/or permit such property to be lost by tax sale, foreclosure or other proceedings, by conveyance for nominal or no consideration, or to charity;

G. Grant or release easements or charges of any kind (with or without consideration), effect and carry insurance (protecting against such hazards and liabilities as may be deemed advisable), renew or extend, amend, change or modify leases, grant options to lease and options to renew leases, all on such terms and conditions as may be deemed advisable and to pay any and all expenses in connection therewith;

H. Exercise or not exercise or otherwise deal with any and all options of any kind;

I. Vote, deal or consent, in person or by proxy (with or without power of substitution), including electing any Trustee or an employee or officer of any Trustee as a director or officer of any corporation, with respect to any securities, including those of companies in which a Trustee may, directly or indirectly, have an interest of any kind;

J. Form or cause to be formed, alone or with others, such corporations, partnerships, limited partnerships and other business organizations organized under the laws of any state or country and to transfer and convey to such business organizations all or any part of the assets, real or personal, of any trust estate in exchange for such stocks, bonds, notes, other securities or interests of such business organizations as the Trustees, in their absolute discretion, may deem advisable;

K. Rent office space, whether or not from, or in conjunction with any other such space being used by, any beneficiary hereunder, or any relative of the Grantor or of any beneficiary hereunder, or any fiduciary hereunder in his, her or its individual capacity, and to pay the expenses thereof from the principal of the respective trust estate;

L. Enforce, abandon, adjust, arbitrate, compromise, sue on, prosecute and/or defend, and otherwise deal with and settle, on such terms as such Trustee(s) in good faith may deem advisable, even if the result would substantially diminish the trust property and/or materially affect the trust plan (whether or not with concurrence of the beneficiaries), any and all claims in favor of or against such trust, including those relating to tax matters;

M. Exercise all tax related elections and choices they may have (whether or not specifically referred to in Section 8.1) including (i) the disclaimer of benefits receivable by such trust in any manner permitted by law or by a "transfer" meeting the requirements of Section 2518(c)(3) of the Internal Revenue Code, and (ii) the entering into of closing agreements relating to any trust matters (which shall be binding on all present and future trust beneficiaries), and to pay any income or similar tax properly imposed on or to be borne by such trust and any estate, inheritance, succession, generation-skipping or other similar tax that, under applicable tax and apportionment laws, is properly imposed upon or with respect to any property held (or being distributed) hereunder, such payment to be charged to such property;

N. Borrow money for the payment of taxes, the exercise of options, or for any other purpose or purposes whatsoever, from any source, including the commercial department of any corporate trustee hereunder, on the general credit of any trust property, and to pledge or mortgage any or all of said property as security for the repayment of such loans and/or of any loan, new or old, from any third party to any beneficiary hereunder and/or to any trust, estate or company in which any beneficiary and/or any trust hereunder has an interest, and to guarantee any such third party loans, and to pay interest on and to renew, extend, modify, reduce and/or pay off, from time to time, any such indebtedness incurred by such Trustee(s) or any of their predecessors in interest;

O. Loan money to anyone, including any beneficiary of that trust or of any trust hereunder (including any

beneficiary who may at the time also be a fiduciary hereunder), or to any estate, trust or company in which such person or any trust hereunder has an interest, for any purpose whatsoever, with or without security and at such rate of interest as the Trustee(s) of such trust shall determine in the exercise of reasonable fiduciary discretion, and, with respect to such loans and/or security interests, to renew, extend, modify and grant waivers;

P. Make, execute and deliver any and all such instruments in writing as shall be necessary and proper to carry out any disposition whatever of any trust property;

Q. Carry securities or other properties requiring or permitting of registration or recording in their names, in any one of their names, in the name of their nominee or nominees (with or without designation of fiduciary capacity), or unregistered (or in such form as will pass by delivery);

R. Exercise, in general, all such control and power over the trust property as an individual might exercise with respect to his or her own property;

S. Compromise, submit to arbitration, release with or without consideration or otherwise adjust claims in favor of or against any trust;

T. Institute, compromise and defend actions and proceedings;

U. Hold, retain, purchase or sell legal life estates, interests for a term of years, or remainder interests, regardless of whether they yield a reasonable rate of return or no current return, whether or not they result in the preservation of principal, and whether or not the same may be regarded by any statute, rule of law or otherwise as being proper for Trustees. Such investments may be purchased from or made in conjunction with any persons notwithstanding that any such person may control such investment and/or may be, directly or indirectly, a beneficiary or a fiduciary hereunder. The purchase or sales price for any transactions hereunder may, but need not, be determined under the Treasury Department Regulation Section 25.2512-9, as amended, or any successor regulation or tables;

V. In addition to all other powers herein granted to the Trustees, the Trustee of each trust created hereunder is specifically authorized to hold and maintain any residence (whether held as real property, condominium or cooperative apartment) for the use and benefit of the beneficiaries of any trust. If the Trustees, in their sole and absolute discretion, determine that it would be in the best interests of the beneficiaries of any trust to maintain a residence for their use but that the residence owned by the Trustees should not be used for such purpose, the Trustees are authorized to sell said residence and to apply the net proceeds of sale to the purchase of such other residence or to make such other arrangements as the Trustees, in their sole and absolute discretion, deem suitable for the purpose. Any proceeds of sale not needed for reinvestment in a residence as provided above shall be added to the principal of this trust and thereafter held, administered and disposed of as a part thereof. The Trustees are authorized to pay all carrying charges of such residence, including, but not limited to, any taxes, assessments and maintenance thereon, and all expenses of the repair and operation thereof, including the employment of domestic servants and other expenses incident to the running of a household for the benefit of the beneficiaries of the trust. Having in mind the extent to which funds will be available for expenditure for the benefit of the beneficiaries, the Trustees are authorized to expend such amounts as they, in their sole and absolute discretion, shall determine to maintain the current lifestyle of the beneficiaries, including, but not limited to, complete authority to provide for their personal care and comfort in any manner whatsoever; and

W. Amend this trust instrument or any trust created hereunder to enable any such trust to qualify as an eligible shareholder of a S corporation as described in Sections 1361(c)(2)(A)(i), 1361(d)(3) or 1361(e) of the Code, as the case may be.

The foregoing powers, as well as those now or hereafter conferred upon Trustees generally and those set forth in the following sections of this Article, may be exercised by such Trustees in such manner as they, in their sole judgment and discretion, deem appropriate under the then circumstances (insofar as they can be reasonably ascertained by such Trustees) to carry out the trust purposes of protecting and conserving property for the beneficiaries, all without obtaining

authority therefor from any court. No person dealing with the Trustees shall be bound to see to the application or disposition of cash or property transferred to or upon the order of the Trustees or to inquire into the authority, validity or propriety of any action of the Trustees.

6.2 “Prudent Person” Rule. In addition to the investment powers conferred above, the Trustees are authorized (but are not directed) to acquire and retain investments not regarded as traditional for trusts, including investments that would be forbidden by the “prudent person” rule. The Trustees may, in their sole discretion, invest in any type of property, wherever located, including any type of security or option, improved or unimproved real property, and tangible or intangible personal property, and in any manner, including direct purchase, joint ventures, partnerships, limited partnerships, corporations, mutual funds or any other form of participation or ownership whatsoever. In making investments, the Trustees may disregard all of the following factors:

- A. Whether a particular investment, or the trust investments collectively, will produce a reasonable rate of return or result in the preservation of principal.
- B. Whether the acquisition or retention of a particular investment, or the trust investments collectively, is consistent with any duty of impartiality as to the different beneficiaries. The Grantor intends no such duty shall exist.
- C. Whether the trust is diversified. The Grantor intends no duty to diversify shall exist.
- D. Whether any or all of the trust investments would traditionally be classified as too risky or speculative for trusts. The entire trust may be so invested. The Grantor intends the Trustees to have sole discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy.

The Grantor's purpose in granting the foregoing authority is to modify the prudent person rule insofar as the rule would prohibit an investment or investments because of one or more factors listed above, or any other factor relating to the nature of the investment itself. Accordingly, the Trustees shall not be liable for any loss in value of an investment merely because of the nature of the investment or the degree of risk presented by the investment, but shall be liable if the Trustees' procedures in selecting and monitoring the investment are proven by affirmative evidence to have been negligent, and such negligence was the proximate cause of the loss.

6.3 Properties and Companies Owned in Common with Others. The Trustees of each trust hereunder are specifically authorized, with or without the joinder of other owners of property or securities related to any that may be held in such trust (and notwithstanding that one or more such other owners may be, directly or indirectly, a beneficiary or a fiduciary hereunder), to enter upon and carry out any plan (i) for the foreclosure, lease or sale of any trust property, (ii) for the consolidation or merger, dissolution or liquidation, incorporation or reincorporation, recapitalization, reorganization or readjustment of the capital or financial structure of any corporation, company or association, the securities of which, whether closely held or publicly traded, may form a part of such trust, or (iii) for the creation of one or more holding companies to hold any such securities and/or properties (even if it leaves, following the termination of such trust, a trust beneficiary as a minority shareholder in such a holding company), all as such Trustees may deem expedient or advisable for the furtherance of the interests of such trust and the carrying out of the Grantor's original intent as to such trust and as to those properties and/or securities. In carrying out such plan, such Trustees may deposit any such securities or properties, pay any assessments, expenses and sums of money, give investment letters and other assurances, receive and, subject to the requirements of Section 6.13 below, retain as investments of such trust any new properties or securities transferred or issued as a result thereof, whether or not the same may be regarded by any statute, rule of law or otherwise as being proper investments for Trustees, and generally do any act with reference to such holdings as might be done by any person owning similar securities or properties in his or her own right, including the exercise of conversion, subscription, purchase or other rights or options, the entrance into voting trusts, etc., all without obtaining authority therefor from any court.

6.4 Authority to Operate Businesses. If an interest in any business, whether in the form of a general or limited partnership or sole proprietorship, at any time becomes an asset of any trust hereunder (by purchase, gift, the entrance of the trust into such business or otherwise), its Trustees shall have the authority to engage in and to continue such trust in such business for such period, without limit, as such Trustees, in their sole judgment, may deem best for such trust (but only as long as such activity does not constitute "carrying on business" within the meaning of the federal tax laws defining associations taxable as a corporation) and, for that purpose, such Trustees may retain and employ the capital in said business that shall at the time of trust acquisition be committed thereto or employed therein and such additional capital as such Trustees, in their sole judgment, shall think fit to advance from time to time out of such trust's other resources, whether for continuation or expansion or any other purpose; and such Trustees, in their sole discretion, may incorporate a part or all of said business (or any investment held in such trust) in one or more corporations, with whatever capital structure may be deemed appropriate, alone or with others, in any jurisdiction, and/or form partnerships in which such trust may be a general or limited partner, and/or enter into joint ventures or associations with others on such terms as may be deemed appropriate, and/or enter into agreements respecting voting rights, management, incentive compensation, profit sharing, future sale or retention, etc., all without obtaining authority therefor from any court, and such Trustees, while acting in good faith, shall be free from any responsibility for losses arising in the prosecution of such business.

6.5 Mineral and Oil and Gas Operations. With respect to any and all mineral and oil and gas interests of any kind, regardless of where located, that may at any time form a part of or be acquired by any trust hereunder, the powers and discretions herein granted to Trustees shall be broadly construed, regardless of technical terminology, to permit any contract, act or thing that may be deemed by the Trustees of such trust to be advantageous to such trust, whether or not the same be now or hereafter recognized as common or proper practice by or among those engaged in the business of prospecting for, developing, producing, processing, transporting and/or marketing any such minerals, properties or interests. Without limiting the generality of the foregoing, such Trustees are also specifically authorized and empowered, in their sole discretion as they may deem necessary or desirable, with respect to any and all such interests, to:

A. Pay all delay rentals, lease bonuses, royalties, overriding royalties, bottom hole or dry hole contributions, local taxes and assessments and all other proper charges;

B. Make farm out agreements, engage in secondary recovery operations and enter into and execute pooling and/or unitization agreements and/or agreements for the installation and/or operation of absorption, repressuring and/or other processing plants;

C. Retain, sell, assign, transfer, lease, exchange, mortgage, pledge or otherwise hypothecate, surrender or abandon, with or without condition, either in cash or in kind, any or all of such interests (including making reservations and exacting conditions on the transfer of any such interests);

D. Drill, test, explore, mine, develop, operate and otherwise exploit, directly or by contract with others, any and all such interests to any extent;

E. Produce, process, sell or exchange all products recovered through the exploitation of such interests;

F. Exercise, in accordance with their best judgment, any right, power or privilege (including, but not by way of limitation, the right to consent to participate or to not participate in wells to be drilled) the Trustees or any predecessor in interest may have under any agreement that may have been entered into in connection with any of such interests;

G. Select, employ and enter into any appropriate business form in which to exploit properly such interests, including corporations, partnerships, limited partnerships, mining partnerships, joint ventures and co-tenancies;

H. Hire all necessary personnel, rent office space, buy or lease office equipment, contract and pay for geological surveys and studies, procure appraisals, rely on expert advice and generally conduct and engage in any and all activities incident to the foregoing powers set forth in Paragraphs A through G, inclusive, with full power to borrow and pledge in order to finance such activities; and

I. Exercise broad and liberal discretion in making allocations under Section 5.3 above notwithstanding the technical nature of any receipt or disbursement, notwithstanding any local law or custom to the contrary, and without being required to allocate to principal any reserve for depletion.

Such Trustees are further hereby granted any other power they deem necessary in order to conserve, develop, exploit and administer the interests described in this section, including the power to dispose of such interests in any manner and at any price, either in cash or in property, that they, in the exercise of their best judgment, deem reasonable at the time of such disposition. All fiduciaries hereunder shall be exonerated from liability for honest errors in judgment in connection with the exercise of the powers described in this section.

6.6 Agricultural Realty and Farming Operations. With respect to any real property used or useable for agricultural purposes and/or farming operation of any kind, regardless of its nature, that may at any time become an asset of any trust hereunder, its Trustees shall have the authority to:

A. Operate all property and interests in property relating to such operation with hired labor, tenants and/or sharecroppers (including any who may be a beneficiary, Trustee and/or the Grantor hereunder), as such Trustees from time to time deem best;

B. Hire a farm manager or professional farm management service to supervise such operation or operations;

C. Lease or rent land, equipment and/or livestock for cash or on shares, either to others or from others (including related parties and/or Trustees);

D. Sell, purchase, exchange and/or otherwise acquire or dispose of farm machinery, livestock, farm products, crops, timber, supplies and services used in connection with the property or any acreage or parcel of real estate constituting farm property;

E. Remove, construct, repair and improve fences, structures and buildings of all kinds on the property;

F. Fertilize, terrace, clear, level, ditch and/or drain farm lands;

G. Install irrigation systems, carry on reforestation and, in general, follow soil conservation and other practices designed to conserve, improve and maintain the fertility and productivity of the soil;

H. Enter into agreements and/or programs with any governmental agency relating to soil conservation, acreage reduction, agricultural, recreational or other similar purposes;

I. Carry on both crop and livestock programs, including the breeding, raising, purchasing and/or selling of livestock and any other farm products whatsoever; and

J. Borrow money and pledge harvested or growing crops, timber or livestock and mortgage or pledge farm property of any kind.

Regarding all such agricultural real property and farming operations, no Trustee shall be liable for any losses except as such losses are caused by that Trustee's bad faith or intentional misconduct. Furthermore, during such time as there is a Family Trustee acting with respect to any trust that owns or leases real property used or useable for agricultural purposes or that is thus involved in farming operations, that Family Trustee shall completely control and manage all of such trust's agricultural real property and/or farming operations and the Independent Trustee of such trust shall not have any responsibility whatsoever with respect to such property and/or operations (except to approve acts of self dealing under Section 6.11 below), and to receive amounts of cash due the income or principal accounts of such trust from such property and/or operations and to provide such Family Trustee with all funds such Family Trustee calls for, either from the income or principal account of such trust, in connection with such property and/or operations.

6.7 Assistance to Estates and Trusts of Interested Persons. The Trustees of each trust hereunder are authorized, in the exercise of their discretion, to purchase and retain, as a trust investment, securities or other properties, for a fair consideration in money or money's worth, from the fiduciaries of the estate (and/or revocable trust) of the Grantor, the Grantor's spouse and each of the Grantor's descendants (and each of their spouses), from the fiduciaries of each other separate trust hereunder, and from the fiduciaries of the estate (and/or revocable trust) of each deceased beneficiary of each trust hereunder (and each of their spouses) and to make loans to such fiduciaries, with or without security and at such rate of interest or no interest, all as such Trustee(s) shall determine to be appropriate in carrying out what they alone judge would be the Grantor's original intent under the circumstances. The propriety of any such purchase and/or loan and of the terms thereof shall not be questioned merely because any of the fiduciaries or beneficiaries of such estate or trust may also be a Trustee hereunder.

6.8 Power of Trust Protector to Change Beneficiaries. Until the death of the Grantor, the Trust Protector, acting in a non-fiduciary capacity, is authorized, at any time and from time to time, in such Trust Protector's sole and absolute discretion, by a signed writing delivered to each Trustee, to:

A. Declare that the person(s) or members of a class named or specified (whether or not ascertained in such declaration) who are, would be or might become (but for this Section) a beneficiary: (i) shall be partially excluded from future benefits hereunder, or (ii) shall cease to be a beneficiary hereunder.

B. Add to the class of beneficiaries of any trust under Article II hereof, the Grantor, the Grantor's spouse, a descendant of the Grantor, JAMIE MELHONE and/or a descendant of JAMIE MELHONE, and JAMES LAFORTE and/or a descendant of JAMES LAFORTE; provided, however, that the Trust Protector may not add to such class of beneficiaries the Trust Protector, the Trust Protector's estate, the Trust Protector's creditors, the creditors of the Trust Protector's estate or a descendant of the Trust Protector. Any such addition so made shall name or describe the persons(s) or class(es) of persons to be added and shall specify the date from which such person(s) or class(es) of persons shall be added and the period for which he or they shall be added. Any additional beneficiaries shall be subject to the same trust terms of Section 2.4.1 in the same manner as an original beneficiary of the trust.

Any such declaration shall be revocable during the continuance of this trust in the discretion of the Trust Protector, and shall have effect from the date specified in the declaration. The Grantor hereby directs that the determination of the Trust Protector as to any such action authorized under this Section shall be conclusive and binding on all persons interested or claiming to be interested under this Trust Agreement. The Trust Protector shall incur no liability by reason of any action or inaction related to any powers of the Trust Protector under this Section 6.8. The Trust Protector may, at any time, release this power with respect to any trust. Any release under this section shall be irrevocable and shall be made by an instrument in writing signed by the Trust Protector and delivered to each other Trustee of the trust with respect to which this release applies. The Grantor recognizes that the Grantor may be taxed on the trust income that is not distributed to the Grantor. The Independent Trustee is authorized from time to time to pay to the Grantor, or to the legal representatives of the Grantor's estate, such amounts as the Grantor or such legal representatives shall certify as being required to discharge the Grantor's tax liability (whether federal, state or otherwise) in respect of income realized by the trust and not

distributed to the Grantor; provided that this authority shall not be exercised pursuant to this Article or applicable state law if it conflicts with the intent of the Grantor as stated in Article II hereof.

6.9 Reacquisition of Trust Assets. The Grantor at any time or from time to time may acquire or reacquire any portion of the trust fund of any trust by substituting therefor other property of an equivalent value, valued on the date of substitution. Notwithstanding any other provision of this Trust Agreement, the Grantor may exercise this power without the consent of the Trustees. Although this power is exercisable by the Grantor in a nonfiduciary capacity without the consent of any of the Trustees, the Trustees, if the Trustees believe that the property the Grantor seeks to substitute for trust property is not in fact property of equivalent value, shall seek a determination by a court of competent jurisdiction to assure that the equivalent value requirement of this provision is satisfied. The Grantor, at any time, may release this power with respect to any trust. Any release under this Section shall be irrevocable and shall be made by instrument in writing signed by the Grantor and delivered to each Trustee of the trust with respect to which the release applies. The Grantor recognizes that the Grantor may be taxed on the trust income that is not distributed to the Grantor. The Independent Trustee is authorized from time to time to pay to the Grantor, or to the legal representatives of the Grantor's estate, such amounts as the Grantor or such legal representatives shall certify as being required to discharge the Grantor's tax liability (whether federal, state or otherwise) in respect of income realized by the trust and not distributed to the Grantor; provided that this authority shall not be exercised pursuant to this Article or applicable state law if it conflicts with the intent of the Grantor as stated in Article II hereof.

6.10 Enlarged Investment Perspective. The investment policy of each Trustee hereunder shall be based primarily on the long term best interests of the person or persons who, at the time, are entitled to trust income and only secondarily on the interests of remainder beneficiaries. If any Trustee considers it appropriate to determine the proportion of trust properties to be invested in (i) equities, and (ii) "fixed dollar" type assets, consideration should also be given to the amount and nature of all assets and means of support available from all sources to each income beneficiary to the extent known (even to the point of having all trust investments in one or the other type of holding). The soundness of trust investments shall be judged not on the basis of individual assets nor on the basis of the trust estate alone, but on the broader basis of each income beneficiary's economic circumstances as a whole, including said trust estate.

6.11 Permitted Self-Dealing. Financial transactions, both direct and indirect, between any trust or any entity wholly or partially owned by this trust and any of the Trustee(s), beneficiaries and/or grantors of that trust (including, for instance, the purchase, sale or leasing of property, investments in mortgages, acquisitions of life insurance policies, employment in any capacity, lending, etc.), whether or not specifically described in this article as permitted between such parties, except to the extent expressly prohibited by this instrument, are hereby expressly authorized, notwithstanding any rule of law relating to self dealing, provided only the Trustee(s), in thus acting either on behalf of or with or for such trust, shall act in good faith to assure such trust receives in such transaction adequate and full consideration in money or money's worth. The compensation to which a Trustee is entitled under this Trust Agreement shall not be reduced or offset by reason of receiving sales or other fees or commissions on property sold to the trust by a Trustee (directly or indirectly), which sales are hereby authorized.

6.12 Certain Trustee's(s) Limited Power of Amendment.

A. In the case of each separate trust at any time in existence hereunder, such trust's then Trustee(s), other than any (i) who has ever made a gift transfer to such trust, or (ii) who is prohibited by the provisions of Paragraph C. below from participating in the amendment involved, from time to time may, notwithstanding any other provision of this instrument, amend or restate this instrument, including its dispositive, administrative and other provisions of all kinds, in order to permit such Trustees:

- (1) To cope with tax and/or other circumstantial changes that may affect such trust and/or its beneficiaries,
- (2) To take advantage of changed trust drafting approaches to coping with potential trust problems, and/or

(3) To remove from the governing trust instrument any provisions which have become "deadwood" (i.e., no longer operative in the ongoing administration of such trust due to changed circumstances)

with respect to (i) such trust, and (ii) all trusts that are subsequently to come into existence under this instrument to hold part or all of the assets of such trust, in whatever way or ways, such Trustees, in the exercise of such Trustees' sole discretion, may deem appropriate in the best interests, as interpreted by such Trustee(s) alone, of the primary beneficiaries of such trust(s) and of each such beneficiary's family as a whole. Such Trustees shall be guided by what, in the sole judgment of such Trustees alone, would apparently be the Grantor's original intent hereunder in the light of the changed circumstances.

B. The power of amendment described in Paragraph A above shall include, by way of example and not limitation, the power to:

(1) Grant, reduce or eliminate general (as defined in Section 2041 of the Internal Revenue Code) and special powers of appointment with respect to part or all of any trust property (such powers may be made subject to any conditions or consents and limited to such objects as may be described in the grant or reduction of each power);

(2) Add mandatory distribution or set aside provisions for one or more beneficiaries or permissible distributees;

(3) Divide a trust into separate trusts or merge separate trusts together;

(4) Provide for the creation of one or more separate subaccounts (equivalent to a separate trust) in any trust hereunder with respect to which such subaccounts are more restrictive or other administrative or dispositive provisions are made applicable in order to permit some or all of the properties or interests that may at any time be held in or allocable to that trust to be segregated and transferred to that subaccount to achieve some tax or other benefit that would otherwise not be available to such property or interest or to the primary beneficiary or one or more of the other current beneficiaries of that trust (such as, by way of example and not limitation, to permit (i) such property, interest or beneficiary to qualify for some governmental or tax benefit, generation-skipping transfer tax exemption or IRC Section 2032A election, (ii) a disclaimer to be made, or (iii) shares of stock held in such subaccount to be a qualifying stockholder in an S corporation, and so on); and

(5) Restrict in any way, revocably or irrevocably, the future exercise of any power held by any beneficiaries and/or Trustee(s) hereunder.

C. Notwithstanding the foregoing, however, under no circumstances (i) shall any Trustee, who is also a beneficiary of any such trust, participate in any amendment which may result in such Trustee beneficiary receiving any direct or indirect financial benefit from any such trust, nor (ii) shall any such amendment:

(1) Extend the period of any such trust's existence beyond the already applicable rule against perpetuities limitation period specified in Section 9.1;

(2) Diminish in any way (that is not controlled by the beneficiary) any enforceable right any beneficiary may already have (under the then terms of this instrument) to receive the income of any trust, currently or at any time in the future (but, to the extent an amendment benefits or grants a power to a current beneficiary of any trust, it may diminish the rights of one or more beneficiaries to receive in the future the income of that trust or of any trust subsequently to come into existence to hold part or all of the assets of that trust);

(3) Reduce in any way the restrictions and limitations on (i) grantor and fiduciary actions as set forth in Section 2.3 above and Section 7.10 below, (ii) the Trustee's(s)' limited power of amendment under this Section 6.12, and (iii) who (or what institutions) can qualify to fill any office of Trustee hereunder as set forth in Article VII below, unless such reduction of restrictions and/or limitations will not have any adverse tax effect on such trust or any of its beneficiaries (all of which provisions, referred to in (i), (ii) and (iii) above, however, may be amended, irrevocably and binding on successors, to increase such restrictions and limitations in any way such amending Trustee(s) may deem appropriate);

(4) Give (i) any Trustee any powers or discretions that are either granted exclusively to a Co-Trustee or from the exercise of which such Trustee is excluded for any reason, nor (ii) anyone acting in a nonfiduciary capacity any powers granted herein to fiduciaries unless, in either case, such amendment will not have any adverse tax effect on such trust or any of its beneficiaries;

(5) Result in any direct or indirect financial benefit to anyone who is not at the time of such amendment both (i) a member of the Grantor's family within the meaning of Section 2701(e)(1) of the Internal Revenue Code (as it reads on the date of this instrument), and (ii) already a present or contingent beneficiary of such trust(s) (unless it is to provide for afterborn or afteradopted children of any such beneficiary), except through the exercise of a power of appointment held by or granted to a person described in (i) and (ii) above;

(6) Discriminate in any significant financial way in favor of one or more siblings to the detriment of any other sibling(s) where such siblings are, under the terms of this instrument, to be treated in substantially equal fashion (for this purpose treating each sibling, his or her spouse and descendants, and their spouses as one unit); nor

(7) Make any change that would have the effect of disqualifying any such trust insofar as such trust, prior to such amendment, otherwise qualified for and was in fact already taking advantage of, while such advantage otherwise will continue, (i) any exemption from a surviving spouse's elective right or from any creditor's right to levy on any beneficiary's interest in any such trust, or (ii) any substantial deduction, credit, exclusion or other tax benefit (such as any marital or charitable deduction, any annual gift tax exclusion, an IRC Section 2032A election, a generation-skipping tax exemption, the opportunity to be a stockholder in an S corporation, a significant grandfathered status under some changed law, and so on).

D. Any such amendment shall be by written instrument, executed by such amending Trustee(s) with all the formalities of a deed, setting forth the trust or trusts hereunder to which the amendment applies and the effective date of such amendment.

6.13 Limitations on Trustee Powers. Notwithstanding the foregoing, the Trustee shall have no power and shall take no action which will result in the inclusion of the trust estate in the taxable estate of the Grantor for federal estate tax purposes and all provisions of this document shall be interpreted and limited accordingly, except that any powers given in Section 2.4 hereunder that cause inclusion in the taxable estate of the Grantor for federal estate tax purposes shall not be limited in any way by such limitations on the Trustee powers.

ARTICLE VII
TRUSTEE PROVISIONS

7.1 Resignation, Incapacity and Removal.

7.1.1 Resignation. With respect to each trust provided for in this instrument, any Trustee of such trust may resign at any time by written notice to another then acting Co-Trustee of such trust (if there is one) or to the then beneficiary or one of the then beneficiaries of such trust, setting forth the effective time and date of such resignation, given in the manner described in Section 5.1 on or before such effective time. Notwithstanding the foregoing, the effective time and date of such resignation shall not be earlier than thirty days from the date of resignation unless a successor Trustee has accepted trusteeship resulting from the vacancy.

7.1.2 Incapacity. If any individual Trustee is determined under Section 10.2 to be incapacitated, such Trustee shall automatically cease to be a Trustee as though such Trustee had resigned as of the time and date of the court order, certificate, disappearance or detention that is the basis of such determination.

7.1.3 Removal of Trustee. The absolute right and power at any time or times, with or without cause, to remove any then acting Trustee of any trust or trusts hereunder is hereby given to the first in order of the following listed persons (indicated below as having removal rights with respect to the particular trust involved) who is not then deceased or incapacitated:

(a) The Grantor, or such person or persons (individually, jointly or successively), if any, as the Grantor has designated to exercise this right, effective at any time before or after the Grantor's death, by notice executed with all the formalities of a deed and given to any then Trustees hereunder in the manner described in Section 5.1 (any such designation may be revoked at any time by a similar notice), as to each and every trust;

(b) The Grantor's spouse, or such person or persons (individually, jointly or successively), if any, as the Grantor's spouse has designated to exercise this right, effective at any time before or after the Grantor's spouse's death, by notice executed with all the formalities of a deed and given to any then Trustees hereunder in the manner described in Section 5.1 (any such designation may be revoked at any time by a similar notice), as to each and every trust;

(c) Each of the Grantor's descendants who has then attained at least 25 years of age, or such person or persons (individually, jointly or successively), if any, as a descendant has designated to exercise this right, effective at any time before or after the descendant's death, by notice executed with all the formalities of a deed and given to any then Trustees hereunder in the manner described in Section 5.1 (any such designation may be revoked at any time by a similar notice), but only as to any separate trust or trusts hereunder with respect to which such descendant is then the primary beneficiary;

(d) If no Trustee is subject to removal by anyone provided above, then such removal and appointment right shall be made only by the parent or legal guardian of the then income beneficiaries of each trust; provided that in the event there is more than one current income beneficiary of any trust and there is a dispute among their parents or their guardians, the majority shall prevail.

Any removal under the above provisions shall be by written notice to the Trustee being thus removed, setting forth the effective time and date of such removal, given in the manner described in Section 5.1 on or before such effective time.

7.2 Appointment of Successor and/or co-Independent Trustee.

A. The person then having the right under Section 7.1.3 hereof to remove a Trustee with respect to the

affected trust may at any time appoint a co-Independent Trustee to act on behalf of such trust. The appointment of a co-Independent Trustee shall be made with the same formalities as though there was a vacancy in the office of Independent Trustee (with written notice provided to the then acting Independent Trustee(s)), and any co-Independent Trustee must meet the requirements of a successor Independent Trustee hereunder. In the appointment documentation, the person making the appointment shall have the power to designate whether the co-Independent Trustees must act jointly or whether either co-Independent Trustee may act alone.

B. In the event of any vacancy not otherwise filled pursuant to this Article at any time or times occurring in the office of the Independent Trustee with respect to any trust hereunder, regardless of how caused, such vacancy in office shall be filled promptly by a bank or trust company which has trust powers, which is located in some state or country that recognizes trusts, no substantial portion of which is directly or indirectly owned by the Grantor or any beneficiary hereunder, or by a person who is sui juris, who is neither the Grantor nor a beneficiary hereunder, and who, if the person is an individual, has attained at least 25 years of age. Notwithstanding anything herein to the contrary, any successor or co-Independent Trustee appointed hereunder may not be related to the Grantor or any beneficiary hereunder in any of the following manners: spouse, father, mother, issue, brother or sister, employee, a corporation or any employee of a corporation in which the stock holdings of the Grantor or a beneficiary and the trust are significant from the viewpoint of voting control, or a subordinate employee of a corporation in which the Grantor or a beneficiary is an executive.

C. The selection and appointment of such Independent Trustee shall be made, in the following order of preference (a) by the person then having the right under Section 7.1.3 hereof to remove a Trustee with respect to the affected trust, or if there is no person then having such right, (b) by the then beneficiary or beneficiaries (as that term is used in Section 10.1B.(3) hereof) of such trust, acting by majority vote if there is more than one, each such beneficiary being entitled to one vote, such vote to be cast by written ballot signed by such beneficiary and, for these purposes, if a beneficiary is not then sui juris, his or her parent, spouse, or legally appointed guardian (in that order of preference) shall take such action in his or her place and stead.

D. Notwithstanding the foregoing, if the Grantor or the primary beneficiary of any trust created hereunder has, by an acknowledged instrument delivered to one of the Trustees hereunder, stipulated that, after the occurrence of any specified date or event(s), the Independent Trustee of any specified trust or trusts hereunder shall not be an individual but must be a bank or trust company, such stipulation shall be binding upon all concerned and, if upon the subsequent occurrence of such a specified date or event, the then Independent Trustee of any thus specified trust is an individual, such Trustee shall be deemed to have thereupon resigned and a properly qualified bank or trust company shall forthwith be appointed as successor Independent Trustee of such trust in the manner provided above.

7.3 Appointment of Successor and/or co-Family Trustee(s). In the event of any vacancy at any time or times occurring in the office of Family Trustee with respect to any trust hereunder, regardless of how caused, the person then and subsequently at any specific point in time involved having the right under Section 7.1.3 above to remove a Family Trustee of such trust may, at any subsequent time, select and appoint a person who is sui juris (including even the person making the appointment) and who, if the person is an individual, has attained at least 25 years of age to fill such vacancy in office. In the absence of or until such an appointment is made, the Independent Trustee of such trust shall act alone as the sole Trustee of such trust (although such Trustee may appoint a trustee or successor trustee of any "secondary trust" as provided in Section 5.12 above should that at any time be necessary). The person then having the right under Section 7.1.3 hereof to remove a Family Trustee with respect to a trust hereunder may at any time appoint a co-Family Trustee to act on behalf of such trust. The appointment of a co-Family Trustee shall be made with the same formalities as though there was a vacancy in the office of Family Trustee (with written notice provided to the then acting Family Trustee(s)), and any co-Family Trustee must meet the requirements of a successor Family Trustee hereunder. In the appointment documentation, the person making the appointment shall have the power to designate whether the co-Family Trustees must act jointly or whether either co-Family Trustee may act alone.

7.4 Removal and Appointment of Trust Protector.

A. The Grantor or the Grantor's spouse, in the order named, shall have the absolute right and power at

any time or times, with or without cause, to remove any then acting Trust Protector, by notice setting forth the effective time and date of such removal, executed with all the formalities of a deed and given to the then acting Trust Protector and any then Trustees hereunder in the manner described in Section 5.1 on or before such effective time.

B. There is no initial Trust Protector. Prior to any power being exercised that is exercisable by the Trust Protector alone, a Trust Protector shall be appointed as provided herein. At such time as a Trust Protector is to be appointed (either initially or by a subsequent vacancy not otherwise filled pursuant to this Article), as to any trust hereunder, such vacancy in office shall be filled promptly by a bank or trust company which has trust powers, which is located in some state or country that recognizes trusts, no substantial portion of which is directly or indirectly owned by the Grantor or any beneficiary hereunder, or by a person who is sui juris, who is neither the Grantor nor a beneficiary hereunder, and who, if the person is an individual, has attained at least 25 years of age. Notwithstanding anything herein to the contrary, any successor Trust Protector appointed hereunder may not be related to the Grantor or any beneficiary hereunder in any of the following manners: spouse, father, mother, issue, brother or sister, employee, a corporation or any employee of a corporation in which the stock holdings of the Grantor or a beneficiary and the trust are significant from the viewpoint of voting control, or a subordinate employee of a corporation in which the Grantor or a beneficiary is an executive.

C. The selection and appointment of an initial or successor Trust Protector shall be made, in the following order of preference: (a) by the Grantor, (b) by the Grantor's spouse, or (c) by the then-acting Trust Protector, by notice executed with all the formalities of a deed and given to the successor Trust Protector and any then Trustees hereunder in the manner described in Section 5.1.

D. After the first to occur of (i) the death of the Grantor or (ii) the renunciation by the Trust Protector of the power to change beneficiaries under Section 6.8, there shall no longer be a Trust Protector.

E. Notwithstanding anything herein to the contrary, the Trust Protector shall not be considered a fiduciary hereunder and all actions or inactions of the Trust Protector shall be done in a non-fiduciary capacity. Further, the Trust Protector shall not be referred to herein as a "Trustee" or as "Trustees" hereunder.

7.5 Transition on Change in Trustee(s)/Trust Protector.

7.5.1 Transition on Change in Trustee(s)

A. An outgoing Trustee, upon the effective date of removal, resignation or incapacity, shall cease to have any powers or discretions hereunder. At the earliest possible date after a Trustee ceases for any reason to be a Trustee hereunder, there shall be delivered to such Trustee's successor or to another then acting Trustee hereunder all of the trust assets which were in the possession of such Trustee, and there shall be made available to each successor Trustee a complete financial record and inventory of assets for each of the several trusts affected thereby. With respect to any properties thus transferred by the outgoing Trustee, or by such Trustee's representative, such Trustee shall stand and be discharged of all future duties and obligations.

B. Each successor Trustee, upon assumption of such trusteeship, shall have the same powers, rights, discretions, duties and obligations as the predecessor Trustee. The assumption of trusteeship by a successor Trustee shall not be complete until such successor Trustee executes a written acceptance of such trusteeship showing the authority for such succession (a copy of which shall promptly be delivered personally or sent by certified mail to the outgoing Trustee or to such Trustee's legal representative).

C. Each successor Trustee shall be exempt from any liability in any way related to the prior actions or omissions of the Trustees hereunder and each is specifically hereby relieved of any duty to examine or review the actions of the Grantor's executors, personal representatives, and of the Trustees prior to the Grantor's death or incapacity, after which event the Trustee and successor Trustee(s) shall be required to exercise only that degree of diligence in locating trust assets which would be expected of an executor in locating a decedent's assets.

D. Whenever only one Trustee is acting with respect to a trust hereunder, such Trustee shall have all of the powers, rights, discretions and duties which would otherwise be possessed by all Trustees of such trust and by each of them alone, except those powers, rights, discretions and duties which are expressly conferred upon a Trustee other than such sole Trustee or from the exercise of which such sole Trustee is expressly excluded.

E. Whenever under the provisions of this Trust Agreement one or more separate trusts are created out of the assets of a then existing trust hereunder, the then acting Trustee or Trustees of such existing trust shall automatically be the initial Trustee or Trustees of such new, separate trust or trusts.

7.5.2 Transition on Change in Trust Protector

A. An outgoing Trust Protector, upon the effective date of removal, resignation or incapacity, shall cease to have any powers or discretions hereunder. Each successor Trust Protector, upon assumption as such, shall have the same powers, rights, discretions, duties and obligations as the predecessor Trust Protector. The assumption of duties by a successor Trust Protector shall not be complete until such successor Trust Protector executes a written acceptance as such, showing the authority for such succession (a copy of which shall promptly be delivered personally or sent by certified mail to the outgoing Trust Protector or to such Trust Protector's legal representative).

B. Each successor Trust Protector shall be exempt from any liability in any way related to the prior actions or omissions of the Trust Protectors hereunder and each is specifically hereby relieved of any duty to examine or review the actions of the Grantor's executors, personal representatives, and of the Trust Protectors prior to the Grantor's death or incapacity, after which event the Trust Protector and successor Trust Protector(s) shall be required to exercise only that degree of diligence in locating trust assets which would be expected of an executor in locating a decedent's assets.

C. Whenever under the provisions of this Trust Agreement one or more separate trusts are created out of the assets of a then existing trust hereunder, the then acting Trust Protector of such existing trust shall automatically be the initial Trust Protector of such new, separate trust or trusts.

7.6 Decisions of Certain Trustees to Control. If, at any time or times, the Independent and Family Trustees of any trust hereunder shall be unable to agree as to the exercise or nonexercise of any power or discretion which they have, other than (i) any exercisable by the Independent Trustee alone, or (ii) from the exercise of which the Family Trustee is excluded hereunder for any reason, the decisions of the Family Trustee, including any successor Family Trustee, if expressed in writing and delivered to the Independent Trustee, shall prevail. Furthermore, such Family Trustee shall have the right at all times to give such Independent Trustee or Independent Trustees specific written instructions as to the exercise or nonexercise of any one or more of the powers granted to all Trustees alike under Article VI above. In each case the Independent Trustee shall do and perform all acts necessary and advisable to carry into effect the decision of the Family Trustee and the Independent Trustee shall be and hereby is fully exonerated from any liability arising out of or with respect to such decision by the Family Trustee (without the necessity of expressing any objection or concern with regard thereto).

7.7 Trustee Delegation of Authority. Any Trustee of any trust hereunder, with the consent of the other Trustee or Trustees of such trust, may delegate at any time or from time to time any or all of his, her or its rights, powers, duties and authority, whether or not discretionary, to such other Trustee by an instrument in writing signed by such delegating Trustee and delivered personally or sent by certified mail to the other Trustees; provided, however, any such delegating instrument shall be revocable at any time by a similarly delivered or sent signed instrument and, provided further, any right, power, duty or authority which is expressly conferred upon only one Trustee or from the exercise of which one Trustee is expressly excluded shall not be thus delegated. Furthermore, if one Trustee of a trust hereunder gives notice to the other Trustee of such trust of any action which such Trustee proposes be taken, the failure of such Trustee to receive (at such Trustee's then address of record) any written objection to such proposal from such other Trustee within 10 days after the date of such notice shall constitute the formal approval of such other Trustee (unless such other Trustee has previously given notice (as of such time, unrevoked) to such Trustee's Co-Trustee that this 10 day provision shall be inoperative).

7.8 Release of Trustee and Trust Protector Powers.

A. Each Trustee hereunder who determines it in the best interests of any beneficiary hereunder may, at any time or times, by written instrument executed with all the formalities of a deed and delivered personally or sent by certified mail or to such Trustee's then acting Co-Trustee, if any, or to some beneficiary to whom distributions of the income of the affected trust or trusts might then be properly made, release or disclaim (within the meaning of Section 5.13) upon any terms, either in whole or in part, temporarily or permanently, revocably or irrevocably, with or without binding successors, any one or more of the powers, rights, authorities and/or discretions conferred upon such Trustees by any provision or provisions of this instrument or generally pursuant to law. If the release or disclaimer of a power, right, authority or discretion is made by less than all of the Trustees upon whom it is conferred, such power, right, authority or discretion shall continue to be exercisable in full by the Trustee or Trustees (other than any successor Trustees on whom it is, by its terms, binding) who have not thus released or disclaimed it.

B. Each Trust Protector hereunder who determines it in the best interests of any beneficiary hereunder may, at any time or times, by written instrument executed with all the formalities of a deed and delivered personally or sent by certified mail to the then acting Trustee(s), or to some beneficiary to whom distributions of the income of the affected trust or trusts might then be properly made, release or disclaim (within the meaning of Section 5.13) upon any terms, either in whole or in part, temporarily or permanently, revocably or irrevocably, with or without binding successors, any one or more of the powers, rights, authorities and/or discretions conferred upon such Trust Protector by any provision or provisions of this instrument or generally pursuant to law.

7.9 Limiting Independent Trustee Responsibilities to Those of a Special Trustee. The Family Trustee hereby limits the initial Independent Trustee's responsibilities to those of a Special Trustee as set forth below. The Family Trustee may expand the responsibilities of the Independent Trustee or limit said responsibilities pursuant to this section by written notice to the Independent Trustee. Until the Family Trustee provides written notice to the Independent Trustee otherwise, the Family Trustee of each trust hereunder hereby assumes all of the responsibilities and powers of all of the Trustees of such trust, as though the Family Trustee were the sole Trustee of such trust, except:

A. Those responsibilities and powers specifically vested by the terms of this instrument in the Independent Trustee alone; and

B. Those from the exercise of which the Family Trustee is specifically excluded by the terms of this instrument (for any reason whatsoever).

Until the Family Trustee expands the responsibilities of the Independent Trustee by providing written notice (which may be amended or terminated at any time by similar notice from the then Family Trustee to the then Independent Trustee of such trust), each Independent Trustee of such trust shall have:

C. Only (i) those powers that are unique to that office of Trustee hereunder (as described in Paragraph A above) plus (ii) such powers (all, some or none) from among those described in Paragraph B above, as are specifically listed in such notice as being powers which the Family Trustee intends the Independent Trustee to hold alone (i.e., just those powers specifically vested by the terms of this instrument or of such notice in the Independent Trustee alone and no other powers); and

D. No responsibilities, as a Trustee, with respect to such trust other than the responsibilities that directly relate to just those powers specifically vested in the Independent Trustee alone as described in Paragraph C above.

During such period, each Independent Trustee of such trust shall be treated for all purposes as a "Special Trustee" whose powers, duties and responsibilities are thus limited to those specifically vested in such trusteeship (and none that result generically from designating such office as a trusteeship).

Notwithstanding the foregoing, if the Independent Trustee is a bank or trust company, the Independent Trustee, even if limited to a "Special Trustee" hereunder, shall have the power to maintain the trust records, and originate, facilitate and review trust accountings and income tax returns; and to exercise the powers outlined in Article VIII herein.

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

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

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

C. No fiduciary of any trust shall make (or have the power to make) any distribution which will discharge any legal obligation (including a legal obligation to support and/or educate any beneficiary) of any person who is not specifically named or described (other than in Section 5.6 above) as a then beneficiary or permissible distributee of such trust.

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

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

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

7.11 Fiduciary Liability. Except for any matter involving a fiduciary's own individual willful misconduct or clear negligence, no fiduciary hereunder shall incur any liability by reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken hereunder if in good faith reasonably believed by such fiduciary to be in accordance with the provisions and intent hereof. No fiduciary hereunder shall be liable for any action taken or not taken in reliance on the opinion of any counsel, agent or other representative, provided such counsel, agent or other representative was selected by such fiduciary with reasonable care and in good faith. No bond shall be required of any person named in this Trust Agreement as fiduciary, or of any other person appointed as fiduciary in the manner specified

herein, for the faithful performance of his or her duties as fiduciary.

7.12 Trustee's Discretion.

7.12.1 Trustee's Discretion Absolute. When distributions hereunder are made to more than one person, the amounts or proportions received by each need not necessarily be equal and shall be in the sole discretion of the Independent Trustee. The foregoing discretions with respect to distributions of income and/or principal are absolute discretions to be exercised by the Independent Trustee in accordance with such Trustee's own best judgment under all of the then existing circumstances (insofar as they can reasonably be ascertained by such Trustee) and without any requirement to balance the possibly conflicting interests of the various permissible beneficiaries, both present and contingent. The exercise of such discretions shall not be subject to control by anyone or any court and the Independent Trustee shall not be held accountable in any way for any decisions made or actions taken or not taken with respect to such discretions (regardless of whether the exercise or nonexercise of such discretions appears reasonable or unreasonable).

7.12.2 Exercise of Discretion. Unless otherwise expressly set forth in this Trust Agreement, where the Trustees and/or Trust Protector are granted discretion, their discretion shall be sole and absolute and any action taken or refrained from by them in good faith shall be binding and conclusive upon all persons and corporations interested therein.

7.12.3 Trustee Determinations of Fact. All Trustee and/or Trust Protector determinations of fact made in the course of carrying out the terms of this instrument, if reasonably made on the basis of the then available information, insofar as could reasonably be ascertained by the Trustees and/or Trust Protectors, shall be binding upon all concerned and shall fully protect the Trustees and/or Trust Protectors even though it may be subsequently shown that such a determination of fact was actually erroneous.

7.12.4 Trustee Construction of Instrument. The Trustees and/or Trust Protectors may construe this instrument and any action taken relying upon such construction shall be binding on all concerned and shall fully protect the Trustees and/or Trust Protectors even though it may be subsequently determined that such construction is erroneous.

7.12.5 Trustee Discretions in Carrying Out Pecuniary, Fractional Share and Other Distributions. Discretionary distributions of income or principal may be made in cash or in kind as the Trustee holding such discretion shall deem appropriate in carrying out the purposes of the trust involved. Any part or all of any distribution otherwise required hereunder may be withheld by the Trustees of the trust involved to whatever extent and for whatever period of time such Trustee, in the exercise of reasonable judgment (and in the absence of satisfactory indemnification), deems necessary pending resolution of any potential liabilities, conflicting claims, tax deficiencies, etc., which might affect such distribution. Except as otherwise specifically provided herein:

A. Any allocation, transfer or distribution of a specific monetary amount which is to be made by any trust hereunder may be made in one or more allocations or distributions (which may be timed differently for different beneficiaries), in cash or in kind (i.e., in the form of a whole or partial undivided interest in one or more specific properties, real, personal or mixed) or partly in cash and partly in kind and, to the extent in kind, with or without reference to the income tax cost basis and with or without being made subject to liabilities (pre-existing or newly created), all as the Trustee of such trust, in its sole discretion, shall deem appropriate in carrying out what it alone judges would be the Grantor's original intent under the circumstances (and, insofar as the carrying out of such intent may involve tax planning as described in Section 8.1, such tax considerations shall override the usual fiduciary duty of impartiality); and

B. Any allocation, transfer or distribution of a fractional share of the net assets of any trust hereunder which is required to be made by such trust need not be pro rata nor include any particular asset from such trust's assets but, rather, may be composed of such assets and made subject to such liabilities (pre-existing or newly created), if any, pro rata or not, as the Trustee of such trust, in

the exercise of its sole discretion (as described in Paragraph A above) shall determine;

provided only, as of the effective date (or dates) of any such allocation, transfer or distribution, the net fair market value of the assets and liabilities comprising such allocation or distribution shall represent either:

- (1) the specific monetary amount which such allocation or distribution is to satisfy, or
- (2) the proper fractional share of the then net fair market value of the whole which such allocation, transfer or distribution is to satisfy,

as the case may be and, for these purposes (i) fair market values shall be determined in the same manner as such values are determined for federal gift tax purposes (based on the law in effect at the date of this Trust Agreement) ignoring any potential income tax liabilities which may attach to certain properties, and (ii) the Trustees' reasonable determinations of such fair market values shall be binding upon all concerned.

C. Any obligation to allocate, transfer or distribute a fractional share of the net assets of any trust hereunder as of any specified time may, in the sole discretion of the Trustees of such trust (as described above), be satisfied in more than one allocation or distribution (which may be timed differently for different beneficiaries), in which case the fractional share of the diminished whole remaining to be satisfied after each partial allocation, transfer or distribution shall be recomputed based on fair market values (determined as provided above) as of the effective date of such partial allocation, transfer or distribution (unless the Trustees elect to treat the then fair market value of such partial allocation, transfer or distribution as an advance under Section 3.6 above, upon a subsequent partial or final allocation, transfer or distribution satisfying such fractional share).

D. Any part or all of any distribution otherwise required hereunder may be withheld by the Trustees of the trust involved to whatever extent and for whatever period of time such Trustees, in the exercise of reasonable judgment (and in the absence of satisfactory indemnification), deem necessary pending resolution of any potential liabilities, conflicting claims, tax deficiencies, etc., which might affect such distribution.

7.13 Trustee and/or Trust Protector Expenses and Fees. Each separate trust hereunder shall be chargeable with and may pay without application to any court:

A. The reasonable expenses of its Trustee(s) and/or Trust Protector in the administration of such trust, including the fees and expenses of such agents, attorneys, accountants and advisors as such Trustee(s) and/or Trust Protector may employ in the administration of such trust; and

B. Reasonable compensation for the services rendered and responsibilities assumed by each of such Trustee(s) and/or Trust Protector in the administration of such trust (to be paid at reasonable intervals as incurred, with commencement and termination fees permitted only if agreed to by all of the Trustee(s) of such trust in a written instrument approved by the primary beneficiary of such trust (as defined in Section 10.1)).

The employment of a person or firm and the payment of fees under Paragraph A above is specifically authorized notwithstanding the fact the person or firm so employed may be a Trustee, Trust Protector or affiliated in business with any Trustee or Trust Protector hereunder, provided the fees for the services rendered and responsibilities assumed in each capacity are reasonable and not duplicative.

7.14 Trustee Actions. Except as may otherwise be specifically provided herein, Trustee actions shall require unanimity among the then Trustees of the trust involved, either by vote at a meeting (in person or by telephone) or by written concurrence. If one of the Trustees of a trust hereunder gives written notice to the other Trustee(s) of such trust

of any action which such Trustee proposes be taken, the failure of such proposing Trustee to receive (in accordance with the notice procedures set forth in Section 5.1 above at such Trustee's address as set forth in such proposal) any written objection to such proposal from such other Trustee(s) within 10 days after the effective date of such proposal notice shall constitute the formal approval of such other Trustee(s). Notwithstanding anything herein to the contrary, whenever the term "Trustee" or "Trustees" is used, either the Family Trustee(s) or the Independent Trustee(s) may act alone to bind the trust, unless the Family Trustee(s) has limited the responsibilities of the Independent Trustee(s) to those of a Special Trustee.

7.15 Authorization to Release Trustee's Health Information.

A. By commencing to act as a Trustee or Trust Protector, an individual Trustee or Trust Protector authorizes all health care providers and covered entities to disclose and release such Trustee's or Trust Protector's protected health information and medical information to a successor Trustee, Trust Protector or beneficiary, at such successor Trustee's, Trust Protector's or beneficiary's request, but only to the extent such information is necessary to determine whether the Trustee or Trust Protector has become incapacitated (as defined in Section 10.2 herein). This authorization is intended to apply to any information covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 USC §1320d and 45 CFR parts 160 and 164.

B. Upon request by

(1) the person then having the right under Section 7.1.3 hereof to remove a Trustee with respect to the affected trust, or if there is no person then having such right,

(2) the then beneficiary or beneficiaries of such trust, acting by majority vote if there is more than one, each such beneficiary being entitled to one vote, such vote to be cast by written ballot signed by such beneficiary and, for these purposes, if a beneficiary is not then sui juris, his or her parent, spouse, or legally appointed guardian (in that order of preference) shall take such action in his or her place and stead,

an individual Trustee or Trust Protector shall execute an Authorization for Use and Disclosure of Protected Health Information under the Health Information Portability and Accountability Act of 1996 (HIPAA), specifically authorizing the release of such Trustee's or Trust Protector's protected health information and medical information to the requesting party for the purpose of determining whether such Trustee or Trust Protector has become incapacitated. Failure of an individual Trustee or Trust Protector to execute such authorization within sixty (60) days of such request shall be deemed to constitute the immediate resignation of such Trustee or Trust Protector.

C. If at any time an individual Trustee or Trust Protector revokes the authorization provided in paragraphs A. and B. above, authorizing the release of health information and medical information, such revocation shall be deemed to constitute the immediate resignation of such Trustee or Trust Protector.

ARTICLE VIII

SPECIAL TAX PROVISIONS

8.1 Tax Considerations - Direction to Minimize Taxes.

A. In the administration of each trust hereunder, its fiduciaries shall exercise all tax related elections, options, disclaimers, discretions and choices which they have in such manner as they, in their sole but reasonable judgment (where appropriate, receiving advice of tax counsel), believe will achieve the overall minimum in total combined present and reasonably anticipated (but appropriately discounted) future administrative expense and taxes of all kinds, upon not only such trust but also its beneficiaries, the other trusts hereunder and their beneficiaries. Without limitation on the generality of the foregoing direction (which shall, to that extent, supersede the usual fiduciary duty of impartiality), such direction to minimize taxes in a broader sense shall include (i) the selection of income tax fiscal years, timing of distributions and of payment of deductible expenses, (ii) selection of assets for allocation and/or distribution (with or without regard to pro rata allocation of cost basis), and (iii) disclaimer of benefits of any kind receivable by any trust hereunder, etc.

B. Such fiduciaries shall not be accountable to any person interested in any trust for the manner in which, in good faith, they shall carry out this direction to minimize overall taxes (including any decision they may make not to incur the expense of detailed analysis of alternative choices) and, even though their decisions in this regard may result in increased tax or decreased distribution to a trust, or to one or more beneficiaries, there shall in no event be any compensating readjustments or reimbursements between any of the trusts involved or any of the trust accounts or beneficiaries by reason of the manner in which the fiduciaries thus carry out said direction. Notwithstanding the foregoing, any fiduciary who might be financially affected by the making of any such election or choice shall be excluded from making or taking part in the making of such election or choice.

8.2 Provisions Regarding Life Insurance.

8.2.1 Powers Re Life Insurance Held in Trust. The Trustees of each trust hereunder, other than any individual Trustee whose life may be insured under the life insurance policy in question, shall have and, in their sole discretion, may exercise all of the incidents of ownership in each and every policy of life insurance which may at any time be owned or purchased by the trust. The term "incidents of ownership" with respect to a policy shall include, by way of illustration and not limitation, the right to collect, receive and retain all payments, dividends, surrender values, sickness, accident, disability, retirement or other benefits, including all death benefits, maturing on such policy during the insured's lifetime and thereafter, as well as the right at any time to transfer, assign, sell, pledge, hypothecate, borrow on, surrender, prepay, convert, divide, change the beneficiary of, and/or exercise or select any options, elections and waivers with respect to such policy. All other provisions of this instrument to the contrary notwithstanding, any individual trustee whose life is insured under a trust owned policy under no circumstances shall be entitled to partake in any way in decisions relating to such policy (and in the absence of another then acting trustee, no incidents of ownership as to such policy shall be exercised).

8.2.2 Payment of Premiums. The payment of premiums on each policy owned by any trust hereunder shall be charged against the principal of that trust unless the Trustee of such trust (other than any who might be financially affected thereby), in the exercise of reasonable discretion, shall determine to charge such premiums against the income of such trust on the basis of that being (i) in the best interests of the present and future beneficiaries of such trust and (ii) not contrary to the provisions of Section 7.10 above.

8.2.3 Limitations Re Life Insurance Held in Trust. Furthermore and also notwithstanding all other provisions of this instrument, if any insurance on the life of a beneficiary of a trust hereunder is an asset of such trust, such insurance and all proceeds thereof shall be excluded from the assets which might otherwise be subject to any use, enjoyment, withdrawal or appointment by that beneficiary (and on such beneficiary's death, such proceeds shall be disposed of as though any power of appointment held by such beneficiary had not been exercised).

8.2.4 Collection of Death and Disability Benefits by Trustee.

A. Upon the receipt of notice, believed to be reliable, of the death or disability of anyone who (i) is insured by any policy (including accident and disability policies of all kinds) which may be payable to any trust hereunder, or (ii) on account of whose death or disability any benefit may be payable to any trust hereunder, the Trustee of such trust shall use its best efforts to enforce such trust's rights (including the election of such annuity, installment, lump sum or other mode of settlement options as the Trustee may deem appropriate for the trust) with respect to each and every such policy upon such person's life or other benefit relating to such person's life which such Trustee believes may be payable in any way to such trust. For that purpose, such Trustee shall have full power to (i) execute and deliver any receipts and/or other instruments; (ii) compromise or adjust disputed claims in such manner as, in its sole discretion, it shall deem just (and its decision in this regard shall be final and binding upon all interested parties); and (iii) take such other actions, including the institution of proceedings at law or in equity, as in its judgment may seem necessary and proper to enforce payment of any sums which may be due to such trust under the terms of such policies or other death or disability arrangements.

B. Notwithstanding the foregoing, if the full payment on any death or disability benefit or policy proceeds is contested, such Trustee shall not be obligated, except at its option, to take any action for collection until it shall have been indemnified to its satisfaction against any loss, liability or expense, including attorneys' fees, which might be incurred thereby. Under these circumstances, however, such Trustee is authorized, in its sole discretion, to use any of such trust's assets to pay or reimburse itself for the costs of thus enforcing any such benefits and proceeds.

C. No insurance company, employer, plan administrator or other stakeholder making any payment to any Trustee hereunder shall be required to see to the use or application of such payment.

8.2.5 Insurance Incidents of Ownership in Independent Trustee. The Trustee is authorized to continue to hold as part of the trust estate any insurance policy or policies on the life of the Grantor's spouse which shall be distributed to the Trustee as part of the trust estate. The Independent Trustee solely shall hold all powers conferred on the owner of any such policy or policies and shall designate the trust as beneficiary of all such policies.

8.3 Certain Beneficiaries' Limited Withdrawal Rights As to Certain Gifts.

A. If at any time any addition is made to any trust hereunder with respect to which its Trustee(s) have received written notice from (1) the donor of such addition, or (2) anyone the Trustee(s) deem to be a property agent or personal representative of such donor (or donors), to the effect such addition (or some specified portion thereof) shall be subject to withdrawal under the provisions of this Article by one or more of the present or contingent beneficiaries of such trust, then notwithstanding any other provision hereof, each such thus designated beneficiary shall thereupon have the absolute right, at all times during the one month period commencing on the date of such addition, to withdraw from such addition, in cash or in kind as determined by such Trustee(s), that portion of such addition, determined in the same manner as such value would be determined for the donor's federal gift tax purposes, which is specified as withdrawable by such beneficiary in such notice. To the extent a beneficiary does not exercise the withdrawal right created under this Section 8.3A. with respect to any addition before the expiration of the applicable one month period, then a portion of the non-exercised withdrawal right equal to the "Permissible Lapse Amount" as defined below shall thereupon lapse and such beneficiary shall forever cease to have any further withdrawal right with respect to such lapsed portion. To the extent the non-exercised withdrawal right exceeds the Permissible Lapse Amount, the beneficiary shall have a cumulative right of withdrawal (subject to the provisions of this Section 8.3) over such excess amount.

B. Each such withdrawal right shall be exercisable only by a written instrument executed by the beneficiary having such right (if such beneficiary is then under any legal disability of any kind, execution may be by his or her legal guardian or, if no guardian has been appointed, by his or her natural or general guardian, in each case acting solely on behalf of such beneficiary in making such withdrawal and receiving such distribution for such beneficiary's sole benefit) and delivered to a then acting Trustee of the trust involved on or before the date specified in such instrument

as the effective date of such withdrawal (which must be during the above specified withdrawal period). Distribution of the thus withdrawn value pursuant to any proper instrument of withdrawal shall be made on such effective date. To this end, such Trustee shall, at all times while any such withdrawal right is outstanding, retain sufficient borrowable or transferable assets (from such addition or otherwise) in the trust to satisfy all such withdrawal rights which are then outstanding. Each beneficiary designated as having a withdrawal right with respect to any addition(s) (and, if he or she is then under legal disability, his or her legal guardian or, if there is none, his or her natural or general guardian) shall be kept reasonably informed by the Trustee of all withdrawable additions that are made or expected to be made.

C. As to any amounts subject to a cumulative right of withdrawal that have not lapsed pursuant to Paragraph A. above, on December 31 of each year each beneficiary's unexercised cumulative right of withdrawal shall be further reduced to the full extent such power of withdrawal could lapse without such lapse exceeding the Permissible Lapse Amount as defined herein.

D. If a distribution is made to an individual then having a power of withdrawal, such distribution shall be deemed an exercise of the power and shall reduce the amount subject thereto.

E. "Permissible Lapse Amount" shall mean the greater of (i) \$5,000 or (ii) 5% of the value of the trust estate and the value of any other trust or trusts to the same extent and in the same manner that Section 2514(e) of the Code would consider the aggregate value of such other trust or trusts (or by such lesser or greater amounts as may be specified in Sections 2514(e)(1) and (2) of the Code (or any successor sections) and subsequent amendments to such section which are effective as to the trust) reduced by the sum of the amount, if any, by which any power of withdrawal held by such beneficiary has already lapsed during such year under this Trust Agreement or any trust agreements dated prior to this Trust Agreement. For purposes of this Section, any power of withdrawal held by a beneficiary under any trust dated prior to this trust which lapses on December 31 of any year shall be deemed to have lapsed prior to the lapse of any power of withdrawal which is to lapse on the same December 31 under this Trust Agreement.

8.4 S Corporation Provisions. In the event that at any time any trust provided for hereunder (1) holds shares of stock of any small business corporation with respect to which the Trustees of such trust deem it desirable that such corporation elect S corporation status under Internal Revenue Code §1362(a), (2) holds cash or properties that the Trustees of such trust deem it desirable to invest in the stock of a small business corporation that is (or is about to become) an S corporation, or (3) is entitled to receive shares of stock of a small business corporation (either as part of such trust's initial funding or as an addition to principal), the Independent Trustee of such trust, in such Trustee's sole discretion, may, in order to permit such small business corporation to obtain or preserve an election of S corporation status, segregate such shares of stock (and/or cash or other properties to be used to acquire such stock, and/or the entitlement to such stock) in one or more separate subaccounts of such trust equivalent to a separate trust, in the manner provided in Section 8.4.1 below. Each separate subaccount thus established shall be referred to as a Qualified Subchapter S Trust ("QSST") subaccount and shall be governed by the overriding dispositive provisions set forth in Section 8.4.2 below (as such provisions may from time to time be modified by the Independent Trustee of the trust involved, in the manner provided in Sections 8.4.3 and 8.4.4 below).

8.4.1 Creation of QSST Subaccounts. The Independent Trustee of any trust created (or to be created) hereunder may establish a QSST subaccount or subaccounts by a written instrument, executed by such Independent Trustee with all the formalities of a deed, setting forth with respect to each subaccount being established the name of the trust hereunder of which such subaccount is to be a part, the specific shares of stock and/or other trust property that will initially be segregated as the property of such subaccount, the name of the person designated as beneficiary of such subaccount (as hereafter determined), and the effective date of the transfer of stock or other property to such subaccount to effectuate its creation. Notwithstanding (1) the definition of the terms "beneficiary" and "primary beneficiary" set forth in Section 10.1.B.(3) hereof, nor (2) the exercise of any power of appointment held by anyone (other than one or more Trustees hereunder in their capacity as trustees), the following provisions shall apply for purposes of determining the number of separate QSST subaccounts to be created with respect to any trust hereunder and the person among the permissible distributees of such trust who shall be the beneficiary of each such subaccount:

A. If under the terms of such trust there is only one person to whom (or for whose benefit) distributions of income can or must be made as of the time such QSST subaccount is to be created, a single subaccount shall be created for the benefit of that person;

B. If under the terms of such trust there are two or more persons equally entitled to receive (or benefit from) all distributions of income which can or must be made from such trust as of the time such QSST subaccount is to be created, a separate, equal subaccount shall be created for the benefit of each such person; and

C. If two or more persons, or any trust for any one or more of such persons, are permissible distributees of all or any part of the income which can properly be distributed from such trust as of the time such QSST subaccount is to be created, the Independent Trustee shall create a QSST subaccount for the separate benefit of each of such persons who such Trustee believes that the Grantor intended (or would have intended, based on the Grantor's original overall intent) to be the then primary beneficiary or beneficiaries of the income of such trust and of such subaccount(s). Such Trustee, in making such determination:

(i) shall take into account any references made by the Grantor in the provisions of this Trust Agreement (including its technical provisions) to the person or persons who the Grantor may have designated to be the primary or preferred beneficiary or beneficiaries of the income of such trust, and

(ii) to the extent that one or more lineal descendants of the Grantor and the spouse of any such descendant are designated as the primary or preferred beneficiaries of such trust, shall give due consideration to creating a separate QSST subaccount only for each such living descendant, unless a deceased descendant is survived by a then remarried spouse.

The provisions set forth in subparagraphs C (i) and (ii) above are intended to serve only as guidelines to assist each Independent Trustee in exercising the discretionary determinations to be made by such Trustee. Furthermore, the foregoing discretions in making such determinations are, in all events, to be exercised by each Independent Trustee in accordance with such Trustee's own best judgment under all of the then circumstances (insofar as they can reasonably be ascertained by such Trustee and without any requirement to balance the possibly conflicting interests of the various permissible distributees, both present and contingent). The exercise of such discretions shall not be subject to control by anyone or any court and no Trustee shall be held accountable in any way for any decisions made or actions taken or not taken with respect to such discretions (regardless of whether the exercise or non-exercise of such discretions appears reasonable or unreasonable).

8.4.2 Overriding Dispositive Provisions. Each QSST subaccount created pursuant to Section 8.4.1 above shall be subject to all of the terms, conditions, and provisions which govern the trust of which such subaccount is a part, except that the following overriding provisions shall in all events apply to such subaccount (and any contrary provisions of such trust that would otherwise apply shall be disregarded):

A. During the lifetime of the person who is the designated beneficiary of such QSST subaccount, such person shall be the sole beneficiary permitted to receive distributions of (or to benefit from) the net income and/or the principal of such subaccount. Accordingly, (i) no person may exercise any power of appointment over any assets contained in such subaccount unless such power either is exercised in favor of such designated beneficiary or has an effective date no earlier than such designated beneficiary's date of death and (ii) no distributions may be made to a trust for such person (even though its assets are fully and unqualifiedly withdrawable by such person).

B. During any period in which such QSST subaccount's net assets include shares of stock in any S corporation, all of the net income of such subaccount (determined in accordance with Internal Revenue Code §643(b)) shall be distributed, at least annually, to the designated beneficiary.

C. If not earlier terminated as provided in paragraph D below, the designated beneficiary's interest in the income of such subaccount shall terminate as of his or her death, and, if such subaccount then holds shares of stock in an S corporation, all undistributed income accrued as of such date of death shall be distributed to such designated beneficiary's probate estate.

D. If the trust of which such subaccount is a part terminates during the designated beneficiary's lifetime, the designated beneficiary's interest in the income of the subaccount shall terminate and all of the net assets then held in such subaccount shall be distributed to such beneficiary, free of trust.

Each such subaccount, once created, shall continue in existence until it is terminated (i) by the distribution of all of the subaccount's assets to the designated beneficiary (if and to the extent provided in the trust), (ii) upon the trust's termination in accordance with paragraph D above, or (iii) by action of the Independent Trustee(s) upon the death of the designated beneficiary at such time as no successor beneficiary has been or can be designated by such Trustee(s), provided; however, that until such time as shares of stock in an S corporation are initially held in such subaccount, the Independent Trustee(s) may revoke such subaccount and thereafter administer the properties previously contained in such subaccount as a part of the principal of the trust of which such subaccount was a part.

8.4.3 Interpretation and Modification of Subaccount Provisions. Each of the dispositive provisions set forth in Section 8.4.2 above (to the extent different from the trust provisions that would otherwise apply to the properties segregated in such subaccount) has been made applicable to each QSST subaccount solely for the purpose of permitting the shares of an S corporation to be held in trust hereunder. Accordingly, the Trustees hereunder shall:

A. Interpret the dispositive provisions set forth in Section 8.4.2 above in a manner consistent with the interpretation given by the Internal Revenue Service to the provisions of Internal Revenue Code §1361(d), in particular paragraph (3) thereof defining a qualified subchapter S trust;

B. Endeavor to interpret the subaccount dispositive provisions in such a manner as will carry out the intent of the dispositive provisions of the trust of which such subaccount is a part to the greatest extent possible within the technical requirements applicable to a QSST; and

C. Amend the provisions of this Section 8.4 pursuant to Section 6.12 above, to the extent such Trustee deems it desirable, in the event that the QSST requirements under Internal Revenue Code §1361(d) are modified (by legislative amendment or interpretive pronouncement) so that any one or more of the requirements of Section 8.4.2 above may be eliminated or modified so as to be more consistent with the trust provisions otherwise applicable to the properties held in such account.

For example, upon the termination of a separate trust hereunder (of which a QSST subaccount is a part) during the lifetime of the designated beneficiary, which event, under the otherwise applicable provisions of the Trust Agreement, would result in the properties of such terminating trust being transferred to a successor trust for the benefit of such then living designated beneficiary (but which event would require that the subaccount properties be distributed, free of trust, to the designated beneficiary pursuant to a literal construction of Section 8.4.2.D above), such Trustees shall determine whether or not, under the then effective Treasury Regulations and Internal Revenue Service pronouncements, the establishment of a QSST subaccount under the successor trust may be interpreted as constituting a continuing trust (thus permitting the continued holding of the subaccount properties in trust) rather than a trust "termination" requiring distribution to the designated beneficiary.

8.4.4 Powers to Preserve S Corporation Status. At all times after a QSST subaccount is created by the Independent Trustee of the trust of which it is a part, each such Trustee, acting in conjunction with the designated beneficiary of such subaccount (or his or her legal representative) and each successor designated beneficiary of such subaccount, if and when appropriate, shall take such actions and make all such elections as may be necessary and desirable to ensure that such QSST subaccount is recognized as a permitted shareholder of each small business corporation with respect to which an election of S corporation status is deemed to be desirable by such Independent Trustee. Such Trustees may, by way of illustration and not limitation:

A. Amend, either prior to the creation of such subaccount or after such subaccount is created (in accordance with and in the manner provided in Section 6.12 above), the terms, conditions and provisions of this Section 8.4 to ensure that such subaccount will at all times qualify to own shares in an S corporation;

B. Enter into agreements with one or more parties (including any corporation and its shareholders) which may, inter alia, contain provisions and restrictions relating to (i) the sale, transfer, or other disposition of such shares, (ii) the making, maintenance or revocation of a corporation's S election, and (iii) the distribution of a specified minimum amount of the corporation's taxable earnings each year; and

C. Create and transfer (to the extent necessary and desirable) any shares in an S corporation held in a QSST subaccount at the time of the death of the designated beneficiary of such subaccount to any number of similar separate QSST subaccounts of that trust or another trust under this Trust Agreement as shall be required to provide a separate subaccount for the benefit of each successive thus designated beneficiary of the initial subaccount (in order that a corporation's S election can be continued).

8.5 Alternative S Corporation Provisions. In the event that at any time any trust provided for hereunder (1) holds shares of stock of any small business corporation with respect to which the Trustees of such trust deem it desirable that such corporation elect S corporation status under Internal Revenue Code §1362(a), (2) holds cash or properties that the Trustees of such trust deem it desirable to invest in the stock of a small business corporation that is (or is about to become) an S corporation, or (3) is entitled to receive shares of stock of a small business corporation (either as part of such trust's initial funding or as an addition to principal), the Independent Trustee of such trust, in such Trustee's sole discretion, may, in order to permit such small business corporation to obtain or preserve an election of S corporation status, segregate such shares of stock (and/or cash or other properties to be used to acquire such stock, and/or the entitlement to such stock) in one or more separate subaccounts of such trust equivalent to a separate trust. Each separate subaccount thus established shall be referred to as an Electing Small Business Trust ("ESBT") and shall be held and administered under the provisions in Internal Revenue Code §1361(e). If said alternative S corporation provisions are elected by the Independent Trustee, the Trustees shall make all appropriate elections required by Internal Revenue Code §1361(e)(3).

8.6 Merger of Nonexempt Trust Into Exempt Trust If Nonexempt Trust Becomes Substantially Exempt. If any separate nonexempt trust under this Trust Agreement becomes substantially exempt from the federal generation skipping transfer ("GST") tax because of a repeal of or change in the GST tax laws, because of the allocation to such trust of enough GST exemption to give the trust an inclusion ratio less than 0.1, or because uncertainty as to the exempt status of that trust is eliminated by the withdrawal of pending legislation, the issuance of a regulation or ruling, or otherwise, such trust shall, as of that time, be deemed to have automatically merged into or become the exempt trust under this instrument to which reference is made in the dispositive provisions of such nonexempt trust. However, the foregoing provision shall not apply if any action by any donor to a nonexempt trust hereunder during such donor's lifetime, such as inter vivos allocation of GST exemption, is the cause of such nonexempt trust becoming substantially exempt.

ARTICLE IX

SPECIAL TRUST AND TERMINATION PROVISIONS

9.1 Perpetuities.

A. Unless sooner terminated according to other provisions of this Trust Agreement or the provisions of any trust created by the exercise of any power of appointment conferred by this trust, this trust and each trust created by the exercise of any such power of appointment shall terminate either:

- (1) the date of death of the last to die of the individual beneficiaries of any trust hereunder living at any time; or
- (2) three-hundred sixty-five (365) years after the date of this trust agreement,

whichever date shall occur first. Notwithstanding the foregoing or anything herein to the contrary, if the situs of a trust created hereunder changes from Nevada to a state that has a shorter perpetuity period than Nevada, then this trust and each trust created by the exercise of any power of appointment conferred by this trust shall terminate on the last day such trust may lawfully exist as determined by applicable state law of the new situs of such trust; provided, however, in no event shall an additional change in situs extend the termination date of a trust hereunder to a date occurring after the required termination date under Nevada law or under the applicable law (existing at the time of the change of situs) of any state under which such trust has been governed.

B. On termination of a trust under this Section 9.1, its Trustees shall forthwith transfer all of the net assets then contained in such trust (i) to the trust's then primary beneficiary or, if none as such, (ii) to the beneficiary to whom distributions of the income of such trust might then properly be made (or, if there be more than one beneficiary, then to such beneficiaries according to their then respective apparent proportionate interests in such trust as determined in the reasonable discretion of such Trustees).

C. Notwithstanding the foregoing or anything herein to the contrary, the assets contributed to this trust from THE LME FAMILY TRUST, dated August 19, 2016 (including any assets that are further transferred by exercise of a power of appointment hereunder), shall be limited in duration by the perpetuity period applicable to THE LME FAMILY TRUST, dated August 19, 2016.

9.2 Spendthrift Clause.

A. Subject to the express grant herein of certain rights to withdraw assets and/or powers of appointment, no beneficiary of this trust shall alienate, anticipate, assign, encumber or hypothecate his or her interest in the principal or income of the trust in any manner prior to the actual receipt by the beneficiary, except to any one or more of such beneficiary's grandparents' descendants (other than the beneficiary) and/or any trust which is directly or indirectly for the benefit of any of such descendants (other than the beneficiary). To the fullest extent of the law, the interests of any beneficiary shall not be subject to the claims of his or her creditors or liable to attachment, execution or other process of law.

B. Further, the interest of each beneficiary and the income of the trust hereunder shall be free from the control or interference of any creditor of a beneficiary or any spouse of a married beneficiary and shall not be subject to attachment or susceptible of anticipation or alienation. Nothing contained in this Section 9.2 shall be construed as restricting in any way the exercise of any powers or discretions granted hereunder.

C. In the event any Trustee hereunder is prevented by any court from disregarding any such attempted creditor or beneficiary action, during the continuance of such court's imposition, the Trustees shall hold and accumulate any principal and/or income which should otherwise have been distributed to a beneficiary and, except as the Trustee is

permitted by the court to distribute such principal and/or income (i) directly to or for the separate benefit of such beneficiary (e.g., for reasonable support in his or her accustomed manner of living), or (ii) pursuant to any exercise of power, upon such beneficiary's death any principal and/or income so held and accumulated shall be added to and disposed of as a part of the then principal of that trust as otherwise provided in this instrument. The provisions of this Paragraph C shall take precedence over all other provisions of this instrument except those of Article IX and Section 9.1.

9.3 Compelled Exercise of Power of Appointment Not Effective. The purported exercise of a power of appointment granted under this Trust Agreement shall be of no force or effect if such purported exercise was the result of compulsion. If such purported exercise is the result of compulsion, the Trustee shall administer the property subject to such power of appointment as if said purported exercise had not occurred. The purported exercise of a power of appointment shall be deemed to be the result of compulsion if such purported exercise is in response to, or by reason of, any Order or other direction of any court having jurisdiction over the donee, the Trustee, the property subject to said power, or the trust containing such property. This Section shall not apply to the exercise of a power of appointment by the donee's duly appointed conservator, after notice to the Trustee and approval by the court which appointed such conservator, or the donee's attorney-in-fact under a durable power of attorney specifically referring to this Trust Agreement and authorizing exercise of such power of appointment.

9.4 Power to Postpone Distribution. Notwithstanding any of the foregoing provisions, except those relating to Section 9.1 above, the Trustees of each trust hereunder, other than anyone who is also a present or contingent beneficiary of that trust (or a grantor or donor as to any irrevocable gift made to that trust) shall have the power to postpone any principal distribution (including distributions pursuant to the exercise of a right of withdrawal unless such right of withdrawal is specifically provided to be unqualifiedly exercisable in all events) otherwise required to be made from that trust to any one or more of its beneficiaries upon or after the beneficiary's exercise of withdrawal right or attainment of a specified age or the death of a third person and to postpone the termination of such trust which might otherwise be required, all as if upon such death or attainment of age (or subsequent exercise of a withdrawal right), such beneficiary was merely to become entitled to receive thereafter the net income of such trust (or of the part thereof which would otherwise have been distributed to such beneficiary), such Trustees, in their sole but reasonably exercised discretion, determine, in view of the Grantor's apparent overall intent, there is a compelling reason to postpone such distribution, such as the beneficiary's serious disability, a pending divorce, potential financial difficulty (such as potential or pending creditor claims), a serious tax disadvantage in making such distribution or similar substantial cause. Any such postponement of distribution may be continued by the Trustees, in whole or in part, from time to time, up to and including the entire lifetime of the beneficiary. While such postponement continues, all of the other provisions previously applicable to such trust shall continue in effect except (i) any power of appointment previously applicable to the otherwise distributable corpus shall be exercisable only with the approval of such Trustees, and (ii) such beneficiary shall only receive distribution from time to time of such amounts from such corpus and the income therefrom as such Trustees, in their sole discretion, deem appropriate for the best interests of such beneficiary.

9.5 Termination for Unusual Cause. The Grantor recognizes some or all of the following conditions may arise in the future although they cannot now be foreseen:

- A. A radically substantial change in the political, economic or social order in the United States of America;
- B. Legislation or court decisions highly detrimental to any trust hereunder or to any beneficiary, as such, hereunder;
- C. Lack of availability of suitable trust investments for an extended period; and/or
- D. Other events tending to greatly impair the intent and purposes of this instrument.

The Grantor further recognizes, should these or any of them occur, a termination of trust hereunder might be desirable. It is, therefore, expressly provided if, at any time or times, any Trustee of any trust hereunder shall make

application to the then court of general jurisdiction in the place where such trust shall have its situs and if such court, by its appropriate decree, shall determine a condition coming within any of the foregoing standards has occurred and the best interests of such trust and of the persons interested in it require the termination of such trust, the Trustee of such trust, following entry of such decree and obedient to its terms, shall distribute the trust estate of such trust to such trust's then beneficiary or beneficiaries according to their respective interests, as set forth in such decree. No Trustee shall be required to consider any action under this Article until a person interested in a trust hereunder has requested such consideration in writing.

9.6 Termination of Trust if Uneconomical. If, at any time before full distribution of the trust estate, the Trustees (other than a Trustee who might benefit thereby) deem the principal of any trust held for any beneficiary so small that administration thereof is too time consuming and/or expensive in relation to the benefits derived therefrom, such Trustee, in the Trustees' discretion, may distribute the entire trust interest to such beneficiary and may terminate the trust for that beneficiary.

9.7 Distribution to Minors - Power in Trust. If at any time the provisions of this Trust Agreement direct the distribution on any trust termination of any property, whether income or principal, to any person who at the time designated for such termination has not attained the minimum age, under the laws of his or her domicile, necessary to permit the transfer of possession of such property to such person without the necessity of a guardian (i.e., the "age of majority"), such property shall vest absolutely in such person, but the Trustees who are directed to make such distribution nevertheless are hereby empowered, in their sole and uncontrolled discretion, to hold the property so vested in such "minor" or any part thereof as a separate fund for the benefit of such minor until he or she shall attain such age of majority (as determined from time to time by the then laws of his or her then domicile). In such event, such Trustees shall manage, invest and reinvest such fund pursuant to all of the provisions of this Trust Agreement as if such trust termination had not been so directed, distributing to or for the benefit of such minor such part (or all) of the principal and/or the net income of such fund as such Trustees from time to time deem to be in the best interests of such minor, adding to the principal any income not thus distributed. When such minor shall have attained such age of majority, all of such fund shall be forthwith distributed to him or her or, if he or she shall die prior thereto, such fund shall be distributed to his or her estate. The authority hereby conferred upon such Trustees shall be construed as a power only and shall not operate to suspend the absolute vesting of the properties of such fund in such minor.

ARTICLE X

DEFINITIONS

10.1 Miscellaneous Definitions.

A. Terms which have specialized meanings, often in a limited context, are defined separately in the specific part of this instrument which deals with the particular subject matter involved.

B. For all purposes hereunder:

(1) The term "person" or "persons" shall be given its broadest meaning and shall include corporations, partnerships, trusts, estates, charitable organizations, governmental agencies and other entities of any kind.

(2) No person shall be deemed "financially affected" by any decision if the only monetary effect on such person involves fiduciary fees.

(3) Unless the context clearly indicates a different meaning, the term "beneficiary" shall mean:

(a) Each person specifically designated as a or the "beneficiary" (or "primary beneficiary") of the particular trust involved in the portion of this instrument setting forth the dispositive provisions of that trust, and

(b) Whether or not there is such a person thus designated with respect to a particular trust, each person to whom distributions of the income of that trust might then be properly made

and, unless a person is specifically designated as such as to a particular trust hereunder, the term "primary beneficiary" as it applies to a particular trust hereunder shall have the same meaning as in subparagraph (b) above (but, if there be more than one, limited to the eldest of such persons who is not then incapacitated).

(4) The term "including" means "including (without limitation) and by way of illustration;" the word "shall" indicates mandatory action or inaction, the word "may" indicates a permissive (but not mandatory) action or inaction, the phrase "at any time" shall have the same meaning as the phrase "at any time or times," and the words "and/or" shall mean either "and" or "or" (or both) as circumstances dictate.

(5) A person's "personal representative" means his or her guardian(s), conservator(s), executor(s) or administrator(s), regardless of gender.

(6) An instrument shall be deemed to have been executed "with all the formalities of a deed" if it has been acknowledged or in any way recognized by the Uniform Acknowledgement Act as then adopted and promulgated by the Commissioners on Uniform State Laws. Except as otherwise expressly provided herein, no purported execution of any instrument provided for herein by or on behalf of any person shall be effective unless such person has then attained the "age of majority" applicable to such person and is not then "incapacitated" as defined in Section 10.2 below.

(7) All references to the Internal Revenue Code shall be construed to mean the Internal Revenue Code of 1986, as amended through the effective date of this instrument and as may hereafter

from time to time be amended (or superseded by federal laws of similar effect). Each such reference shall include, where appropriate, all regulations validly promulgated by the Treasury Department applicable to the referenced provision(s) of such code which are in effect at the time in question. As used in this instrument, all terms relating in any way to the generation-skipping transfer tax should have the same meaning as such terms have for such purposes under Chapter 13 of such code. In the context of generation-skipping, the terms "exempt" or "exempt trust" shall refer to a trust no part of which is subject to the generation-skipping tax (i.e., has an inclusion ratio of zero). The term "non-exempt" indicates property that is entirely subject to the generation-skipping tax (i.e., has an inclusion ratio of one hundred percent).

10.2 Incapacity.

A. If any of the following occur:

(1) A court order, which a Trustee or beneficiary deems to be jurisdictionally proper and still currently applicable, either (i) holds that a person is legally incapacitated to act on his or her own behalf, or (ii) appoints a guardian or conservator of the person or property to act on behalf of a person,

(2) Two licensed physicians (each of whom represent that he or she (i) is certified by a recognized medical board and (ii) is not related by blood or marriage to any Trustee or beneficiary hereunder) execute a witnessed and acknowledged written certificate, which is then unrevoked, certifying such physicians have examined a person and have concluded, by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration, or other similar cause, such person had, at the date thereof, become incapacitated to act rationally and prudently in financial matters, or

(3) There is creditable and currently applicable evidence that a person (i) has disappeared, (ii) is unaccountably absent, or (iii) is being detained under duress where he or she is unable effectively and prudently to look after financial matters,

then, in that event and under those circumstances, such person shall be deemed to have thereupon become "incapacitated," as that term is used in and for all of the purposes of this instrument, and such incapacity shall be deemed to continue until such court order, certificate and/or circumstances have become inapplicable or have been revoked.

Any physician's aforesaid certificate may be revoked by a similar certificate to the effect that such person is not then incapacitated, executed either (i) by either of the originally certifying physicians, or (ii) by two other licensed, board certified, unrelated physicians. Any physician who certifies a person's incapacity hereunder shall be held harmless by the Grantor, Trustees, successor Trustees and beneficiaries of this trust, and by the heirs and assigns of the Grantor, Trustees, successor Trustees and beneficiaries of this trust.

B. No Trustee shall be under any duty to institute any inquiry into a person's possible incapacity, but the expense of any such inquiry reasonably instituted may be paid from trust assets.

C. Each person who signs this instrument or an acceptance of trusteeship hereunder, by so signing, (i) agrees to cooperate in any examination necessary to carry out the provisions of this section, (ii) waives all provisions of law relating to disclosure of confidential medical information insofar as that disclosure would be pertinent to any inquiry under this section, (iii) acknowledges the authorization in Section 7.15 relating to the disclosure of confidential health information and (iv) agrees the obligations under this Paragraph C shall be specifically enforceable.

10.3 Children, Descendants, Etc.

A. The terms "children," "grandchildren" and "descendants" shall mean, respectively:

- (1) All of a person's legitimate, as well as lawfully adopted, children (issue of the first degree),
- (2) All of a person's children's children, as herein defined (i.e., issue of the second degree), and
- (3) All of a person's legitimate, as well as lawfully adopted, issue of every degree (the relationship from generation to generation may be by legitimate birth, lawful adoption or any combination of the two),

whether any such individual was heretofore or is hereafter born or adopted (and the term "offspring" shall mean all of a person's descendants (issue of all degrees) both legitimate and illegitimate). An individual designated as a foster child, stepchild, equitably adopted child, or heir at law (as permitted by the laws of some states) shall not, by reason of such designation, gain any rights, powers or benefits hereunder.

B. Furthermore, for the purposes of this instrument:

(1) A person shall be considered to be the "legitimate" child of his or her mother and father only if his or her father was married to his or her mother at the time of his or her conception or birth (in either case, such husband shall be conclusively presumed to be such child's father unless and until (i) clear and convincing evidence is presented in any court that he was not such child's genetic father, and (ii) such couple ceases to be each other's spouse in any manner (other than death) described in Sections 10.4B or 10.4C below or such child's conception is shown to have resulted from rape) or at any subsequent time and, for this purpose, if the child's father and mother openly live together as husband and wife after the performance of what appears to be a lawful civil or religious marriage ceremony between them, they shall be deemed to be "married" even though said ceremony is or may be, for any reason, subsequently held to be legally void or voidable.

(2) Even a person who, for any reason, is not considered to be the legitimate child of anyone shall nevertheless be deemed for all purposes to be the legitimate child of his or her mother (in case of doubt as to who is the child's mother, as defined in subparagraph (3)(d)(i) below) (but not his or her genetic father) as long as she personally makes a home for the child (if this continues until such mother's death or until such child's death (or attainment of majority age), whichever shall first occur, such "legitimacy" shall be deemed conclusive).

(3) For the purposes of subparagraphs (1) and (2) above, a person who comes into life as a result of (i) artificial insemination, or (ii) embryo transfer, regardless of the source of the sperm, and

(a) Whether such transfer is to the child's genetic mother, to another woman or to an artificial womb,

(b) Whether or not the transferee woman intends to treat the child as her own or to act as a surrogate mother,

(c) Whether or not conception occurs in or outside of a woman's womb, and

(d) Whether or not the procedure is legal under applicable local law,

shall be regarded:

(i) As the child of his or her mother of birth unless:

(I) She is not the child's genetic mother (or even if she is, the child's genetic father is not the person she had been led to believe would be the child's genetic father),

(II) She (i) has agreed to act as a surrogate on behalf of a woman who intends to treat the child as her own, and (ii) has given up at least "*de facto*" (as contrasted with "*de jure*") custody of the child within the year following birth, or

(III) There is no mother of birth because an artificial womb has been employed on behalf of a woman who intends to treat the child as her own,

in which three (3) situations, the woman who intends to treat the child as her own (if any) shall be regarded as the child's "mother" but only (i) if the genetic parentage of the child is as she had been led to believe it would be, and (ii) after she has received at least *de facto* custody of the child, and

(ii) As the child of the man to whom such mother (as defined in subparagraph (i) above) was married at the time of such conception or transfer (or at any subsequent time) if such man:

(I) Is the child's genetic father, or

(II) Has at any time consented in writing to such artificial insemination or embryo transfer with the intention of treating the child as his own,

or if there is no man meeting such criteria, then the man who is that child's genetic father if he and such mother were married at the time his sperm was deposited in a sperm bank and he has died before the child's conception.

Absent adoption (as described in Paragraph C below), such a child shall not be regarded as the child of any other person even if such person is such child's genetic parent.

(4) A child in gestation, if later born alive (in the case of embryo transfer or artificial insemination from a sperm bank, without substantial delay beyond the normal period of gestation), shall be regarded as "then living."

C. Regarding adoptions, for the purposes of this instrument:

(1) No adoption shall be considered lawful and effective until a final order, decree or judgment is entered by a court of competent jurisdiction in an adoption proceeding. Any adoption begun before an adopting parent's death which is made final after such death shall be deemed accomplished prior to death.

(2) Notwithstanding the foregoing, however, any adoption which becomes final after the adopted person has attained age 18 (or the adopting person attained age 60) shall not be considered a lawful adoption for the purposes of this instrument (and thus no benefits shall be derived under this instrument as a result of such an adoption, regardless of the generation involved) unless there existed the equivalent of a mutually acknowledged parent-child relationship between the adopting and adopted persons during at least three (3) years before the adoptee attains age 21.

(3) No relationship, once established, shall be deemed terminated by reason of a family member subsequently being adopted by someone outside that family, provided, however, if the "family" parent of such a subsequently adopted person (through whom the family relationship was established) gives written notice (which must

be given no later than three years after such adoption becomes final) to the then Trustee or Trustees of any affected trust hereunder that such adoption shall terminate the family relationship, such subsequently adopted person shall cease to be such parent's descendant as of the effective date of such notice.

(4) If any person who has been adopted would appear, under the terms of this instrument, to be entitled to benefits as a result of both his or her (i) natural relationship, and (ii) adoptive relationship, he or she shall only be entitled to receive those benefits which result from his or her natural relationship and none which would otherwise result from his or her adoptive relationship.

10.4 Husband, Wife and Surviving Spouse.

A. References herein to a person's "husband", "wife" or "spouse" (notwithstanding the actual naming of such spouse herein) shall be construed for all purposes to mean only, from time to time during such person's lifetime, the individual, if any, who is such person's then lawfully married spouse (as determined by the laws of the jurisdiction in which such person then resides). The termination of a spouse's status as such solely by reason of the death of the person to whom he or she was married shall not, for the purposes of this instrument, cause him or her to cease being treated thereafter as such deceased person's spouse.

B. In the event of the issuance of a court decree of annulment, divorce, dissolution, separation or separate maintenance with respect to the marriage of a person and his or her spouse, insofar as this instrument makes any reference to that person's spouse, such spouse (to whom such court decree refers) shall be deemed to have died as of the date on which such decree becomes effective.

C. Furthermore, for these definitional purposes, an individual (even though named herein) shall not be entitled to benefits, powers, etc. hereunder) during any period with respect to which the then Trustee or Trustees of the affected trust or trusts either:

(1) Are in possession of any unrevoked written notice from such person to the effect that, for the purposes of such trust or trusts, such individual shall be deemed not to be such person's spouse (which notice, by its terms, may be effective for some trust purposes (i.e., successor trusteeship) and not others (i.e., distribution of benefits) and may be made effective only after and/or until the occurrence of some event or events), or

(2) Determine, from a preponderance of whatever information is reasonably available to them, such person and such individual are "separated" (i.e., estranged and living apart from one another or there is pending a formal proceeding for annulment, divorce, dissolution, separation or separate maintenance), which determination, in the absence of gross and willful disregard of facts, shall not be subject to challenge and shall be binding on all concerned,

provided, however, the provisions of subparagraph (1) above shall not be used to deprive the spouse of any person who is the Grantor hereunder of any benefits originating from any irrevocable gift transfers made to any trust hereunder by the Grantor and the provisions of subparagraph (2) above shall not be used to deprive any person's spouse of any benefits which would otherwise qualify for the marital deduction on such person's death or with respect to any irrevocable gift transfer by such person to any trust hereunder.

D. Likewise, after a person's death, all references herein to his or her "spouse" or "surviving spouse" (or husband, wife, widower or widow) shall be construed for all purposes to mean only such individual as was such person's spouse, subject to the definitional limitations in Paragraphs A, B and C above at the time of such person's death. The subsequent remarriage of such a surviving spouse shall not affect his or her status as such unless there is a specific reference to remarriage in the applicable provisions of this instrument, in which case:

(1) The Trustees shall treat the surviving spouse as not having remarried until such time as the possibility of remarriage is brought to their attention, either specifically or by reasonable inference from circumstances encountered by them in the reasonable routine of their trust administration (without the necessity of their having to make specific inquiry).

(2) If and when the matter is brought to their attention, the affected Trustees need make only such inquiry as they, in their reasonable judgment, shall deem appropriate under the circumstances then known to them.

(3) If, as a result of reasonable inquiry, the affected Trustees determine a surviving spouse is remarried (i.e., is in fact remarried or is openly living together with another person as husband and wife (regardless of the fact that no civil or religious marriage ceremony may actually have been performed)), said surviving spouse shall be deemed to be remarried as of the date of such determination (and the Trustees' reasonable determinations in this regard shall be binding on all concerned).

(4) Insofar as trust distributions have been made to or for the benefit of such a surviving spouse prior to such a determination but after he or she was in fact remarried (as defined in subparagraph (3) above) without the knowledge of the Trustees, the Trustees shall endeavor to recover such distributions only to the extent they and their legal counsel, in their sole judgment, determine the likelihood of recovery warrants incurring the estimated cost of such recovery effort.

Any other provision of this instrument to the contrary notwithstanding, the remarriage of a surviving spouse of a descendant of the Grantor, occurring while such surviving spouse is making a home for any child (born or adopted) of the marriage of that descendant and that spouse and while any such child is under age 18, shall not in any way reduce benefits otherwise provided in this instrument for such surviving spouse and such remarriage shall be disregarded for the purposes of this instrument.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Counterparts and Certified Copies. This Trust Agreement may be executed in any number of counterparts, each of which may be executed by one or more of the parties hereto (which shall be deemed to be an original as against any party who has signed it), and such counterparts together shall constitute but one instrument with the same force and effect as though all the parties executing such counterparts had executed but one and the same instrument. Anyone may rely upon a copy certified by a notary public to be a true copy of this instrument (and of the writing, if any, endorsed thereon or attached hereto) to the same effect as if such copy were an original and may rely upon any statement of fact certified by anyone who appears therefrom to be a Trustee hereunder.

11.2 Trustee Determinations of Fact. All Trustee determinations of fact made in the course of carrying out the terms of this Trust Agreement, if reasonably made on the basis of the then available information, insofar as that could reasonably be ascertained by the Trustees, shall be binding upon all concerned and shall protect the Trustees fully even though it may be subsequently shown that such a determination of fact was actually erroneous.

11.3 Trustee Construction of Instrument. The Trustees may construe this instrument and any action taken relying upon such construction shall be binding on all concerned and shall fully protect the Trustees even though it may be subsequently determined that such construction is erroneous. The descriptive titles of articles, sections and paragraphs are for convenience only, and any construction of this instrument shall be made without references to such titles. Throughout this instrument, whenever the sense of the context and the circumstances so require, words of any gender (and neuter words) shall be deemed to include the other gender (or the neuter), and words in the singular shall be deemed to include the plural and the plural to include the singular.

11.4 Unknown and Undetermined Beneficiaries. In any proceeding involving the construction, operation or modification of this instrument, (i) the then living adult beneficiaries (other than any who are then incapacitated) shall represent for all purposes all minor, incapacitated, unknown and undetermined beneficiaries, and (ii) any order, judgment or decree rendered in such proceeding in which the court exercises its independent discretion in carrying out what it believes to be the Grantor's original intent hereunder shall be binding upon all concerned, including those thus represented.

11.5 Separability of Document Provisions. In the event any provisions of this instrument violate any rule of law, only such invalid provisions and not this entire instrument shall be considered void and all of the other provisions hereof shall remain in full force and effect.

11.6 Governing Law. It is the Grantor's intention that the original trust(s) created under this Agreement be governed and administered under the laws of the state of Nevada. Accordingly, unless the Trustee determines to move the situs of a trust hereunder to another jurisdiction (which shall be effective only if the Trustee gives the Grantor thirty (30) days written notice), at all times until the death of the Grantor, the Grantor directs that at least one Trustee must be (a) a natural person who resides and has his domicile in Nevada; (b) a trust company that is organized under federal law or under the laws of Nevada or another state, and which maintains an office in Nevada for the transaction of business; or (c) a bank that is organized under federal law or under the laws of Nevada or another state, which maintains an office in Nevada for the transaction of business, and which possesses and exercises trust powers. In addition, notwithstanding anything herein this Agreement to the contrary, any Trustee herein that fits the definition under (a), (b) or (c) above shall have the power to maintain the records for the trust and to prepare income tax returns for the trust, and all or part of the administration of the trust shall be performed in the state of Nevada. Upon the death of the Grantor, all trusts hereunder shall continue to be governed under the laws of Nevada to the extent the trust continues to have sufficient connection with Nevada.

The Trustees of any trust or trusts hereunder may change the governing law to a state or country having sufficient connection with the trust or trusts by a writing delivered to the Trustees hereunder. The foregoing shall apply even though the situs of some trust assets or the home of the Grantor, a Trustee or a beneficiary may at some time or times be elsewhere. Furthermore, to the greatest extent permitted by law, (i) each and every trust hereunder (and each of its

Trustees) shall be exempt from and shall do everything possible to be independent of registration in or with, accountings to, and supervision by any court or other governmental agency, and (ii) every discretion granted to the Trustees in this instrument is intended to and shall override any rule of law, whether local practice, statute or case law, which is now applicable hereto or which may become applicable hereto and which may be to the contrary, including any that may require specific reference.

11.7 Binding Effect. The trust created hereby shall be effective and binding upon the Grantor as of the time the Grantor signs this instrument notwithstanding any delay in any Trustee's execution of this instrument. The terms of this instrument shall not be binding upon any particular Trustee until such Trustee has signed this instrument or otherwise executed a written acceptance of that trusteeship under the provisions of this instrument. This instrument shall extend to and be binding upon the heirs, executors, administrators, personal, legal or other representatives and successors, respectively, of the Grantor and all Trustees and other parties hereto.

11.8 Incontestability. The beneficial provisions of this instrument are intended to be in lieu of any other right, claims or interests of whatsoever nature, whether statutory or otherwise, except bona fide predeath debts, which any beneficiary hereunder may have against or in the properties in trust hereunder. Accordingly, if any beneficiary hereunder asserts any claim whatsoever (except a legally enforceable debt), statutory election, or other right or interest against or in the Grantor's estate, the Grantor's Will, any properties of this trust, other than pursuant to the express terms hereof or of said Will, or directly or indirectly contests, disputes or calls into question, before any tribunal, the validity of this instrument or of said Will or the validity of any provisions of this instrument or of said Will, then (i) all costs related to any such assertion by such beneficiary shall be directly charged to and borne by such beneficiary's interests hereunder, and (ii):

A. Such beneficiary shall thereby absolutely forfeit any and all beneficial interests of whatsoever kind and nature which such beneficiary might otherwise have under this instrument and the interests of the other beneficiaries hereunder shall thereupon be appropriately and proportionately increased and/or advanced;

B. All of the provisions of this instrument, to the extent they confer any benefits, powers or rights whatsoever upon such claiming, electing or contesting beneficiary, shall thereupon become absolutely void and revoked; and

C. Such claiming, electing or contesting beneficiary, if then acting as a Trustee hereunder, shall automatically cease to be a Trustee and shall thereafter be ineligible to select, remove or become a Trustee hereunder.

The foregoing shall not be construed, however, to limit the appearance of any beneficiary as a witness in any proceeding involving this instrument or involving any instrument which distributes assets to any trust created under this instrument, nor to limit any beneficiary's appearance in any capacity in any proceeding solely for the construction of said documents.

IN WITNESS WHEREOF, the Independent Trustee has hereunto set its hand to THE LME 2017 FAMILY TRUST this 24th day of March, 2017.

INDEPENDENT TRUSTEE:

PREMIER TRUST, INC.

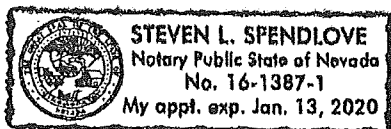
By: Brian Simmons
Brian Simmons
SVP / Trust Officer

STATE OF NEVADA)
) ss.:
COUNTY OF CLARK)

On March 24th, 2017, before me, Steven Spendlove, a Notary Public, personally appeared Brian Simmons, in his capacity as SVP / Trust Officer of PREMIER TRUST, INC., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to THE LME 2017 FAMILY TRUST and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person executed the instrument.

WITNESS my hand and official seal.

Steven Spendlove
Notary Public



TRUST AGREEMENT

SCHEDULE A

ASSET

DATE

INITIALS OF
TRUSTEE

Exhibit 2

Exhibit 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-CIV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS GROUP,
INC. d/b/a/ PAR FUNDING,
FULL SPECTRUM PROCESSING, INC.,
ABETTERFINANCIALPLAN.COM LLC
d/b/a/ A BETTER FINANCIAL PLAN,
ABFP MANAGEMENT COMPANY, LLC
f/k/a/ PILLAR LIFE SETTLEMENT
MANAGEMENT COMPANY, LLC,
ABFP INCOME FUND, LLC,
ABFP INCOME FUND 2, L.P.,
UNITED FIDELIS GROUP CORP.,
FIDELIS FINANCIAL PLANNING LLC,
RETIREMENT EVOLUTION GROUP, LLC,
RETIREMENT EVOLUTION INCOME
FUND, LLC f/k/a RE INCOME FUND, LLC,
RE INCOME FUND 2, LLC,
LISA MCELHONE,
JOSEPH COLE BARLETA a/k/a/ JOE COLE,
JOSEPH W. LAFORTE a/k/a JOE MACK
a/k/a/ JOE MACKI a/k/a JOE MCELHONE,
PERRY S. ABBONIZIO,
DEAN J. VAGNOZZI,
MICHAEL C. FURMAN,
and JOHN GISSAS,

Defendants, and

L.M.E. 2017 FAMILY TRUST,

Relief Defendant.

_____ /

**ORDER GRANTING PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S
MOTION FOR APPOINTMENT OF RECEIVER**

THIS CAUSE comes before the Court upon Plaintiff Securities and Exchange Commission's *Ex Parte* Motion for the Appointment of a Receiver [ECF No. 4] ("Motion"), filed on July 24, 2020. In the Motion, Plaintiff seeks the appointment of a Receiver over the corporate Defendants in this case: Complete Business Solutions Group, Inc. d/b/a Par Funding ("Par Funding"), Full Spectrum Processing, Inc., ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan ("ABFP"), ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC ("ABFP Management"), ABFP Income Fund, LLC, ABFP Income Fund 2, L.P., United Fidelis Group Corp., Fidelis Financial Planning LLC, Retirement Evolution Group, LLC, RE Income Fund LLC, and RE Income Fund 2 LLC (collectively, the "Receivership Entities").

Plaintiff seeks a Receiver with full and exclusive power, duty, and authority to: administer and manage the Receivership Entities' business affairs, funds, assets, causes of action, and any other property; marshal and safeguard all of the assets of the Receivership Entities; and take whatever actions are necessary for the protection of the investors. *See* Motion at 2. Plaintiff has made a sufficient and proper showing in support of the relief requested, submitted the credentials of a candidate to be appointed as Receiver, and advised the Court that this candidate is prepared to assume this responsibility if so ordered by the Court. Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff Securities and Exchange Commission's *Ex Parte* Motion for the Appointment of a Receiver [ECF No. 4] is **GRANTED**. Ryan K. Stumphauzer is appointed Receiver over the Receivership Entities, their subsidiaries, successors, and assigns. If the Court grants Plaintiff's Emergency *Ex Parte* Motion for Temporary Restraining

Order and Other Relief [ECF No. 14], Mr. Stumphauzer is authorized, empowered, and directed as follows until further Order of the Court:

1. To take custody, control, and possession of all Receivership Entity records, documents, and materials, and to safeguard these items until further Order of the Court;

2. To secure and safeguard the Receivership Entity's information technology, data, documents, storage systems, and documents, including by making contact with any third party vendors, such as movers and information technology personnel, to assist in this process;

3. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, lawyers, and paralegals ("Retained Personnel");

4. To take any other action as necessary and appropriate for the preservation of the Receivership Entities' property interests or to prevent the dissipation or concealment of such property interests; and

5. To take such other action as may be approved by this Court.

6. Additionally, the Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers, and general and limited partners of each Receivership Entity, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

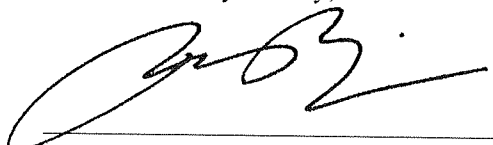
7. In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity or government office that he deems appropriate to inform them of the status of this matter and the Receiver's appointment.

8. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates. The Receiver shall seek the Court's

approval by filing a Motion for the reimbursement of expenses and compensation for time spent on the matters set forth herein.

9. The Receivership Entities and all persons receiving notice of this Order shall not hinder or interfere with the Receiver's efforts to take control or possession of the Receivership Entities' property interests identified above, or hinder his efforts to preserve them.

DONE AND ORDERED in Fort Lauderdale, Florida, this 27th day of July, 2020.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CIV-81205-RAR

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, et al.,**

Defendants.

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AMENDED ORDER APPOINTING RECEIVER

THIS CAUSE comes before the Court upon Plaintiff Securities and Exchange Commission’s (“SEC” or “Commission”) Expedited Motion to Amend Receivership Order [ECF No. 105] (“Motion”), filed on August 7, 2020, and the Court’s Order granting the Motion [ECF No. 140], entered on August 13, 2020.

WHEREAS as set forth in the Court’s July 27, 2020 Order appointing the Receiver [ECF No. 36], the Court found that, based on the record in these proceedings, the appointment of a receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of the Defendants (“Receivership Assets”) and those assets of the Relief Defendant that: (a) are attributable to funds derived from investors or clients of the Defendants; (b) are held in constructive trust for the Defendants; and/or (c) may otherwise be includable as assets of the estates of the Defendants (collectively, “Recoverable Assets”); and,

WHEREAS this Court has subject matter jurisdiction over this action and personal jurisdiction over the Defendants, and venue properly lies in this district, it is hereby

ORDERED AND ADJUDGED as follows:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the following Defendants: Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”), Full Spectrum Processing, Inc., ABetterFinancialPlan.com LLC d/b/a A Better Financial Plan (“ABFP”), ABFP Management Company, LLC f/k/a Pillar Life Settlement Management Company, LLC (“ABFP Management”), ABFP Income Fund, LLC, ABFP Income Fund 2, L.P., United Fidelis Group Corp., Fidelis Financial Planning LLC, Retirement Evolution Group, LLC, RE Income Fund LLC, and RE Income Fund 2 LLC; and the following related entities: ABFP Income Fund 3, LLC, ABFP Income Fund 4, LLC, ABFP Income Fund 6, LLC, ABFP Income Fund Parallel LLC, ABFP Income Fund 2 Parallel, ABFP Income Fund 3 Parallel, ABFP Income Fund 4 Parallel, and ABFP Income Fund 6 Parallel (collectively, “Receivership Entities”).

2. Until further Order of this Court, Ryan Stumphauzer, Esq. is appointed to serve without bond as receiver (“Receiver”) for the estates of the Receivership Entities.

I. Asset Freeze

3. Except as otherwise specified herein, all Receivership Assets and Recoverable Assets are frozen until further order of this Court. Accordingly, all persons and entities with direct or indirect control over any Receivership Assets and/or any Recoverable Assets, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets. This freeze shall include, but not be limited to, Receivership Assets and/or Recoverable Assets that are on deposit with financial institutions such as banks, brokerage firms and mutual funds.

II. General Powers and Duties of Receiver

4. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers and general and limited partners of the Receivership Entities under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed. R. Civ. P. 66.

5. The trustees, directors, officers, managers, employees, investment advisors, accountants, attorneys and other agents of the Receivership Entities are hereby dismissed and the powers of any general partners, directors and/or managers are hereby suspended. Such persons and entities shall have no authority with respect to the Receivership Entities' operations or assets, except to the extent as may hereafter be expressly granted by the Receiver. The Receiver shall assume and control the operation of the Receivership Entities and shall pursue and preserve all of their claims.

6. No person holding or claiming any position of any sort with any of the Receivership Entities shall possess any authority to act by or on behalf of any of the Receivership Entities.

7. Subject to the specific provisions in Sections III through XIV, below, the Receiver shall have the following general powers and duties:

- A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Entities, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Entities own, possess, have a beneficial interest in, or control directly or indirectly ("Receivership Property" or, collectively, "Receivership Estates");

- B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Entities; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;
- C. To manage, control, operate and maintain the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court;
- D. To use Receivership Property for the benefit of the Receivership Estates, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, trustees and agents of the Receivership Entities;
- F. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;
- G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- H. The Receiver is authorized to issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure;
- I. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver;
- J. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estates; and,
- K. To take such other action as may be approved by this Court.

III. Access to Information

8. The individual Receivership Entities and the past and/or present officers, directors, agents, managers, general and limited partners, trustees, attorneys, accountants and

employees of the entity Receivership Entities, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Entities and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

9. Within ten days of the entry of this Order, the Receivership Entities shall file with the Court and serve upon the Receiver and the Commission a sworn statement, listing: (a) the identity, location and estimated value of all Receivership Property; (b) all employees (and job titles thereof), other personnel, attorneys, accountants and any other agents or contractors of the Receivership Entities; and, (c) the names, addresses and amounts of claims of all known creditors of the Receivership Entities.

10. Within thirty (30) days of the entry of this Order, the Receivership Entities shall file with the Court and serve upon the Receiver and the Commission a sworn statement and accounting, with complete documentation, covering the period from January 1, 2015 to the present:

- A. Of all Receivership Property, wherever located, held by or in the name of the Receivership Entities, or in which any of them, directly or indirectly, has or had any beneficial interest, or over which any of them maintained or maintains and/or exercised or exercises control, including, but not limited to: (a) all securities, investments, funds, real estate, automobiles, jewelry and other assets, stating the location of each; and (b) any and all accounts, including all funds held in such accounts, with any bank, brokerage or other financial institution held by, in the name of, or for the benefit of any of them, directly or indirectly, or over which any of them maintained or maintains and/or exercised or exercises any direct or indirect control, or in which any of them had or has a direct or indirect beneficial interest, including the account statements from each bank, brokerage or other financial institution;
- B. Identifying every account at every bank, brokerage or other financial institution: (a) over which Receivership Entities have signatory authority;

and (b) opened by, in the name of, or for the benefit of, or used by, the Receivership Entities;

- C. Identifying all credit, bank, charge, debit or other deferred payment card issued to or used by each Receivership Entity, including but not limited to the issuing institution, the card or account number(s), all persons or entities to which a card was issued and/or with authority to use a card, the balance of each account and/or card as of the most recent billing statement, and all statements for the last twelve months;
- D. Of all assets received by any of them from any person or entity, including the value, location, and disposition of any assets so received;
- E. Of all funds received by the Receivership Entities, and each of them, in any way related, directly or indirectly, to the conduct alleged in the Commission's Complaint. The submission must clearly identify, among other things, all investors, the securities they purchased, the date and amount of their investments, and the current location of such funds;
- G. Of all expenditures exceeding \$1,000 made by any of them, including those made on their behalf by any person or entity; and
- H. Of all transfers of assets made by any of them.

11. Within thirty (30) days of the entry of this Order, the Receivership Entities shall provide to the Receiver and the Commission copies of the Receivership Entities' federal income tax returns for 2015 through present with all relevant and necessary underlying documentation.

12. The individual Receivership Entities and the Receivership Entities' past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners, and other appropriate persons or entities shall answer under oath to the Receiver all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Entities, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Entities. In the event that the Receiver deems it

necessary to require the appearance of the aforementioned persons or entities, the Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.

13. The Receiver is authorized to issue subpoenas to compel testimony of persons or production of records, consistent with the Federal Rules of Civil Procedure and applicable Local Rules, except for the provisions of Fed. R. Civ. P. 26(d)(1), concerning any subject matter within the powers and duties granted by this Order.

14. The Receivership Entities are required to assist the Receiver in fulfilling his duties and obligations. As such, they must respond promptly and truthfully to all requests for information and documents from the Receiver.

IV. Access to Books, Records, and Accounts

15. The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records and all other documents or instruments relating to the Receivership Entities. All persons and entities having control, custody or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

16. The Receivership Entities, as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Entities, and any persons receiving notice of this Order by personal service, facsimile transmission or otherwise, having possession of the property, business, books, records, accounts or assets of the Receivership Entities are hereby directed to deliver the same to the Receiver, his agents and/or employees.

17. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, and of the Receivership Entities that receive actual notice of this Order by personal service, facsimile transmission or otherwise shall:

- A. Not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Entities except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;
- C. Within five (5) business days of receipt of that notice, file with the Court and serve on the Receiver and counsel for the Commission a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and,
- D. Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

V. Access to Real and Personal Property

18. The Receiver is authorized to take immediate possession of all personal property of the Receivership Entities, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies and equipment.

19. The Receiver is authorized to take immediate possession of all real property of the Receivership Entities, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or, (c) destroying, concealing or erasing anything on such premises.

20. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above. The Receiver shall have exclusive control of the keys. The Receivership Entities, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys in their possession during the term of the receivership.

21. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Entities, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

22. Upon the request of the Receiver, the United States Marshal Service, in any judicial district, is hereby ordered to assist the Receiver in carrying out his duties to take possession, custody and control of, or identify the location of, any assets, records or other materials belonging to the Receivership Estates.

VI. Notice to Third Parties

23. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers and general and limited partners of the Receivership Entities, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

24. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to any Receivership Entity shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Entity had received such payment.

25. In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estates. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the SEC.

26. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Entities ("Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Entities. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Entities shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of any individual Receivership Entities, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mailbox, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Entities. The Receivership Entities shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository or courier service.

27. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to the Receivership Entities shall maintain

such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

VII. Injunction Against Interference with Receiver

29. The Receivership Entities and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to, concealing, destroying or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property, enforcing judgments, assessments or claims against any Receivership Property or any Receivership Entity, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any Receivership Entity or which otherwise affects any Receivership Property; or,
- D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.

30. The Receivership Entities shall cooperate with and assist the Receiver in the performance of his duties.

31. The Receiver shall promptly notify the Court and SEC counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

VIII. Stay of Litigation

32. As set forth in detail below, and excluding the instant proceeding, all police or regulatory actions and actions of the Commission related to the above-captioned enforcement action, and the proceedings specified in the Court's Order Granting the Receiver's Emergency Motion to Lift Litigation Injunction as to Certain Garnishment Proceedings [ECF No. 112], the following proceedings are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities, including subsidiaries and partnerships; or, (d) any of the Receivership Entities' past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

33. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

34. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Entities against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

IX. Managing Assets

35. For each of the Receivership Estates, the Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Property ("Receivership Funds").

36. The Receiver's deposit account shall be entitled "Receiver's Account, Estate of [Receivership Entity]" together with the name of the action.

37. The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.

38. Subject to Paragraph 39, immediately below, the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.

39. Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estates.

40. The Receiver is authorized to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Estates, including making legally required payments to creditors, employees, and agents of the Receivership Estates and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

41. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund," within the meaning of Section 468B of the Internal Revenue Code and of the regulations, when applicable, whether proposed,

temporary or final, or pronouncements thereunder, including the filing of the elections and statements contemplated by those provisions. The Receiver shall be designated the administrator of the Settlement Fund, pursuant to Treas. Reg. § 1.468B-2(k)(3)(i), and shall satisfy the administrative requirements imposed by Treas. Reg. § 1.468B-2, including but not limited to (a) obtaining a taxpayer identification number, (b) timely filing applicable federal, state, and local tax returns and paying taxes reported thereon, and (c) satisfying any information, reporting or withholding requirements imposed on distributions from the Settlement Fund. The Receiver shall cause the Settlement Fund to pay taxes in a manner consistent with treatment of the Settlement Fund as a “Qualified Settlement Fund.” The Receivership Entities shall cooperate with the Receiver in fulfilling the Settlement Funds’ obligations under Treas. Reg. § 1.468B-2.

X. Investigate and Prosecute Claims

42. Subject to the requirement, in Section VIII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in his discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or conserve Receivership Property.

43. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Entities were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate; the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts,

disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to Counsel for the Commission before commencing investigations and/or actions.

44. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all entity Receivership Entities.

45. The receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, his Retained Personnel (as that term is defined below), and the Receivership Estate.

XI. Bankruptcy Filing

46. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (“Bankruptcy Code”) for the Receivership Entities. If a Receivership Entity is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estates as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 4 above, the Receiver is vested with management authority for all entity Receivership Entities and may therefore file and manage a Chapter 11 petition.

47. The provisions of Section VIII above bar any person or entity, other than the Receiver, from placing any of the Receivership Entities in bankruptcy proceedings.

XII. Liability of Receiver

48. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with his fiduciary obligations in this matter.

49. The Receiver and his agents, acting within scope of such agency (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

50. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

51. In the event the Receiver decides to resign, the Receiver shall first give written notice to the Commission’s counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

XIII. Recommendations and Reports

52. If the Receiver deems it necessary, the Receiver is authorized to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property (“Liquidation Plan”) for review by the Court. The Receiver shall file the Liquidation Plan in the above-captioned action, with service copies to counsel of record.

53. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of each Receivership Estate (“Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the

existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates.

54. The Quarterly Status Report shall contain the following:
 - A. A summary of the operations of the Receiver;
 - B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
 - C. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
 - D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
 - E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
 - F. A list of all known creditors with their addresses and the amounts of their claims;
 - G. The status of Creditor Claims Proceedings, after such proceedings have been commenced; and,
 - H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

55. On the request of the Commission, the Receiver shall provide the Commission with any documentation that the Commission deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the Commission's mission.

XIV. Fees, Expenses and Accountings

56. Subject to Paragraphs 57 – 63 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state or local taxes.

57. Subject to Paragraph 58 immediately below, the Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

58. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” (“Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

59. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estates (“Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by SEC staff.

60. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. At the close of the receivership, the Receiver

will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

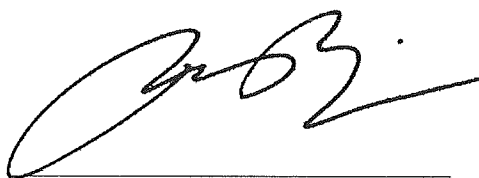
61. Quarterly Fee Applications may be subject to a holdback of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

62. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and,
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

63. At the close of the Receivership, the Receiver shall submit a Final Accounting, in a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement.

DONE AND ORDERED in Fort Lauderdale, Florida, this 13th day of August, 2020.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record