

1 WEINSTOCK MANION, A Law Corporation
M. NEIL SOLARZ (SBN 78259)
2 DIANE Y. PARK (SBN 222354)
1875 Century Park East, Suite 2000
3 Los Angeles, California 90067
(310) 553-8844 • Fax: (310) 553-5165
4 Email: nsolarz@weinstocklaw.com
dpark@weinstocklaw.com
5

6 LAW OFFICE OF SANDY J. CHUN, PC
SANDY J. CHUN (SBN 204464)
7 707 W. Seventh Street, 46th Floor
Los Angeles, California 90017
8 (213) 553-1124
Email: SChun@SJCEstatePlanning.com
9

10 Attorneys for Petitioner, ELIZABETH
KAPLAN, Individually and on behalf of
11 PARKER JOSHUA KAPLAN, a Minor, as his
Surviving Parent
12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
15

16 In the Matter of the

Case No. 20STPB00786

17 **JOE KAPLAN LIVING TRUST**
18 dated July 24, 2007

**PETITION FOR REMOVAL OF
AARON KAPLAN AS TRUSTEE**

19 [Prob. Code §§ 15642,16420, 17200(b)(10)
20 & (b)(12)]

21 Date: 6/11/2020
Time: 8:30 a.m.
22 Dept.: 4
Judge: Hon. Brenda J. Penny
23

24 Petitioner, ELIZABETH KAPLAN ("Petitioner" or "ELIZABETH"), a current
25 beneficiary of the JOE KAPLAN LIVING TRUST dated July 24, 2007, as amended (the
26 "Trust"), both on her own behalf and on behalf of her minor child, PARKER JOSHUA
27 KAPLAN ("PARKER"), also a beneficiary of the Trust, hereby presents her verified
28

1 "PETITION FOR REMOVAL OF AARON KAPLAN AS TRUSTEE" (the "Petition"), as
2 follows:

3 **FACTUAL AND JURISDICTIONAL BACKGROUND**

4 1. **Family Circumstances.** JOSEPH KAPLAN ("JOE") and ELIZABETH were
5 married for almost ten years until JOE's death on July 27, 2018. JOE and ELIZABETH had
6 one child together; namely, PARKER, born on September 2, 2009. JOE had two children from
7 a prior marriage; namely, BRANDON HUNTER KAPLAN ("BRANDON") and DANIELLE
8 MORGAN KAPLAN ("DANIELLE"), both of whom are adults.

9 2. **Establishment of the Trust.** JOE, as Grantor and initial Trustee, established
10 the Trust on July 24, 2007. The Trust was amended and restated in its entirety on July 1, 2009
11 and then amended in part on May 7, 2012. A true and correct copy of the amended and
12 restated Trust, as further amended in part, is attached hereto as **Exhibit "A"**, and incorporated
13 herein by this reference as if set forth in full.

14 3. **Specific Distributions & Creation of Sub-Trusts Upon JOE's Death.**

15 a. Pursuant to the terms of the Trust, "as soon as reasonably practicable"
16 after JOE's death, the Trustee is required to distribute, free of trust, the following specific gifts
17 to ELIZABETH: (1) all of JOE's personal property, including, but not limited to antiques,
18 collectibles and artwork, and (2) the sum of Five Million Dollars (\$5,000,000)
19 ("ELIZABETH's \$5 Million Dollar Gift").

20 b. The Trust also provides that upon JOE's death, the sum of One Million
21 Dollars (\$1,000,000) is to be allocated to a separate trust for PARKER's education, referred to
22 in the Trust as the "New Child's Education Trust." PARKER is the sole beneficiary of the New
23 Child's Education Trust.

24 c. In addition, the primary residence in Malibu in which JOE and
25 ELIZABETH were residing at the time of JOE's death (the "Primary Residence") and the sum
26 of Two Hundred Thousand Dollars (\$200,000) multiplied by the number of full years from
27 JOE's death until PARKER attains age nineteen (19) (i.e., \$200,000 x 10 = \$2,000,000) is to
28 be allocated to a separate trust, referred to in the Trust as the "Primary Residence Trust." The

1 Trust entitles PARKER and ELIZABETH to use and occupy the Primary Residence without
2 payment of rent or maintenance expenses until the earliest to occur of (a) PARKER attaining
3 age nineteen (19) years, (b) the death of PARKER, (c) ELIZABETH cohabitating with a
4 person other than a blood relative or (d) ELIZABETH remarrying.

5 d. After making the distributions described in Subparagraphs a through c
6 of this Paragraph 3 of this Petition, the remaining balance of the Trust is to be divided into
7 equal sub-trusts for JOE's three children, PARKER, DANIELLE and BRANDON.

8 4. **Trustee.** Upon JOE's death, and pursuant to Paragraph 8.1 of the Trust, JOE's
9 brother, AARON KAPLAN (the "Trustee" or "AARON"), became successor trustee of the
10 Trust, and continues to act in such capacity.

11 5. **AARON's Breaches of Fiduciary Duties and Unfitness to Serve/Purpose of**
12 **Petition.** Since JOE's death and AARON's succession as Trustee, AARON has displayed an
13 overt hostility toward ELIZABETH in obvious breaches of his fiduciary duties. From the
14 outset, AARON waged a personal vendetta against EIZABETH and has treated her as the
15 enemy. Examples of AARON's contemptuous actions (or inactions) which are in
16 contravention of his fiduciary duties as Trustee include the following (but without any
17 limitation):

18 a. **AARON Secretly Installed Surveillance Cameras in ELIZABETH's**
19 **Master Suite of her Home.** JOE died in his sleep while he and ELIZABETH were on
20 vacation in Bermuda. ELIZABETH was not able to return home immediately, but had to
21 remain in Bermuda for four days while JOE's death was being investigated. During the
22 excruciating four days while ELIZABETH was grieving the untimely death of her husband,
23 who was only fifty-five years old, and was overwhelmed with shock and fear of having
24 overnight become a widow and a single mother to her son who was then only eight years old,
25 AARON committed his first inexcusable and malicious breach of his duty as successor trustee.
26 AARON had two (2) hidden surveillance cameras installed in the master bedroom suite,
27 egregiously invading ELIZABETH's privacy. Once AARON got caught and the surveillance
28 cameras were found, AARON admitted that he covertly had the surveillance cameras installed.

1 The master bedroom suite of the Malibu residence includes a sleeping area on one end
2 and a bathroom on the other end which are separated by a narrow hallway. The hallway has a
3 closet on each side of the wall with the closet doors facing each other. The first hidden camera
4 was discovered by ELIZABETH's mother, MARIA CERVINI ("MARIA"), while she was
5 assisting her daughter in dealing with JOE's death and with ELIZABETH's resulting shock and
6 grief. MARIA was taking stock of the contents of one of the closets in the master bedroom
7 suite when she noticed a small white object on a shelf overhead. On further investigation, and
8 much to her horror and dismay, she discovered that it was a wireless camera. Minutes later,
9 the second wireless camera was discovered. It was tucked under the bill of a baseball cap on
10 the top shelf opposite the wall from the shelf where MARIA found the first camera. The
11 second camera was aimed in a direction where it would capture images directly into a second
12 closet in the master bedroom suite. This second closet was primarily used by ELIZABETH,
13 and was the principal area where she would dress and undress. It was the space where
14 ELIZABETH would pick out and put on her clothes, including her bra and other
15 undergarments, and undress at night. The second camera was aimed in such a way that it could
16 capture ELIZABETH walking in the narrow passageway between the master bedroom and
17 master bathroom in which ELIZABETH would often walk naked, in undergarments or only
18 partially clothed. ELIZABETH later discovered a wireless router attached to the
19 communication cables in the residence to which the cameras were connected. The cameras had
20 motion sensors which initiate recording and microphones which pick up sounds. The devices
21 were capable of recording images even in near-darkness.

22 Although AARON is in possession of the unlawful video/audio recordings which were
23 captured by these cameras, he has steadfastly and unreasonably refused to turn them over to
24 ELIZABETH. AARON's actions in secretly installing these cameras without ELIZABETH's
25 knowledge or consent, were not only a clear breach of his fiduciary duties toward
26 ELIZABETH (and PARKER), but also were taken in violation of ELIZABETH's and
27 PARKER's right to privacy under the California Constitution and California common law, and
28

1 violation of criminal statutes under sections 632, 634, 647(j)(1), and 647(j)(3) of the California
2 Penal Code.

3 AARON's covert installation of the surveillance cameras is inexcusable. Protecting
4 trust assets is not a defense to his violations of ELIZABETH's right of privacy or of criminal
5 statutes. And certainly, whatever was "caught" on tape does not justify his behavior. Not only
6 were his actions criminal, they were in poor judgment, repulsive and perverted, since
7 AARON, as a male trustee, effectively placed his "eyes and ears" in a woman's master
8 bedroom suite, regardless of whether he actually saw ELIZABETH scantily dressed or nude. It
9 was an invasion of ELIZABETH's most intimate space, and even the possibility that AARON
10 could have caught a glimpse of ELIZABETH not fully clothed, is reprehensible.

11 If AARON's true motive was to protect Trust assets in the closet in which he installed
12 the surveillance cameras, he should have informed ELIZABETH in advance by cell phone or
13 e-mail of his intent and explain why he thought it was necessary. The only reason why
14 AARON did not give ELIZABETH advance warning is because he had some other
15 motivation, such as setting up a trap for her or perhaps something even more unsavory.

16 b. **AARON Failed to Comply with Trust Terms – Failed to Distribute**
17 **\$5 Million Dollars to ELIZABETH.** Although it has been approximately 20 months since
18 JOE'S death, AARON has steadfastly refused to distribute ELIZABETH's \$5 Million Dollar
19 Gift to ELIZABETH. Further, on information and belief, AARON has refused to turn over to
20 ELIZABETH certain items of JOE's valuable tangible personal property, including a KOBE
21 BRYANT jersey and other sports memorabilia.

22 c. **AARON Failed to Comply with Trust Terms – Failed to Provide a**
23 **Trust Accounting.** In January, 2019, ELIZABETH demanded that AARON provide her with
24 an accounting of his administration of the Trust through a current date which AARON has
25 failed to do. Instead, on October 15, 2019 (ten months after ELIZABETH's demand for an
26 accounting), AARON's counsel provided an incomplete "Preliminary Accounting," which
27 covered only the five-month period of July 27, 2018 through December 31, 2018 ("First
28 Informal Accounting"). At the top of each page of the First Informal Accounting, AARON

1 inserted the following statement: "CONFIDENTIAL AND PRIVILEGED SETTLEMENT
2 COMMUNICATION PRELIMINARY ACCOUNTING PENDING FINALIZATION OF
3 706." After numerous written and oral demands by ELIZABETH's counsel, finally on
4 February 1, 2020, AARON's counsel provided another informal accounting for the period of
5 January 1, 2019 through December 31, 2019 (the "Second Informal Accounting"). The Second
6 Informal Account was marked on each page "CONFIDENTIAL AND PRIVILEGED
7 MEDIATION/SETTLEMENT COMMUNICATION" or "Confidential and Privileged." In
8 view thereof, while ELIZABETH has numerous substantive objections to the First and Second
9 Informal Accountings, each was inexplicably marked "privileged," effectively preventing
10 ELIZABETH from responding thereto or seeking a Court review thereof. As a result,
11 ELIZABETH has also filed herein a Petition to Compel AARON to render a complete and
12 formal accounting of his administration of the Trust. His past refusal to do so is further
13 evidence of his hostility toward ELIZABETH, and a breach of his fiduciary duty to keep his
14 beneficiaries informed as owed to both ELIZABETH and PARKER.

15 d. **AARON Disclosed Confidential Settlement Discussions.** On February
16 26, 2020, AARON caused to be filed "Trustee's Petition for Instructions re Interpretation and
17 Administration of Trust; for Order Confirming Ownership of Certain Assets; for Recovery of
18 Assets Wrongfully Taken; and for Double Damages; and for the Appointment of a Guardian
19 ad Litem" ("Aaron's Petition for Instructions") which was set for hearing on May 7, 2020. In
20 Aaron's Petition for Instructions, AARON and his counsel unlawfully disclosed confidential
21 settlement discussions between counsel, held both before and during mediation with Judge
22 Louis Meisinger, Retired, which involved the possible resignation of AARON as Trustee of
23 certain trusts and a possible modification of the Trust. Until now, said matters were only the
24 subject of confidential settlement communications. AARON's disclosure thereof is further
25 evidence of his breach of his fiduciary duties to ELIZABETH and PARKER, and his counsel's
26 breach of their ethical obligations.

27 The actions of AARON's counsel in including privileged, confidential material in Court
28 pleadings is a breach of their ethical obligations, as well as a violation of California law

1 applicable to mediation privilege and settlement privilege (respectively, Evidence Code
2 Sections 1119 and 1152). Settlement discussions, negotiations and communications are
3 confidential to encourage parties to communicate freely without the fear that their statements
4 may later be used against them. In blatant contravention of such a basic ethical rule and
5 statutory law, AARON and his counsel are now using these confidential settlement
6 communications as ammunition against ELIZABETH. In doing so, AARON has proven that
7 he cannot be trusted to carry out his fiduciary duties professionally or be trusted to treat
8 ELIZABETH and PARKER fairly.

9 e. **AARON'S Petition for Instructions is Intended to Harm**
10 **ELIZABETH and "Starve" Her Out.** In obvious breach of his fiduciary duties toward
11 ELIZABETH, Aaron's Petition for Instructions now asks the Court to authorize him to delay
12 making distribution of ELIZABETH's \$5 Million Dollar Gift until "resolution of the pending
13 litigation" and "the potential contest issues." At the time of the filing of Aaron's Petition for
14 Instructions, AARON was acutely aware that there was no pending litigation or any contest
15 issues. AARON's obvious intent in seeking to defer payment of ELIZABETH's \$5 Million
16 Dollar Gift is to deprive ELIZABETH of the financial resources to which she is entitled, and
17 which he knows are desperately needed to protect her rights as a beneficiary of the Trust, as
18 well as to protect the rights of her minor child, PARKER. In doing so, AARON is attempting
19 to unlawfully obtain a financial and legal advantage over ELIZABETH and PARKER, to
20 whom he owes fiduciary duties of loyalty. AARON's clear motivation in so delaying
21 distribution to ELIZABETH is to "starve" her out, while he utilizes Trust resources to defend
22 against his clear and unlawful breaches of trust.

23 Further, AARON's Petition for Instructions falsely accuses ELIZABETH of, among
24 other things,: (i) misappropriating assets of the Trust, (ii) threatening to initiate litigation
25 against the Trustee unless changes were made to the Trust, and (iii) extortion. These
26 accusations are without any factual basis whatsoever, and are further evidence of AARON's
27 open hostility toward ELIZABETH.

28

1 f. **AARON Failed to Indemnify ELIZABETH in Lawsuit in Nevada as**
2 **Required Under Prenuptial Agreement.** In the Fall of 2019, Las Vegas Sands, LLC
3 ("Sands Casino") initiated a lawsuit against ELIZABETH in the U.S. District Court, District of
4 Nevada (the "Nevada Lawsuit"), claiming that ELIZABETH should be held liable for
5 gambling debts incurred by JOE related to markers which JOE alone obtained from Sands
6 Casino in the total approximate sum of \$7 million. The Nevada Lawsuit is pending. Prior to
7 their marriage, JOE and ELIZABETH entered into a Cohabitation/Prenuptial Agreement dated
8 October 17, 2008 (the "Prenuptial Agreement"). Paragraph 4.2 of the Prenuptial Agreement
9 states that "ELIZABETH shall have no obligation for any of JOSEPH's liabilities, and
10 JOSEPH hereby indemnifies and holds her harmless in connection therewith." Paragraph 15.1
11 of the Prenuptial Agreement makes JOSEPH's said obligations binding on his heirs, executor,
12 assigns, trustee, administrator, successors and personal representatives. In October 2019,
13 ELIZABETH's Nevada litigation counsel made a formal demand for indemnification from
14 AARON, as Trustee of the Trust. Despite several follow-up communications, there has been
15 no response. As there is no doubt that the subject gambling debts are JOE's alone, and not
16 community debts, AARON has failed to abide by the terms of the Prenuptial Agreement in
17 failing to indemnify ELIZABETH from the legal fees and costs she has incurred (and will
18 continue to incur) relating to the Nevada Lawsuit. Such failure is further evidence of
19 AARON's breach of his fiduciary duties to ELIZABETH, his overt hostility toward her, and
20 his total unfitness to serve as Trustee of the Trust.

21 g. **AARON Made False and Defamatory Statements About**
22 **ELIZABETH to Third Parties.** AARON has been making false and defamatory statements
23 about ELIZABETH to mutual acquaintances in an attempt to cause harm to ELIZABETH's
24 reputation in her community.

25 For all of the foregoing reasons, AARON is clearly unfit to serve as Trustee for
26 ELIZABETH or PARKER in any capacity. ELIZABETH, therefore, requests that AARON be
27 immediately removed as Trustee of the Trust, and that he be prevented from later serving as
28 Trustee of the New Child's Education Trust, the Primary Residence Trust and the sub-trust to

1 be established for PARKER to be funded with his one-third of the residue of the Trust estate
2 ("PARKER'S Sub-Trust").

3 6. **Standing.** As a beneficiary of the Trust, and as the surviving parent of
4 PARKER who is also a beneficiary of the Trust, ELIZABETH, on her own behalf and on
5 PARKER's behalf, has standing to bring this Petition pursuant to Probate Code Section
6 17200(b)(10) & (b)(12).

7 7. **Jurisdiction.** This Court has jurisdiction for all purposes over the Trust and the
8 Trustee, since the principal place of administration of the Trust is in the County of Los
9 Angeles, California. *See* Probate Code §§ 17000, 17003 & 17004.

10 8. **Venue.** This Court is the proper venue for this proceeding, as Los Angeles
11 County is the county in which the principal place of administration of the Trust is located. *See*
12 Probate Code § 17005(a)(1).

13 **REQUEST FOR REMOVAL OF AARON AS TRUSTEE**

14 9. ELIZABETH requests that AARON be immediately removed as Trustee of the
15 Trust, and that he be prevented from later serving as Trustee of the New Child's Education
16 Trust, the Primary Residence Trust and PARKER'S Sub-Trust. Under section 15642(a) of the
17 Probate Code, a trustee may be removed on petition of a beneficiary under Section 17200.
18 Probate Code Section 17200(a) provides that a beneficiary of a trust may petition the court
19 concerning the internal affairs of the trust, including the removal of a trustee (Prob. C.
20 §17200(b)(10)). Grounds for removal include "where the trustee has committed a breach of the
21 trust," "where the trustee is insolvent or otherwise unfit to administer the trust," and "for other
22 good cause." Prob. C. § 15642(b)(1), (2) & (9). Probate Code Section 16420(a) provides that
23 "[i]f a trustee commits a breach of trust, or threatens to commit a breach of trust, a
24 beneficiary...may commence a proceeding for any of the following purposes that is
25 appropriate:...(5) To remove the trustee."

26 10. As Trustee, AARON has a duty to administer the Trust in the best interest of its
27 beneficiaries (Prob. Code §16002). However, as detailed in Paragraph 5 above, AARON
28 clearly breached his fiduciary duties owed to ELIZABETH and PARKER, has failed to

1 exercise his discretion reasonably in complying with the terms of the Trust, has acted with
2 hostility toward ELIZABETH and PARKER, has violated both civil and criminal laws in
3 breaching the privacy of ELIZABETH and PARKER, and is unfit to serve as Trustee.
4 AARON must be immediately removed as Trustee for the foregoing reasons, and must be
5 prevented from ever serving as Trustee of the New Child's Education Trust, the Primary
6 Residence Trust and PARKER'S Sub-Trust.

7 11. Within days after his brother's passing, AARON was "out to get" ELIZABETH.
8 AARON quickly aligned himself with the adult children from JOE'S prior marriage to make
9 ELIZABETH the enemy. For the past year and eight months, ELIZABETH has been engaged
10 in non-stop legal battles with AARON to force him to carry out his fiduciary duties which she
11 has had to personally fund. While AARON funded his legal war chest from Trust funds, he
12 refused to distribute to ELIZABETH the \$5 million from the Trust which she needs to protect
13 her rights under the Trust, as well as to provide support for herself and JOE and
14 ELIZABETH's minor child, PARKER.

15 12. Starting with covertly installing surveillance cameras in ELIZABETH's master
16 bedroom suite, then disclosing confidential settlement discussions in a public court filing and
17 making false and defamatory statements about ELIZABETH, AARON has shown that he is
18 not trustworthy and is unfit to serve as successor trustee. Further, AARON has breached his
19 fiduciary duties by failing to carry out simple instructions of the Trust, namely, refusing to
20 distribute to ELIZABETH the \$5 million from the Trust although it has been over a year and
21 eight months since JOE passed away and refusing to provide a Trust accounting thereby
22 skirting the most basic responsibility of a trustee. Also, fueled by his personal disdain of
23 ELIZABETH, AARON has abused his powers as a successor trustee to harm ELIZABETH.
24 The Petition for Instructions is fraught with false accusations based on no evidence and is
25 motivated by his desire to withhold from ELIZABETH the \$5 million from the Trust which is
26 necessary for her and PARKER's living and legal expenses. AARON'S failure to indemnify
27 ELIZABETH in the Nevada lawsuit again reflects his intent to make her suffer. AARON (with
28 the support of JOE's adult children from his prior marriage) has made it abundantly clear that

1 as long as he is the trustee, he will fight to make sure that ELIZABETH does not get what she
2 is entitled to under her late husband's Trust.

3 13. The hostility between AARON and ELIZABETH has risen to such a level that it
4 would be impossible for AARON to fairly administer the Trust or any of the sub-trusts for
5 ELIZABETH and/or her son PARKER. Hostility between the trustee and the beneficiaries that
6 impairs the administration of the trust is good cause for removal of the trustee. *Estate of*
7 *Gilmaker v. Bank of America National Trust and Savings Association* (1962) 57 Cal.2d 627,
8 631. In the *Estate of Gilmaker*, the Court of Appeal reversed the orders denying removal and
9 substitution of the trustee. *Id.* at 633. Stating that "[i]t is undisputed, however, that the trustee
10 failed to disperse the surplus cash of \$49,000 and failed to provide a segregated semiannual
11 accounting," the Court found that "[t]he hostility between the trustee and petitioner has
12 impaired the proper administration of the trust, and therefore requires the removal and
13 substitution of the trustee." *Id.* at 633. Likewise, here, the proper and timely administration of
14 the Trust has already been severely hampered by AARON's hostility toward ELIZABETH.
15 Specifically, AARON has refused to make the \$5 million distribution to ELIZABETH or
16 provide a proper Trust accounting. Instead of administering the Trust, AARON is focusing his
17 energies on asserting frivolous and groundless claims against ELIZABETH as evidenced in
18 his Petition for Instructions.

19 14. In *Overell v. Overell* (1926) 78 Cal.App. 251, 260-61, the Court of Appeal
20 found that "[a] very bitter antagonism exists between defendant and plaintiffs, which has gone
21 so far as to be manifested in physical violence upon such occasions. Such conditions tend to
22 make it impossible for the defendant [trustee] to impartially exercise his discretion in the
23 matter of terminating the trust and in other matters involving the interests of the beneficiaries."
24 Although there has been no physical violence here, AARON's intimidation tactics against
25 ELIZABETH are just as psychologically violent. The hostility which was first evidenced with
26 the placement of hidden surveillance cameras and continued to escalate over the past year and
27 a half has become emotionally abusive and intolerable to ELIZABETH. AARON must not be
28 permitted to serve as the Trustee of any trust in which ELIZABETH and/or PARKER is a

1 beneficiary, because the intense hostility will prevent AARON from impartially exercising his
2 discretion in administering these trusts.

3 15. The Trust provides that "the Primary Residence Trust shall pay all expenses for
4 maintaining the Primary Residence, including, but not limited to, assessments, fire and
5 casualty insurance premiums, property taxes, maintenance costs, ordinary repairs and all other
6 expenses of the Primary Residence." (Exh. A, First Amendment to Amended and Restated
7 Trust, ¶ 6.A.4 (emphasis added).) There can be no doubt that AARON and ELIZABETH will
8 have constant disputes over what "all other expenses" entails, and AARON'S contempt of
9 ELIZABETH will prevent him from exercising his discretion impartially.

10 16. Similarly, the severe hostility will impede the proper administration of the New
11 Child's Education Trust which allows for the discretion of the trustee: "Discretionary
12 Distributions of Principal. Until the Event Date, the Trustee may distribute to or apply for the
13 benefit of the New Child [PARKER], out of the principal of the New Child's Education Trust,
14 those sums as the Trustee, in the Trustee's discretion, considers necessary for the New Child's
15 education, after taking into consideration, to the extent the Trustee considers advisable, any
16 income or other resources of the New Child, as appropriate, out of any Trust created pursuant
17 to this Trust Agreement known to the Trustee and reasonably available for those purposes."
18 (Exh. A, Amended and Restated Trust, ¶ 6.3(b).) Allowing AARON to serve as the trustee of
19 the New Child's Education Trust for PARKER's benefit would only give AARON additional
20 ammunition in his battle against ELIZABETH. AARON's demonstrated hostility toward
21 ELIZABETH, which already has adversely impacted Parker, will continue to adversely affect
22 his education. It is unacceptable that the minor child of JOE suffers because he is caught in the
23 middle of AARON's personal vendetta against ELIZABETH.

24 17. The administration of PARKER'S Sub-Trust would also involve the exercise of
25 the trustee's discretion. The Trust provides that the trustee shall use the trustee's discretion in
26 providing for the support, maintenance, health and education of the beneficiary. (Exh. A,
27 Amended and Restated Trust, ¶ 5.9.)

1 18. It is obvious that if AARON continues to serve as the trustee of any of the trusts
2 in which ELIZABETH and/or PARKER are beneficiaries, the parties will frequently be forced
3 to resort to this Court to settle their seemingly endless disputes. Equity demands that
4 ELIZABETH be relieved of having to deal with a person of the opposite sex who spied on her
5 in her most intimate space and constantly rages against her. Equity demands that ELIZABETH
6 be spared the emotionally exhausting and financially draining legal battles that will
7 undoubtedly result if AARON is not removed as trustee.

8 19. If, at the initial hearing on this Petition, the Court is not inclined to remove
9 AARON as Trustee without further hearing, ELIZABETH respectfully requests that this
10 Court, on its own motion, suspend AARON's powers as Trustee of the Trust, appoint DAVID
11 BERRENT ("DAVID"), a private professional fiduciary, as Temporary Trustee of the Trust,
12 and compel AARON to surrender all Trust properties to DAVID, as Temporary Trustee,
13 pending AARON's removal as Trustee, pursuant to Probate Code Section 16420(d).

14 **NOTICE**

15 20. Petitioner will cause a Notice of Hearing, and a copy of this Petition, to be
16 served on the following interested parties as follows:

<u>Name/Address</u>	<u>Age</u>	<u>Relationship</u>
Aaron Kaplan 10439 Bainbridge Avenue Los Angeles, CA 90024	Adult	Trustee
Jeryll S. Cohen, Esq. Geraldine A. Wyle, Esq. Freeman, Freeman & Smiley, LLP 1888 Century Park East, Suite 1500 Los Angeles, California 90067		Attorneys for Trustee
Howard Weitzman, Esq. Katherine Kleindeinst, Esq. Kinsella Weitzman Iser Kump & Aldisert LLP 808 Wilshire Boulevard, 3rd Floor Santa Monica, CA 90401		Attorneys for Trustee

1 Sandy Michelman, Esq. Attorneys for Trustee
2 Michelman & Robinson LLP
3 10880 Wilshire Blvd., 19th Floor
Los Angeles, CA 90024

4 Danielle Morgan Kaplan Adult Daughter of Trustor from Prior Marriage;
5 4216 Sherman Oaks Ave. Remainder
6 Sherman Oaks, CA 91403 Beneficiary of Trust

8 Brandon Hunter Kaplan Adult Son of Trustor from
9 11715 Chenault St., Unit 103 Prior Marriage;
10 Los Angeles, CA 90049 Remainder
Beneficiary of Trust

12 Gabrielle A. Vidal, Esq. Attorneys for
13 Loeb & Loeb, LLP Danielle Morgan
14 10100 Santa Monica Blvd., Suite 2200 Kaplan and Brandon
Hunter Kaplan
Los Angeles, CA 90067

15 Parker Joshua Kaplan Minor Son of Trustor and
16 24616 Malibu Road Petitioner; Specific
17 Malibu, CA 90265 Beneficiary;
Remainder
Beneficiary of Trust

18
19 **WHEREFORE**, ELIZABETH prays for an order of this Court:

20 1. Removing AARON as Trustee of the Trust, and for an Order preventing
21 AARON from ever serving as Trustee of the New Child's Education Trust, the Primary
22 Residence Trust and PARKER'S Sub-Trust;

23 2. If AARON is not removed as Trustee forthwith, suspending AARON's powers
24 as Trustee, appointing DAVID, a private professional fiduciary, as Temporary Trustee of the
25 Trust, and compelling AARON to surrender all Trust properties to DAVID, as Temporary
26 Trustee, pending AARON's removal as Trustee; and

27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. For such other and further relief as the Court may deem just and proper.

DATED: March 31, 2020

WEINSTOCK MANION, A Law Corporation

By: /s/ Diane Y. Park
DIANE Y. PARK
Attorneys for ELIZABETH KAPLAN,
Petitioner

DATED: March 31, 2020

LAW OFFICE OF SANDY J. CHUN, PC

By: /s/ Sandy J. Chun
SANDY J. CHUN
Attorneys for ELIZABETH KAPLAN,
Petitioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I have read the foregoing PETITION FOR REMOVAL OF AARON KAPLAN AS TRUSTEE and know its contents.

I am the Petitioner in this proceeding. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

Executed on March 31, 2020, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

ELIZABETH KAPLAN
Print Name of Signatory

/s/ Elizabeth Kaplan
Signature

EXHIBIT "A"

AMENDED AND RESTATED
JOE KAPLAN LIVING TRUST

AMENDED AND RESTATED
JOE KAPLAN LIVING TRUST

TABLE OF CONTENTS

	<u>Page</u>	
ARTICLE 1	DECLARATIONS OF TRUST	1
1.1	Principal of Trust	1
1.2	Amendment of Original Trust, As Previously Amended	1
1.3	Acceptance of Trust by the Trustee	2
ARTICLE 2	RIGHTS RESERVED TO THE GRANTOR	2
2.1	Power to Amend Trust	2
2.2	Power to Revoke	2
2.3	Powers of Amendment and Revocation Personal to the Grantor	2
2.4	Trust Irrevocable Upon the Death of the Grantor	2
2.5	Additions	2
ARTICLE 3	ADMINISTRATION OF TRUST ESTATE DURING THE LIFE OF THE GRANTOR	3
3.1	Administration of Trust Estate During the Life of the Grantor as Set Forth in This Article	3
3.2	Accumulation of Income	3
3.3	Distributions of Principal	3
3.4	Support of the Grantor	3
3.5	Support of Issue	3
3.6	Incapacity of the Grantor	4
3.7	Grantor Not To Be Placed in Nursing Home	5
3.8	Certain Transfers By Direction of Grantor During the Grantor's Lifetime	6
3.9	Distribution to the Grantor's Spouse if the Grantor's Spouse Predeceases the Grantor	7
ARTICLE 4	PERSONAL DECLARATIONS	7
4.1	Declarations Concerning Family	7
4.2	Residency	7
4.3	Acknowledgment of Cohabitation/Prenuptial Agreement	7

**TABLE OF CONTENTS
(CONTINUED)**

		<u>Page</u>
ARTICLE 5	ADMINISTRATIVE TRUST; DIVISION AND ALLOCATION UPON THE DEATH OF THE GRANTOR	7
5.1	Distribution to the Grantor's Spouse Upon the Death of the Grantor	7
5.2	Creation and Administration of Administrative Trust	8
5.3	Distribution of Personal Effects	8
5.4	Specific Distributions and/or Allocations	9
5.5	Incidence of Taxes	10
5.6	Division of Remaining Trust Estate	10
5.7	Distribution of Income of an Article 5 Trust	10
5.8	Income for Beneficiary Under Certain Age	11
5.9	Distributions of Principal of an Article 5 Trust	11
5.10	Distribution of an Article 5 Trust Upon the Death of a Beneficiary	12
5.11	Contingent Beneficiaries	13
ARTICLE 6	ADMINISTRATION OF NEW CHILD'S EDUCATION TRUST	15
6.1	Administration of New Child's Education Trust As Set Forth in This Article	15
6.2	Event Date Defined	15
6.3	Administration of New Child's Education Trust Until the Event Date	15
6.4	Allocation of New Child's Education Trust Upon the Event Date	16
ARTICLE 7	ADMINISTRATION OF RETIREMENT PLAN TRUSTS	16
7.1	Administration of Retirement Plan Trusts As Set Forth in This Article	16
7.2	Qualified Retirement Plan	17
7.3	Distributions During Life of Beneficiary	17
7.4	Death Taxes	17
7.5	Not Liable for Debts, Expenses or Taxes of Other Trust Assets	17
7.6	Withdrawals from Qualified Retirement Plan and Trustee's Discretion to Accelerate	17
7.7	Distribution upon Beneficiary's Death	18

**TABLE OF CONTENTS
(CONTINUED)**

		<u>Page</u>
ARTICLE 8	FIDUCIARY PROVISIONS	18
8.1	Designated Successor Trustee.....	18
8.2	Special Provisions Regarding Non-Resident Fiduciaries	18
8.3	Power of an Individual Trustee to Designate a Successor Trustee.....	19
8.4	Right of Trustee to Resign; Appointment of Successor Trustee in the Event of a Vacancy	21
8.5	Declination of a Named Successor Trustee	22
8.6	Substitution of Corporate Trustee	22
8.7	Effect of Succession of Trustees	23
8.8	Powers and Authorities of Successor Trustee.....	23
8.9	No Duty of Successor Trustees to Investigate	23
8.10	Indemnification of Trustee.....	23
ARTICLE 9	POWERS OF TRUSTEE	24
9.1	Powers of Trustee.....	24
9.2	Power to Act as Owner	24
9.3	Investment Powers	25
9.4	Special Provisions While Corporate Trustee Is Acting.....	26
9.5	Power to Retain or Abandon Property	27
9.6	Certain Management Powers	27
9.7	Reimbursement of Trustee	28
9.8	Power to Employ.....	28
9.9	Installment Payments of Income.....	28
9.10	Segregation, Allocation and Distribution of Assets; Beneficiary Indebtedness.....	28
9.11	Trust Distributions	29
9.12	Powers of Trustee In the Event of Beneficiary Misconduct.....	30
9.13	Principal and Income	32
9.14	Acceptance of Gifts.....	32
9.15	Powers Over Securities	32
9.16	Transactions With Other Entities.....	33
9.17	Power to Purchase Insurance	33
9.18	Payments to or for Minors or Incapacitated Persons	34
9.19	Life Insurance and Other Death Benefits.....	34
9.20	Banks and Brokerage Accounts and Endorsements	36

**TABLE OF CONTENTS
(CONTINUED)**

		<u>Page</u>
9.21	Option to Terminate Shares or Trusts	36
9.22	Power to Combine and Divide Trusts	37
9.23	Power to Withhold Distribution	38
9.24	Tax Elections.....	38
9.25	Subdivision of Real Property	38
9.26	Purchase at Foreclosure	39
9.27	Fiduciary Related Party Transactions	39
9.28	Power to Commence, Retain and Manage Closely Held Business.....	39
9.29	Power Regarding S Corporations.....	41
9.30	Intellectual Property Rights and Powers.....	41
9.31	Power Regarding Names of Trusts	42
9.32	Power to Transfer Trust to or from Another Jurisdiction.....	42
9.33	Power to Initiate and Defend Litigation; Power to Compromise Claims.....	42
9.34	Powers in Connection with Government Agencies.....	43
9.35	Environmental Matters.....	44
9.36	Discretion of Trustee.....	47
9.37	Power to Disclaim, Restrict or Enlarge Powers of Trustee.....	47
9.38	Disclosure to Third Parties.....	47
ARTICLE 10 TRUST ADMINISTRATION		48
10.1	Trust Administrative Provisions Set Forth in This Article.....	48
10.2	Bond of Trustee.....	48
10.3	Compensation of Trustee	48
10.4	Profits and Losses Charged to Trust	48
10.5	Accrued and Undistributed Income	48
10.6	Payments Upon the Death of the Grantor	48
10.7	Allocation of Payments to Trusts.....	49
10.8	Death Taxes; Apportionment	50
10.9	Payment of Expenses	52
10.10	Disbursements in Good Faith.....	53
10.11	Liability for Conduct of Co-Trustees, Predecessor Trustees and Successor Trustees	53
10.12	Notification to Beneficiaries	53
10.13	Subjection of Assets to Probate	53

**TABLE OF CONTENTS
(CONTINUED)**

	<u>Page</u>
ARTICLE 11 PROVISIONS REGARDING GST TAX	54
11.1 Intention Regarding GST Tax.....	54
11.2 Duties Regarding Allocation of GST Tax Exemption	54
11.3 Creation of Separate Trusts Based Upon Inclusion Ratio	54
11.4 Power to Grant and Revoke General Testamentary Power of Appointment	55
11.5 Powers and Duties Regarding Payment of GST Tax Liability.....	55
11.6 General Powers Regarding GST Tax and Other Considerations.....	56
11.7 Successor Trustee for Certain Purposes.....	57
11.8 Exoneration of Trustee.....	57
11.9 Simultaneous Death	57
ARTICLE 12 ACCOUNTINGS	58
12.1 Duty to Account	58
12.2 No Court Accounts.....	58
12.3 During the Life of the Grantor	58
12.4 After the Death of the Grantor	58
12.5 Predecessor Trustees	59
12.6 Receipts, Accounts and Releases	59
12.7 Settlement of Accounts	60
12.8 Limited Waiver of Accounts.....	60
ARTICLE 13 NO CONTEST CLAUSE	60
13.1 General	60
13.2 Definitions.....	61
13.3 Authorization of Trustee	62
13.4 Costs of Defenses Charged Against Contesting Beneficiary	63
ARTICLE 14 GENERAL TRUST PROVISIONS	63
14.1 Termination.....	63
14.2 Spendthrift Provision	64
14.3 Invalidity	64
14.4 Governing Law	64
14.5 Disclaimers.....	64
14.6 Headings and Captions.....	65

**TABLE OF CONTENTS
(CONTINUED)**

	<u>Page</u>
14.7 Cross-References	65
14.8 Notices	65
ARTICLE 15 DEFINITIONS AND RULES OF CONSTRUCTION	66
15.1 Definitions Set Forth in This Article.....	66
15.2 Beneficiary	66
15.3 Corporate Trustee.....	66
15.4 Education	66
15.5 Gender or Number	66
15.6 Incapacity	66
15.7 Internal Revenue Code.....	67
15.8 Issue; Child; Children	67
15.9 Net Income	68
15.10 Or	68
15.11 Spouse	68
15.12 Support, Maintenance and Health	68
15.13 Survival	68
15.14 Treasury Regulations	68
15.15 Trust	68
15.16 Trust Estate	69
15.17 Trustee.....	69
ARTICLE 16 EXECUTION	69
16.1 Declaration of the Grantor	69
16.2 Execution by the Grantor	69
16.3 Execution by the Trustee.....	69

AMENDED AND RESTATED
JOE KAPLAN LIVING TRUST

THIS AMENDED AND RESTATED JOE KAPLAN LIVING TRUST (the "Trust" or "Trust Agreement") is entered into between JOE KAPLAN (hereinafter called "Grantor") and JOE KAPLAN (hereinafter called "Trustee"), effective as of the date of execution, with reference to the following facts:

A. On July 24, 2007, the Grantor executed the Joe Kaplan Living Trust (the "Original Trust") as Grantor and Trustee.

B. On February 11, 2008, the Grantor and the Trustee executed a First Amendment to the Original Trust.

C. Pursuant to Paragraph 2.1 of the Original Trust, as previously amended, the Grantor reserved the right to amend further or alter the Original Trust, as previously amended, during his lifetime.

D. The Grantor desires to amend and restate the Original Trust, as previously amended, in its entirety, as provided herein.

ARTICLE 1

DECLARATIONS OF TRUST

1.1 Principal of Trust. The Grantor declares that the Grantor has set aside, transferred and delivered to the Trustee the sum of Fifty Dollars (\$50) and other assets of the Grantor, subject to any liabilities secured thereby, the receipt of which is hereby acknowledged by the Trustee, including but not limited to the assets set forth on Exhibit "A" attached hereto. The Grantor may also transfer substantial additional property to this Trust by lifetime or testamentary transfer. The initial principal of the Trust, together with any other property that is transferred to the Trust and any income thereon, shall be held, administered and distributed by the Trustee as provided herein.

1.2 Amendment of Original Trust, As Previously Amended. The Original Trust, as previously amended, is hereby amended in its entirety by replacing the Original Trust, as previously amended, with the following provisions of this Trust Agreement. The Trust shall for all purposes continue to be designated by reference to the date of execution of the Original Trust as follows: the "Joe Kaplan Living Trust, dated July 24, 2007."

1.3 Acceptance of Trust by the Trustee. No consideration was or will be given to or by the Trustee for the conveyance or transfer to it of any of the Trust Estate. The Trustee accepts title to the Trust Estate which is conveyed or transferred to it hereunder, without liability or responsibility for the conditions or validity of that title. The Trust Estate has been or will be conveyed or transferred to the Trustee, in trust, with power of sale, for the uses and purposes and upon the terms herein set forth. The Trustee agrees to perform the duties of the Trustee and to hold the Trust Estate, the proceeds thereof, and any other property which may be later added to the Trust Estate, subject to the terms of this Trust Agreement.

ARTICLE 2

RIGHTS RESERVED TO THE GRANTOR

2.1 Power to Amend Trust. At any time or times during the life of the Grantor, the Grantor, by written notice filed with the Trustee, may change the interest of any Beneficiary in any Trust created or to be created pursuant to this Trust Agreement or any amendment to it, or amend any provision of this Trust Agreement or any amendment to it.

2.2 Power to Revoke. During the life of the Grantor, the Grantor may revoke this Trust by giving written notice to the Trustee. On revocation, the Trustee shall promptly deliver to the Grantor all of the Trust Estate. If, after a revocation of the Trust by the Grantor, the Trustee has not distributed for whatever reason all of the Trust Estate prior to the death of the Grantor, the Trustee shall retain bare legal title to the Trust Estate. In the event such revocation has occurred prior to the death of the Grantor, the Trust Estate shall not be distributed in accordance with this Trust Agreement, but shall instead be distributed as designated by the Grantor in a Will or other written document executed concurrently with or after the date of revocation, or in the absence of such designation, shall be distributed to the Grantor's estate.

2.3 Powers of Amendment and Revocation Personal to the Grantor. The powers of the Grantor to amend this Trust Agreement and to revoke this Trust are personal to the Grantor and shall not be exercisable on the Grantor's behalf by any conservator or other person.

2.4 Trust Irrevocable Upon the Death of the Grantor. Upon the death of the Grantor, the Trust created by this Trust Agreement shall become irrevocable and not subject to amendment or alteration in any respect.

2.5 Additions. The Grantor shall have the right, at any time or times, to add to the Trust Estate, and the property so added to the Trust Estate, whether real, personal or mixed, shall, after notice to the Trustee, be subject to all the terms of this Trust Agreement. Any other person may, from time to time, with the consent of the

Trustee, add property of any kind to the Trust Estate, or any part thereof, which shall be subject to all the terms and provisions of this Trust Agreement.

ARTICLE 3

ADMINISTRATION OF TRUST ESTATE DURING THE LIFE OF THE GRANTOR

3.1 Administration of Trust Estate During the Life of the Grantor as Set Forth in This Article. During the life of the Grantor, the Trustee shall retain, administer or distribute the Trust Estate as set forth in this Article.

3.2 Accumulation of Income. So long as the Grantor is living, the Trustee shall accumulate all of the net income of the Trust Estate. Such accumulated income shall become principal of the Trust Estate, to be distributed as hereinafter set forth.

3.3 Distributions of Principal. Upon the request of the Grantor, the Trustee shall distribute and deliver to the Grantor so much of the principal of the Trust Estate as is demanded by the Grantor. This power of the Grantor may be exercised by an agent acting under a power of attorney executed by the Grantor, if specific reference is made to this provision of this Trust Agreement, and only to the extent thereto and, in such event, such principal shall be distributed to the agent acting under such power of attorney. To the extent that the Trust Estate consists of any community property or separate property of the Grantor's spouse, then upon the request of the Grantor's spouse, the Trustee shall distribute and deliver to the Grantor's spouse so much of the principal of the Trust Estate that constitutes the community property and/or separate property of the Grantor's spouse, as is demanded by the Grantor's spouse. This power of the Grantor's spouse may be exercised by an agent acting under a power of attorney executed by the Grantor's spouse, if specific reference is made to this provision of the Trust Agreement, and only to the extent thereto and, in such event, such principal shall be distributed to the agent acting under such power of attorney.

3.4 Support of the Grantor. In addition to the distributions from the Trust Estate to the Grantor set forth in the preceding Paragraphs of this Article, it shall be the discretionary duty of the Trustee to distribute to or apply for the use and benefit of the Grantor, from time to time, such reasonable amounts from the principal of the Trust Estate as the Trustee may deem necessary or advisable for the proper and reasonable support, maintenance and health of the Grantor, in accordance with the Grantor's then accustomed manner of living.

3.5 Support of Issue. During the lifetime of the Grantor, the Trustee may distribute to or apply for the benefit of the issue of the Grantor such sums out of the principal of the Trust Estate as the Trustee deems necessary for the proper support,

maintenance, health and education of any one or more of them. In making any distributions of principal to or for any issue of the Grantor under this Paragraph, the Trustee shall take into consideration, to the extent the Trustee deems advisable, any income or other resources of such issue, outside of the Trust Estate, known to the Trustee and reasonably available for those purposes. In exercising this discretionary power, the Trustee is advised to be mindful that the Grantor's primary concern in establishing this Trust is the adequate support of the Grantor during the Grantor's lifetime. Any distribution or application of benefits to or for any issue of the Grantor under this Paragraph shall be charged against the Trust Estate as a whole rather than against the ultimate distributive share of the issue (or such issue's lineal ancestors or lineal descendants) to whom or for whose benefit the distribution is made.

3.6 Incapacity of the Grantor. If at any time, as evidenced in writing by two (2) licensed physicians upon the request of any beneficiary or any successor Trustee, the Grantor has become substantially unable to manage the Grantor's own financial resources or resist fraud or undue influence (hereafter to be referred to as the Grantor's "Incapacity"), whether or not a court of competent jurisdiction has declared the Grantor incapacitated, mentally ill or in need of a conservator or the guardian of the person or estate, this Paragraph 3.6 shall apply.

(a) Limitation on Persons Able to Request a Determination of Incapacity. Notwithstanding any provision in this Paragraph 3.6 to the contrary, only a beneficiary or a named successor Trustee hereunder may request a determination of Incapacity pursuant to the provisions of this Paragraph 3.6. Specifically, no individual who is only a creditor of the Grantor (and is not also a successor Trustee or beneficiary), nor any person who may only have a claim against the Trust Estate (and is not also a successor Trustee or beneficiary), nor any person who may otherwise qualify as an interested person as provided under Section 48 of the California Probate Code shall have the right to request a determination of Incapacity of the Grantor pursuant to the provisions of this Paragraph 3.6.

(b) Cooperation of the Grantor and Health Care Agent. The Grantor hereby directs any agent acting under an Advance Health Care Directive, including a durable power of attorney for health care decisions, reasonably to cooperate with the successor Trustee (in the case of the determination of the Incapacity of the Grantor) or the then-serving Trustee (in the case of a determination that the Grantor has regained the Grantor's capacity, as evidenced in writing by two (2) licensed physicians [hereafter to be referred to as the Grantor's "Capacity"]). The Grantor agrees reasonably to cooperate with the successor Trustee (in the case of a determination of the Incapacity of the Grantor) to undergo an evaluation by one (1) or more physicians and/or independent experts to determine Incapacity or Capacity, at reasonable times and reasonable intervals, as appropriate. The Grantor and the successor Trustee shall reasonably cooperate in the selection of the physician(s) and/or independent expert(s).

(c) Release in Connection with Determination of the Grantor's Incapacity and/or Capacity. For purposes of determining the Grantor's Incapacity (or for determining the Grantor's Capacity after the Grantor has been determined to be Incapacitated), all individually identifiable health information, including medical records, may be released to the beneficiary and/or successor Trustee (even if that person has not yet been appointed to serve as Trustee) who requested such determination of the Grantor's Incapacity (or, in the case of determining the Grantor's Capacity after the Grantor has been determined to be Incapacitated, such information may be released to the then-serving Trustee hereunder), to include any written opinion relating to the Grantor's Incapacity or Capacity, as appropriate. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d and 45 CFR 160-164.

(d) Support of the Grantor During Period of Incapacity of the Grantor. At any time that the Grantor has been determined to be Incapacitated, the Trustee shall, from time to time, apply for the benefit of the Grantor, from the Trust Estate, the amounts of net income and principal necessary, in the discretion of the Trustee, for the proper and reasonable support, maintenance and health of the Grantor in accordance with the Grantor's then accustomed manner of living, until the Grantor has regained Capacity, or until the death of the Grantor. Any income in excess of the amounts applied for the benefit of the Grantor shall be accumulated and added to the principal of the Trust Estate. If a conservator of the estate is appointed for the Grantor, the Trustee shall take into account any distributions made for the Grantor's benefit by the conservator.

(e) Continued Support of Persons Previously Supported by the Grantor. If the Grantor is determined to be Incapacitated, the Trustee may also pay from the Trust Estate to any person (A) whom the Grantor is legally obligated to support or (B) who is related to the Grantor by blood, marriage or adoption and whom the Grantor was supporting at the time the Grantor became Incapacitated, such sums as shall be reasonably necessary for such person's health, education, support and maintenance in such person's accustomed manner of living and such person's medical, dental, hospital and nursing expenses and expenses of invalidism.

3.7 Grantor Not To Be Placed in Nursing Home. Except as provided below, it is the Grantor's intention that the Grantor not be placed in a nursing home, convalescent home or other similar facility without the Grantor's informed consent. If at any time the Grantor is incapable of giving his informed consent, then, to the extent possible, the Trustee shall use Trust income and, if insufficient, Trust principal for the purpose of providing nursing care for the Grantor in the Grantor's own home. To the extent such payments are from Trust principal, they shall be paid in the manner described in Paragraph 3.6 above. In the event that there are special circumstances in which the Trustee decides that a nursing home, convalescent home or other similar facility would

provide substantially better medical care for the Grantor than the Grantor would receive in the Grantor's own home, and only if these special and unusual circumstances exist, the Trustee may choose to use Trust funds to provide for the Grantor's care in a nursing home, convalescent home or other similar facility of the highest quality. In making these decisions, the Trustee shall consult, to the extent the Trustee deems necessary, with the Grantor's health care agent and/or conservator.

(a) If Home Nursing Care Is Required. If home nursing care is required for the Grantor in order for the Grantor to remain in the Grantor's home, the Grantor directs that the Trustee obtain such care (including any necessary equipment) as is reasonable under the circumstances. It is the Grantor's strong desire to remain in the Grantor's home, rather than being placed in any convalescent or long term care facility. If the Grantor is hospitalized or requires placement in a nursing or other long term care facility, the Grantor directs the Trustee to take such steps as are necessary to assure frequent monitoring of the quality of the care of the Grantor and to provide for the Grantor's health and psychological and social needs, including, but not limited to, providing for a private room, extra caregivers and companions, therapy, availability of the Grantor's favorite food and entertainment.

(b) Geriatric Care Manager. The Trustee may retain a geriatric care manager (the "Geriatric Care Manager") to manage the Grantor's health and psychological concerns. The Geriatric Care Manager may establish and supervise home care for the Grantor and develop a care plan which will allow the Grantor to remain at home. The Geriatric Care Manager may also assess the Grantor's functional needs and assist the Grantor, the Grantor's family and the Trustee in establishing and supervising in-home support services, including hiring and supervision of household help and personal care providers.

3.8 Certain Transfers By Direction of Grantor During the Grantor's Lifetime. The Grantor intends that certain transfers pursuant to the Grantor's written instruction should be treated as a withdrawal of property from the Trust followed by a transfer by the Grantor to the Grantor or other parties, in accordance with such written instruction. For example, in the case of a transfer that is intended to be a gift from the Grantor to any person, the Trustee shall execute any and all documents required to vest title to the gift property in the name of the transferee, without first retitling such assets in the name of the Grantor. The intent of the Grantor is to avoid the expense and delay of multiple retitling, without changing the character of the transfer as being, in substance, a withdrawal of property from the Trust, followed by a transfer by the Grantor. Accordingly, such transfer is intended to be and shall be treated for all purposes as first a distribution of the property to the Grantor followed by a gift transfer of the property to the donee(s) by the Grantor as donor, acting individually or through one or more attorneys in fact.

3.9 Distribution to the Grantor's Spouse if the Grantor's Spouse Predeceases the Grantor. If the Grantor's spouse predeceases the Grantor, as soon as reasonably practicable after the death of the Grantor's spouse and upon the request of the personal representative of the Grantor's spouse, the Trustee shall distribute to the personal representative of the Grantor's spouse (a) the interest of the Grantor's spouse in the community property, if any, of the Grantor's spouse and the Grantor which is then held by the Trustee and (b) the separate property of the Grantor's spouse, if any, which is then held by the Trustee.

ARTICLE 4

PERSONAL DECLARATIONS

4.1 Declarations Concerning Family. The Grantor is married to ELIZABETH KAPLAN. Any reference to Spouse in this Trust Agreement is to her. The Grantor was previously married to JUDI BETH KAPLAN, which marriage was terminated by divorce. The Grantor has intentionally omitted to provide for JUDI BETH KAPLAN under the terms of this Trust Agreement. The Grantor has two (2) children from the Grantor's marriage to JUDI BETH KAPLAN, namely BRANDON HUNTER KAPLAN, born November 18, 1987 and DANIELLE MORGAN KAPLAN, born February 27, 1990. The Grantor is currently expecting a child with the Spouse (the "New Child") in September 2009.

4.2 Residency. The Grantor is a permanent resident of the county of Los Angeles, state of California.

4.3 Acknowledgment of Cohabitation/Prenuptial Agreement. The Grantor specifically acknowledges that he entered into a Cohabitation/Prenuptial Agreement, dated October 17, 2008 with Spouse (the "Prenuptial Agreement"), by which the Grantor and Spouse defined the property which each of them owned at the time of the execution of the Prenuptial Agreement and further agreed as to the nature and character of each of their respective interests in such property. It is the intention of the Grantor that the Trustee shall be bound by the terms of the Prenuptial Agreement.

ARTICLE 5

ADMINISTRATIVE TRUST; DIVISION AND ALLOCATION UPON THE DEATH OF THE GRANTOR

5.1 Distribution to the Grantor's Spouse Upon the Death of the Grantor. If the Grantor's spouse survives the Grantor, as soon as reasonably practicable after the death of the Grantor and upon the request of the Grantor's spouse (or the conservator or other personal representative of the Grantor's spouse, if appropriate), the Trustee shall distribute to the Grantor's spouse (or the conservator or other personal

representative of the Grantor's spouse, if appropriate) (a) the interest of the Grantor's spouse in the community property, if any, of the Grantor's spouse and the Grantor which is then held by the Trustee and (b) the separate property of the Grantor's spouse, if any, which is then held by the Trustee.

5.2 Creation and Administration of Administrative Trust. Upon the death of the Grantor, the Trust Estate, including any additions thereto by reason of the death of the Grantor, may thereafter be held as an "Administrative Trust." The Trustee may (a) make all of the payments required by the Paragraph titled "Payments Upon the Death of the Grantor," (b) pay all expenses relating to the Administrative Trust, and (c) distribute the balance of the Administrative Trust (the "Balance") as provided in the remaining provisions of this Article. The Trustee may distribute the Balance in a single distribution or in a series of partial distributions. If distribution of the Balance is to be made to one or more Beneficiaries, then until full distribution has been made to any such Beneficiary, the Trustee of the Administrative Trust may pay to that Beneficiary (or to the Trust to be established for such Beneficiary pursuant to the terms hereof) such amounts of income and/or principal as are consistent with the terms hereof. Such payments shall be in lieu of and thus credited toward the income and/or principal remaining to be distributed to such Beneficiary (or to the Trust to be established for such Beneficiary pursuant to the terms hereof). No payment shall be made to any Beneficiary (or to a Trust to be established for such Beneficiary pursuant to the terms hereof) which exceeds the amount of income and/or principal then remaining to be distributed to such Beneficiary (or Trust) as provided herein, nor shall any payment of income and/or principal be made to any Beneficiary of any such Trust which exceeds the amount which might properly be distributed to such Beneficiary at that time under the terms of such Trust. The Administrative Trust shall be deemed to be terminated when all of the assets of the Administrative Trust have been used to pay expenses or allocated or distributed as provided in this Article 5, except for a reasonable amount which is set aside for the payment of unascertained or contingent liabilities and expenses (excluding any claim by a Beneficiary in his or her capacity as such).

5.3 Distribution of Personal Effects. As soon as reasonably practicable after the death of the Grantor, the Trustee shall distribute, free of trust, to the Spouse, all of the Grantor's domesticated animals, jewelry, clothing and other tangible articles of a personal nature, antiques, collectibles, artwork, household furniture, furnishings and appliances, and any motor vehicles which are part of the Trust Estate (or which the Trust Estate will acquire as a result of the death of the Grantor), together with any insurance thereon, and subject to any liabilities secured thereby (collectively, the "Personal Effects"). If the Spouse is not living at the time of the Grantor's death, then the Trustee shall distribute the Personal Effects, free of trust, among the Grantor's then-living issue, with distribution to be made among such issue by right of representation. The selection of particular items of the Personal Effects shall be subject to the agreement of said issue, or if they do not agree, then such selection and distribution to them shall be made by the

Trustee in as nearly proportional shares as the Trustee, in its sole and absolute discretion, deems practical. In the event that neither the Spouse nor any of the Grantor's issue survives the Grantor, then the distribution of the Personal Effects contemplated by this Paragraph 5.3 shall lapse and the Personal Effects shall become part of the Trust Estate, to be distributed as hereinafter set forth. The Trustee shall pay from the Trust Estate the reasonable costs of collecting, securing and disposing of the Personal Effects. Such costs shall include, without limitation, the packing, insuring and shipping of the Personal Effects to any recipient hereunder.

5.4 Specific Distributions and/or Allocations. As soon as reasonably practicable after the death of the Grantor, the Trustee shall make the following specific distributions and/or allocations from the Trust Estate:

(a) The Trustee shall distribute to the Spouse, free of trust, the sum of Five Million Dollars (\$5,000,000) in cash or other property. The Grantor intends that the distribution pursuant to this Paragraph 5.4(a) shall satisfy the Grantor's obligation to the Spouse under Paragraph 11.4 of the Prenuptial Agreement and shall not be made in addition to the Grantor's obligation to the Spouse under the Prenuptial Agreement. If the Spouse is not living at the time of the Grantor's death, such distribution shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

(b) The Trustee shall distribute to AARON KAPLAN ("AARON"), free of trust, the sum of One Million Dollars (\$1,000,000) in cash or other property. In the event AARON is not living at the time of distribution hereunder, such property shall be allocated among AARON's then-living issue, with allocation to be made among such issue by right of representation. Each share created for AARON's issue shall be a separate trust to be held, administered and distributed in accordance with the provisions of Paragraph 5.6 through Paragraph 5.10, inclusive. In the event that none of AARON and/or his issue is living at the time of distribution and/or allocation hereunder, such distribution and/or allocation shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

(c) The Trustee shall distribute to MICHELLE NAGEL ("MICHELLE"), free of trust, the sum of One Million Dollars (\$1,000,000) in cash or other property. In the event MICHELLE is not living at the time of distribution hereunder, such property shall be allocated among MICHELLE's then-living issue, with allocation to be made among such issue by right of representation. Each share created for MICHELLE's issue shall be a separate trust to be held, administered and distributed in accordance with the provisions of Paragraph 5.6 through Paragraph 5.10, inclusive. In the that event none of MICHELLE and/or her issue is living at the time of distribution and/or allocation hereunder, such distribution and/or allocation shall be of no force or

effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

(d) The Trustee shall allocate to a separate trust (the "New Child's Education Trust") for the benefit of the New Child the sum of One Million Dollars (\$1,000,000) in cash or other liquid assets, to be held, administered and distributed in accordance with the provisions of Article 6. If the New Child is not living at the time of allocation hereunder, such allocation shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

5.5 Incidence of Taxes. Without limiting any of the provisions of Paragraph 10.8, it is the intent of the Grantor that all Death Taxes (as defined in Paragraph 10.8) shall be paid out of the remaining balance of the Trust Estate, and that the distributions and/or allocations pursuant to Paragraph 5.4 shall be made free of any Death Taxes.

5.6 Division of Remaining Trust Estate. As soon as reasonably practicable after the death of the Grantor and after distributions, if any, pursuant to the provisions of Paragraph 5.3 and Paragraph 5.4 and further subject to the provisions of this Paragraph, the Trustee shall divide the remaining Trust Estate into as many equal shares as there are children of the Grantor then living and children of the Grantor then deceased leaving issue then living. The Trustee shall allocate one (1) equal share to each living child of the Grantor and one (1) equal share to each group composed of the living issue of a deceased child of the Grantor, to be further allocated in subshares among those issue by right of representation. Each share or subshare established pursuant to this Paragraph shall be a separate Trust (an "Article 5 Trust"), to be held, administered and distributed in accordance with the remaining provisions of this Article. With respect to any benefits of a Qualified Retirement Plan (as hereafter defined in the Article titled "Administration of Retirement Plan Trusts") to be allocated to the Trust Estate, such benefits shall be specifically allocated among the Beneficiaries of the Trust Estate (determined pursuant to this Paragraph in accordance with the foregoing principles set forth in this Paragraph). The share of such benefits allocated to each Beneficiary of the Trust Estate shall be held by the Qualified Retirement Plan administrator as a separate account in accordance with the Article titled "Administration of Retirement Plan Trusts."

5.7 Distribution of Income of an Article 5 Trust. Subject to the remaining provisions of this Article, the net income of an Article 5 Trust created hereunder shall be distributed to or applied for the use and benefit of the respective Beneficiary thereof in monthly or other convenient installments, but not less frequently than quarter-annually.

5.8 Income for Beneficiary Under Certain Age. Notwithstanding anything to the contrary herein, if any Beneficiary shall become entitled to income from an Article 5 Trust created hereunder before that Beneficiary has reached the age of twenty-eight (28) years, then the Trustee shall continue to hold the income from the Article 5 Trust of that Beneficiary in trust, with like powers as to management and investment thereof as herein set out and shall use and apply that income, as the Trustee may deem necessary, directly for the proper and reasonable support, maintenance, health and education of the Beneficiary. Any unexpended part of the net income of an Article 5 Trust shall be added to the principal until that Beneficiary reaches the age of twenty-eight (28) years, from and after which time that Beneficiary shall be entitled to the net income from that Article 5 Trust as hereinbefore set forth. Income not expended for a Beneficiary shall become principal of that Beneficiary's Article 5 Trust and shall be distributed as hereinafter set forth in this Article.

5.9 Distributions of Principal of an Article 5 Trust. Until complete distribution pursuant to the provisions of this Paragraph, the Trustee may distribute to or apply for the benefit of each Beneficiary or that Beneficiary's issue, out of the principal of that Beneficiary's Article 5 Trust, those sums as the Trustee, in the Trustee's discretion, considers necessary for the proper support, maintenance, health and education of any one or more of that Beneficiary or that Beneficiary's issue, after taking into consideration, to the extent the Trustee considers advisable, any income or other resources of that Beneficiary or that Beneficiary's issue, as appropriate, outside of any Trust created pursuant to this Trust Agreement known to the Trustee and reasonably available for those purposes; provided, however, that no portion of the amount or amounts so distributed may be used to discharge any obligation of a parent of such issue to support any of those issue. Any distribution or application of benefits to or for any issue of a Beneficiary under this Paragraph shall be charged against that Beneficiary's Article 5 Trust as a whole, rather than against any potential ultimate distributive share of the issue (or such issue's lineal ancestors or lineal descendants) to whom or for whose benefit the distribution is made. When any Beneficiary shall attain the following ages, the Trustee shall distribute to that Beneficiary the following portion of the principal of that Beneficiary's Article 5 Trust:

<u>Age</u>	<u>Portion of Article 5 Trust to Be Distributed</u>
Thirty-five (35) years	One-third (1/3) of the balance of the Article 5 Trust
Forty (40) years	One-half (1/2) of the balance of the Article 5 Trust
Forty-five (45) years	The balance of the Article 5 Trust, together with any undistributed income therefrom.

If any Beneficiary of an Article 5 Trust has already reached any one or more of those ages upon the death of the Grantor or at any later time when the Article 5 Trust for such Beneficiary is created, the Trustee shall distribute to that Beneficiary that portion or all of that Beneficiary's Article 5 Trust based on the age or ages set forth above and reached by that Beneficiary at that time. The Trustee shall determine that portion of the Beneficiary's Article 5 Trust to distribute by treating the Beneficiary as first reaching the first age level mentioned above and then, if applicable, proceeding to the next age level (and subsequent levels, if appropriate).

5.10 Distribution of an Article 5 Trust Upon the Death of a Beneficiary.

(a) For a Beneficiary That is an Issue of the Grantor. Upon the death of a Beneficiary of an Article 5 Trust who is an issue of the Grantor, the undistributed balance of that Beneficiary's Article 5 Trust shall be allocated into separate Article 5 Trusts among the issue of that deceased Beneficiary, with allocation to be made among such issue by right of representation. If there is no then-living issue of that deceased Beneficiary, the deceased Beneficiary's Article 5 Trust shall be divided into shares and/or subshares for the then-living issue of that deceased Beneficiary's nearest ancestor not more remote than the Grantor (provided any such issue is a lineal descendant of the Grantor), with allocation to be made among such issue by right of representation. Any share so established for either (a) the issue of that deceased Beneficiary or (b) the issue of that deceased Beneficiary's nearest ancestor not more remote than the Grantor (provided any such issue is a lineal descendant of the Grantor) shall be held in trust and distributed in accordance with this Article. However, if any part of that deceased Beneficiary's Article 5 Trust would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that part shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms, except that, if that Article 5 Trust provides for distribution in installments and if that Beneficiary has received a fractional distribution of that Article 5 Trust pursuant to its terms, then there shall be distributed to that Beneficiary, free of trust, a fraction of that part equal to the fraction of that Beneficiary's interest previously distributed to that Beneficiary.

(b) For a Beneficiary That is an Issue of AARON. Upon the death of a Beneficiary of an Article 5 Trust who is an issue of AARON, the undistributed balance of that Beneficiary's Article 5 Trust shall be allocated into separate Article 5 Trusts among the issue of that deceased Beneficiary, with allocation to be made among such issue by right of representation. If there is no then-living issue of that deceased Beneficiary, the deceased Beneficiary's Article 5 Trust shall be divided into shares and/or subshares for the then-living issue of that deceased Beneficiary's nearest ancestor not more remote than the AARON (provided any such issue is a lineal descendant of AARON), with allocation to be made among such issue by right of representation. Any share so established for either (a) the issue of that deceased Beneficiary or (b) the issue of

that deceased Beneficiary's nearest ancestor not more remote than AARON (provided any such issue is a lineal descendant of AARON) shall be held in trust and distributed in accordance with this Article. However, if any part of that deceased Beneficiary's Article 5 Trust would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that part shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms, except that, if that Article 5 Trust provides for distribution in installments and if that Beneficiary has received a fractional distribution of that Article 5 Trust pursuant to its terms, then there shall be distributed to that Beneficiary, free of trust, a fraction of that part equal to the fraction of that Beneficiary's interest previously distributed to that Beneficiary. If there is no living issue of AARON at the time of operation of this Paragraph, the undistributed balance of that Beneficiary's Article 5 Trust shall be divided pursuant to Paragraph 5.6.

(c) For a Beneficiary That is an Issue of MICHELLE. Upon the death of a Beneficiary of an Article 5 Trust who is an issue of MICHELLE, the undistributed balance of that Beneficiary's Article 5 Trust shall be allocated into separate Article 5 Trusts among the issue of that deceased Beneficiary, with allocation to be made among such issue by right of representation. If there is no then-living issue of that deceased Beneficiary, the deceased Beneficiary's Article 5 Trust shall be divided into shares and/or subshares for the then-living issue of that deceased Beneficiary's nearest ancestor not more remote than MICHELLE (provided any such issue is a lineal descendant of MICHELLE), with allocation to be made among such issue by right of representation. Any share so established for either (a) the issue of that deceased Beneficiary or (b) the issue of that deceased Beneficiary's nearest ancestor not more remote than MICHELLE (provided any such issue is a lineal descendant of MICHELLE) shall be held in trust and distributed in accordance with this Article. However, if any part of that deceased Beneficiary's Article 5 Trust would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that part shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms, except that, if that Article 5 Trust provides for distribution in installments and if that Beneficiary has received a fractional distribution of that Article 5 Trust pursuant to its terms, then there shall be distributed to that Beneficiary, free of trust, a fraction of that part equal to the fraction of that Beneficiary's interest previously distributed to that Beneficiary. If there is no living issue of MICHELLE at the time of operation of this Paragraph, the undistributed balance of that Beneficiary's Article 5 Trust shall be divided pursuant to Paragraph 5.6.

5.11 Contingent Beneficiaries. If at the time of the death of the Grantor, or at any later time before full distribution of the Trust Estate, no other disposition of the Trust Estate is directed by this Trust Agreement, the Trust Estate, or the portion of it then remaining, shall be distributed and/or allocated, as follows:

(a) Subject to the remaining provisions of this Paragraph, the Trustee shall allocate Two Million Dollars (\$2,000,000) cash or other property to each then-living niece and nephew of the Grantor and each group composed of the then-living issue of a deceased niece or nephew of the Grantor. Each share created for a group composed of the then-living issue of a deceased niece or nephew of the Grantor shall be further allocated in subshares among those issue by right of representation. Notwithstanding the foregoing, if the balance of the Trust Estate is insufficient to fully satisfy the foregoing allocations, such allocations shall be abated until each then-living niece and nephew and each group composed of the then-living issue of a deceased niece or nephew of the Grantor (if any) shall receive an equal amount of the remaining Trust Estate. Each share or subshare created under this Paragraph 5.11(a) shall be a separate Article 5 Trust, to be held administered and distributed in accordance with the provisions of Paragraph 5.7 through Paragraph 5.10, inclusive. However, if such share would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that share shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms. In the event that none of the Grantor's nieces, nephews and their respective issue is living at the time of allocation hereunder, the allocations contemplated by this Paragraph 5.11(a) shall be of no force or effect, and such property shall be distributed in accordance with Paragraph 5.11(b).

(b) After allocations, if any, pursuant to Paragraph 5.11(a), the Trustee shall distribute the remaining Trust Estate as follows:

(1) One-half (1/2) of the remaining Trust Estate shall be distributed, free of trust, to AARON. In the event AARON is not living at the time of distribution hereunder, such one-half (1/2) interest in the remaining Trust Estate shall be allocated among AARON's then-living issue, with allocation to be made among such issue by right of representation. Each share created for AARON's issue shall be a separate Article 5 Trust, to be held administered and distributed in accordance with the provisions of Paragraph 5.7 through Paragraph 5.10, inclusive. However, if such share would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that share shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms. In the event none of AARON and his issue is living at the time of distribution and/or allocation hereunder, such one-half (1/2) interest in the remaining trust estate shall be added to the property to be distributed or allocated pursuant to Paragraph 5.11(b)(2). If none of AARON, MICHELLE and their respective issue is living at the time of distribution and/or allocation hereunder, such one-half (1/2) interest in the remaining Trust Estate shall be distributed pursuant to the provisions of Paragraph 5.11(c).

(2) One-half (1/2) of the remaining Trust Estate shall be distributed, free of trust, to MICHELLE. In the event MICHELLE is not living at the

time of distribution hereunder, such one-half (1/2) interest in the remaining Trust Estate shall be allocated among MICHELLE's then-living issue, with allocation to be made among such issue by right of representation. Each share created for MICHELLE's issue shall be a separate Trust, to be held, administered and delivered in accordance with the provisions of Paragraph 5.7 through Paragraph 5.10, inclusive. However, if such share would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that share shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms. In the event none of MICHELLE and her issue is living at the time of distribution or allocation hereunder, such one-half (1/2) interest in the remaining trust estate shall be added to the property to be distributed and/or allocated pursuant to Paragraph 5.11(b)(1). If none of MICHELLE, AARON and their respective issue is living at the time of distribution and/or allocation hereunder, such one-half (1/2) interest in the remaining Trust Estate shall be distributed pursuant to the provisions of Paragraph 5.11(c).

(c) If the Trustee is directed to this Paragraph 5.11(c) by the provisions of Paragraph 5.11(b), the Trustee shall distribute any remaining portion of the Trust Estate, free of trust, to those persons who would then be the heirs of the Grantor (but specifically excluding the Spouse), their identities and respective shares to be determined as though his death had then occurred, in accordance with the laws of the state of California then in effect relating to the succession of separate property not acquired from a predeceased spouse or ancestor.

ARTICLE 6

ADMINISTRATION OF NEW CHILD'S EDUCATION TRUST

6.1 Administration of New Child's Education Trust As Set Forth in This Article. The New Child's Education Trust, including any assets received by the New Child's Education Trust from time to time, shall be held, administered and distributed as set forth in this Article.

6.2 Event Date Defined. For purposes of this Article, the "Event Date" shall mean the earliest to occur of (a) complete distribution of all of the assets in the New Child's Education Trust, (b) the New Child attaining the age of twenty-eight (28) years, or (c) the date of death of the New Child.

6.3 Administration of New Child's Education Trust Until the Event Date. Until the Event Date, the Trustee shall retain the New Child's Education Trust as a single Trust for the benefit of the New Child, to be held, administered and distributed as follows:

(a) Accumulation of Income. Until the Event Date, the Trustee shall accumulate the net income of the New Child's Education Trust. Such accumulated

income shall be added to the principal of the New Child's Education Trust, to be distributed as hereinafter provided.

(b) Discretionary Distributions of Principal. Until the Event Date, the Trustee may distribute to or apply for the benefit of the New Child, out of the principal of the New Child's Education Trust, those sums as the Trustee, in the Trustee's discretion, considers necessary for the New Child's education, after taking into consideration, to the extent the Trustee considers advisable, any income or other resources of the New Child, as appropriate, outside of any Trust created pursuant to this Trust Agreement known to the Trustee and reasonably available for those purposes.

(c) No Mandatory Distributions of Principal. No mandatory distributions of principal shall be made to the New Child from the New Child's Education Trust.

6.4 Allocation of New Child's Education Trust Upon the Event Date. Upon the Event Date, the undistributed balance of the New Child's Education Trust, if any, shall be allocated in accordance with the provisions of Paragraph 5.6, to be distributed outright or held in trust in accordance with Article 5. However, if a share would otherwise be held in trust for a Beneficiary for whose benefit an Article 5 Trust is already then being administered under this Trust Agreement, that share shall instead be added to that Article 5 Trust and shall thereafter be administered according to its terms.

ARTICLE 7

ADMINISTRATION OF RETIREMENT PLAN TRUSTS

7.1 Administration of Retirement Plan Trusts As Set Forth in This Article. Notwithstanding anything in this Trust Agreement to the contrary, if the Trust created under this Trust Agreement or any other Trust created hereunder is named as the beneficiary of the Grantor's Qualified Retirement Plan (as defined below), there shall be created for a Beneficiary hereunder a separate subshare or subtrust from that Beneficiary's share or Trust, as the case may be (the Beneficiary's "Primary Trust"), which subshare or subtrust shall receive the benefits directly from the Qualified Retirement Plan on behalf of that Beneficiary. The amount allocated to each Beneficiary shall be determined under the provisions of the designated Trust created under this Trust Agreement. Each Beneficiary's separate subtrust created from that Beneficiary's Primary Trust shall be referred to as the "[Name of Beneficiary] Retirement Plan Trust." Each Beneficiary's Retirement Plan Trust may be further divided into an "Exempt Trust" and a "Nonexempt Trust," as provided in the Paragraph titled "Creation of Separate Trusts Based Upon Inclusion Ratio." Each Beneficiary's Retirement Plan Trust shall be administered and distributed in accordance with the provisions of this Article.

7.2 Qualified Retirement Plan. The term "Qualified Retirement Plan" refers to any employee benefit plan or individual retirement arrangement that is allowed to accumulate any part of its earnings on an income tax deferred basis under the Internal Revenue Code, including by way of example and not limitation, plans described under Sections 401, 403, 408, 408A and 457 of the Internal Revenue Code. A Qualified Retirement Plan includes a plan that is reasonably believed to qualify under one or more sections of the Internal Revenue Code, even if it is subsequently determined that such plan does not so qualify.

7.3 Distributions During Life of Beneficiary. During the life of the Beneficiary, the Trustee shall distribute each year to or for the benefit of the Beneficiary from the Beneficiary's Retirement Plan Trust all amounts distributed from the Qualified Retirement Plan to the Beneficiary's Retirement Plan Trust in that year (net of expenses), but disregarding distributions taken by the Trustee from the Qualified Retirement Plan to the extent applied to pay Death Taxes and GST taxes (if any) and income taxes thereon paid in accordance with Paragraph 7.4 below. During the life of the Beneficiary, no distributions may be made to anyone other than the Beneficiary in accordance with such Beneficiary's Retirement Plan Trust.

7.4 Death Taxes. The Trustee may pay Death Taxes and GST taxes (if any) attributed to the Qualified Retirement Plan allocated to the Beneficiary's Retirement Plan Trust out of other assets allocated to a Trust for the benefit of the Beneficiary or from funds received by the Trustee from the Beneficiary. To the extent the Death Taxes and GST taxes (if any) attributed to the Qualified Retirement Plan are not paid out of other assets, the Trustee shall pay such Death Taxes and GST taxes (if any) and a reasonable allowance for income tax payable by the Trustee thereon out of distributions from the Qualified Retirement Plan.

7.5 Not Liable for Debts, Expenses or Taxes of Other Trust Assets. Notwithstanding anything in this Trust Agreement to the contrary, any benefit under a Qualified Retirement Plan payable to a Beneficiary's Retirement Plan Trust shall not be used to pay any debts, expenses and/or taxes of the Grantor or of any other Trust created under this Trust Agreement.

7.6 Withdrawals from Qualified Retirement Plan and Trustee's Discretion to Accelerate. Each year, the Trustee shall withdraw from the Qualified Retirement Plan, the minimum required distribution under Section 401(a)(9) of the Internal Revenue Code and the Treasury Regulations thereunder as they may be amended from time to time. The Trustee is authorized to make or not make distribution elections to accelerate or defer distributions from the Qualified Retirement Plan to the Beneficiary's Retirement Plan Trust, taking into account, to the extent that the Trustee deems advisable, the tax consequences of such elections and the liquidity needs of the Beneficiary's Retirement Plan Trust and its Beneficiary. Upon a Beneficiary reaching the

age or ages for distribution (if any) under that Beneficiary's Primary Trust, the Beneficiary shall have the power to direct the Trustee to make withdrawals from that Beneficiary's Qualified Retirement Plan as to such portion or portions of the Beneficiary's Retirement Plan Trust as would have been distributed to such Beneficiary under the Beneficiary's Primary Trust. The Trustee shall be relieved of any liability or responsibility for any Beneficiary-directed action. Upon the Beneficiary reaching the age for final distribution (if any) under that Beneficiary's Primary Trust, that Beneficiary shall immediately become the Trustee of that Beneficiary's Retirement Plan Trust.

7.7 Distribution upon Beneficiary's Death. Upon the death of the Beneficiary, any balance in the Beneficiary's Retirement Plan Trust shall be distributed in accordance with the provisions of that Beneficiary's Primary Trust.

ARTICLE 8

FIDUCIARY PROVISIONS

8.1 Designated Successor Trustee. If the individual Trustee named in this Trust Agreement shall become unable to serve or otherwise cease to act as Trustee hereunder, then AARON shall act as successor Trustee under this Trust Agreement. If AARON shall fail to qualify, become unable to serve or otherwise cease to act as Trustee hereunder, then JOSHUA KAPLAN shall act as successor Trustee under this Trust Agreement. If JOSHUA KAPLAN shall fail to qualify, become unable to serve or otherwise cease to act as Trustee hereunder, then MERRILL LYNCH TRUST COMPANY, FSB shall act as successor Trustee under this Trust Agreement.

8.2 Special Provisions Regarding Non-Resident Fiduciaries. Notwithstanding any other provision in this Trust Agreement, if at any time an individual who is named or nominated as a Trustee or successor Trustee of the Trust or any trust created hereunder is not a United States citizen or a United States resident for United States income tax purposes (the "Non-Resident Fiduciary"), and any Trust created hereunder will be subject to treatment as a foreign trust for United States income tax purposes, then the next named successor Trustee shall act as Co-Trustee with the Non-Resident Fiduciary, provided such named successor Trustee is a United States citizen or United States resident for United States income tax purposes. If the next named successor Trustee shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee hereunder, then the next named successor Trustee, if any, shall act as Co-Trustee with the Non-Resident Fiduciary, provided such named successor Trustee is a United States citizen or United States resident for United States income tax purposes. If there are no named successor Trustees or if all the named successor Trustees shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee hereunder, then the Non-Resident Fiduciary shall either (a) exercise the Non-Resident Fiduciary's power under this Article to designate a Co-Trustee (either an individual or a Corporate Trustee)

who is a United States citizen or a United States domestic corporation, who or which is not a related or subordinate party to the Non-Resident Fiduciary within the meaning of Section 672(c) of the Internal Revenue Code, to serve with the Non-Resident Fiduciary or (b) if the Non-Resident Fiduciary fails to exercise such power, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries of any Trust created hereunder, acting by majority vote, shall name a Co-Trustee (either an individual or a Corporate Trustee) who is a United States citizen or a United States domestic corporation, who or which is not a related or subordinate party to the Non-Resident Fiduciary within the meaning of Section 672(c) of the Internal Revenue Code, to serve with the Non-Resident Fiduciary. Moreover, notwithstanding the foregoing, unless the Non-Resident Fiduciary is a United States citizen or United States resident for United States income tax purposes, at no time shall the Non-Resident Fiduciary have the authority to control any substantial decisions of the Trust, and the Co-Trustee who is acting with the Non-Resident Fiduciary shall solely control all such decisions. The purpose of this provision is to avoid any Trust created hereunder from being treated as a foreign trust for United States income tax purposes.

8.3 Power of an Individual Trustee to Designate a Successor Trustee.

This Paragraph provides for the designation of successor Trustees and/or Co-Trustees by an individual Trustee, as provided below:

(a) An individual acting as Trustee or named as a successor Trustee in this Trust Agreement (the "Designating Trustee") shall have the power to designate one or more successor Trustees or Co-Trustees (referred to collectively as "Designated Successors" or individually as a "Designated Successor"). Such Designated Successors shall be entitled to serve as Co-Trustees or successor Trustees subject to the limitations or conditions set forth in the remainder of this Paragraph.

(b) Designated Successors shall commence to serve and shall serve as Trustee or Co-Trustees hereunder as follows:

(1) A Designated Successor may be appointed to serve concurrently with the Designating Trustee, with the Designated Successor's term ending when the Designating Trustee ceases to act as Trustee hereunder for any reason.

(2) A Designated Successor may be appointed to serve concurrently with the Designating Trustee, with the Designated Successor's term as Trustee hereunder continuing after the Designating Trustee ceases to act as Trustee hereunder for any reason, provided that there is no successor Trustee named in this Trust Agreement who commences to act as successor Trustee, in which case the Designated Successor shall cease to act as Co-Trustee hereunder, but may be named to resume acting as successor Trustee hereunder at such time as there is no successor Trustee named in this

Trust Agreement who is then qualified or able to serve as Trustee hereunder for any reason.

(3) Designated Successors may be named to act as successor Trustees hereunder, one or more at a time, in the order indicated by the Designating Trustee at such time as there are no successor Trustees named in this Trust Agreement who are available to act as successor Trustee.

(c) Each acting individual Trustee and each named successor individual Trustee may exercise the power to name Designated Successors, subject to the following limitations:

(1) Any designation of Trustees and successor Trustees by the Grantor, as set forth in this Trust Agreement, shall take precedence over the exercise of the power to name Designated Successors by any Designating Trustee.

(2) If the individual named as or serving as Trustee as well as any one or more individuals named as successor Trustees hereunder act as Designating Trustees and exercise the power to name Designated Successors, the exercise by the first-named successor Trustee shall take precedence over an exercise by the second-named successor Trustee, which shall take precedence over an exercise by the third-named successor Trustee, and so on.

(3) While Co-Trustees are serving, they shall exercise this power jointly; provided, however, that if one Co-Trustee does not join in the designation and does not attempt to make an alternative designation, then the designation by the one Co-Trustee shall be effective.

(4) A Designated Successor shall have the authority to name additional Designated Successors; provided, however, that any Designated Successor named by a Designated Successor may serve as Trustee hereunder only if no successor Trustees named in this Trust Agreement and no Designated Successors named by an individual named as a successor Trustee in this Trust Agreement are available to serve as Trustee hereunder.

(d) The purpose of this Paragraph 8.3 is to provide a mechanism whereby one or more individuals may be named to serve as successor Trustee hereunder without a court proceeding. However, no provision of this Paragraph 8.3 shall be interpreted to prevent a Designating Trustee from also naming a Corporate Trustee as a Designated Successor, subject to the provisions of Paragraph 8.3(h).

(e) The foregoing power to name Designated Successors shall be exercised by a Designating Trustee by giving written notice of the designation of such Designated Successors to the then-living adult beneficiaries, the guardians of any minor

beneficiaries and the conservators of any incapacitated beneficiaries, and as otherwise required by law.

(f) Any designation pursuant to this Paragraph may be revoked or amended by the Designating Trustee by giving written notice in the same manner as the designation was made as provided above.

(g) Any Designated Successor who serves as a successor Trustee (or Co-Trustee) hereunder shall have all of the powers conferred upon a named Trustee under this Trust Agreement, shall serve without bond and shall for all other purposes be treated as a named Trustee under this Trust Agreement.

(h) A Designating Trustee may name a Corporate Trustee to act as a Designated Successor; provided that the Corporate Trustee has either (1) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least One Billion Dollars (\$1,000,000,000) or (2) assets under management (including assets under management by its affiliated entities) of at least Twenty-Five Billion Dollars (\$25,000,000,000).

8.4 Right of Trustee to Resign; Appointment of Successor Trustee in the Event of a Vacancy.

(a) Resignation of Trustee. Any Trustee acting as a Trustee under any Trust created hereunder may resign and be discharged from acting as a Trustee of that Trust by giving written notice of its resignation to any remaining Co-Trustee, to the adult Beneficiaries, to the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries. The notice shall be served personally or by certified or registered mail, postage prepaid, return receipt requested, and shall specify the date when the resignation shall take effect. The effective date of the resignation shall be at least thirty (30) days after the service or mailing thereof, unless the person or persons to whom notice of the resignation shall have been given shall otherwise consent.

(b) Appointment of Successor Trustee to Fill Vacancy. In the event a vacancy exists in the office of Trustee (whether as a result of the resignation of the then-acting Trustee or for any other reason), and unless a successor Trustee is designated or otherwise appointed as provided in this Trust Agreement, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries may, by action of a majority in interest, in a written instrument, designate a successor Trustee or Co-Trustees (either individual Trustees and/or a Corporate Trustee) for the Trusts created hereunder; provided that:

(1) any designated successor Corporate Trustee has either (A) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least One Billion Dollars (\$1,000,000,000) or (B) assets under

management (including assets under management by its affiliated entities) of at least Twenty-Five Billion Dollars (\$25,000,000,000); and

(2) the Beneficiaries shall not be permitted to designate any individual Trustee who is considered to be a related or subordinate party subservient to the wishes of any Beneficiary, within the meaning of Section 672(c) of the Internal Revenue Code or any successor to that Section.

8.5 Declination of a Named Successor Trustee. Any person or Corporate Trustee named as a successor Trustee under the Trust may decline at any time to act as Trustee of any Trust created hereunder by giving written notice of declination to the acting Trustee. If there is no acting Trustee at that time, notice shall instead be given to the next named Trustee or, if none is named, then to the adult Beneficiaries, the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries. The notice may be served personally, or by certified or registered mail, postage prepaid, return receipt requested.

8.6 Substitution of Corporate Trustee. At any time that a Corporate Trustee is serving as Trustee of any Trust created pursuant to the provisions of this Trust Agreement, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries of such Trusts shall have the power, by action of a majority in interest (except for the Administrative Trust, which shall require unanimity), to transfer the administration of those Trusts to a new Corporate Trustee who has either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least One Billion Dollars (\$1,000,000,000) or (b) assets under management (including assets under management by its affiliated entities) of at least Twenty-Five Billion Dollars (\$25,000,000,000). The substitution of a new Corporate Trustee shall be made by the giving of written notice by the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries, directed to the then-acting Corporate Trustee, indicating the desire of the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries to effect a substitution in the office of Corporate Trustee and designating the new Corporate Trustee selected. Upon securing the approval of the transfer and substitution by a court of competent jurisdiction to the extent that the approval may be required by law, or within thirty (30) days after receipt of the above-mentioned notice, the Corporate Trustee then serving as Trustee hereunder shall transfer and convey the entire interest of that Corporate Trustee in the Trust Estate to the new and substituted Corporate Trustee. The purposes of the foregoing provisions are to insure harmonious relations between the Corporate Trustee and the Beneficiaries, and to further the effective and efficient management of the Trusts created hereunder. At any time that a Corporate Trustee is named as a Trustee of any Trust created pursuant to the provisions of this Trust Agreement and that Corporate Trustee (a) declines to act as Trustee, (b) otherwise does not commence to act as Trustee or (c) is a named successor

Trustee, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries of such Trust shall have the power, by action of a majority in interest, to substitute a new Corporate Trustee in the place of the named Corporate Trustee. The new Corporate Trustee must have either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least One Billion Dollars (\$1,000,000,000) or (b) assets under management (including assets under management by its affiliated entities) of at least Twenty-Five Billion Dollars (\$25,000,000,000). The new Corporate Trustee shall replace the named Corporate Trustee for all purposes of this Trust Agreement.

8.7 Effect of Succession of Trustees. Any successor of a Trustee hereunder, whether resulting from consolidation, merger, or the transfer of Trust business or from death, resignation, refusal or inability to act, or by any other reason, shall succeed as Trustee with like effect as though originally named as such.

8.8 Powers and Authorities of Successor Trustee. All powers and authorities, including discretionary and administrative powers, herein conferred upon a Trustee shall pass to any subsequent Trustee.

8.9 No Duty of Successor Trustees to Investigate. A succeeding Trustee shall not be under any duty to examine the books and records of its predecessor Trustee and may accept as the full Trust Estate any properties which may be turned over to it.

8.10 Indemnification of Trustee. To the fullest extent permissible under California law, no Trustee serving under this Trust Agreement shall be liable, responsible or accountable in damages or otherwise to the beneficiaries of the Trust for any acts performed within the scope of the authority conferred on such Trustee by this Trust Agreement, except for such Trustee's willful misconduct, gross negligence, bad faith or reckless indifference to the interest of the beneficiaries. The Trust shall indemnify and hold harmless the Trustee from and against any and all losses, claims, demands, costs, damages, liabilities, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, brought against, or threatened against, such Trustee because such Trustee was a Trustee of the Trust, except for such Trustee's willful misconduct, gross negligence, bad faith or reckless indifference to the interest of the beneficiaries. Such indemnification shall be provided regardless of whether the Trustee continues to be a Trustee at the time any such liability or expense is paid or incurred.

(a) Expenses incurred by a Trustee in defending any claim, demand, action, suit or proceeding subject to this Paragraph shall from time to time be

advanced by the Trust prior to the final disposition of such claim, demand, action, suit or proceeding.

(b) The indemnification provided by this Paragraph shall be in addition to any other rights to which those indemnified may be entitled under any agreement, vote of the Beneficiaries, as a matter of law or equity or otherwise, and shall inure to the benefit of the heirs, successors, assigns and administrators of the Trustee.

(c) The Trustee may purchase and maintain insurance, at the Trust's expense, on behalf of the Trustee, against any liability that may be asserted against, or any expense that may be incurred by, such persons in connection with the activities of the Trust and/or the acts or omissions of such persons, regardless of whether the Trust would have the power to indemnify such persons against such liability under the provisions of this Trust Agreement.

ARTICLE 9

POWERS OF TRUSTEE

9.1 Powers of Trustee. To carry out the purposes of any Trust created pursuant to the terms of this Trust Agreement and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the powers set forth in this Trust Agreement, including but not limited to those powers contained in this Article in addition to any now or hereafter conferred by law affecting any Trust created hereunder and the Trust Estate. In the event and to the extent that the terms of the prudent investor rule or the Uniform Prudent Investor Act broaden, restrict, conflict or contradict any of the terms of this Trust Agreement, then this Trust Agreement and not the prudent investor rule or the Uniform Prudent Investor Act shall apply. Any and all of the powers of the Trustee are subject to the fiduciary obligation of the Trustee to treat all beneficiaries hereunder equitably. In the event that Co-Trustees are serving as Trustee of any Trust created hereunder, the powers set forth in this Trust Agreement shall be exercisable by unanimous action of the Co-Trustees acting jointly and not otherwise. Except as provided elsewhere in the Trust Agreement, the signatures of all Co-Trustees shall be required to evidence the exercise of any trustee power.

9.2 Power to Act as Owner. The Trustee is authorized to do all acts, initiate all proceedings and exercise all rights and privileges in the management of the Trust Estate as if the absolute owner thereof. Without limiting the generality of the foregoing, the Trustee shall have the right and power to acquire, grant, bargain, sell (for cash or on deferred payments), sell short, convey, exchange, convert, lease for terms either within or beyond the duration of the Trust, grant for like terms the right to mine or drill for and remove from Trust properties gas, oil or minerals, encumber, borrow, hypothecate, assign, partition, divide, subdivide, improve, loan, reloan or grant options on

any and all property of the Trust Estate. The Trustee is authorized to borrow money for any Trust purpose for the debts of the Trust or the joint debts of the Trust and a beneficiary, upon terms and conditions as the Trustee may deem to be proper and to obligate the Trust Estate for repayment; and the Trustee may encumber the Trust Estate or any of its property (for the obligations of the Trust or any beneficiary) by mortgage, deed of trust, pledge, guarantee or otherwise, using such procedure or procedures to consummate the transaction or transactions as the Trustee may deem advisable. The Trustee is authorized to guarantee any loans made to the Grantor and any other obligations (including obligations of unrelated third parties and obligations of business entities in which the Grantor may have an interest), and to encumber any and all of the Trust Estate or any of its property by mortgage, deed of trust, pledge or otherwise, using such procedure or procedures to consummate the transaction or transactions as the Trustee may deem advisable. Except as otherwise specifically provided in this Trust Agreement, all transactions shall be for fair and adequate consideration.

9.3 Investment Powers. The Trustee is authorized to invest and reinvest the principal, and the income if the Trustee is permitted to accumulate it. In so doing, the Trustee shall act with the care, skill, prudence and diligence under the circumstances then prevailing, specifically including, but not by way of limitation, the following:

- (a) General economic conditions.
- (b) The possible effect of inflation or deflation.
- (c) The expected tax consequences of investment decisions or strategies.
- (d) The role that each investment or course of action plays within the overall Trust portfolio.
- (e) The expected total return from income and the appreciation of capital.
- (f) Other resources of the beneficiaries known to the Trustee as determined from information provided by the beneficiaries.
- (g) Needs for liquidity, regularity of income, and preservation or appreciation of capital.
- (h) An asset's special relationship or special value, if any, to the purposes of the Trust or to one or more of the beneficiaries.
- (i) The anticipated needs of the Trust and its beneficiaries.

The Trustee shall consider individual investments as part of an overall investment strategy having risk and return objectives reasonably suited to the purposes of the Trust. In so doing, the Trustee shall act as a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, to attain the goals of the Grantor as determined from the Trust Agreement. Within the limitations of the foregoing standard and considering individual investments as part of an overall investment strategy, the Trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate and government obligations of every kind, preferred or common stocks (on margin or otherwise), interests in limited liability companies, commodities (on margin or otherwise), options (whether covered or not) or futures for stocks, stock index options, commodities or other assets, any other derivative securities, shares of investment trusts, shares of investment companies, shares of mutual funds, mortgage participations, partnership interests (general or limited) and common trust funds (including common trust funds administered by the then-acting Trustee or an affiliate of the then-acting Trustee). Further, subject to the standards and limitations stated in this Trust Agreement, the Trustee is specifically authorized to (but is not required to) invest funds or assets belonging to the Trust Estate (a) in the purchase or construction of a home for a Beneficiary and/or (b) in the commencement or conduct of a trade or business by a Beneficiary. Notwithstanding the foregoing, the Trustee is authorized to invest the entire Trust Estate in interest-bearing accounts, certificates of deposit, market funds, index funds or any other non equity income-producing investment, despite the possible decrease of purchasing power of the value of the principal of the Trust Estate.

9.4 Special Provisions While Corporate Trustee Is Acting. The Grantor acknowledges that, notwithstanding any provision in this Trust Agreement to the contrary, so long as any Corporate Trustee is serving as Trustee under this Trust Agreement, the provisions listed below shall apply. To the extent that said provisions differ or are inconsistent with any provisions of this Trust Agreement, the terms of this Paragraph 9.4 shall control.

(a) Any Corporate Trustee may, in its discretion, invest and reinvest in equity securities, securities of any registered investment company (mutual fund), units of common trust funds, interests in unregistered private placement investment funds or undivided interests in any other kind of commingled investment vehicle or strategy of which the Corporate Trustee or a parent or one or more affiliated companies is acting as Trustee, investment advisor or is providing services for compensation.

(b) Any Corporate Trustee may, in its discretion, engage any one or more of its affiliates, including but not limited to an affiliate that may be a registered investment advisor under the Investment Advisors Act of 1940 or a national

bank or trust company or a state bank or trust company with respect to any portion of the Trust Estate, and in such event the affiliate shall have the investment powers granted to the Corporate Trustee hereunder. If the Corporate Trustee engages an affiliate, each shall be entitled to the compensation to which it would be entitled in the absence of the affiliation.

(c) Any Corporate Trustee may exercise the powers granted under this Paragraph, even though such action may create a conflict of interest and/or may involve an investment that is not of a type or marketability traditionally considered for trust investments. Grantor hereby waives any conflict of interest that may result directly or indirectly from purchasing, selling or holding any such affiliated investment on behalf of this Trust and from engaging the services of any affiliate and directs that with respect to party in interest transactions such as those outlined in this Paragraph, the Corporate Trustee shall be judged by the same standards and rules of law that would apply to transactions among strangers free of any element of divided loyalty or conflicting interests, notwithstanding the Corporate Trustee's customary duty to avoid conflicts of interest.

9.5 Power to Retain or Abandon Property. The Trustee is authorized to continue to hold any property, including all assets received by the Trustee (from any and all sources) and to operate at the risk of the Trust Estate any property or business received as long as the Trustee may deem it advisable, the profits and losses thereon to inure to or be chargeable against the Trust Estate and not to the Trustee. Except to the extent prohibited by law, no statutory provision shall constitute a limitation upon the exercise by the Trustee of discretion in continuing to hold securities, properties, partnership interests (general and limited), interests in limited liability companies, business interests or investments received hereunder. Notwithstanding the foregoing, no provision contained herein should be construed to give the Trustee the power to retain any property beyond the date such property is to be distributed to any Beneficiary hereunder. The Trustee may, in the Trustee's discretion, abandon any property or interest in property belonging to any Trust if the Trustee determines, in the Trustee's discretion, that the abandonment is in the best interests of the Trust and its beneficiaries.

9.6 Certain Management Powers.

(a) Compromise. The Trustee may, at the option of the Trustee, at any time, in connection with the management of the Trust Estate or the collection of any monies due or payable to a Trust created hereunder, compromise any claims existing in favor of or against the Trust.

(b) Trustee Loans. The Trustee may loan or advance the Trustee's own funds for any Trust purpose to the Trust without security or upon the security of all or any portion of the principal of the Trust involved. Those loans shall

bear interest at the then-current rate from date of advancement until repaid. However, the Trustee shall in no event be required to make any loan or advancement to the Trust.

(c) Nominees. Any certificate, security or any evidence of indebtedness or ownership of property may be registered or taken and held in the name of the Trustee, or in the name of the nominee or nominees of the Trustee, with or without the disclosure of fiduciary relations, in order to more readily facilitate the handling of the Trust Estate.

9.7 Reimbursement of Trustee. The Trustee is authorized to reimburse itself from principal or income for any expense incurred by reason of the Trustee's fiduciary ownership or holding of any property in the Trust Estate.

9.8 Power to Employ. The Trustee may employ attorneys, accountants, brokers, agents, managers, appraisers, investment advisers, custodians, corporate fiduciaries and others whose services are in the Trustee's discretion reasonably necessary or convenient to the administration of the Trust or for the carrying out of any of the Trustee's powers or discretions hereunder. The Trustee shall not be liable to the Trust or to any beneficiaries as a result of any losses, costs or damages of any kind, type or nature, suffered or incurred by the Trust or by any Beneficiary resulting from the Trustee's reasonable good faith reliance on professional advice rendered by any professional advisers engaged by the Trustee on behalf of the Trust. The Trustee is authorized to employ the Trustee or any firm with which the Trustee is associated to perform any services that are in the Trustee's discretion necessary or convenient to the administration of the Trust created hereunder. Reasonable compensation for all services performed by these agents shall be paid from the Trust Estate, and shall not decrease the compensation to which the Trustee is entitled.

9.9 Installment Payments of Income. Except as otherwise indicated herein, the Trustee shall make the payments of the annual net income of any Trust required to be distributed hereunder at least quarter-annually or more often in the discretion of the Trustee. The Trustee shall have the power to budget the estimated annual income and expenses of the Trust in such manner as to equalize, as far as possible, periodic income payments to the Beneficiaries. In computing the amount of any such installment, the Trustee may, to the extent deemed appropriate by the Trustee, make reservation for expenses to be charged against such net income.

9.10 Segregation, Allocation and Distribution of Assets; Beneficiary Indebtedness. There need be no physical segregation or division of the various Trusts, except as segregation or division may be required by the termination of any Trusts. Regardless of any segregation or division of the various Trusts, the Trustee shall keep separate accounts for the different undivided interests. Upon any division of the Trust Estate into separate shares or Trusts, and upon any distribution of the income or principal,

the Trustee may apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, or in undivided interests in such manner and at such values as the Trustee in its discretion deems advisable. Any distribution or division in kind may be made on a proportionate or a disproportionate basis so long as the respective assets allocated or distributed have equivalent or proportionate fair market value. In making in kind allocations of assets, the Trustee shall take into consideration the income tax basis of specific property to be so allocated in determining equivalence of value, to the extent that the Trustee deems it advisable and/or to the extent any other adjustments are determined by the Trustee to be reasonable. The Trustee may sell such property as it deems necessary to make any division or distribution. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or Trusts. Except as otherwise specifically provided in this Trust Agreement, in satisfying the distributions and/or allocations to the share of a Beneficiary (or to the shares created for the issue of such Beneficiary) pursuant to the terms of this Trust Agreement, the Trustee shall allocate to the share of that Beneficiary (or proportionally to the shares created for that Beneficiary's issue) the indebtedness held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) of that Beneficiary, that Beneficiary's issue and/or that Beneficiary's spouse.

9.11 Trust Distributions. Upon any distribution of a Trust, in whole or in part, the Trustee may assign, transfer or deliver in kind to the Beneficiary then entitled thereto, any part of the Trust Estate or an undivided interest in the Trust Estate, or any portion thereof, at the value the Trustee may establish as the then fair market value. No interest shall be paid on any specific distribution of cash or property (if any) set forth in this Trust; except, however, this provision shall not be applicable (a) to any specific distribution to the Spouse; or (b) to any pecuniary gift if a failure to pay interest thereon or with respect thereto would adversely affect the use of the exemption from the GST tax of the Grantor. If the Trust Estate includes one or more promissory notes with respect to which gain would be accelerated under Section 453B of the Internal Revenue Code if distributed to a Beneficiary, the Trustee, in its sole discretion, may elect not to distribute such note(s) at the time provided in this Trust Agreement. In the event the Trustee so elects, such note(s) shall continue to be held in trust and the payments received by the Trustee under the note(s) shall be divided, held, administered and distributed as otherwise set forth in this Trust Agreement, until the Trustee determines to distribute the note(s) or until the note(s) are paid in full. Further, the Trustee may, for any reason, elect not to distribute all or any portion of the principal of the Trust Estate with the consent of the Beneficiary who or which is entitled to receive such distribution, until such time as that Beneficiary desires to receive distribution of such principal. In connection with any principal distributions required hereunder as a result of a Beneficiary attaining a stated age, the Trustee may make such distribution at any time after the date on which such Beneficiary attains such stated age and ending on the last day of the same calendar year.

9.12 Powers of Trustee In the Event of Beneficiary Misconduct.

(a) Suspension of Withdrawal Rights and Mandatory Distributions. Notwithstanding anything to the contrary contained in this Trust Agreement, no Beneficiary shall have a right to withdraw or receive an otherwise mandatory distribution of all or any portion of the principal of a Trust, and/or the net income of the Trust, if on the date a withdrawal is requested or a distribution is provided under the terms of any Trust (collectively, the "Distribution Date"), an event of Beneficiary Misconduct (as hereafter defined) exists. For purposes of this Trust, "Beneficiary Misconduct" means any one or more of the following:

- (1) The Beneficiary is incarcerated.
- (2) The Beneficiary has been convicted of any crime, other than misdemeanors or minor traffic violations, within five (5) years of the Distribution Date.
- (3) The Beneficiary is on probation in connection with any criminal conviction, other than for misdemeanors or minor traffic violations.
- (4) The Beneficiary previously has been on probation and any such period of probation has expired less than two (2) years prior to the Distribution Date, other than for misdemeanors or minor traffic violations.
- (5) The Trustee determines in its sole discretion that within three (3) years of the Distribution Date, the Beneficiary has used or engaged in the purchase and/or sale of any illegal drugs or other illegal substances or has abused the use of alcohol.

Any right to withdraw principal exercisable by a Beneficiary and any right to receive a distribution of net income and/or principal otherwise provided under the terms of the Trust shall be delayed until the Beneficiary Misconduct no longer applies and any period of time defining such Beneficiary Misconduct (as described above) has expired. The determination of whether an event or condition of Beneficiary Misconduct exists shall be determined in the sole and absolute discretion of the Trustee, and shall be final and binding upon all parties interested in such Trust.

(b) Optional Reduction or Suspension of Discretionary Distributions. Any discretionary distributions for a Beneficiary's health, education, support and maintenance shall be made by the Trustee after considering the Grantor's desire that a Beneficiary lead a life free of crime and substance abuse and the Grantor's intent that the assets of the Trust may not be used to encourage or support a Beneficiary in a lifestyle including criminal activities, illegal drugs or abuse of alcohol. Notwithstanding any other provisions in this Trust Agreement to the contrary, the Trustee

shall withhold any and all distributions for support and maintenance which in the Trustee's sole and absolute discretion may (1) encourage a lifestyle involving criminal activities or (2) contribute to a chemical dependence or substance abuse, or otherwise free funds for such use by the Beneficiary; provided, however, that such distributions for support may be provided for a hospital or other program of recovery or a stay in a recovery house, plus all costs incident thereto. Nothing in this Trust Agreement shall prevent the Trustee from making discretionary distributions for the health, education, support and maintenance of a Beneficiary and/or a Beneficiary's issue as otherwise provided in this Trust Agreement to the extent that the Trustee, in its sole and absolute discretion, determines that the conditions described in this Paragraph 9.12(b), are satisfied and that the Beneficiary will use such funds for the purposes for which they are distributed.

(c) Trustee's Right, But Not the Duty, To Investigate Beneficiary Misconduct. The Trustee shall not have any duty to investigate any Beneficiary Misconduct and shall not be liable to anyone for any Beneficiary Misconduct. If the Trustee suspects or becomes aware that the Beneficiary is involved with drug and/or alcohol abuse, the Trustee is authorized, but not required, to employ private investigators and to take such other actions as the Trustee determines appropriate, at the expense of the Trust, to determine whether any Beneficiary Misconduct exists or whether any distribution would be contrary to the Grantor's desires described herein. The Trustee shall not incur any liability to persons whose interest may have been affected by disbursements made or not made in good faith by the Trustee without knowledge of any event affecting distribution to a Beneficiary described in this Paragraph.

(d) Death of a Beneficiary During Period of Beneficiary Misconduct. If termination of the Trust is postponed pursuant to this Paragraph and the Beneficiary dies during such postponement, the deceased Beneficiary's Trust shall be held, administered and distributed in accordance with this Trust Agreement.

(e) "Interested" Trustee. In the event that one of two or more individual Co-Trustees then serving is an "Interested Trustee" (as that term is defined in this Paragraph 9.12(e)), then the remaining Co-Trustees who are not Interested Trustees shall exercise the discretionary authorities under this Paragraph. In the event that the sole Trustee, or all of the Co-Trustees then serving, are Interested Trustees, then the next Trustee who is not an Interested Trustee and who is not related or subordinate to such individual serving as Trustee (within the meaning of Section 672 of the Internal Revenue Code) shall exercise the discretionary authorities under this Paragraph. For purposes of this Paragraph, "Interested Trustee" (as to any Beneficiary whose rights as a Beneficiary could be affected by that Trustee's exercise of discretionary authorities hereunder) means an individual Trustee who would be entitled to any portion of the interest in the Trust Estate held for that Beneficiary in the event of that Beneficiary's death. Further, for purposes of this Paragraph, an individual Trustee will be deemed to "be entitled to any

portion of the interest in the Trust Estate held for that Beneficiary in the event of that Beneficiary's death," if a person who is related or subordinate to such individual Trustee would be entitled to any portion of the interest in that Beneficiary's Trust in the event of that Beneficiary's death.

(f) Provisions Regarding Beneficiary Misconduct Not Applicable to Retirement Plan Trusts. Notwithstanding any provision in this Trust Agreement to the contrary, the provisions of this Paragraph shall not apply to any Retirement Plan Trust created hereunder.

9.13 Principal and Income. Except when the Trust Agreement specifically provides otherwise, the Trustee shall determine principal and income of the Trust Estate and from time to time apportion and allocate receipts, expenses, and other charges between those accounts according to the provisions of the California Uniform Principal and Income Act ("UPAIA"). With respect to matters not provided for in the UPAIA, the Trustee shall have the absolute discretion to determine what is principal or income, and apportion and allocate any and all receipts and disbursements between those accounts, subject only to fiduciary standards and limitations of law. The exercise of that discretion within the above set forth limitations shall be conclusive on all persons interested in the Trust Estate.

9.14 Acceptance of Gifts. The Trustee is authorized to accept gifts from any individual who desires to contribute to the principal of any of the respective Trusts created hereunder. The acceptance of any such additional gifts shall be in the sole and absolute discretion of the Trustee.

9.15 Powers Over Securities. With respect to securities, interests in limited liability companies, partnership interests and similar property held in the Trust, the Trustee shall have all the rights, powers and privileges of an owner, including, but not by way of limitation:

- (a) to vote, give proxies and pay assessments;
- (b) to participate in voting trusts and similar agreements, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations, sales and leases, and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable;
- (c) to exercise rights under buy-sell, close corporation and S corporation shareholder agreements, or similar agreements;
- (d) to exercise or sell stock subscription or conversion rights;

(e) to consent to foreclosures, reorganizations, consolidations, mergers and liquidations; and

(f) to deposit securities with and transfer title to any protective or other committee on any terms that the Trustee, in the Trustee's discretion, considers advisable.

The signature of the Trustee, or one of two or more acting Co-Trustees, if applicable, shall be sufficient to bind the Trust with respect to any of the foregoing actions taken pursuant to this Paragraph and any third party may rely upon the signature of one of two or more acting Co-Trustees in connection therewith. Notwithstanding the foregoing, it is the intention of the Grantor that Co-Trustees shall exercise their powers over securities as a single record holder and under no circumstances shall the vote of the Co-Trustees be split, regardless of whether a specific provision of any rule or law applicable to such securities (including the Corporations Code of the state in which the entity was formed) would permit joint holders of such securities to cast votes other than as a single vote. The signatures of all Co-Trustees shall be required to enter into partnership agreements, limited liability company operating agreements, buy/sell agreements or similar agreements.

9.16 Transactions With Other Entities. The Trustee is authorized to purchase assets from or sell assets to the probate estate of the Grantor, or any other person, firm, trust or other entity. Any such purchase or sale shall be at the fair market value of those assets (as determined by the Trustee in the Trustee's discretion) and upon such terms and conditions (with or without security) and in such amounts as the Trustee may deem advisable. The Trustee is authorized to loan funds or assets belonging to the Trust Estate to the Grantor, to the probate estate of the Grantor, to any Beneficiary hereunder, or to any other person, firm, trust or other entity, upon such terms and in such amounts as the Trustee may deem advisable; provided, however, that any such loan bears a reasonable rate of interest, but not more than the maximum interest rate allowed under California law, and provided that any such loan is adequately secured. However, in no event shall the Trustee make any investment pursuant to the provisions of this Paragraph for less than adequate consideration in money or money's worth or that the Trustee determines would not be a prudent investment of the assets of the Trust Estate. Further, subject to the standards and limitations stated in this Trust Agreement, the Trustee is specifically authorized to (but is not required to) loan funds or assets belonging to the Trust Estate for (a) the purchase or construction of a home for a Beneficiary and/or (b) the commencement or conduct of a trade or business by a Beneficiary.

9.17 Power to Purchase Insurance. The Trustee is authorized to procure and carry, at the expense of the Trust, insurance of such kind and in such form and amount as the Trustee deems advisable to protect the Trustee, the Trusts and the Trust Estate against any insurable hazard, risk of loss or other potential liability.

9.18 Payments to or for Minors or Incapacitated Persons. If at any time or from time to time any beneficiary entitled to receive income or principal hereunder shall be a minor or an incapacitated adult, the Trustee may make the distribution or expenditure for the beneficiary, in the sole discretion of the Trustee, in any one or more of the following ways:

- (a) directly to the beneficiary;
- (b) to the guardian, conservator or other fiduciary of the person or estate of the beneficiary;
- (c) to a Uniform Transfers to Minors Act account, already existing or created for a minor, in any jurisdiction;
- (d) to any person or organization furnishing care, support, maintenance or education of the beneficiary; or
- (e) by itself making expenditures directly for the support, maintenance, health or education of the beneficiary.

The Trustee shall not be required to see to the application of any funds so paid or applied and the receipt by such payee shall be full acquittance of the Trustee. The decision of the Trustee as to direct payments or application of funds shall be conclusive and binding upon all parties in interest. In making any payments for the benefit of minor beneficiaries who are the children of the Grantor, the Trustee shall construe its authority liberally to permit payments reasonably necessary to ease the financial burden of the guardian of the person of any child of the Grantor, or the person with whom any child of the Grantor may be living, and on the family of such guardian or person, resulting from the presence of such child in the household of such guardian or person; provided, however, that this provision shall not be applicable while the guardian or the guardian's spouse is acting as Trustee or as Co-Trustee.

9.19 Life Insurance and Other Death Benefits. The Trustee shall have the following powers, duties and discretions with respect to policies of life insurance:

- (a) The Trustee, without being obligated to do so, may pay premiums, assessments or other charges with respect to policies held as a part of the Trust Estate, and all other charges upon such policies otherwise required to preserve them as binding agreements. The Trustee is authorized to borrow money for any Trust purpose for the debts of the Trust or the joint debts of the Trust and a Beneficiary, upon terms and conditions that the Trustee may deem to be proper and to obligate the Trust Estate for repayment; and the Trustee may encumber any life insurance policy held as a part of the Trust Estate (for the obligations of the Trust or any Beneficiary), using such procedure or

procedures to consummate the transaction or transactions as the Trustee may deem advisable.

(b) In the event that the Trustee intends not to pay any premium, assessment or other charge with respect to any policy held by it, or otherwise intends to cancel, convert or substantially modify any such policy, it shall first give the insured, or the fiduciary of the estate of an insured under disability, at least fifteen (15) days advance written notice of its intention to take such action.

(c) Any amounts received by the Trustee with respect to any policy as a dividend shall be treated as principal.

(d) Upon the receipt of proof of death of any person whose life is insured for the benefit of any Trust created hereunder, or upon maturity of any policy payable to a Trustee prior to the death of the insured, the Trustee shall collect all sums payable with respect thereof and shall thereafter hold such sums as principal of the respective Trust, except that any interest paid by the insurer for a period subsequent to maturity shall be considered as income.

(e) The Trustee may compromise, arbitrate or otherwise adjust claims upon any policies, and may, but shall not be required to, exercise any settlement options available under such policies. The giving of a receipt by the Trustee to an insurer shall be a full discharge and such insurer is not required to see to the application of the proceeds.

With respect to death benefits payable under any qualified and/or non-qualified employee benefit plan in which the Grantor is a participant (or an individual retirement account which the Grantor has established) and under which the Trustee may elect the mode of payment or make any tax elections, the Trustee shall elect a mode of payment and make such tax elections which, in the Trustee's discretion, appear to be the most advantageous option and elections available to this Trust or its then-current income Beneficiaries, in terms of income tax, estate and inheritance tax, or investment return considerations, based on the Trustee's evaluation of the facts and circumstances relevant to such considerations as they exist at the time the Trustee makes such election. An election of a mode of payment and tax elections made by a Trustee in good faith in the exercise of the discretionary power conferred upon it shall be final and binding upon all persons whomsoever and shall be a full acquittance and discharge of the Trustee, and the Trustee shall not be liable to any person by reason of its exercise of such discretionary power. Death benefits paid in lump sum under any such employee benefit plan shall be allocated to principal unless, in its discretion, the Trustee determines that to do so would result in adverse income tax consequences to the Trust and the Beneficiaries. Installment payments shall be allocated to income or principal in the discretion of the Trustee. The giving of a receipt by the Trustee to an administrator of such a plan shall be a full

discharge, and such administrator is not required to see to the application of funds so paid.

9.20 Banks and Brokerage Accounts and Endorsements. The Trustee is authorized to maintain existing accounts and safe deposit boxes, and open new accounts and safe deposit boxes, at banks, savings and loan associations, brokerage houses and other financial institutions (including with the Trustee and affiliates of the Trustee) for the Trust Estate in such manner that funds may be withdrawn or investment direction given with respect to those accounts, or those safe deposit boxes may be accessed, upon the signature of and upon the instruction of the Trustee, or one of two or more acting Co-Trustees, if applicable. Therefore, one of two or more acting Co-Trustees, acting alone, shall have signature power with respect to any account maintained at a savings and loan institution, bank or other financial institution, safe deposit box or brokerage account which then constitutes an asset of the Trust Estate. The signature of the Trustee, or one of two or more acting Co-Trustees, if applicable, shall be sufficient to endorse any check, payment or other instrument which may be received for the account of the Trust, and such endorsement shall be a sufficient receipt to the person giving that check, payment or other instrument to the Trust. The Trustee is authorized, in its discretion, to appoint additional signatories to any accounts and safe deposit boxes maintained or opened at banks, savings and loan associations, brokerage houses and other financial institutions (including with the Trustee and affiliates of the Trustee) for the Trust Estate in such manner that funds may be withdrawn with respect to such accounts upon the signature of such additional signatory or signatories. The signature of such additional signatory or signatories shall be sufficient to endorse any check, payment or other instrument which may be received for the account of the Trust, and such endorsement shall be a sufficient receipt to the person giving the check, payment or other instrument to the Trust.

9.21 Option to Terminate Shares or Trusts. In the event that:

(a) the share or separate Trust held for any Beneficiary of a Trust created hereunder has, at any time, in the opinion of the Trustee, a fair market value of Fifty Thousand Dollars (\$50,000) or less,

(b) the aggregate fair market value, in the opinion of the Trustee, of all Trusts created hereunder and administered by the Trustee at any time is Two Hundred Fifty Thousand Dollars (\$250,000) or less, or

(c) the principal value of any Trust created hereunder at any time is less than an amount that can be economically administered in trust,

the Trustee may, in its discretion, but is not required to, terminate that Trust or those Trusts and, regardless of the age of the Beneficiary, distribute the principal and any accrued or undistributed net income thereon to the Beneficiary, or to its guardian,

conservator, custodian under the California Uniform Transfers to Minors Act or other similar statute, or other fiduciary.

9.22 Power to Combine and Divide Trusts. Except as otherwise provided to the contrary in this Trust Agreement, the Trustee may, at any time and from time to time, and without court approval, for tax and/or administrative reasons:

(a) combine any Trust created under this Trust Agreement for any Beneficiary with any other Trust otherwise created for that Beneficiary, whether created under this Trust Agreement or otherwise, the terms of which Trusts are substantially identical and the Trustees of which Trusts are identical, provided that the Trustee, in the Trustee's reasonable discretion, determines that administration as a single Trust will be consistent with the intent of the persons who established the Trusts and will facilitate Trust administration without defeating or impairing the beneficial interests of current or future beneficiaries of this Trust; and

(b) divide any Trust created hereunder into two or more separate Trusts, each of which shall have the same provisions as the original Trust from which it was established, and references in this Trust Agreement to the original Trust shall refer to the separate Trusts derived from it.

If a Trust is divided into separate Trusts, the Trustee may, at any time prior to a combination of such Trusts, take any and all actions consistent with such Trusts being separate entities including, without limitation, make different tax elections with respect to each separate Trust, expend principal and exercise any other discretionary powers differently with respect to each separate Trust. The donee or other 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. In addition, if property is directed to be added to any Trust created hereunder, the Trustee may:

(1) hold such additional property as one or more separate Trusts having terms identical to the terms of the Trust to which it was to be added; and

(2) allocate such additional property on a non-pro rata basis among the several Trusts, if any, into which the Trust to which such additional property is required to be added was previously divided (including an allocation of all such additional property to one of such Trusts).

No Trustee shall be liable for any good faith exercise of a power described in or otherwise authorized by this Paragraph and, in the event any such good faith exercise of such a power results in a detriment to one or more beneficiaries, the Trustee shall be exonerated and otherwise held harmless with respect to any such detriment.

9.23 Power to Withhold Distribution. The Trustee is authorized to withhold from distribution, at the time for distribution of any property of the Trust Estate, without the payment of interest, all or any part of the property, as long as the Trustee shall determine in its discretion that the property may be subject to conflicting claims, tax deficiencies or liabilities, contingent or otherwise.

9.24 Tax Elections. The Trustee shall have the power in the Trustee's absolute discretion to take any action and to make any election to minimize the tax liabilities of this Trust and/or one or more of its beneficiaries, regardless of the resulting effect on the Trust, the other beneficiaries or any other person interested in this Trust, to allocate the benefits among the various beneficiaries, and to make adjustments in the rights of any beneficiaries or between the income and principal accounts, to compensate for the consequences of any tax election or any investment or administrative decision that the Trustee believes has had the effect of directly or indirectly preferring one beneficiary or group of beneficiaries over others. In allocating assets hereunder, the Trustee may take into consideration the basis of such assets to the extent appropriate, as determined by the Trustee in its sole and absolute discretion. The Trustee also shall have the power to file any income tax returns as may be required on behalf of the Grantor whether a separate income tax return on behalf of the Grantor or a joint income tax return on behalf of the Grantor and the Grantor's spouse and to pay all or any portion of the taxes due with respect to such returns. If any additional assessment shall be made on account of any income tax return filed by or on behalf of either the Grantor or the Grantor's spouse, whether separately or jointly, the Trustee is authorized to pay the additional assessment. The exercise of authority hereunder by the Trustee shall be conclusive and binding on all persons.

9.25 Subdivision of Real Property. The Trustee is authorized and empowered:

- (a) to subdivide and resubdivide Trust real property and sign applications, maps and other documents incidental thereto;
- (b) to dedicate Trust real property for public purposes, with or without consideration;
- (c) to grant and impose upon Trust real property conditions, covenants, easements, restrictions, rights of way and other servitudes;
- (d) to borrow against Trust real property; and
- (e) to do such other acts as may appear to the Trustee advisable in connection with the exercise of any of the foregoing powers.

9.26 Purchase at Foreclosure. The Trustee is authorized and empowered, as to any property (real, personal or mixed) in which the Trust has any interest, that is sold at foreclosure, judicial or non-judicial, to make bids upon or purchase the same or, as to such property, to accept a deed in lieu of foreclosure as full or complete satisfaction of the debt which is secured. The Trustee shall allocate income and expense attributable to such property or the proceeds of its sale as if such property were being initially acquired as a Trust investment.

9.27 Fiduciary Related Party Transactions. The Trustee is authorized to act on behalf of the Trust notwithstanding the self interest of the Trustee, subject to the fiduciary duty of the Trustee, including the power to lease, mortgage or sell any property to or lease or purchase any property from the Trustee; to determine the amount of and to receive compensation for services as Trustee or in any other capacity; in the case of a corporate Trustee, to borrow from, deposit money or otherwise deal with its own banking department or that of an affiliate; and to be interested in any investment, corporation, limited liability company, partnership, other unincorporated business, farming or mining operation, real estate operation or other venture in which the Trust is interested. No person shall be precluded from acting as Trustee hereunder or being compensated therefor by reason of his employment in any capacity by any corporation, limited liability company or partnership or office in any capacity with any corporation, limited liability company or partnership, the stock of which corporation or an interest in which limited liability company or partnership constitutes a part or all of the assets of the Trust, nor shall the Trustee be so precluded from accepting such employment or appointment by any such corporation, limited liability company or partnership. The Trustee is specifically authorized and empowered to exercise all of the duties and powers entrusted to such Trustee under the terms of this Trust Agreement despite any duality of fiduciary obligations arising by reason of such person's service as the Trustee and as an officer, director, partner or employee of any corporation, limited liability company or partnership in which the Trust may be interested. No Trustee hereunder shall be liable for any loss or diminution in the Trust resulting from any action such Trustee may take or refrain from taking concerning the foregoing, except for such Trustee's own gross negligence or willful misconduct with regard thereto.

9.28 Power to Commence, Retain and Manage Closely Held Business. The Trustee is expressly authorized to commence or retain, regardless of lack of diversification, as an investment of any Trust created hereunder, securities of or any other ownership interest in any closely held business, whether a sole proprietorship, corporation, limited liability company, joint venture or partnership (including stocks, bonds, debentures and any other form of securities representing either or both a proprietary interest in or obligation of said corporation or other entity), and any other business entity which is a successor to, subsidiary of, or affiliated with, said corporation or other entity, which is now or hereafter assigned, devised, bequeathed, transferred or delivered to the Trustee (all of which, if more than one, are hereinafter referred to as "the

Company"). Pending sale or final distribution of said securities or ownership interest or liquidation of the Company, the Trustee shall have the following authorities and discretions, in addition to any other grant of authority and discretion given elsewhere in this Trust Agreement:

- (a) to participate in the management of the Company;
- (b) to supervise, in any manner, the conduct of the Company's business;
- (c) to extend credit to the Company from any Trustee, including the banking department of a corporate Trustee, if one is acting, without in any way increasing, limiting or otherwise affecting its duties, responsibilities and liabilities as Trustee;
- (d) to increase the investment of any Trust in the Company, either or both by way of secured or unsecured loans to the Company, by the purchase of equity from other equity holders of the Company, expressly including equity owned by a Beneficiary, or by subscription to additional equity, either or both common or preferred stock, partnership interests and/or limited liability company membership interests, or by pledging assets for the debts of the Company, whether incurred before or after the death of the Grantor;
- (e) to organize a corporation, partnership or limited liability company under the laws of any state and to transfer to it all or any part of the Company or other property held in the Trust; and
- (f) to retain in the Company such amount of its net earnings as the Trustee may deem advisable in conformity with responsible business practice.

The Trustee may exercise such authority to such extent and in such manner as the Trustee, from time to time, deems necessary or advisable to protect the investment of any Trust created hereunder and to contribute to the best interest and welfare of the beneficiaries thereof.

The Grantor expects the Trustee to exercise ordinary business judgment in determining how long such securities or ownership interest shall be retained as an investment and in deciding upon such action as may be taken in its supervision of the management of the Company during the period of such retention and the readjustment of the total investment therein, it being the intention of the Grantor to give to the Trustee every power and discretion it may need or require to provide proper management and supervision of the Company until such time as the Trustee, in its sole judgment, shall deem it to be to the best advantage of a Trust, and the beneficiaries thereof, to sell or otherwise dispose of such securities or ownership interest; and the Trustee shall not be

liable for any loss that may result from the honest exercise of any such power or discretion granted in the Trust Agreement, and shall be indemnified against any such loss from the assets of any Trust holding securities of or any other ownership interest in the Company. The Grantor realizes that the Grantor is exposing any Trust to the risks inherent in all business operations, but it is the belief of the Grantor that the possibility of preserving the capital and income values which the Grantor believes the securities to contain justifies such risk. To the extent that the Trustee may render service to the Company, the Trustee is expressly authorized to take such steps as may be practicable to charge its fees for such service to the Company rather than to a Trust.

Nothing contained herein shall be construed to prevent any individual Trustee from being employed by the Company at a salary commensurate with the value of his or her service, or to prevent him or her from becoming a purchaser of any of such securities or other ownership interest either from the Trustee or from any other source.

The foregoing powers shall be deemed to be and shall be exercised as fiduciary powers. They shall not disqualify the possessor from holding office in the Company, accepting remuneration from it, voting any stock in favor of himself or herself as director or officer, or purchasing or selling stock of the Company.

9.29 Power Regarding S Corporations. The Trustee shall have the power to make any elections or decisions the Trustee deems appropriate with respect to any stock in an S corporation (as defined in Section 1361(a) of the Internal Revenue Code) held or acquired by the Trust.

9.30 Intellectual Property Rights and Powers.

(a) The Trustee shall have full power to collect royalties and receipts of any kind or nature that are or may become due to any Trust created hereunder, including, without limitation, royalties and receipts with respect to the sale, publication, licensing, production or other disposition or utilization of creative works, properties, copyrights or personal rights described in Section 3344 of the California Civil Code; to enter into agreements with respect to the sale, publication, licensing, production or other disposition or utilization of such creative works, properties, copyrights and rights; to retain any interests included under this Paragraph for so long a period of time as the Trustee may deem proper, even though there may be a loss of income or principal resulting from such retention; to enter into transactions affecting such interests for a contingent share of profits as opposed to a sale of interests for cash or a guaranteed return (e.g., a sale of motion picture rights based on a percentage of profits of the picture); to deal, in any manner, which the Trustee, in the Trustee's discretion, deems proper, with respect to any creative works, properties, copyrights, published and unpublished works (complete or incomplete) and personal rights included in the Trust, including, without

limitation, the power and authority to edit and to publish or cause to be published such works; to employ a consultant to advise the Trustee with respect to any of such matter; to employ an agent or representative to act on behalf of the Trustee with respect to such matters; and to pay from the Trust the customary fees and commissions of any editor, agent, representative or literary consultant. The exercise or non-exercise of the powers and discretions under this Paragraph shall be in the sole and absolute discretion of the Trustee, without liability or responsibility to the Trust, the beneficiaries thereunder, beneficiaries under the Grantor's Will or to any other person or entity for the consequences of exercise or non-exercise of such powers and discretions.

(b) The Grantor hereby transfers to the Trust all of the Grantor's right, title and interest in and to the Grantor's name, sobriquet, voice, signature, photograph, actual or simulated likeness, image and other personal identification, any and all trademarks, trade names, trade dress, service marks and other personal identifiers, all applications and registrations therefor and all goodwill symbolized thereby, all rights of publicity, all copyrights, copyright registrations and rights to renew, extend, cause reversion of or to terminate any grant of any such copyright, and all rights under or arising out of any of the foregoing including, but not limited to, the right to recover for infringement of any of the foregoing occurring prior to, pending as of the date hereof or occurring at any time or times hereafter, whether held as community property, separate property, joint tenancy, tenancy in common or in any other form of ownership, and as any such property or right is now known or hereafter devised, created or discovered and, whether or not any such property or right is existing as of the date hereof or hereafter is devised, created or discovered.

9.31 Power Regarding Names of Trusts. The Trustee shall have the power, in the Trustee's sole and absolute discretion, to name, rename or change the name of the Trust or any Trust created hereunder.

9.32 Power to Transfer Trust to or from Another Jurisdiction. The Trustee shall have the power to remove any and all of the Trust Estate of any Trust created hereunder to or from any state of the United States, the District of Columbia or any foreign jurisdiction. Upon such removal, the laws and courts of such other jurisdiction shall govern the administration of the Trust, unless and until its removal therefrom or distribution. The Trustee shall have the power, from time to time, to change the jurisdiction of this Trust and, in such event, the laws and courts of such other jurisdiction shall govern the administration of the Trust, unless and until the Trustee changes jurisdiction again.

9.33 Power to Initiate and Defend Litigation; Power to Compromise Claims.

(a) The Trustee may, in the Trustee's discretion, initiate or defend, at the expense of the Trust, any litigation relating to the Trust or any property of the Trust Estate that the Trustee considers advisable. The Trustee's powers under this Paragraph shall apply during the term of the Trust and after distribution of Trust assets. The Trustee shall have no duties, however, regarding any litigation or claims occurring after distribution of Trust assets, unless the Trustee is adequately indemnified by the distributees for any loss occasioned by exercise of these powers.

(b) The Trustee may, in the Trustee's discretion, compromise, submit to arbitration, abandon, or otherwise adjust any claims or litigation against or in favor of the Trust. The Trustee's decision in this regard shall be conclusive. The Trustee's powers under this Paragraph shall apply during the term of the Trust and after distribution of Trust assets. The Trustee shall have no obligation or duties, however, regarding any litigation or claims occurring after distribution of Trust assets, unless the Trustee is adequately indemnified by the distributees for any loss occasioned by exercise of these powers.

9.34 Powers in Connection with Government Agencies. The Trustee is authorized to make applications for, receive and administer any of the following benefits, if applicable: Medi-Cal, Social Security, Medicare, Medicaid, Supplemental Security Income, In-Home Support Services, and other governmental resources and community support services available to the elderly; i.e. California Department on Aging, Federal Older Americans Act, Nursing Home Ombudsman, "Senior Day Care" programs, and senior centers. The Trustee is further authorized to explore and implement Medi-Cal planning strategies and options and to plan and accomplish asset preservation in the event the Grantor needs long-term health and nursing care. Such planning shall include, but is not necessarily limited to, the power and authority to:

(a) make home improvements and additions to the family residence of the Grantor;

(b) pay off partly or in full the encumbrance, if any, on the family residence of the Grantor;

(c) purchase a family residence, if the Grantor does not own one;

(d) purchase a more expensive family residence;

(e) give the family residence to the Grantor's spouse (if any) if the Grantor's spouse does not need long-term medical, health or nursing care under the Welfare & Institutions Code; and

(f) obtain current information about Medi-Cal gifting rules and asset preservation rules before making any gifts or transferring assets from the Trust.

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

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

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

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

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

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

(3) Acts performed by a proposed or designated Trustee under this Paragraph 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. A court of competent jurisdiction shall appoint a receiver or Special Trustee to hold and manage the rejected asset under the

preceding sentence, pending its final disposition. Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to the Trustee.

(b) Termination, Bifurcation or Modification of the 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 its discretion, determines that such action is in the best interests of the Trust and its beneficiaries:

(A) modification of the 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; or

(C) appointment of a Special Trustee to administer any Trust property or business which fails to comply with any federal, state or local environmental law or regulation.

(2) With court approval, the Trustee may terminate the Trust or partially or totally distribute the Trust Estate to its 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 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) Remedies. 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 the Trustee from Trust Assets for Environmental Expenses.

(1) The Trustee shall be indemnified and reimbursed from the Trust Estate for any liabilities, loss, damages, costs or expenses arising out of or relating to federal, state or local environmental laws or regulations, as amended from time to time (hereinafter "Environmental Expenses").

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

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

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

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

(D) fees and costs payable to environmental consultants, engineers or other experts, including legal counsel, relating to any federal, state or local environmental law or regulation.

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

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

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

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

(5) The 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.

(6) If the assets of the Trust Estate are insufficient, or there is insufficient liquidity in the Trust Estate to satisfy the obligation of indemnification or reimbursement of the Trustee from the Trust Estate for Environmental Expenses, the Trustee shall have the right to request in writing indemnification or

reimbursement for such Environmental Expenses directly from the Grantor and the beneficiaries.

9.36 Discretion of Trustee. Unless specifically limited, all discretions conferred upon the Trustee shall be absolute, and their exercise conclusive on all persons interested in the Trusts. The enumeration of certain powers of the Trustee shall not limit its general powers, the Trustee being vested with and having all the rights, powers and privileges with relation to the Trust Estate as could be exercised and executed by an individual holding and owning the same property in absolute and unconditional ownership. All powers of the Trustee shall be exercised in a fiduciary capacity. The Trustee shall not be liable to the Trust or to any beneficiaries as a result of any losses, costs or damages of any kind, type or nature suffered or incurred by the Trust or by any beneficiary resulting from the Trustee's reasonable actions taken in good faith, the actual result of which could not have been reasonably anticipated.

9.37 Power to Disclaim, Restrict or Enlarge Powers of Trustee. The Trustee is authorized to disclaim, release or restrict the scope of any power that the Trustee may hold in connection with the Trusts created by this Trust Agreement, whether that power is expressly granted in the Trust Agreement or implied by law. The Trustee shall exercise this power in a written instrument executed by the Trustee specifying the power to be disclaimed, released or restricted and the nature of the restriction. In the event the Trustee may deem it advisable to have its authority and powers enlarged or extended for any reason or purpose, the Trustee is authorized to file an appropriate petition therefor in a court of competent jurisdiction, and the Trustee is authorized to comply with any order made in response to any such petition.

9.38 Disclosure to Third Parties. Any transfer agent or other person dealing with the Trust (hereinafter referred to as "third party") shall be entitled to rely upon a copy of those portions of this Article titled "Powers of Trustee" and any amendments thereto setting forth the powers of the Trustee, which partial copy shall be certified as a true copy of those portions then in effect by the Trustee then acting. The third party shall incur no liability to the Trust or any Beneficiary hereunder for acting upon an order or request of the Trustee made pursuant to the terms hereof as set forth in the partial copy, and shall not be required to see to the disposition of any proceeds for the faithful discharge of the Trustee's duties hereunder. In no event shall any third party have access to a copy of the portion hereof setting forth the distribution of income and principal, except as may be determined in the absolute discretion of the Trustee. Alternatively, any such third party may rely upon a Certification of Trust by the Trustee given pursuant to Section 18100.5 of the California Probate Code or any similar provision.

ARTICLE 10

TRUST ADMINISTRATION

10.1 Trust Administrative Provisions Set Forth in This Article. The provisions set forth in this Article shall apply to the administration of any and all Trusts created pursuant to the provisions of this Trust Agreement.

10.2 Bond of Trustee. No bond shall be required of any Trustee of any Trust created pursuant to the provisions of this Trust Agreement, regardless of residence and whether serving jointly or alone.

10.3 Compensation of Trustee. The Grantor shall not receive any compensation for serving as Trustee pursuant to this Trust Agreement. In the event any other individual shall serve as Trustee or Co-Trustee, that individual serving as Trustee or Co-Trustee shall receive reasonable compensation for his or her services. The compensation for a Corporate Trustee's services shall be in accordance with the Corporate Trustee's published fee schedule from time to time existing for the administration of similar trusts in the state of California.

10.4 Profits and Losses Charged to Trust. The profits and losses arising from any activity of the Trustee as Trustee of any Trust created hereunder shall respectively inure to the benefit of or be charged against the respective Trust and not the Trustee.

10.5 Accrued and Undistributed Income. Except as may otherwise be specifically provided herein, upon the death of any Beneficiary for whom a Trust is held, any accrued or undistributed net income of that Beneficiary's Trust shall be held and accounted for, or distributed, in the same manner as if it had been accrued or received after the death of that Beneficiary. This Paragraph shall not be applicable to any income derived by any Trust created hereunder from an S Corporation (as defined in the Internal Revenue Code).

10.6 Payments Upon the Death of the Grantor. Upon the death of the Grantor, the Trustee shall make the following payments:

- (a) the specific monetary and other bequests contained in the Will of the Grantor;
- (b) the charitable pledges of the Grantor, whether or not such charitable pledges are legally enforceable against the Grantor;
- (c) the expenses of burial and last illness of the Grantor;

(d) any income, state, county and other taxes attributable to or chargeable against the Grantor;

(e) all Death Taxes (as defined in Paragraph 10.8 and subject to apportionment as provided in Paragraph 10.8) attributable to

(1) properties subject to probate administration,

(2) properties included in the Trust Estate and occasioned or payable by reason of the death of the Grantor,

(3) insurance proceeds included in the Grantor's taxable estate,

(4) retirement benefits included in the Grantor's taxable estate, or

(5) any other property which passed through a pay on death provision, a joint tenancy or any similar provision providing for assets to pass by operation of law, and which is included in the Grantor's taxable estate,

arising with respect to transfers of property, whether outright or in trust, made by or on behalf of, or which are otherwise attributable to, the Grantor, whether during the life of the Grantor or subsequently, and all expenses and charges incidental to the determination thereof;

(f) any approved claims against the estate of the Grantor; and

(g) any expenses of probate, administration and other charges against the probate estate of the Grantor, including attorneys' fees and expenses incidental thereto.

10.7 Allocation of Payments to Trusts. Except as otherwise provided in the Paragraphs titled "Death Taxes; Apportionment" and "Powers and Duties Regarding Payment of GST Tax Liability" or elsewhere in this Trust Agreement, payments pursuant to the Paragraph titled "Payments Upon the Death of the Grantor" shall be charged to and paid from that Trust on account of which the obligation is incurred or to which the obligation is properly attributable without any proration or charge therefor against any specifically designated Beneficiary thereof provided, however, that this direction shall not apply if the result of the application of this instruction would be an increase in state or federal Death Taxes, which could be avoided by a different allocation of such charges; provided further that such alternative allocation of charges is, in the Trustee's sole and absolute discretion, reasonably fair to all Beneficiaries of any Trust created hereunder.

If a payment cannot be properly charged or attributed to a specific Trust, the Trustee shall allocate such payment to one or more Trusts hereunder in any reasonable manner determined in the Trustee's sole and absolute discretion, subject to the limitations expressly provided in this Trust Agreement.

In general, any payment required to be made pursuant to the Paragraph titled "Payments Upon the Death of the Grantor" or otherwise by reason of the death of, or an assignment by, the Grantor, shall be charged, first, entirely, or to the extent possible, to a Nonexempt Trust (as defined in the Article titled "Provisions Regarding GST Tax"). For the purposes of making any of the payments mentioned in the Paragraph titled "Payments Upon the Death of the Grantor," the Trustee shall not use (a) any proceeds of any insurance policies on the life of the Grantor, unless such insurance policies are includible in the estate of the Grantor, or (b) any distribution from a qualified retirement plan or individual retirement account with respect to the Grantor, for the payment of any taxes or expenses which shall be paid in accordance with the provisions of this Paragraph.

10.8 Death Taxes; Apportionment. The Death Taxes attributable to the Grantor shall be determined and apportioned according to the following principles:

(a) Death Taxes Defined. "Death Taxes" shall mean all estate, inheritance, succession or transfer taxes and any income or similar taxes on appreciation resulting from death, including interest, penalties, and any excise or supplemental taxes, imposed by the laws of any domestic or foreign taxing authority at the time of or by reason of the Grantor's death.

(b) Apportionment. Except as otherwise expressly provided in this Trust, including the provisions of this Paragraph 10.8, or in the Grantor's Will, it is the Grantor's intent that each recipient of property that is includible in the Grantor's taxable estate (whether passing under the provisions of this Trust or otherwise) shall pay the Death Taxes (other than GST taxes) attributable to the property such recipient receives in accordance with the principles of Section 20110 of the California Probate Code and related sections, or any successor statutes or amendments thereto. The benefit of any credit, deduction, exclusion, exemption, or similar benefit relating to specific property, including but not limited to the marital deduction and charitable deduction, shall inure to the benefit of the recipient of the specific property.

(c) Death Taxes Attributable to Qualified Terminable Interest Property. Death Taxes (other than GST taxes) attributable to qualified terminable interest property includible in the Grantor's taxable estate under Section 2044 of the Internal Revenue Code and/or Section 2519 of the Internal Revenue Code, shall be apportioned, to the extent possible, to the qualified terminable interest property with the highest

inclusion ratio, to the extent that doing so will not constitute a constructive addition with respect to any qualified terminable interest property with a lower inclusion ratio.

(d) Death Taxes Attributable to General Power of Appointment. Death Taxes (other than GST taxes) attributable to property subject to a general power of appointment granted hereunder, shall be charged against such property, unless the donee, by specific reference to the power, directs otherwise.

(e) Payment of GST Taxes. All GST taxes attributable to a direct skip occasioned by the Grantor's death and with respect to which the Grantor is the transferor shall be paid out of, and charged against, the property constituting the transfer as provided in Sections 2603(a)(3) and 2603(b) of the Internal Revenue Code. All GST taxes attributable to a taxable distribution occurring with respect to any Trust shall be paid by the transferee thereof as provided in Sections 2603(a)(1) and 2603(b) of the Internal Revenue Code, and all GST taxes attributable to a taxable termination occurring with respect to any Trust shall be paid by the Trustee and charged against the property constituting the transfer as provided in Sections 2603(a)(2) and 2603(b) of the Internal Revenue Code.

(f) Exoneration of Specific Gifts. Unless specifically provided to the contrary in the Grantor's Will or under this Trust Agreement, any specific or general bequests, devises, or gifts made by the Grantor under the Grantor's Will or under this Trust Agreement and any interest in a college savings plan established under Section 529 of the Internal Revenue Code that is includible in the Grantor's taxable estate shall not be subject to apportionment, and the Death Taxes attributable to such property shall be paid out of the remaining Trust Estate without apportionment upon the death of the Grantor.

(g) Prior Taxable Gifts. The Death Tax attributable to any gift taxes includible in the Grantor's Gross Estate by Section 2035(b) of the Internal Revenue Code shall not be paid by the recipient of property that produced the gift tax includible by Section 2035(b) of the Internal Revenue Code. All taxable gifts made by the Grantor during the Grantor's lifetime shall not be subject to apportionment.

(h) Income in Respect of Decedent. The income or similar tax attributable to appreciation by reason of the property not receiving a step-up in basis on the death of the Grantor shall be paid by the recipient of the property subject to the income or similar tax.

(i) Interest And Set Offs. In the discretion of the Trustee, Death Taxes attributable to property not passing under this Trust Agreement may be paid out of this Trust prior to recovering the attributable Death Tax from the recipient of that property.

(1) Attributable Death Tax that has not been paid by the recipient before the Trustee pays Death Taxes or that is not yet due, because the Trustee made a valid deferral election under Sections 6161, 6163 or 6166 of the Internal Revenue Code, shall bear interest at a rate equal to that imposed from time to time on the Trustee by the Internal Revenue Code or other taxing provisions.

(2) In the discretion of the Trustee, as a form of payment by a Beneficiary to the Trustee, any entitlement of that Beneficiary under this Trust may be applied in payment of that Beneficiary's share of the Death Taxes, and interest attributable to other property received by that Beneficiary.

(3) In its discretion, the Trustee may distribute the Trust according to its terms in whole or in part prior to final audit or settlement of the Death Tax and income tax liability of the Grantor's estate, notwithstanding that attributable Death Taxes may be altered thereafter.

(4) The Trustee shall not be personally liable for withholding an insufficient amount as a set off against the liability of a recipient or for failing to recover attributable Death Taxes or interest following reasonable efforts and shall not be required to litigate to enforce apportionment unless indemnified against attorneys' fees and costs thereof.

(j) Adjustments. The Trustee's selection of assets to be sold to pay Death Taxes, and the tax effects thereof, shall not be subject to question by any Beneficiary. The Trustee is hereby indemnified against any liability it may incur to any recipient of property not passing under this Trust for the effect of any action taken in the computation or payment of Death Taxes that directly or indirectly affects any recipient's liability under this provision. Elections or allocations authorized under the Internal Revenue Code may be made by the Trustee in its discretion without regard to or liability for the effect thereof on any Beneficiary. No adjustment shall be made between income and principal, in the relative interests of the recipients, or in the amount or selection of assets allocated to any Trust to compensate for the effect of any such action or for the effect on the amount of any Death Tax attributable to any recipient of property includible in the Grantor's estate for Death Tax purposes.

(k) Conflict of Laws. For all purposes of interpreting this provision and ascertaining the rights of any recipient of property includible in the Grantor's estate for Death Tax purposes, the law of the state of California shall govern notwithstanding the nature or location of the property or the domicile of the recipient.

10.9 Payment of Expenses. Notwithstanding the provisions of the Paragraph titled "Principal and Income," the Trustee shall pay from income or principal of the Trust Estate, or partly from each, in the Trustee's sole and absolute discretion, the following:

(a) all expenses incurred in the administration of this Trust and the protection of the Trust against legal attack (including but not limited to reasonable attorneys' fees and compensation payable to the Trustee under the provisions of this Trust Agreement); and

(b) except as otherwise specifically provided in the Paragraph titled "Death Taxes; Apportionment," all payments pursuant to the Paragraphs titled "Payments Upon the Death of the Grantor" and "Powers and Duties Regarding Payment of GST Tax Liability."

It is the desire of the Grantor that the Trustee exercise its discretion pursuant to this Paragraph in a manner consistent with the intention of the Grantor not to reduce or otherwise adversely affect the Trust's qualification for any charitable deduction otherwise available for federal estate tax purposes. In particular, the Trustee may not exercise the discretion granted pursuant to this Paragraph so as to impose a material limitation on the income from Trust property otherwise qualifying for the federal estate tax charitable deduction, and any such attempted exercise of discretion shall be void.

10.10 Disbursements in Good Faith. Unless the Trustee shall receive written notice of any birth, death or other event upon which the right to receive income or principal from a Trust may depend, the Trustee shall incur no liability for disbursements made in good faith to persons whose interests shall have been affected by that event.

10.11 Liability for Conduct of Co-Trustees, Predecessor Trustees and Successor Trustees. No Trustee or Co-Trustee shall be liable or responsible for any act, omission or default of any other Co-Trustee, predecessor Trustee or successor Trustee, as the case may be, provided that such Trustee or Co-Trustee shall have had no knowledge of that act, omission or default and no knowledge of facts which might reasonably be expected to put such Trustee or Co-Trustee on notice thereof.

10.12 Notification to Beneficiaries. The Trustee shall provide notification upon each and every date that (a) a portion of this Trust or any subtrust created hereunder becomes irrevocable as a result of the death of the Grantor or (b) there is a change in Trustees of any irrevocable trust created hereunder, to the extent that such notification may be required under the laws of the state of California then in effect. Such notification shall contain the information as required under, be served in a manner consistent with, and be provided to each Beneficiary of any Trust so affected and to any other person as may be required under, the laws of the state of California then in effect. The notification required by this Paragraph may not be waived in any manner by the Grantor, the Trustee or any Beneficiary of any Trust created hereunder, unless permitted by law.

10.13 Subjection of Assets to Probate. It is the intention of the Grantor to avoid probate through the use of this Trust. If, however, the Trustee determines that it

shall be in the best interests of the Beneficiaries of the Trust, and the beneficial interests of the Beneficiaries shall not thereby be altered, the Trustee may subject any asset to probate to accomplish any appropriate purpose for the Estate of the Grantor, this Trust, any Trust created hereunder or any Beneficiary.

ARTICLE 11

PROVISIONS REGARDING GST TAX

11.1 Intention Regarding GST Tax. The Grantor intends that the Trustee shall perform (or refrain from performing) such acts as authorized pursuant to the terms of this Trust Agreement, or otherwise, as the Trustee shall determine, in the Trustee's sole discretion, with respect to any liability for the GST tax pursuant to Section 2601 of the Internal Revenue Code, whether imposed upon the Grantor, the Estate of the Grantor, any trust created by the Grantor, including, without limitation, the Trust or any subtrust created hereunder, or any beneficiary thereof, or upon any transferee or any other person or entity, in order to minimize the aggregate liability with respect to all estate, inheritance or other Death Taxes (including, without limitation, any GST tax) occasioned or payable by reason of the death of the Grantor or otherwise arising as a result of transfers of property, whether outright or in trust, made by or on behalf of, or which are otherwise attributable to, the Grantor, whether during life or upon the death of the Grantor.

11.2 Duties Regarding Allocation of GST Tax Exemption. The Trustee shall cooperate with and otherwise assist the executor under the Will of the Grantor (or such other persons who may make the election in the absence of an executor) in the allocation of all or any portion of the Grantor's GST tax exemption (as defined in Section 2631 of the Internal Revenue Code), or of a counterpart exemption under any applicable state law, which has not been allocated during the Grantor's life. The Grantor does not require that any allocation of the Grantor's GST tax exemption benefit the transferees of any property equally, proportionally or in any other particular manner.

11.3 Creation of Separate Trusts Based Upon Inclusion Ratio. Notwithstanding any other provision of this Trust Agreement, if all or a portion of the GST tax exemption is or is anticipated to be allocated to any Trust created hereunder, unless that Trust will thereby have an inclusion ratio (as defined in Section 2642 of the Internal Revenue Code) (the "Inclusion Ratio") of zero, that Trust shall be divided into two or more separate Trusts so that each Trust so created has an Inclusion Ratio of either zero (an "Exempt Trust") or one (a "Nonexempt Trust"). In so dividing a Trust, the Trustee shall distribute to the Nonexempt Trust property equal in value to the minimum amount necessary to establish that Trust with property in an amount necessary to produce an Inclusion Ratio of one while leaving the Exempt Trust with property in an amount necessary to provide an Inclusion Ratio of zero. Further, if property in a Trust having a

certain Inclusion Ratio is directed to be added to a Trust with a different Inclusion Ratio, the Trustee may decline to make the addition and, instead, may administer the property as a separate Trust with provisions identical to the Trust to which it otherwise would have been added.

11.4 Power to Grant and Revoke General Testamentary Power of Appointment. The Trustee shall have the sole discretionary authority to amend the terms of any Trust created hereunder having an Inclusion Ratio greater than zero (a) to grant to any Beneficiary thereof a general testamentary power of appointment (as defined for federal estate tax purposes) with respect to such Beneficiary's interest therein, if the Trustee deems, in the Trustee's sole discretion, such action to be in the best interests of the beneficiaries of the Trust as a group, and (b) to eliminate or otherwise revoke such power of appointment, if created. Any amendment pursuant to this Paragraph may limit the amount subject to the power of appointment, may limit the class of permissible appointees of such Beneficiary's interest (including, without limitation, an appointment to only that Beneficiary's creditors), may require that the power of appointment be exercised jointly with another in a manner consistent with the objectives of the power or otherwise impose such conditions and limitations on its exercise as the Trustee shall determine. Any amendment granting a power of appointment shall be in writing stating any limitations on the exercise of such power and the manner in which it may be exercised. The Trustee shall send a copy of such amendment to the Beneficiary who is the grantee of the power. The Trustee may exercise the powers described in this Paragraph from time to time, and the Trustee may modify or reverse their prior exercise at any time. If the Trustee serving at the time of exercising the power to grant and/or revoke a general testamentary power of appointment pursuant to this Paragraph is the spouse of the Grantor, then the power of the Trustee under this Paragraph shall instead be exercised only by the next named Trustee hereunder and not by the spouse of the Grantor.

11.5 Powers and Duties Regarding Payment of GST Tax Liability. If the Trustee determines that (a) any termination of an interest in or a power over Trust property constitutes a taxable termination pursuant to Section 2612(a) of the Internal Revenue Code, or (b) any distribution of Trust property constitutes a direct skip pursuant to Section 2612(c) of the Internal Revenue Code, the Trustee shall pay the amount of GST tax arising from such termination or distribution from the Trust property to which it relates, without adjustment of the relative interests of the Trust beneficiaries. If the Trustee determines that any distribution from a Trust (other than pursuant to a power to withdraw or appoint) is a taxable distribution pursuant to Section 2612(b) of the Internal Revenue Code, the Trustee shall have the power, exercisable if and to the extent determined by the Trustee in the Trustee's sole discretion, to augment the distribution by an amount which the Trustee estimates to be sufficient to pay all or a portion of the GST tax arising as a result of such distribution and shall charge the amount of the augmentation against the Trust to which the distribution relates. Any payments required or otherwise authorized pursuant to the terms of this Paragraph shall be made in

coordination with the payments required by the Paragraph titled "Payments Upon the Death of the Grantor" and shall be subject to the limitations expressly provided in this Trust Agreement, if any. If any GST tax paid pursuant to this Paragraph is imposed in part by reason of Trust property and in part by reason of property not held as part of the Trust Estate, the Trustee shall only pay that portion of the tax which the value of the Trust property taxed bears to the total property taxed, taking into consideration deductions, exemptions and other factors which the Trustee deems pertinent, in the Trustee's sole discretion.

11.6 General Powers Regarding GST Tax and Other Considerations.

All provisions of this Trust Agreement, except to the extent inconsistent with the objectives of the Grantor, shall be construed to permit the division, consolidation and administration of, and distributions from, the Trust in a timely manner consistent with the Grantor's objective of obtaining the efficient and effective use of the Grantor's available GST tax exemption and otherwise reducing the incidence of the GST tax and other Death Taxes. Except as expressly provided in this Trust Agreement to the contrary, the Trustee shall have the sole discretionary authority to do any and all acts as the Trustee may deem necessary or desirable in furtherance of the Grantor's intentions, subject to the Trustee's fiduciary and other considerations, including, without limitation, the authority to:

- (a) allocate the burden of any GST tax in an equitable manner, whether or not pro rata;
- (b) pay or withhold any GST taxes levied upon any Trust from such sources of funds as the Trustee deems prudent and advisable;
- (c) make adjustments, unless otherwise restricted, in the amounts to be received by the beneficiaries in compensation for the tax consequences of paying or otherwise allocating the burden of the GST tax;
- (d) make distributions to beneficiaries from such sources of funds or other property as the Trustee deems prudent and advisable, unless otherwise restricted;
- (e) divide any Trust established or to be established pursuant to this Trust Agreement, into separate Trusts; and
- (f) consolidate or otherwise combine separate Trusts: (1) having identical Inclusion Ratios; or (2) having different Inclusion Ratios if the Trustee believes that economic efficiency or other compelling considerations justify sacrificing their distinct GST tax characteristics.

Except as expressly provided to the contrary in this Trust Agreement, if a Trust otherwise to be established is divided under the provisions of this Article into separate Trusts, each

such subtrust shall have the same provisions as the Trust from which it was established and references in this Trust Agreement to such original Trust shall collectively refer to the separate subtrusts derived from it. The Trustee may exercise the powers described in this Paragraph from time to time, and such powers may be used to modify or reverse their prior exercise. In deciding whether and how to exercise these powers, the Trustee may take account of efficiencies of administration, GST and other transfer tax considerations, income tax factors affecting the various Trusts and their beneficiaries, present and future financial and other objectives of the various Trusts and their beneficiaries, the need or desirability of having the same or different Trustees for various Trusts or shares, and any other considerations the Trustee may deem appropriate. There is no requirement that any acts taken to reduce the incidence of any tax occasioned or payable by reason of the death of the Grantor benefit the transferees of such property equally, proportionally or in any other particular manner.

11.7 Successor Trustee for Certain Purposes. Notwithstanding anything herein to the contrary, the Trustee may not exercise any power granted pursuant to this Article including, without limitation, (a) the power to make or participate in any decision regarding the allocation of the Grantor's GST tax exemption and (b) the power to create, eliminate or modify any power of appointment, in any way that would have the effect of granting the Trustee a general power of appointment (as defined for federal estate tax purposes) over property with respect to which the Trustee would not otherwise have such a general power. If this prohibition renders the Trustee unavailable to perform a duty or exercise a particular power, the person, persons or entity who would serve as successor Trustee to the Trustee shall serve as the Trustee for that limited purpose. If the successor Trustee so selected would similarly be prohibited from acting pursuant to the provisions of this Paragraph, the procedure provided in this Trust Agreement for selecting a successor Trustee shall be followed until a successor Trustee not so prohibited shall serve as Trustee for that limited purpose.

11.8 Exoneration of Trustee. The Trustee shall not be liable for any good faith exercise of, or failure to exercise, the Trustee's powers pursuant to the provisions of this Article. In the event the Trustee's actions result in a detriment to one or more beneficiaries or other transferees, it is the Grantor's intention that such beneficiaries and transferees shall exonerate and otherwise hold harmless the Trustee with respect to such detriment.

11.9 Simultaneous Death. Notwithstanding any provision in this Trust Agreement to the contrary, if pursuant to the terms of this Trust Agreement (a) property is to pass to or is to be held in trust for a lineal descendant of the Grantor (or of the spouse or a former spouse of the Grantor) (a "Deceased Child") and (b) in the event of the death of such Deceased Child, such property is to pass to a further lineal descendant of the Grantor (or of the spouse or a former spouse of the Grantor) assigned to a generation (as determined pursuant to the provisions of Section 2651 of the Internal Revenue Code)

younger than the Deceased Child (a "Deceased Grandchild"), then, in the event that a Deceased Child and a Deceased Grandchild die simultaneously or under circumstances that make it difficult or impossible to determine their order of survival, the Trustee is hereby authorized to and shall presume, for purposes of this Article, that the Deceased Child and the Deceased Grandchild have died simultaneously.

ARTICLE 12

ACCOUNTINGS

12.1 Duty to Account. The Trustee shall render reports or accounts of the administration of the Trust Estate (individually, an "Account" and collectively "Accounts") in accordance with the provisions of this Article.

12.2 No Court Accounts. Except as may otherwise be required by applicable law, the Trustee shall not at any time be required to render any Accounts to any Court or public authority whatsoever, or to anyone else, except as provided in this Article.

12.3 During the Life of the Grantor.

(a) So long as the Grantor is Not Incapacitated. During the life of the Grantor, and provided that the Grantor is not incapacitated, no Accounts need be rendered, except upon the written demand of the Grantor. The Grantor's written approval of any and all Accounts during the life of the Grantor, and provided that the Grantor is not incapacitated, shall be final and conclusive with respect thereto as to all beneficiaries (including unborn and contingent beneficiaries) of the respective Trusts herein created.

(b) If the Grantor Is Incapacitated. If the Grantor becomes incapacitated, the Trustee shall not be required to render Accounts to any person, except upon the written demand of the Grantor, or any person who may be acting as conservator of the estate of the Grantor or an agent acting under any form of a power of attorney executed by the Grantor.

In no event shall any such Accounts be delivered to any issue of the Grantor (unless such person shall then be acting as conservator of the estate of the Grantor or as an agent acting under any form of a power of attorney executed by the Grantor) or to any other person who might otherwise be or become a Beneficiary under this Trust.

12.4 After the Death of the Grantor. After the Death of the Grantor, upon the written request of an Account Beneficiary (as that term is hereafter defined), but not more often than once each year, and/or upon a change of Trustee or termination of any Trust (or as otherwise required by law), unless specifically waived in writing by an Account Beneficiary, the Trustee shall render an Account of the Trust to all Account

Beneficiaries of such Trust in the manner required by law. For purposes of this Article, the term "Account Beneficiaries" shall include the persons required by law to receive an Account of such Trust to which the Account is being prepared. A waiver in writing by an Account Beneficiary to an Account may be withdrawn in writing by such Account Beneficiary at any time as to the most recent Account and future Accounts. In the event an Account Beneficiary is a minor, the Account shall be delivered to the guardian of such Account Beneficiary. In the event the Account Beneficiary is an incapacitated adult, the Account shall be delivered to such incapacitated Account Beneficiary's conservator or, if there is none, then to such incapacitated Account Beneficiary's primary care provider.

12.5 Predecessor Trustees. When a predecessor Trustee has failed to render Accounts as required under this provision, the successor Trustee may, but need not, render Accounts for such period with reasonable efforts without incurring any additional liability for acts of a predecessor Trustee, other than as already provided under California law. This provision is intended to permit the successor Trustee to render Accounts for the predecessor without creating any additional duty to investigate or to Account. Nonetheless, if in the course of rendering Accounts left undone by the predecessor Trustee, the successor Trustee obtains knowledge of a situation that may constitute a breach of trust committed by the predecessor Trustee, the successor Trustee shall deal with such knowledge in accordance with the successor Trustee's fiduciary duties and powers. The Trustee may, but need not, petition a court of competent jurisdiction for approval of an Account, and all the costs and expenses of such a proceeding shall be a proper charge of the trust with respect to which the Account is rendered.

12.6 Receipts, Accounts and Releases. The Trustee may require a receipt from a Beneficiary for the portion of the Trust Estate to be paid to such Beneficiary. If any Beneficiary refuses or neglects to furnish the Trustee with such written receipt, then the Trustee may, prior to making such distribution and at the expense of the appropriate Trust or Trusts, submit such matter to the Court of proper jurisdiction. The Trustee may, but need not, submit an Account to a Court of proper jurisdiction of the acts and doings of the Trustee then serving or any predecessor Trustee, and at the expense of the appropriate Trust or Trusts, in order to obtain a decree absolving the Trustee from all further liability hereunder after the making of such distribution. Alternatively, the Trustee may request from a Beneficiary a written release and discharge of the Trustee from all liability for any act, investment, transaction or distribution of the Trustee shown on that Account up to and including the date of such distribution, prior to making a distribution, if reasonable and appropriate under the circumstances, as determined by the Trustee, and permissible under applicable California law. If any Beneficiary refuses or neglects to release the Trustee upon terms acceptable to the Trustee, then the Trustee may, prior to making such distribution and at the expense of the appropriate Trust or Trusts, submit such matter to the Court of proper jurisdiction.

12.7 Settlement of Accounts. The Trustee shall be released from any liability with respect to a particular item disclosed in an Account or any claims adequately disclosed by any item in the Account, if the Trustee provides to the Beneficiary with the Account a written "Notice to Beneficiaries" in the form and manner required by California law, informing the Beneficiaries that they have 180 days within which to object to the Account, and the beneficiary fails to timely object to such item in the Account. Unless one (1) or more Beneficiaries shall deliver written objections to the Trustee within 180 days from the date such Notice to Beneficiaries was received, the Account shall be deemed settled, and shall be final and conclusive in respect to all transactions disclosed in the Account as to all Beneficiaries of such Trust, including unborn and unascertained beneficiaries. Notwithstanding anything to the contrary herein, nothing in this section is intended to relieve the Trustee of liability (1) for breach of trust committed intentionally, with gross negligence, in bad faith or with reckless indifference to the interest of the Beneficiary or (2) for any profit that the Trustee derives from a breach of trust.

12.8 Limited Waiver of Accounts. Except as provided in this section, any Accounts otherwise required by California law are hereby waived to the maximum extent permitted by law.

ARTICLE 13

NO CONTEST CLAUSE

13.1 General. The Grantor has intentionally made no provision in this Trust Agreement for any heirs or relatives of the Grantor who are not herein mentioned or designated, and the Grantor generally and specifically has intentionally omitted to provide for every person claiming to be or who may be determined to be an heir-at-law of the Grantor, except as otherwise mentioned in this Trust Agreement. If any beneficiary (a "Contesting Beneficiary") under a Protected Instrument (as defined in this Article), singularly or in combination with any other persons, directly or indirectly, engages in any of the following contests without Probable Cause (as defined in this Article):

- (a) a Direct Contest (as defined in this Article);
- (b) files a Pleading (as defined in this Article) in any court to challenge a transfer of property on the grounds that it was not the transferor's property at the time of the transfer; or
- (c) files a Creditor's Claim (as defined in this Article) or prosecutes any action based upon it (other than for funeral expenses or expenses of the Grantor's last illness) in the Grantor's probate estate or against the Trustee of any subtrust created under this Trust Agreement or against a beneficiary thereof;

then any share or interest in the Trust Estate and any subtrust created under this Trust Agreement, provided to or for the benefit of the Contesting Beneficiary, is revoked. In the event of such revocation, the revoked share or interest shall be disposed of as follows:

(1) if the Contesting Beneficiary is an individual, as though that Contesting Beneficiary had died without issue before becoming entitled to receive any income or any portion of the principal of such Trust; or

(2) if the Contesting Beneficiary is a charitable organization, to any one or more other charitable organizations which qualify for tax exemption under Section 2055(a) of the Internal Revenue Code and which meet the charitable intentions of the Grantor consistent with the provisions of this Trust Agreement (including, without limitation, any one or more of the charitable organizations named in this Trust Agreement which are not disqualified under this Article), as determined by the Trustee, in the Trustee's sole discretion.

The provisions of this Article shall not apply to any disclaimer by any person of any benefit under this Trust Agreement or under the Will of the Grantor.

13.2 Definitions. For purposes of this Article, the following terms have the following meanings:

(a) "Creditor's Claim" includes any action to enforce a contract to make a will, or an action asserting that the Grantor's property is liable to the claimant, other than for funeral expenses or the Grantor's last illness expenses.

(b) "Direct Contest" means a Pleading filed in any court that includes an allegation that a Protected Instrument or one or more of its terms is invalid, based on one or more of the following grounds:

(1) Forgery.

(2) Lack of due execution.

(3) Lack of capacity.

(4) Menace, duress, fraud or undue influence.

(5) Revocation of a will pursuant to Section 6120 of the California Probate Code (or any successor section), revocation of a trust pursuant to Section 15401 of the California Probate Code (or any successor section) or revocation of any instrument other than a will or trust pursuant to the procedure for revocation that is provided by statute or by the instrument.

(6) Disqualification of a beneficiary under Section 6112 of the California Probate Code (or any successor section) or under Section 21350 of the California Probate Code (or any successor section).

(c) "Pleading" means a petition, complaint, cross complaint, objection, answer, response or claim.

(d) "Probable Cause" exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted after an opportunity for further investigation or discovery.

(e) "Protected Instrument" means all of the following instruments:

(1) this Trust Agreement and any and all subtrusts created under this Trust Agreement, and any amendments to this Trust Agreement;

(2) any other revocable or irrevocable trust established by the Grantor, and any amendments to any of the foregoing Trusts;

(3) the Will of the Grantor or any codicil thereto;

(4) any designation of beneficiary executed by the Grantor with respect to any insurance policy, annuity, individual retirement account, qualified or non-qualified employee benefit plan, plan of deferred compensation or other assets passing outside this Trust Agreement or the Will of the Grantor;

(5) any written agreement between the Grantor and the Grantor's spouse defining or altering their property rights as married persons, whether entered into prior to, concurrently with or after marriage;

(6) any buy-sell agreements in which the Grantor is a party; or

(7) any family partnership agreements or limited liability company operating agreements in which the Grantor is, or was, a party.

13.3 Authorization of Trustee. The Trustee is authorized to resist and defend against any contest or other attack of any nature upon any provision of the Trust (including this no-contest provision), any amendment to the Trust, the Grantor's Will or any codicil thereto, and any expenses incurred by the Trustee in connection therewith, including but not limited to attorneys' fees, shall be paid from the Trust Estate as an expense of trust administration.

13.4 Costs of Defenses Charged Against Contesting Beneficiary.

Notwithstanding the foregoing provisions of this Article, if the Trustee is unsuccessful in defending any matter or action described therein, and does not settle such matter or action, and if for any reason the distributions and/or allocations of interests in the Trust Estate to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor are not forfeited, all of the costs of such defense shall be charged against the distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor, and all distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor shall be reduced on a dollar-for-dollar basis by the aggregate net value as determined by the Trustee, of all real and personal property passing to or distributable to or for the benefit of the Contesting Beneficiary as a result of such matter or action, including, without limitation, assets of the Trust Estate or the probate estate of the Grantor, insurance proceeds, employee benefits and deferred compensation. In making any settlement of such matter or action, the Trustee shall consider the foregoing provisions of this Article and shall abide by them to the extent possible.

ARTICLE 14

GENERAL TRUST PROVISIONS

14.1 Termination. Unless sooner terminated in accordance with other provisions of this Trust Agreement, each Trust created under this Trust Agreement shall terminate after the latest of:

- (a) twenty-one (21) years after the latest of:
 - (1) the death of the Grantor;
 - (2) the death of all of the issue (if any) of the Grantor who are living at the time of the death of the Grantor;
 - (3) the death of the last survivor of any Beneficiary of the Trusts created hereunder and that Beneficiary's issue living at the time of the execution of this Trust; or
 - (4) the death of all other Beneficiaries of the Trusts created hereunder living at the time of the death of the Grantor; or
- (b) such later time as may then be allowed by law.

All principal and undistributed income of any Trust so terminated shall be distributed to the then income Beneficiaries of that Trust in the proportions in which they are, at the time of termination, entitled to receive that income. However, if the rights to income are

not then fixed by the terms of that Trust, distribution under this Paragraph shall be made to the Beneficiaries as are then entitled or authorized in the discretion of the Trustee to receive payments from that Trust. In the event there are no Beneficiaries so entitled, the Trustee shall use any reasonable method to make the distribution required hereunder, as determined in the Trustee's discretion.

14.2 Spendthrift Provision. No interest of any Beneficiary of any Trust created in this Trust Agreement shall be subject to sale, assignment, hypothecation or transfer by any Beneficiary, other than in the exercise of a power of appointment given to the Beneficiary, nor shall the principal of any Trust, or the income arising therefrom, be liable for any debt of any Beneficiary, or be subject to attachment by or the interference by or control of any creditor of any Beneficiary, or be taken or reached by any legal or equitable process in satisfaction of any debt or liability of any Beneficiary, including, without limitation, the process of any court in aid of execution of any judgment so rendered. All of the income and principal under any Trust shall be transferable, payable and deliverable only to the designated Beneficiary at the time the Beneficiary is entitled to take under the terms of this Trust. The personal receipt of the Beneficiary may be made a condition precedent to the payment or delivery by the Trustee to that Beneficiary. The Trustee may, however, deposit in any bank designated in writing by a Beneficiary, to his or her credit, income or principal payable to that Beneficiary. This Article shall not restrict any authority of the Trustee to use and disburse funds for the support, maintenance, health and education of a Beneficiary, or to disburse funds to a guardian or conservator as herein provided.

14.3 Invalidity. If any part, clause, provision or condition of this Trust Agreement shall be adjudged to be invalid or unenforceable, then, notwithstanding the invalidity or unenforceability of that part, clause, provision or condition, the remainder of this Trust Agreement shall continue and shall remain in full force and effect and that part, clause, provision or condition shall be reduced in scope to the minimum extent necessary to avoid the invalidity.

14.4 Governing Law. Subject to the Paragraph titled "Power to Transfer Trust to or from Another Jurisdiction," the internal laws (and not the law of conflicts) of the state of California in force from time to time shall govern the validity, construction, interpretation and administration of this Trust, except that all matters relating to real property shall be governed by the laws of the situs of that real property, including that state's conflict-of-law principles.

14.5 Disclaimers. Any Beneficiary shall have the right to disclaim all or any part of any interest in property to which he or she may be entitled under this Trust Agreement, by giving written notice of such disclaimer to the then-acting Trustee, to the adult Beneficiaries, to the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries; provided, however, that a failure to notify the adult

Beneficiaries, the guardians of any minor Beneficiaries and/or the conservators of any incapacitated Beneficiaries regarding a Beneficiary's disclaimer shall not affect the validity or qualification of any disclaimer under any federal or state law. The notice shall be delivered personally or by certified or registered mail, postage prepaid, return receipt requested. Such disclaimer shall also in all respects comply with the applicable laws, rules, regulations and procedures, whether legislative, administrative, judicial or otherwise, as may be appropriate. Except as otherwise provided herein, any interest so disclaimed shall be held or distributed as if the disclaimant was deceased as of the effective date of such disclaimer. No other interest of the Beneficiary shall be affected by the disclaimer, unless that interest shall also be disclaimed.

14.6 Headings and Captions. The headings and captions appearing at the commencement of the Articles and Paragraphs are descriptive only and for convenience in reference. Should there be any conflict between any such heading or caption and the language of the Article or Paragraph over which the heading appears, the language of the Article or Paragraph, and not such heading or caption, shall control and govern in the construction of this Trust Agreement.

14.7 Cross-References. All cross-references to Articles and Paragraphs contained in this Trust Agreement, unless otherwise specifically directed to another agreement or document, refer to provisions in this Trust Agreement and shall not be deemed to be references to any other agreement or document.

14.8 Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if (a) served personally (b) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, (c) delivered to Federal Express or other recognized overnight delivery service or (d) delivered by facsimile transmission, if concurrently transmitted by one of the methods identified in (a), (b) or (c) of this Paragraph. If such notice, demand or other communication is served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication is given by mail, Federal Express or other recognized overnight delivery service, service shall be conclusively deemed given upon receipt (or refusal to accept delivery) as shown on the return receipt. If such notice, demand or other communication is delivered by facsimile transmission (and subject to the other requirements of subsection (d) of this Paragraph), notice shall be deemed given on the date of delivery by facsimile transmission, as confirmed electronically. Any notice, demand or other communication to be given hereunder shall be addressed to the party to whom such notice, demand or other communication is to be given at the last known address for that party or at the last known facsimile number. Any party hereto may change its address or facsimile number for the purpose of receiving notices, demands and

other communications as herein provided by a written notice given in the manner aforesaid to the Trustee hereof.

ARTICLE 15

DEFINITIONS AND RULES OF CONSTRUCTION

15.1 Definitions Set Forth in This Article. The following definitions and rules of construction shall apply to the terms listed in this Article wherever those terms are used in this Trust Agreement and wherever reference is made to those terms in this Trust Agreement.

15.2 Beneficiary. The term "Beneficiary" shall be deemed to mean and is intended to include only those persons for whom a part of the Trust Estate has been apportioned. The term "Beneficiary" shall specifically not include any person who legally might be considered as a residuary or contingent beneficiary, and any such person shall be considered as a "Beneficiary" only at such time as a part of the Trust Estate actually has been apportioned for his use and benefit in accordance with the terms and provisions of this Trust Agreement or any amendments thereto.

15.3 Corporate Trustee. The term "Corporate Trustee" shall mean a corporation, the trust department of a bank or the trust department of any title insurance company, which is authorized by state law to be engaged and act as a trustee.

15.4 Education. The term "education" shall be construed to include private preschool, elementary and secondary education (including instruction in music, art, computers, sports and physical education, and other subjects and topics, and whether conducted before, during or after the regular school day, and wherever located or held), vocational training, college and postgraduate study (including professional education), so long as pursued to the advantage of a beneficiary, at any recognized educational institution of a beneficiary's choice; and in determining payments to be made for education, the Trustee shall take into consideration a beneficiary's tuition, books, supplies, tutors, appropriate travel expenses and reasonable living expenses. Notwithstanding the foregoing, education shall not have any meaning broader than that allowed by Section 2041(b) of the Internal Revenue Code.

15.5 Gender or Number. The masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

15.6 Incapacity. The terms "incapacitated" or "incapacity," and the term "unable to serve" or equivalents thereof, as applied to any beneficiary or successor Trustee hereunder, shall be deemed to include not only a person who has been judicially declared incapacitated and a person for whom a guardian or conservator or other

fiduciary of the person or estate or both shall have been appointed, but also a person who shall be deemed to have become substantially unable to manage his or her own financial resources or resist fraud or undue influence. That incapacity shall be evidenced by the written statement of two (2) licensed physicians upon the request of any beneficiary, Trustee or successor Trustee hereunder. In the case of a person who is serving as Trustee hereunder, the person or institution designated as next successor Trustee may commence acting in such capacity upon that evidence without liability by reason thereof. Any person who has been determined to be incapacitated under the provisions of this Paragraph shall be deemed to have regained his or her capacity for all purposes of this Trust, including to resume acting as Trustee, upon a written statement to that effect by two (2) licensed physicians.

15.7 Internal Revenue Code. Reference to code sections of the "Internal Revenue Code" shall refer to those sections of the Internal Revenue Code of 1986, as amended, as they exist at the time of execution of this Trust Agreement and any corresponding or substitute provisions from time to time existing and to the Treasury Regulations pertaining to those sections.

15.8 Issue; Child; Children. Subject to the provisions of the Paragraph titled "Declarations Concerning Family," the terms "issue," "child" and "children" shall mean lawful lineal descendants of all degrees, specifically including the following:

(a) A child born outside of wedlock, if a parent and child relationship existed between such child and his or her deceased parent as determined under the laws of the state of California.

(b) Adopted persons and their issue, provided that the person was adopted when he or she was a minor, and shall include any person conceived prior to the death of such person's deceased parent but born thereafter.

(c) A person born as a result of artificial insemination, in vitro fertilization or other medical intervention, which person shall be deemed to be a genetic descendant of (1) the woman (other than a woman who was contractually serving as a surrogate mother) who gave birth to such person (the "birth mother") and (2) the birth mother's domestic partner at the time such person was conceived or implanted, unless there is clear and convincing evidence that the birth mother's domestic partner withheld consent to the medical intervention and did not subsequently voluntarily acknowledge parentage. In the event of any question whether (A) a birth mother's domestic partner withheld consent to a medical intervention for purposes of this Paragraph or (B) parentage has been voluntarily acknowledged for purposes of this Paragraph, then the determination of the Trustee (other than the birth mother or the putative parent) shall be binding on all persons interested in the Trusts hereunder and on all persons claiming to be so interested.

Unless expressly specified otherwise, distribution or apportionment to or among children and/or issue shall be made by right of representation.

15.9 Net Income. The term "net income" shall mean the income from the Trust Estate determined in accordance with this Trust Agreement and after the payment or reservation of sufficient funds to pay all expenses of management and administration of the Trust Estate, including the compensation of the Trustee.

15.10 Or. The word "or" used in any list of more than two items other than a list of Beneficiaries shall be construed to include the conjunctive as well as the disjunctive.

15.11 Spouse. The term "spouse" shall include only persons who are lawfully married to and not legally separated from the person to whose spouse reference is made (or if the person to whose spouse reference is made is deceased at the time of interpretation hereunder, then the term "spouse" as it relates to such deceased person shall mean the person who was lawfully married to and not legally separated from the deceased person at the time of such person's death). Notwithstanding the foregoing, all references in this Trust Agreement to the capitalized term "Spouse" shall refer only to the spouse of the Grantor if at the time of interpretation hereunder such spouse of the Grantor was lawfully married to and not legally separated from the Grantor (or if the Grantor is deceased at the time of interpretation hereunder, provided the spouse of the Grantor was lawfully married to and not legally separated from the Grantor at the time of the death of the Grantor).

15.12 Support, Maintenance and Health. The terms "support," "maintenance" and "health" shall have the same meanings in this Trust Agreement as those terms have under Section 2041(b) of the Internal Revenue Code.

15.13 Survival. For purposes of this Trust Agreement, unless a specific period of survival is otherwise provided herein, a person shall be deemed to have survived the Grantor or shall be deemed to have been living at the date of the death of the Grantor only if such person survived the Grantor by at least ninety (90) days. Unless such person has survived the Grantor by at least ninety (90) days, such person shall be deemed to have predeceased the Grantor.

15.14 Treasury Regulations. Reference to sections of the "Treasury Regulations" shall refer to those sections of the Treasury Regulations promulgated under Code sections of the Internal Revenue Code of 1986, as amended, as they exist at the time of execution of this Trust Agreement and any corresponding or substitute provisions from time to time existing.

15.15 Trust. The term "Trust" shall specifically include any Trusts created hereunder.

15.16 Trust Estate. The term "Trust Estate" shall be deemed to mean all of the property held in trust by the Trustee.

15.17 Trustee. The term "Trustee" shall be deemed to include not only the singular, but also the plural, and to include any successor Trustee or Co-Trustees.


ARTICLE 16

EXECUTION

16.1 Declaration of the Grantor. The undersigned Grantor does hereby certify that he has read this Trust Agreement and it fully and accurately sets out the terms, Trusts and conditions under which the Trust Estate herein described is to be held, managed and disposed of by the Trustee herein named, and he hereby approves, ratifies and confirms this Trust Agreement in all particulars.

16.2 Execution by the Grantor. Executed at Los Angeles, California, on July 1, 2009.

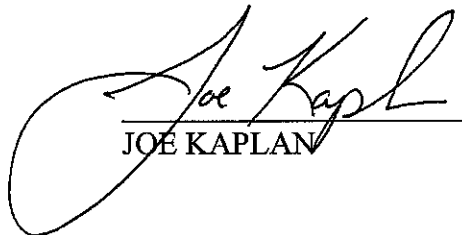
GRANTOR:



JOE KAPLAN

16.3 Execution by the Trustee. The foregoing Trust Agreement has been accepted by the Trustee thereunder.

TRUSTEE:



JOE KAPLAN

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

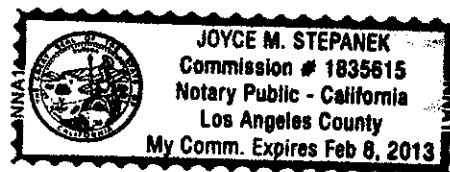
On July 1, 2009, before me, Joyce M. Stepanek,

a Notary Public, personally appeared JOE KAPLAN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Joyce M Stepanek



(SEAL)

EXHIBIT "A"
ASSETS TRANSFERRED TO THE
JOE KAPLAN LIVING TRUST

To take advantage of the ruling in Estate of Heggstad v. Nancy Rhodes Heggstad, by California's 1st App. Dist., 16 CA 4th 943 (6/21/93), by execution of the attached Trust Agreement, the Grantor hereby transfers to the Joe Kaplan Living Trust, dated July 24, 2007 (the "Living Trust") all right, title and interest in and to all property which the Grantor now owns or may hereafter acquire, whether held as community property, separate property, joint tenancy, tenancy in common or in any other format, including without limitation:

1. All real property, including the principal residence of the Grantor (if any).
2. All personal property, whether tangible or intangible, including without limitation all of the Grantor's personal effects (such as domesticated animals, jewelry, clothing and other tangible articles of a personal nature, antiques, collectibles, artwork, household furniture, furnishings and appliances, and motor vehicles, together with any insurance thereon, and subject to any liabilities secured thereby).
3. All financial instruments, stock certificates, checking, savings, money market or brokerage accounts established by the Grantor at any bank, brokerage or other financial institution (whether title is held jointly by the Grantor with any other person).
4. All mixed property of any type.

The only assets owned by the Grantor which are not transferred to the Living Trust by execution of this Trust Agreement are the following (which may nevertheless be transferred to the Living Trust by means of a separate Assignment or other instrument of transfer which specifically refers to such excluded assets):

- A. Any life insurance policy which is now or hereafter owned by the Grantor.
- B. Checking accounts now or hereafter standing in the name of the Grantor as a joint tenant with the Grantor's spouse or any other person.
- C. Assets, the transfer of which would cause an income tax recognition event or similar tax in any taxing jurisdiction.
- D. Assets securing a promissory note, mortgage or other debt instrument if the due date for all or part of the principal balance of such debt will be accelerated by virtue of the assignment of the security to the Living Trust.

FIRST AMENDMENT TO THE
AMENDED AND RESTATED
JOE KAPLAN LIVING TRUST

This FIRST AMENDMENT TO THE AMENDED AND RESTATED JOE KAPLAN LIVING TRUST ("First Amendment") is entered into between JOE KAPLAN ("Grantor") and JOE KAPLAN ("Trustee"), with reference to the following facts:

A. On July 24, 2007, the Grantor and Trustee executed the Joe Kaplan Living Trust (the "Original Trust").

B. On February 11, 2008 the Grantor and Trustee executed the First Amendment to the Original Trust.

C. On July 1, 2009, the Grantor and Trustee executed the Amended and Restated Joe Kaplan Living Trust (the "Amended Trust"), thereby amending and restating the Original Trust, as previously amended, in its entirety.

D. Pursuant to Paragraph 2.1 of the Amended Trust, the Grantor reserved the right to amend the Amended Trust further during his lifetime.

E. The Grantor desires to amend the Amended Trust further as provided herein.

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 4.1 of the Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"4.1 Declarations Concerning Family. The Grantor is married to ELIZABETH KAPLAN. Any reference to Spouse in this Trust Agreement is to her. The Grantor was previously married to JUDI BETH KAPLAN, which marriage was terminated by divorce. The Grantor has intentionally omitted to provide for JUDI BETH KAPLAN under the terms of this Trust Agreement. The Grantor has two (2) children from the Grantor's marriage to JUDI BETH KAPLAN, namely BRANDON HUNTER KAPLAN, born November 18, 1987 and DANIELLE MORGAN KAPLAN, born February 27, 1990. The Grantor has one (1) child with the Spouse, namely PARKER JOSHUA KAPLAN ('PARKER'), born

September 2, 2009. Any references to 'New Child' are to PARKER."

2. Paragraph 5.4 of the Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"5.4 Specific Distributions and/or Allocations. As soon as reasonably practicable after the death of the Grantor, the Trustee shall make the following specific distributions and/or allocations from the Trust Estate:

(a) The Trustee shall distribute to the Spouse, free of trust, the sum of Five Million Dollars (\$5,000,000) in cash or other property. The Grantor intends that the distribution pursuant to this Paragraph 5.4(a) shall satisfy the Grantor's obligation to the Spouse under Paragraph 11.4 of the Prenuptial Agreement and shall not be made in addition to the Grantor's obligation to the Spouse under the Prenuptial Agreement. If the Spouse is not living at the time of the Grantor's death, such distribution shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

(b) The Trustee shall allocate to a separate trust (the 'New Child's Education Trust') for the benefit of the New Child the sum of One Million Dollars (\$1,000,000) in cash or other liquid assets, to be held, administered and distributed in accordance with the provisions of Article 6. If the New Child is not living at the time of allocation hereunder, such allocation shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article.

(c) If PARKER is living at the time of allocation hereunder, the Trustee shall allocate the following to a separate trust (the 'Primary Residence Trust'), to be held, administered and distributed in accordance with Article 6.A:

(1) The primary residence in which Grantor was residing at the time of Grantor's death, together with insurance thereon, but subject to encumbrances secured thereby (the 'Primary Residence').

(2) Cash or other liquid assets in an amount equal to Two Hundred Thousand Dollars (\$200,000) multiplied by the number of full years until PARKER would attain the age of nineteen (19).

If the Trust Estate does not own (and will not acquire as a result of the death of the Grantor) any interest in the Primary Residence, the allocations contemplated by this Paragraph 5.4(c) (specifically including the cash or other liquid assets) shall be of no force or effect, nothing shall be substituted in their place and the Primary Residence Trust shall not be created.

If PARKER is not living at the time of allocation hereunder, the allocations contemplated by this Paragraph 5.4(c) shall be of no force or effect, and such property shall remain part of the Trust Estate, to be distributed in accordance with the remaining provisions of this Article."

3. The provisions of Paragraph 5.5 of the Amended Trust (titled 'Incidence of Taxes') shall apply to the specific distributions and/or allocations set forth in the amended Paragraph 5.4 above.

4. Article 6.A is hereby added to the Amended Trust as follows:

"ARTICLE 6.A

ADMINISTRATION OF PRIMARY RESIDENCE TRUST

6.A.1 Administration of Primary Residence Trust as Set Forth in This Article. The Primary Residence Trust shall be held, administered and distributed in accordance with the provisions of this Article.

6.A.2 Primary Residence Trust Termination Date Defined. For purposes of this Article and subject to the remaining provisions of this Paragraph, the term 'Primary Residence Trust Termination Date' shall mean the earliest to occur of (a) PARKER attaining age nineteen (19) years, (b) the death of PARKER, (c) the Spouse cohabiting with a person other than a blood relative or (d) the Spouse remarrying.

6.A.3 Accumulation of Income. The Trustee shall accumulate the net income of the Primary Residence Trust. Such accumulated income shall be added to the principal of the Primary Residence Trust, to be distributed as hereinafter provided.

6.A.4 Rent-free Use by PARKER and His Guardian. Prior to the Primary Residence Trust Termination Date, the Trustee shall allow PARKER, the Spouse or the guardian of PARKER, to use and occupy the Primary Residence without payment of rent or any expenses for maintaining the Primary Residence, including any encumbrances thereon. The Primary Residence Trust shall pay any notes secured by mortgages or deeds of trust on the Primary Residence and all expenses for maintaining the Primary Residence, including, but not limited to, assessments, fire and casualty insurance premiums, property taxes, maintenance costs, ordinary repairs and all other expenses of the Primary Residence.

6.A.5 No Distributions of Principal Prior to Primary Residence Trust Termination Date; No Refinance or Sale without Consent. There shall be no distributions of principal from the Primary Residence Trust prior to the Primary Residence Trust Termination Date. Further, the Trustee shall not sell or refinance the Primary Residence prior to the Primary Residence Termination Date without the written consent of the Spouse or the guardian of PARKER.

6.A.6 Distribution upon Primary Residence Trust Termination Date. Upon the Primary Residence Trust Termination Date, the property remaining in the Primary Residence Trust shall be allocated in accordance with the provisions of Paragraph 5.6 and held in trust in accordance with Article 5."

5. Paragraph 8.1 of the Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"8.1 Designated Successor Trustee. If the individual Trustee named in this Trust Agreement shall become unable to serve or otherwise cease to act as Trustee hereunder, then AARON shall act as successor Trustee under this Trust Agreement. If AARON shall fail to qualify, become unable to serve or otherwise cease to act as Trustee hereunder, then MERRILL LYNCH TRUST COMPANY, FSB shall act as successor Trustee under this Trust Agreement."

6. Article 13 of the Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE 13

NO CONTEST CLAUSE

13.1 General. The Grantor has intentionally made no provision in this Trust Agreement for any heirs or relatives of the Grantor who are not herein mentioned or designated, and the Grantor generally and specifically has intentionally omitted to provide for every person claiming to be or who may be determined to be an heir-at-law of the Grantor, except as otherwise mentioned in this Trust Agreement. If any beneficiary (a 'Contesting Beneficiary') under a Protected Instrument (as defined in this Article), without Probable Cause (as defined in this Article), singularly or in combination with any other persons, directly or indirectly:

- (a) engages in a Direct Contest (as defined in this Article);
- (b) files a Pleading (as defined in this Article) in any court to challenge a transfer of property on the grounds that it was not the transferor's property at the time of the transfer; or
- (c) files a Creditor's Claim (as defined in this Article) or prosecutes any action based upon it (other than for funeral expenses or expenses of the Grantor's last illness) in the Grantor's probate estate or against the Trustee of any subtrust created under this Trust Agreement or against a beneficiary thereof;

then any share or interest in the Trust Estate and any subtrust created under this Trust Agreement, provided to or for the benefit of the Contesting Beneficiary, is revoked. In the event of such revocation, the revoked share or interest shall be disposed of as follows:

- (1) if the Contesting Beneficiary is an individual, as though that Contesting Beneficiary had died without issue before becoming entitled to receive any income or any portion of the principal of such Trust; or

(2) if the Contesting Beneficiary is a charitable organization, to any one or more other charitable organizations which qualify for tax exemption under Section 2055(a) of the Internal Revenue Code and which meet the charitable intentions of the Grantor consistent with the provisions of this Trust Agreement (including, without limitation, any one or more of the charitable organizations named in this Trust Agreement which are not disqualified under this Article), as determined by the Trustee, in the Trustee's sole discretion.

The provisions of this Article shall not apply to any disclaimer by any person of any benefit under this Trust Agreement or under the Will of the Grantor.

13.2 Definitions. For purposes of this Article, the following terms have the following meanings:

(a) 'Creditor's Claim' includes any action to enforce a contract to make a will, or an action asserting that the Grantor's property is liable to the claimant, other than for funeral expenses or the Grantor's last illness expenses.

(b) 'Direct Contest' means a Pleading filed in any court that includes an allegation that a Protected Instrument or one or more of its terms is invalid, based on one or more of the following grounds:

- (1) Forgery.
- (2) Lack of due execution.
- (3) Lack of capacity.
- (4) Menace, duress, fraud or undue influence.

(5) Revocation of a will pursuant to Section 6120 of the California Probate Code (or any successor section), revocation of a trust pursuant to Section 15401 of the California Probate Code (or any successor section) or revocation of any instrument other than a will or trust pursuant to the procedure for revocation that is provided by statute or by the instrument.

(6) Disqualification of a beneficiary under Section 6112 of the California Probate Code (or any successor section) or under Section 21350 of the California Probate Code (or any successor section).

(c) 'Pleading' means a petition, complaint, cross complaint, objection, answer, response or claim.

(d) 'Probable Cause' exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted after an opportunity for further investigation or discovery.

(e) 'Protected Instrument' means all of the following instruments:

(1) this Trust Agreement and any and all subtrusts created under this Trust Agreement, and any amendments to this Trust Agreement;

(2) any other revocable or irrevocable trust established by the Grantor, and any amendments to any of the foregoing Trusts;

(3) the Will of the Grantor or any codicil thereto;

(4) any designation of beneficiary executed by the Grantor with respect to any insurance policy, annuity, individual retirement account, qualified or non-qualified employee benefit plan, plan of deferred compensation or other assets passing outside this Trust Agreement or the Will of the Grantor;

(5) any written agreement between the Grantor and the Spouse defining or altering their property rights as married persons (such as the Prenuptial Agreement), whether entered into prior to, concurrently with or after marriage;

(6) any buy-sell agreements in which the Grantor is a party; or

(7) any family partnership agreements or limited liability company operating agreements in which the Grantor is, or was, a party.

13.3 Authorization of Trustee. The Trustee is authorized to resist and defend against any contest or other attack of any nature upon any provision of the Trust (including this no-contest provision), any amendment to the Trust, the Grantor's Will or any codicil thereto, and any expenses incurred by the Trustee in connection therewith, including but not limited to attorneys' fees, shall be paid from the Trust Estate as an expense of trust administration.

13.4 Costs of Defenses Charged against Contesting Beneficiary. If the Trustee is successful in defending any matter or action described in this Article, as reasonably determined by the Trustee, but the distributions and/or allocations of interests in the Trust Estate to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor are not forfeited, all of the costs of such defense may be charged against the distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor, and all distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor may be reduced on a dollar-for-dollar basis by the aggregate net value as determined by the Trustee, of all real and personal property passing to or distributable to or for the benefit of the Contesting Beneficiary as a result of such matter or action, including, without limitation, assets of the Trust Estate or the probate estate of the Grantor, insurance proceeds, employee benefits and deferred compensation, all determined in the sole and absolute discretion of the Trustee. In making any settlement of such matter or action, the Trustee shall consider the foregoing provisions of this Article."

7. Except as modified by this First Amendment, the provisions of the Amended Trust shall remain in full force and effect.

8. This First Amendment shall be effective as of the date of execution.

2012 Executed at Los Angeles, California, on May 7,


GRANTOR:



JOE KAPLAN

The foregoing First Amendment has been accepted by the Trustee thereunder.

TRUSTEE:



JOE KAPLAN

ACKNOWLEDGMENT

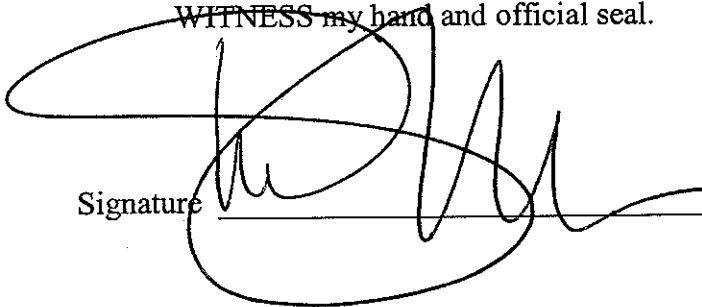
STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

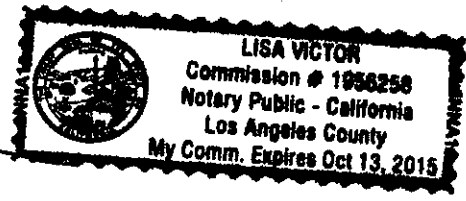
On May 7th, 2012, before me, LISA VICTOR,

a Notary Public, personally appeared JOE KAPLAN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature _____



(SEAL)