

**Anthony Mann and Lisa Mann  
Living Trust**

**October 27, 2020**

LAW OFFICES

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Bruins, CALIFORNIA 95616

# Anthony Mann and Lisa Mann Living Trust

## Article One Establishing Our Trust

The date of this trust is October 27, 2020. The parties to this trust are First Name Last Name and Wife First Name Last Name (the *Trustmakers*) and First Name Last Name and Wife First Name Last Name (collectively, our *Trustee*).

We intend to create a valid trust under the laws of California and under the laws of any state in which any trust created under this trust document is administered. The terms of this trust prevail over any provision of California law, except those provisions that are mandatory and may not be waived.

### Section 1.01 Identifying Our Trust

To the extent practicable, for the purpose of transferring property to our trust or identifying our trust in any beneficiary or pay-on-death designation, our trust should be identified as:

“First Name Last Name and Wife First Name Last Name, Trustees of the First Name and Wife First Name Last Name Living Trust dated October 27, 2018, and any amendments thereto.”

### Section 1.02 Reliance by Third Parties

To protect the confidentiality of this instrument, our Trustee may use a certification of trust that identifies our Trustee and sets forth the authority of our Trustee to transact business on behalf of our trust instead of providing a copy of this instrument. The certification may include pertinent pages from this instrument, including title or signature pages. A third party dealing with our Trustee is not required to inquire into the terms of this instrument or our Trustee’s authority, to see to the proper application of money paid or property delivered to our Trustee, or to inquire into our Trustee’s authority as to any transaction.

**California Probate Code Section 18100.5(h) provides that a person making a demand for the trust document in addition to the certification of trust, may be liable for damages, including attorney fees, as a result of the refusal to accept the certification of trust.**

### Section 1.03 Transferring Property to Our Trust

By executing this instrument, we transfer to our Trustee \$10 in cash. Our Trustee accepts and agrees to hold the \$10 as trust property. Any additional property transferred to our trust must be accepted by our Trustee. Our Trustee shall hold, administer, and dispose of all accepted trust property for our benefit and for the benefit of our beneficiaries, in accordance with the terms of this instrument. Any community property conveyed to our trust, including the net income from community property and the proceeds from the sale of

community property, will retain its character as community property while we are alive and married to the same extent as if it had not been conveyed to our trust.

**(a) Community Property**

Any community property transferred to our trust, including the property's income and the proceeds from the property's sale or exchange, will retain its character as community property during our lives, to the same extent as if it had not been transferred to our trust.

**(b) Separate Property**

Separate property transferred to our trust will retain its character as separate property. Our separate property may be identified as the separate property of either of us on the attached schedules. The separate property of either of us, including the property's income and proceeds from the property's sale or exchange, will remain separate property. Each of us has the unrestricted right to remove all or any part of our separate property at any time.

An amount that is payable to our trust on a life insurance policy that is the separate property of either of us will retain its character as separate property.

**(c) Joint Property**

If joint tenancy property with right of survivorship is transferred to our trust, we will be considered to have severed the joint tenancy immediately before transferring the property, and no right of survivorship will exist with respect to this property.

**Section 1.04 Powers Reserved by Us as Trustmakers**

As Trustmakers, we retain the powers set forth in this Section in addition to any powers that we reserve in other provisions of this instrument.

**(a) Action on Behalf of Our Trust**

Whenever both of us are serving as Trustee, either or both of us may act for and conduct business on behalf of our trust without the consent of any other Trustee.

**(b) Amendment, Restatement, or Revocation**

Acting jointly, we may amend, restate, or revoke this instrument, in whole or in part, for any purpose.

Each of us, individually and acting alone, may:

amend, restate, or revoke this trust, in whole or in part, as it relates to the acting Trustmaker's separate property; and

amend, restate, or revoke this trust, in whole or in part, as it relates to the acting Trustmaker's interest in the community property, so long as it does not affect either of our rights and interests in the community property.

Any amendment, restatement, or revocation must be made in writing and delivered to our then-serving Trustee.

**(c) Addition or Removal of Trust Property**

Either of us may add property to our trust. Both of us, acting jointly may remove any property from our trust. Each of us, acting alone, may remove our own separate property from our trust. Community property removed from our trust will retain its character as community property.

**(d) Control of Income and Principal Distributions**

We retain the right to control the distribution of income and principal from our trust. We may direct our Trustee to distribute as much of the net income and principal of the trust property as we consider advisable to us or to other persons or entities. Our Trustee may distribute the net income and principal to us or for our unrestricted use and benefit, even to the exhaustion of all trust property. Any undistributed net income is to be added to the principal of our trust.

**(e) Approval of Investment Decisions**

We reserve the absolute right to review and change our Trustee's investment decisions. But our Trustee is not required to seek our approval before making investment decisions.

## **Article Two**

### **Family Information**

We were married on October 27, 2018. First Name Last Name is referred to in this trust as *husband*, and Wife First Name Last Name is referred to in this trust as *wife*.

We have one child, Child #1, born on October 27, 2018.

All references in this document to *our children* are references to this child, and any children subsequently born to us or adopted by us by legal proceeding.

References to *our descendants* are to our children and their descendants, including any deceased child's descendants.

## **Article Three Trustee Succession**

### **Section 3.01 Resignation of a Trustee**

A Trustee may resign by giving written notice to either of us. If we are both incapacitated or deceased, a Trustee may resign by giving written notice to the trust's Income Beneficiaries and to any Co-Trustees.

### **Section 3.02 Trustee Succession while Both of Us Are Alive**

This Section governs the removal and replacement of our Trustees while both of us are alive.

#### **(a) Our Right to Remove and Replace Trustees**

By joint agreement, we may remove any Trustee at any time, with or without cause. If a Trustee is removed, resigns, or cannot continue to serve for any reason, either or both of us may serve as Trustee, we may name a Trustee to serve with either or both of us, or we may name a successor Trustee. If one of us is incapacitated, the other may remove any Trustee at any time, with or without cause. If a Trustee is removed, resigns, or cannot continue to serve for any reason, the non-incapacitated Trustmaker may serve as sole Trustee, name a Trustee to serve with the non-incapacitated Trustmaker, or name a successor Trustee.

#### **(b) Successor Trustee during Incapacity**

During the incapacity of a Trustmaker, the other Trustmaker may serve as sole Trustee.

If the other Trustmaker is unable or unwilling to serve for any reason, then we name Trustee #1 to serve as successor Trustee.

During any time both of us are incapacitated, a Trustee may be removed only for cause, and only if the removal is approved by a court of competent jurisdiction upon the petition of an interested party. If no designated successor Trustee is able and willing to act as Trustee, the court will name a successor Trustee to replace the removed Trustee.

### **Section 3.03 Trustee Succession after the Death of Either or Both of Us**

This Section governs the removal and replacement of our Trustees after the death of either or both of us.

#### **(a) Upon the Death of a Trustmaker**

Upon the death of a Trustmaker, the other Trustmaker may serve as sole Trustee of all trusts created under this instrument.

If the other Trustmaker is unable or unwilling to serve for any reason, then we name Trustee #1 to serve as successor Trustee.

After the death of one of us, the surviving Trustmaker may remove any Trustee with or without cause. If the surviving Trustmaker is incapacitated, a Trustee may be removed only for cause, and only if the removal is approved by a court of competent jurisdiction upon the petition of an interested party.

After both of our deaths, a Trustee may be removed only for cause, and only if the removal is approved by a court of competent jurisdiction upon the petition of any beneficiary. If the office of Trustee of a trust created under this instrument is vacant and no designated successor Trustee is able and willing to act as Trustee, any beneficiary may petition a court of competent jurisdiction to name a successor Trustee to fill the vacancy. The court petitioned to approve the removal of a Trustee will acquire jurisdiction over the trust only to the extent necessary to approve or disapprove removal of the Trustee.

### **Section 3.04 Unfilled Vacancy**

Any beneficiary may petition a court of competent jurisdiction to name a successor Trustee to fill any vacancy remaining unfilled after a period of 30 days. The court petitioned to name a Trustee will acquire jurisdiction over the trust only to the extent necessary to make the appointment. A minor or incapacitated beneficiary's parent or Legal Representative may act on his or her behalf.

### **Section 3.05 Appointment of a Co-Trustee**

Any individuals serving as our Trustee may name an individual or a corporate fiduciary as a Co-Trustee. The appointed Co-Trustee will not become a successor Trustee upon the death, resignation, or incapacity of the Trustee or Trustees naming the Co-Trustee, unless specifically named under this instrument's terms. The appointment of a Co-Trustee made under this Section may be revoked at any time with or without cause.

### **Section 3.06 Corporate Fiduciaries**

Any corporate fiduciary serving under this instrument as a Trustee must be a bank, trust company, or public charity that is qualified to act as a fiduciary under applicable federal or state law and must be an Independent Trustee.

### **Section 3.07 Incapacity of a Trustee**

If any individual Trustee becomes incapacitated, the incapacitated Trustee need not resign as Trustee. For Trustees other than one of us, a written, good-faith declaration of incapacity by the Co-Trustee or, if none, by the party designated to succeed the incapacitated Trustee, will terminate the trusteeship. If the Trustee designated in the written declaration objects in writing to termination of the trusteeship within five days of receiving the declaration of incapacity, a written opinion of incapacity signed by a physician who has examined this Trustee must be obtained before the trusteeship will be terminated for incapacity. The Trustee objecting to termination of trusteeship must sign the necessary medical releases

needed to obtain the physician's written opinion of incapacity, or the trusteeship will be terminated without the physician's written opinion.

### **Section 3.08 Appointment of Independent Special Trustee**

If the Trustee of any trust created under this instrument is unwilling or unable to act with respect to any trust property or any provisions of this instrument for any reason, the Trustee may name a corporate fiduciary or an individual to act as an Independent Special Trustee with respect to the property or provision. The appointing Trustee may revoke the appointment at will.

An Independent Special Trustee may exercise all fiduciary powers granted by this instrument unless expressly limited elsewhere in this instrument or by the Trustee in the instrument naming the Independent Special Trustee. An Independent Special Trustee may resign at any time by delivering written notice to the Trustee. Notice of resignation becomes effective in accordance with the notice's terms.

### **Section 3.09 Documenting Change of Trustee Status**

Any appointment, removal, resignation, or other change in trusteeship must be in writing and signed by the person or persons exercising the power. The written notice must be dated, must specify the effective date and other terms regarding the change of Trustee status, and must be delivered as specified in Section 3.10 of this instrument.

### **Section 3.10 Notice of Removal and Appointment**

Notice of removal must be delivered to the Trustee being removed, and to any other then-serving Trustees. The notice of removal will be effective in accordance with its provisions.

Notice of appointment must be delivered to the successor Trustee and any other then-serving Trustees. The appointment will become effective at the time of acceptance by the successor Trustee. A copy of the notice of appointment may be attached to this instrument.

### **Section 3.11 Prohibited Trustees**

Notwithstanding anything in this instrument to the contrary, a beneficiary of a special needs trust established under this instrument may not, at any time, serve as Trustee of the special needs trust. If a beneficiary has been nominated to serve as a Trustee of the special needs trust, that nomination will be null and void and the remaining provisions of this instrument with respect to Trustee succession will apply.



## **Article Four**

### **Administration of Our Trust During a Trustmaker's Incapacity**

During any period when one of us is incapacitated, our Trustee shall make distributions authorized in this Article from the community property and the incapacitated Trustmaker's separate property.

#### **Section 4.01 Distributions for the Incapacitated Trustmaker's Benefit**

Our Trustee shall regularly and conscientiously make appropriate distributions of the net income and principal for the general welfare and comfort of an incapacitated Trustmaker under the circumstances existing at the time those distributions are made. Our Trustee may make distributions for the benefit of an incapacitated Trustmaker in any one or more of the following ways:

to the incapacitated Trustmaker, to the extent he or she is able to manage these distributions;

to other persons and entities for the incapacitated Trustmaker's use and benefit;

to an agent or attorney in fact authorized to act for the incapacitated Trustmaker under a legally valid durable power of attorney executed by the Trustmaker prior to incapacity; and

to a guardian or conservator for the incapacitated Trustmaker, who has assumed responsibility for the incapacitated Trustmaker under any court order, decree, or judgment issued by a court of competent jurisdiction.

#### **Section 4.02 Distributions for the Benefit of the Other Trustmaker and Our Dependents**

Our Trustee may distribute as much of the net income and principal as our Trustee considers necessary for the health, education, maintenance or support of the non-incapacitated Trustmaker. Our Trustee may also distribute as much of the net income and principal as our Trustee considers necessary for the health, education, maintenance or support of other persons that our Trustee determines to be dependent on the incapacitated Trustmaker for support.

#### **Section 4.03 Guidance for Making Distributions**

When making distributions under Section 4.01 and Section 4.02, our Trustee shall give consideration first to our needs and then to the needs of those persons dependent on us.

When making distributions under Section 4.02, we request that our Trustee, with sole and absolute discretion, consider other income and resources available to the dependents. Our Trustee may make unequal distributions, distributions to some but not all dependents, or no distributions.

A distribution made to a beneficiary under this Section will not be considered an advancement, and will not be charged against the share of the beneficiary that may be distributable under any other provision of this instrument.

## **Article Five**

### **Administration of Our Trust Upon the Death of a Trustmaker**

#### **Section 5.01     Surviving Trustmaker's Trust Property and Deceased Trustmaker's Trust Property**

After the first of us dies, the surviving Trustmaker's interest in any community property of our trust and the surviving Trustmaker's separate trust property will be referred to as the *surviving Trustmaker's trust property*. The surviving Trustmaker's trust property will be referred to as the Survivor's Trust, and our Trustees shall administer the Survivor's Trust as provided in Article Seven.

The deceased Trustmaker's interest in any community property of our trust and the deceased Trustmaker's separate trust property will be referred to as the *deceased Trustmaker's trust property*.

#### **Section 5.02     Payment of Expenses and Taxes**

Our Trustee may pay from the deceased Trustmaker's trust property:

expenses of the deceased Trustmaker's last illness, funeral, and burial or cremation, including expenses of memorials and memorial services;

legally enforceable claims against the deceased Trustmaker or the deceased Trustmaker's estate;

expenses of administering the trust and the deceased Trustmaker's estate;  
and

court-ordered allowances for those dependent upon the deceased Trustmaker.

These payments are discretionary with our Trustee. Our Trustee may make decisions on these payments without regard to any limitation on payment of the expenses and may make payments without any court's approval. No third party may enforce any claim or right to payment against the trust by virtue of this discretionary authority.

If payment would decrease the federal estate tax charitable deduction available to the deceased Trustmaker's estate, our Trustee may not pay any administrative expenses from assets passing to an organization that qualifies for the federal estate tax charitable deduction.

If payment would decrease the federal estate tax marital deduction available to the deceased Trustmaker's estate or violate the provisions of Treasury Regulation Section 20.2056(b)-4(d), our Trustee may not pay any administrative expenses from the net income of property qualifying for the federal estate tax marital deduction.

### **Section 5.03 Excluding Life Insurance Proceeds from Creditors**

Despite anything to the contrary in this instrument, any life insurance proceeds payable to the Trustee under this instrument must never be or become part of our probate or testamentary estate. Nothing in this instrument directs that these life insurance proceeds be used to pay our debts or expenses.

### **Section 5.04 Payment of Death Taxes**

For the purposes of this Article, the term *death taxes* refers to any taxes imposed by reason of the deceased Trustmaker's death by federal, state, or local authorities, including estate, inheritance, gift, and direct-skip generation-skipping transfer taxes. For purposes of this Section, *death taxes* does not include any additional estate tax imposed by Internal Revenue Code Section 2031(c)(5)(C) or Section 2032A(c), or any other comparable recapture tax imposed by any taxing authority. Nor does the term include any generation-skipping transfer tax, other than a direct-skip generation-skipping transfer tax.

Except as otherwise specified in this Article or elsewhere in this trust, our Trustee shall apportion death taxes as provided under the laws of California in effect on the date of the deceased Trustmaker's death.

### **Section 5.05 Authority to Elect Portability**

The applicable exclusion amount is defined in Internal Revenue Code Section 2010(c)(2). After the death of one of us, if the deceased Trustmaker's applicable exclusion amount cannot be fully used, and the deceased Trustmaker does not have a duly appointed Personal Representative for the deceased Trustmaker's estate, then we nominate our Trustee to serve as the deceased Trustmaker's executor or administrator for purposes of Internal Revenue Code Section 2203.

We authorize our Trustee, in its sole and absolute discretion, when acting as the deceased Trustmaker's executor or administrator for purposes of Internal Revenue Code Section 2203, to make a timely election under Internal Revenue Code Section 2010(c)(5)(A) so that the surviving Trustmaker may take the deceased Trustmaker's deceased spousal unused exclusion amount (*DSUE*) as defined in Internal Revenue Code Section 2010(c)(4), if any, into account in calculating the surviving Trustmaker's applicable exclusion amount.

In determining whether or not a DSUE election should be made, our Trustee, acting as the deceased Trustmaker's executor or administrator for purposes of Internal Revenue Code Section 2203, may take into account the overall size of the surviving Trustmaker's estate, the projected inclusion of the deceased Trustmaker's trust estate due to the use of QTIP elections, and general powers of appointment granted by the deceased Trustmaker to the surviving Trustmaker.

Our Trustee, acting as executor or administrator for purposes of Internal Revenue Code Section 2203, will not be liable to the beneficiaries of our Trust or the beneficiaries of the surviving Trustmaker's estate for the failure to make a DSUE election under Internal Revenue Code Section 2010(c)(5)(A).

## **Article Six**

### **Specific Distributions and Disposition of Tangible Personal Property**

#### **Section 6.01 Specific Gift of Residence**

When the first Trustmaker dies, our Trustee shall distribute any real property, including buildings and improvements used by the surviving Trustmaker as his or her principal residence, to the Survivor's Trust. This gift includes insurance policies on the property and claims under those policies. Our Trustee shall distribute the property subject to all liens and encumbrances against the property that exist at the death of the first Trustmaker to die.

If the surviving Trustmaker disclaims any interest in the property distributed under this provision, the interest will be distributed as provided in the Articles that follow.

#### **Section 6.02 Distribution of Tangible Personal Property by Memorandum**

Each of us may dispose of items of tangible personal property by a signed written memorandum executed after we sign this instrument. The memorandum must refer to our trust and must reasonably identify the items and the beneficiary designated to receive each item. If either or both of us executes a memorandum, our Trustee shall incorporate the memorandum by reference into this instrument to the extent permitted by law.

Our Trustee shall distribute the items of tangible personal property listed in the memorandum as promptly as practicable after the death of a Trustmaker who completed the memorandum, together with any insurance policies covering the property and any claims under those policies, as provided in the memorandum. If either or both of us leave multiple written memoranda that conflict as to the disposition of any item of tangible personal property, the memorandum with the most recent date will control as to that item.

If the law does not permit incorporation of the memorandum by reference, the memorandum will then serve as an amendment to our trust, but only to the extent this amendment solely disposes of tangible personal property. We request that our Trustee follow our wishes and distribute the items of tangible personal property listed in the memorandum according to its terms.

#### **Section 6.03 Distribution of Remaining Tangible Personal Property**

Our Trustee shall distribute any of the deceased Trustmaker's remaining tangible personal property not disposed of by a written memorandum to the surviving Trustmaker. If we are both deceased, our Trustee shall distribute the property under the remaining terms of this instrument.

Until property distributed in accordance with this Article is delivered to the appropriate beneficiary or his or her Legal Representative, our Trustee shall pay the reasonable expenses of securing, storing, insuring, packing, transporting, and otherwise caring for the property as an administration expense. Except as otherwise provided in our trust, our

Trustee shall distribute property under this Article subject to all liens, security interests, and other encumbrances on the property.

## **Article Seven**

### **The Survivor's Trust**

Our Trustee shall allocate the remaining deceased Trustmaker's trust property to the Survivor's Trust.

Our Trustee shall administer the Survivor's Trust as provided in this Article.

#### **Section 7.01 Trustee of the Survivor's Trust**

The surviving Trustmaker may serve as sole Trustee of the Survivor's Trust. The surviving Trustmaker may remove and replace the Trustee of the Survivor's Trust at any time, with or without cause. Notwithstanding any other provision in this instrument, the surviving Trustmaker may appoint any individual or corporate fiduciary to serve as Trustee of the Survivor's Trust.

#### **Section 7.02 The Surviving Trustmaker's Right to Amend**

The surviving Trustmaker also has the absolute right to amend, restate, or revoke the Survivor's Trust's terms, in whole or in part, for any purpose. The amendment, restatement, or revocation of the Survivor's Trust must be in writing and signed by the surviving Trustmaker and the Trustee of the Survivor's Trust.

The right to amend, restate, or revoke may be exercised only by the surviving Trustmaker.

#### **Section 7.03 Survivor's Trust As Only Trust**

If the Survivor's Trust is the only trust established on the death of the deceased Trustmaker, a transfer to that trust need not be evidenced by a change of title.

#### **Section 7.04 Distribution of Income and Principal**

Our Trustee shall distribute as much of the net income and principal of the Survivor's Trust to the surviving Trustmaker as he or she directs for any reason.

Our Trustee may also distribute as much of the net income and principal of the Survivor's Trust to the surviving Trustmaker as our Trustee determines necessary or advisable for any purpose. Nothing contained in this instrument limits the surviving Trustmaker's right to receive the Survivor's Trust's entire net income.

#### **Section 7.05 General Power of Appointment**

The surviving Trustmaker may appoint all or any portion of the principal and undistributed income remaining in the Survivor's Trust at the surviving Trustmaker's death among one or more persons or entities, including the creditors of the surviving Trustmaker's estate. The surviving Trustmaker has the exclusive right to exercise this general power of appointment.

**Section 7.06 Administration following the Surviving Trustmaker's Death**

The Survivor's Trust becomes irrevocable upon the death of the surviving Trustmaker, and our Trustee shall administer the Survivor's Trust consistent with the provisions of Article Five for administration following the death of the first of us to die.

Upon completion of the administrative tasks, our Trustee shall administer the unappointed balance or remainder of the Survivor's Trust as provided in Article Eight.



## **Article Eight**

### **Distribution to Our Descendants**

Our Trustee shall distribute our remaining property outright and free of trust to our descendants, *by representation*. If a share is to be distributed to an incapacitated beneficiary or a beneficiary under the age of 21, our Trustee shall hold or distribute the share as provided in Article Ten.

## **Article Nine**

### **Remote Contingent Distribution**

If at any time no person or entity is qualified to receive final distribution of any part of our trust estate, this portion of our trust estate must be distributed one-half to those persons who would inherit it had First Name Last Name then died intestate owning this property, and one-half to those persons who would inherit it had Wife First Name Last Name then died intestate owning this property. This distribution will be as determined and proportioned under the laws of California then in effect.

# **Article Ten**

## **Distributions to Underage and Incapacitated Beneficiaries**

### **Section 10.01 Special Needs Trust**

If under any provision of this trust our Trustee is directed to distribute to or for the benefit of any beneficiary when that person is receiving or applying for needs-based government benefits, our Trustee shall retain and administer the trust property as follows:

#### **(a) Distributions for Special Needs**

In its sole, absolute, and unreviewable discretion, our Trustee may distribute discretionary amounts of net income and principal for special needs of the beneficiary not otherwise provided by governmental financial assistance and benefits, or by the providers of services.

*Special needs* refers to the basic requirements for maintaining the good health, safety, and welfare when, in the discretion of our Trustee, these basic requirements are not being provided by any public agency, office, or department of any state or of the United States.

*Special needs* will also include medical and dental expenses; annual independent checkups; clothing and equipment; programs of training, education, treatment, and rehabilitation; private residential care; transportation, including vehicle purchases; maintenance; insurance; and essential dietary needs. *Special needs* may include spending money; additional food; clothing; electronic equipment such as radio, recording and playback, television and computer equipment; camping; vacations; athletic contests; movies; trips; and money to purchase appropriate gifts for relatives and friends.

Our Trustee will have no obligation to expend trust assets for these needs. But if our Trustee, in its sole, absolute and unreviewable discretion, decides to expend trust assets, under no circumstances should any amounts be paid to or reimbursed to the federal government, any state, or any governmental agency for any purpose, including for the care, support, and maintenance of the beneficiary.

#### **(b) Objective to Promote Independence of the Beneficiary**

While actions are in our Trustee's sole, absolute, and unreviewable discretion, all parties to this trust should be mindful that our wish is that the beneficiary live as independently, productively, and happily as possible.

#### **(c) Trust Assets Not to be Considered Available Resource to the Beneficiary**

The purpose of the provisions of this Section 10.01 is to supplement any benefits received, or for which the beneficiary may be eligible, from various

governmental assistance programs, and not to supplant any benefits of this kind. All actions of our Trustee shall be directed toward carrying out this intent, and our Trustee's discretion granted under this instrument to carry out this intent is sole, absolute, and unreviewable.

For purposes of determining the beneficiary's eligibility for any of these benefits, no part of the trust estate's principal or undistributed income will be considered available to the beneficiary for public benefit purposes. The beneficiary must not be considered to have access to the trust's principal or income, or to have ownership, right, authority, or power to convert any asset into cash for his or her own use.

Our Trustee shall hold, administer, and distribute all property allocated to this trust for the exclusive benefit of the beneficiary during his or her lifetime. All distributions from this trust share are in the sole, absolute, and unreviewable discretion of our Trustee, and the beneficiary is legally restricted from demanding trust assets for his or her support and maintenance.

In the event our Trustee is requested to release principal or income of the trust to or on behalf of the beneficiary to pay for equipment, medication, or services that any government agency is authorized to provide, or to petition a court or any other administrative agency for the release of trust principal or income for this purpose, our Trustee is authorized to deny this request and to take whatever administrative or judicial steps are necessary to continue the beneficiary's eligibility for benefits. This includes obtaining legal advice about the beneficiary's specific entitlement to public benefits and obtaining instructions from a court of competent jurisdiction ruling that neither the trust corpus nor the trust income is available to the beneficiary for eligibility purposes. Any expenses incurred by our Trustee in this regard, including reasonable attorney fees, will be a proper charge to the trust estate.

**(d) Distribution Guidelines**

Our Trustee shall be responsible for determining what discretionary distributions will be made from this trust. Our Trustee may distribute discretionary amounts of income and principal to or for the benefit of the beneficiary for those special needs not otherwise provided by governmental financial assistance and benefits, or by the providers of services. Any undistributed income will be added to principal. In making distributions, our Trustee must:

- consider any other known income or resources of the beneficiary that are reasonably available;

- consider all entitlement benefits from any government agency, including Social Security disability payments, Medicare, Medicaid (or any state Medicaid program equivalent), Supplemental Security Income (SSI), In-Home

Support Service (IHSS), and any other special purpose benefits for which the beneficiary is eligible;

consider resource and income limitations of any assistance program;

make expenditures so that the beneficiary's standard of living will be comfortable and enjoyable;

not be obligated or compelled to make specific payments;

not pay or reimburse any amounts to any governmental agency or department, unless proper demand is made by this governmental agency or reimbursement is required by the state; and

not be liable for any loss of benefits.

**(e) No Seeking of Order to Distribute**

For purposes of determining the beneficiary's state Medicaid program equivalent eligibility, no part of the trust estate's principal or undistributed income may be considered available to the beneficiary. Our Trustee shall deny any request by the beneficiary to:

release trust principal or income to or on behalf of the beneficiary to pay for equipment, medication, or services that the state Medicaid program equivalent would provide if the trust did not exist; or

petition a court or any other administrative agency for the release of trust principal or income for this purpose.

In its sole, absolute, and unreviewable discretion, our Trustee may take necessary administrative or legal steps to protect the beneficiary's state Medicaid program equivalent eligibility. This includes obtaining a ruling from a court of competent jurisdiction that the trust principal is not available to the beneficiary for purposes of determining state Medicaid program equivalent eligibility. Expenses for this action, including reasonable attorney fees, will be a proper charge to the trust estate.

**(f) Indemnification of Trustee When Acting in Good Faith**

Our Trustee will be indemnified from the trust property for any loss or reduction of public benefits sustained by the beneficiary as a result of our Trustee exercising the authority granted to our Trustee under this Section in good faith.

**(g) Distribution upon the Death of the Beneficiary**

Upon the beneficiary's death, our Trustee shall distribute or retain the remaining property according to the other provisions of this trust as though the provisions of this Section 10.01 had not been effective. If the other provisions of this trust provide for the beneficiary's share to be held in trust,

then those provisions will be interpreted as though the beneficiary died after the establishment of that trust.

If the other provisions of this trust do not provide for the distribution or retention of the remaining property, then the beneficiary will have the testamentary limited power to appoint all or any portion of the principal and undistributed income remaining in the beneficiary's trust at his or her death among one or more persons or entities. But the beneficiary may not exercise this limited power of appointment to appoint to himself or herself, his or her estate, his or her creditors or the creditors of his or her estate.

We intend to create a limited power of appointment and not a general power of appointment as defined in Internal Revenue Code Section 2041.

If any part of the beneficiary's trust is not effectively appointed, our Trustee shall distribute the remaining unappointed balance *by representation* to the beneficiary's descendants. If the beneficiary has no then-living descendants, our Trustee shall distribute the unappointed balance *by representation* to the then-living descendants of the beneficiary's nearest lineal ancestor who was a descendant of ours or, if there is no then-living descendant, *by representation* to our descendants.

If we have no then-living descendants, our Trustee shall distribute the balance of the trust property as provided in Article Nine.

### **Section 10.02 Underage and Incapacitated Beneficiaries**

If our Trustee is authorized or directed under any provision of this trust to distribute net income or principal to a person who has not yet reached 21 years of age or who is incapacitated as defined in Section 12.08(e), our Trustee may make the distribution by any one or more of the methods described in Section 10.03. Alternatively, our Trustee may retain the trust property in a separate trust to be administered by our Trustee under Section 10.04.

We request that before making a distribution to a beneficiary, our Trustee consider, to the extent reasonable, the ability the beneficiary has demonstrated in managing prior distributions of trust property.

### **Section 10.03 Methods of Distribution**

Our Trustee may distribute trust property for any beneficiary's benefit, subject to the provisions of Section 10.02 in any one or more of the following methods:

Our Trustee may distribute trust property directly to the beneficiary.

Our Trustee may distribute trust property to the beneficiary's guardian, conservator, parent, other family member, or any person who has assumed the responsibility of caring for the beneficiary.

Our Trustee may distribute trust property to any person or entity, including our Trustee, as custodian for the beneficiary under the Uniform Transfers to Minors Act or similar statute.

Our Trustee may distribute trust property to other persons and entities for the beneficiary's use and benefit.

Our Trustee may distribute trust property to an agent or attorney in fact authorized to act for the beneficiary under a valid durable power of attorney executed by the beneficiary before becoming incapacitated.

#### **Section 10.04 Retention in Trust**

Our Trustee may retain and administer trust property in a separate trust for any beneficiary's benefit, subject to the provisions of Section 10.02 as follows.

##### **(a) Distribution of Net Income and Principal**

Our Independent Trustee may distribute to the beneficiary as much of the net income and principal of any trust created under this Section as our Independent Trustee may determine advisable for any purpose. If there is no then-serving Independent Trustee, our Trustee shall distribute to the beneficiary as much of the net income and principal of the trust created under this Section as our Trustee determines is necessary or advisable for the beneficiary's health, education, maintenance or support. Any undistributed net income will be accumulated and added to principal.

##### **(b) Right of Withdrawal**

When the beneficiary whose trust is created under this Section either reaches 21 years of age or is no longer incapacitated, the beneficiary may withdraw all or any portion of the accumulated net income and principal from the trust.

##### **(c) Distribution upon the Death of the Beneficiary**

Subject to the terms of the next paragraph, the beneficiary whose trust is created under this Section may appoint all or any portion of the principal and undistributed net income remaining in the beneficiary's trust at the beneficiary's death among one or more persons or entities, and the creditors of the beneficiary's estate. The beneficiary has the exclusive right to exercise this general power of appointment.

The beneficiary may not exercise this power of appointment to appoint to the beneficiary, the beneficiary's estate, the beneficiary's creditors, or creditors of the beneficiary's estate from the *limited share* of the beneficiary's trust. For purposes of this power of appointment, the *limited share* of the beneficiary's trust is that portion of the beneficiary's trust that has an inclusion ratio for generation-skipping transfer tax purposes of zero or that without the exercise of the power of appointment, would not constitute a taxable generation-skipping transfer at the beneficiary's death. If the generation-skipping tax does not then apply, the limited share will be the beneficiary's entire trust.

If any part of the beneficiary's trust is not effectively appointed, our Trustee shall distribute the remaining unappointed balance *by representation* to the

beneficiary's descendants. If the beneficiary has no then-living descendants, our Trustee shall distribute the unappointed balance *by representation* to the then-living descendants of the beneficiary's nearest lineal ancestor who was a descendant of ours or, if there is no then-living descendant, *by representation* to our descendants.

If we have no then-living descendants, our Trustee shall distribute the balance of the trust property as provided in Article Nine.

#### **Section 10.05 Application of Article**

Any decision made by our Trustee under this Article is final, controlling, and binding upon all beneficiaries subject to the provisions of this Article.

The provisions of this Article do not apply to distributions to either of us from any trust established under this trust.



## **Article Eleven**

### **Trust Administration and Trustee Powers**

The terms of this trust prevail over any provision of California law, except those provisions that are mandatory and may not be waived.

#### **Section 11.01 No Court Supervision**

This trust is to be administered expeditiously, consistent with the provisions of this instrument, free of judicial intervention, and without order, approval, or action of any court. Our trust will be subject to the jurisdiction of a court only if our Trustee or another interested party institutes a legal proceeding. To the extent permissible by law, our Trustee is not required to give any bond, surety, or security to make returns, inventories, appraisals, or accountings to any court.

#### **Section 11.02 Distributions to Beneficiaries**

Whenever this instrument authorizes or directs our Trustee to make a distribution of net income or principal to a beneficiary, our Trustee may apply any property that otherwise could be distributed directly to the beneficiary for his or her benefit. Our Trustee does not have a duty to inquire into the beneficiary's ultimate disposition of the distributed property unless specifically directed otherwise by this instrument.

#### **Section 11.03 Beneficiary's Status**

Until a Trustee receives notice of the incapacity, birth, marriage, death, or other event upon which a beneficiary's right to receive payments may depend, the Trustee is not liable for acting or not acting with respect to the event, or for disbursements made in good faith to persons whose interests may have been affected by the event. Unless otherwise provided in this instrument, the parent or Legal Representative may act on a minor or incapacitated beneficiary's behalf.

#### **Section 11.04 Majority Control**

In all matters pertaining to the administration of any trust, unless otherwise expressly provided by the terms of this instrument, when more than two Trustees are serving, the concurrence and joinder of a majority of our Trustees is required. If only two Trustees are serving, the joinder of both of them is required. If a Trustee has released or is prohibited from exercising any power under any other provision of this instrument with respect to any action or property, then that Trustee will not be counted in the application of the preceding sentence, and the other then-serving Trustee or Trustees may exercise that power with respect to that action or property.

Any Trustee may dissent or abstain from a decision of the majority and be absolved from personal liability by registering the dissent or abstention in the trust records. The Trustee shall then act with the other Trustees in any way necessary or appropriate to effect the majority's decision.

### **Section 11.05 Delegation of Trustee Authority**

Any Trustee may delegate the right to exercise any power granted to our Trustee in this instrument to any other Trustee by a written instrument. During the time a delegation under this Section is in effect, the Trustee to whom the delegation was made may exercise the power to the same extent as if the delegating Trustee had personally joined in the exercise of the power. The delegating Trustee may revoke the delegation at any time by giving written notice of revocation to the Trustee to whom the power was delegated.

### **Section 11.06 Trustee Exoneration**

Successor Trustees are not obligated to examine the accounts, records, or actions of any previous Trustee or of the Personal Representative of a deceased Trustmaker. Successor Trustees are not responsible for any act, forbearance, or omission of any prior Trustee or the Personal Representative of a deceased Trustmaker.

Any Trustee may request and obtain agreements in writing from the beneficiaries or their Legal Representatives releasing and indemnifying the Trustee from any liability that may have arisen from the Trustee's acts, omissions, or forbearances. Any agreement, if acquired from all the trust's living beneficiaries or their Legal Representatives, is conclusive and binding on all parties, born or unborn, who have or will have an interest in the trust.

### **Section 11.07 Self-Dealing**

If a descendant of ours is serving as our Trustee, he or she may engage in acts of self-dealing, even though state law restricts acts of self-dealing. Unless expressly prohibited by another provision of our trust, a descendant of ours who is serving as our Trustee may enter into transactions on behalf of our trust in which our Trustee is personally interested so long as the terms of such transaction are fair to our trust. For example, a descendant of ours who is serving as our Trustee may purchase property from our trust at its fair market value without court approval.

### **Section 11.08 Trustee Compensation**

Except for any Trustmaker, an individual serving as Trustee is entitled to fair and reasonable compensation for the services provided as a fiduciary and to be reimbursed for reasonable expenses incurred in carrying out the Trustee's duties under this instrument. A Trustee may charge additional fees for services he or she provides that are not comprised within the duties as Trustee, including fees for legal services, tax return preparation, and corporate finance or investment banking services.

### **Section 11.09 Exercise of Testamentary Power of Appointment**

A testamentary power of appointment granted under this instrument may be exercised by a valid Will, a valid Revocable Living Trust, or an amendment to a valid Revocable Living Trust that specifically refers to the power of appointment. The holder of a testamentary power of appointment may exercise the power to appoint property among the permissible appointees in equal or unequal proportions, and on the terms and conditions the holder of the power designates, whether outright or in trust. The holder of a testamentary power of

appointment may grant further powers of appointment to any person to whom principal may be appointed, including a presently exercisable limited or general power of appointment.

Our Trustee may conclusively presume that any power of appointment granted to any beneficiary of a trust created under this instrument has not been exercised by the beneficiary if our Trustee has no knowledge of the existence of a valid Will exercising the power within three months after the beneficiary's death.

### **Section 11.10 Determination of Principal and Income**

the California Uniform Principal and Income Act, Probate Code §§ 16320et seq will govern beneficiaries' rights among themselves in matters concerning principal and income. If the California Uniform Principal and Income Act, Probate Code §§ 16320et seq contains no provision concerning a particular item, our Trustee will determine in an equitable and practical manner what will be credited, charged, and apportioned between principal and income.

### **Section 11.11 Additions to Separate Trusts**

If upon the death of a Trustmaker, or upon the termination of any trust created under this instrument, a final distribution is to be made to a person who is or is named as the Primary Beneficiary of another trust created under this instrument, and there is no specific indication whether the distribution is to be made in trust or outright and free of trust, our Trustee shall make the distribution to the second trust instead of distributing the property to the beneficiary outright. For purposes of administration, our Trustee shall treat the distribution as though it had been an original part of the second trust.

### **Section 11.12 Authority to Merge or Sever Trusts**

Our Trustee may merge a trust created under this trust with any other trust, if the two trusts contain substantially the same terms for the same beneficiaries and have at least one Trustee in common. Our Trustee may administer the merged trust under the provisions of the instrument governing the other trust, and this trust will no longer exist if it merges into another trust. Accordingly, in the event another trust is merged into this trust or a trust created under the provisions of this trust document, our Trustee may shorten the period during which this trust subsists to comply with Section 12.01, if necessary, to effect the merger.

But if our Trustee determines that a merger or consolidation is not practicable, our Trustee may consolidate the trusts' assets for purposes of investment and trust administration while retaining separate records and accounts for each respective trust.

Our Trustee may sever any trust on a fractional basis into two or more separate and identical trusts, or may segregate a specific amount or asset from the trust property by allocation to a separate account or trust. The separate trusts may be funded on a *non pro rata* basis, provided that funding is based on the assets' total fair market value on the funding date. After the segregation, income earned on a segregated amount or specific asset passes with the segregated amount or asset. Our Trustee shall hold and administer each separate trust upon terms and conditions identical to those of the trust from which it was severed.

Subject to the trust terms, our Trustee may consider differences in federal tax attributes and other pertinent factors in administering the trust property of any separate account or trust, in making applicable tax elections, and in making distributions. A separate trust created by severance must be treated as a separate trust for all purposes from the effective severance date. But the effective severance date may be retroactive to a date before the date on which our Trustee exercises the power.

### **Section 11.13 Authority to Terminate Trusts**

If it is no longer economical to administer a trust created under this instrument, our Independent Trustee may terminate the trust and distribute the trust property, including any undistributed net income, to the beneficiaries who are then entitled to mandatory distributions of the trust's net income in the same proportions without any further obligation or liability. If no beneficiary is entitled to mandatory distributions of net income, the trust property will be distributed to the beneficiaries who are then eligible to receive discretionary distributions of the trust's net income, in amounts and shares determined by our Independent Trustee.

### **Section 11.14 Reports**

Whenever neither of us is serving as Trustee, the Trustee of each trust created under this instrument shall prepare an annual report showing the receipts, disbursements, and distributions of income, principal, and the assets on hand. The Trustee shall deliver the report to the Primary Beneficiary unless the beneficiary waives the right to the annual report. Delivery of a federal fiduciary income tax return filed for the trust will satisfy the annual report requirement of this Section for the year of the return.

### **Section 11.15 Our Trustee's Powers**

Our Trustee may exercise all the powers conferred by this instrument without prior approval from any court, and may perform every act reasonably necessary to administer our trust estate as established under this instrument. Our Trustee may also exercise any powers conferred by law, including all those powers set forth under the common law or statutory laws of California or any other jurisdiction whose laws apply to this trust. The powers set forth in the California Probate Code §§ 16200-16249 are specifically incorporated into this instrument. The powers conferred upon our Trustee by law, including those powers conferred by the California Probate Code §§ 16200-16249, are to be subject to any express limitations or contrary directions contained in this instrument.

Our Trustee shall exercise these powers in the manner our Trustee determines to be in the beneficiaries' best interests. Our Trustee may not exercise any of its powers in a manner that is inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts. The Trustee of a trust may have duties and responsibilities in addition to those described in this instrument. We encourage our Trustee to obtain appropriate legal advice if our Trustee has any questions concerning the duties and responsibilities as Trustee.

## **Article Twelve General Provisions**

### **Section 12.01 Maximum Term for Trusts**

Notwithstanding any contrary provisions or unless terminated earlier under other provisions of this trust, each trust created under this trust document will terminate 21 years after the death of the last to die of the descendants of our paternal and maternal grandparents who are living at the time of the first of us to die.

At that time, the remaining trust property will vest in and be distributed to the persons entitled to receive mandatory distributions of the trust's net income, in the same proportions. If no beneficiary is entitled to mandatory distributions of net income, the remaining trust property will vest in and be distributed to the beneficiaries entitled to receive discretionary distributions of the trust's net income, in equal shares.

### **Section 12.02 Spendthrift Provision**

No beneficiary may assign, anticipate, encumber, alienate, or otherwise voluntarily transfer the income or principal of any trust created under this trust. In addition, neither the income nor the principal of any trust created under this trust is subject to attachment, bankruptcy proceedings or any other legal process, the interference or control of creditors or others, or any involuntary transfer.

This Section does not restrict a beneficiary's right to disclaim any interest or exercise of any power of appointment granted in this trust.

### **Section 12.03 Contest Provision**

If any person attempts to contest or oppose the validity of this trust or any amendment to this trust, or commences, continues, or prosecutes any legal proceedings to set this trust aside, then that person will forfeit his or her share, cease to have any right or interest in the trust property, and will be considered to have predeceased the last of us to die for purposes of this instrument.

But during any period in which the laws of the State of California govern the applicability or validity of this provision, California Probate Code Section 21311 will apply, and our Trustee may only enforce this provision against any of these types of contests:

- a direct contest brought by any beneficiary without probable cause;
- a pleading by any beneficiary to challenge a property transfer on the grounds that the transferor did not own the property at the transfer time; and
- any filing of a creditor's claim or prosecution of any action based on the filing of a claim of this kind.

The terms *direct contest*, and *pleading* have the same meanings as set forth in California Probate Code Section 21310. This trust and any trusts created in this instrument are *protected instruments* as provided in California Probate Code Section 21310(e).

#### **Section 12.04 Survivorship Presumption**

If we die under circumstances in which the order of our deaths cannot be established, each of us will be considered to have predeceased the other and each Trustmaker's interest in any community property of our trust, and each Trustmaker's separate trust property will be administered as provided in Section 7.06 for administering the remaining property in the Survivor's Trust upon death of the surviving Trustmaker.

If any other beneficiary is living at the death of a Trustmaker, but dies within 45 days after the Trustmaker's death, then the beneficiary will be considered to have predeceased the Trustmaker for purposes of this trust.

#### **Section 12.05 Effect of Legal Separation or Dissolution of Marriage**

If either of us files a petition for legal separation or dissolution of marriage and unless and until the petition is dismissed, each of us, each of our respective parents as to the other of us, all of our descendants who are not the descendants of the other of us, and all spouses of such persons who are not descendants of our respective parents will be deemed to have died intestate on the date of the filing for all purposes of this instrument (except Section 12.01, above). Any exercise or exercises of any power of appointment by any person named identified in this paragraph that has not become effective prior to the filing date will be null and void. If, however, a court issues any order dismissing a petition described above, and we accept the dismissal of the petition by a written acknowledgement, then the persons identified in this paragraph will no longer be deemed to have died intestate for purposes of this instrument.

#### **Section 12.06 Changing the Governing Law and Situs of Administration**

At any time, our Trustee may change the governing law of the trust; change the situs of the administration of the trust; and remove all or any part of the property from one jurisdiction to another. Our Trustee may elect, by filing an instrument with the trust records, that the trust will then be construed, regulated, and governed by the new jurisdiction's laws. Our Trustee may take action under this Section for any purpose our Trustee considers appropriate, including the minimization of any taxes in respect of the trust or any trust beneficiary.

If considered necessary or advisable by our Trustee, our Trustee may appoint an Independent Trustee to serve as Trustee in the new situs.

If necessary and if our Trustee does not appoint an Independent Trustee within 30 days of our Trustee's action to change the governing law or situs of the trust, the beneficiaries entitled to receive distributions of the trust's net income may appoint a corporate fiduciary in the new situs by majority consent. If a beneficiary is a minor or is incapacitated, the beneficiary's parent or Legal Representative may act on the beneficiary's behalf.

#### **Section 12.07 Antilapse Statutes**

Whether existing now or enacted later, no *antilapse* statute of California or any other jurisdiction will be applied in construing any provision of this trust.

## Section 12.08 Definitions

For purposes of this trust, the following terms have these meanings:

### (a) Adopted and Afterborn Persons

A person in any generation who is legally adopted before reaching 18 years of age and his or her descendants, including adopted descendants, have the same rights and will be treated in the same manner under this trust as natural children of the adopting parent. A person is considered legally adopted if the adoption was legal at the time when and in the jurisdiction in which it occurred.

A fetus *in utero* later born alive will be considered a person in being during the period of gestation.

### (b) By Representation

Whenever a distribution is to be made to a designated person's descendants *by representation*, the distribution will be divided into as many equal shares as there are then-living descendants in the nearest degree of kinship and then-deceased descendants in the same degree who left then-living descendants. Each then living descendant in the nearest degree will receive one share, and the share of each then deceased descendant in the same degree will be divided among his or her descendants in the same manner.

### (c) Descendants

The term *descendants* means persons who directly descend from a person, such as children, grandchildren, or great-grandchildren. The term *descendants* does not include collateral descendants, such as nieces and nephews.

### (d) Good Faith

For the purposes of this trust, a Trustee has acted in good faith if:

an action or inaction is not a result of intentional wrongdoing;

the Trustee did not make the decision to act or not act with reckless indifference to the beneficiaries' interests; and

an action or inaction does not result in an improper personal benefit to the Trustee.

Further, all parties subject to the provisions of this trust will treat any action or inaction made in reliance on information, consent, or directions received from the Personal Representative of each of our estates as made in good faith for the purposes of this Section, except for cases of willful misconduct or malfeasance on the Trustee's part.

**(e) Incapacity**

Except as otherwise provided in this trust, a person is considered incapacitated in any of the following circumstances.

**(1) The Opinion of Two Licensed Physicians**

An individual is considered to be incapacitated whenever two licensed physicians give the opinion that the individual is unable to effectively manage his or her property or financial affairs, whether as a result of age; illness; use of prescription medications, drugs, or other substances; or any other cause. If an individual whose capacity is in question refuses to provide necessary documentation or otherwise submit to examination by licensed physicians, that individual will be considered incapacitated.

An individual is considered restored to capacity whenever the individual's personal or attending physician provides a written opinion that the individual is able to effectively manage his or her property and financial affairs.

**(2) Court Determination**

An individual is considered incapacitated if a court of competent jurisdiction has declared the individual to be disabled, incompetent, or legally incapacitated.

**(3) Detention, Disappearance, or Absence**

An individual is considered to be incapacitated whenever he or she cannot effectively manage his or her property or financial affairs due to the individual's unexplained disappearance or absence for more than 30 days, or whenever he or she is detained under duress.

An individual's disappearance, absence, or detention under duress may be established by an affidavit of our Trustee, or by the affidavit of any beneficiary if no Trustee is then serving. The affidavit must describe the circumstances of the individual's disappearance, absence, or detention, and may be relied upon by any third party dealing in good faith with our Trustee.

**(f) Include, Includes, Including**

In this document, the words include, includes, and including mean include without limitation, includes without limitation and including without limitation, respectively. Include, includes, and including are words of illustration and enlargement, not words of limitation or exclusivity.



**(g) Income Beneficiary**

The term *Income Beneficiary* means any beneficiary who is then entitled to receive distributions of the trust's net income, whether mandatory or discretionary.

Unless otherwise provided in this trust, the phrase *majority of the Income Beneficiaries* means any combination of Income Beneficiaries who would receive more than 50% of the accrued net income if that income were distributed on the day of a vote. For purposes of this calculation, beneficiaries who are eligible to receive discretionary distributions of net income receive the imputed income in equal shares.

References to a *majority* refer to a majority of the entire trust collectively until our Trustee allocates property to separate trusts or trust shares. After our Trustee allocates property to separate trusts or trust shares, references to a *majority* refer to a majority of each separate trust or trust share.

**(h) Independent Trustee**

The term *Independent Trustee* means any Trustee who is not an Interested Trustee as defined in Subsection (j) and includes an Independent Special Trustee appointed under the provisions of Section 3.08.

**(i) Instrument**

The term *this instrument* means this trust, and includes all trusts created under the terms of this trust.

**(j) Interested Trustee**

The term *Interested Trustee* means a Trustee who:

- is a transferor or beneficiary;
- is related or subordinate to a transferor or beneficiary;
- can be removed and replaced by a transferor with either the transferor or a party who is related or subordinate to the transferor; or
- can be removed and replaced by a beneficiary with either the beneficiary or a party who is related or subordinate to the beneficiary.

For purposes of this Subsection, *transferor* means a person who transferred property to the trust during that person's lifetime, including a person whose disclaimer resulted in property passing to the trust. A person is only a transferor during his or her lifetime. *Beneficiary* means a person who is or may become eligible to receive income or principal from the trust under the terms of the trust, even if this person has only a remote contingent remainder interest in the trust, but not if the person's only interest is as a potential appointee under a power of appointment. *Related or subordinate* is used as defined in Internal Revenue Code Section 672(c).

**(k) Internal Revenue Code and Treasury Regulations**

Any references to a specific section of the Internal Revenue Code include subsequent versions of sections that replace the specific sections as a result of changes to the Internal Revenue Code after this date.

**(l) Legal Representative or Personal Representative**

As used in this trust document, the term *Legal Representative* or *Personal Representative* means a person's guardian, conservator, executor, administrator, Trustee, attorney in fact under a Durable Power of Attorney, or any other person or entity representing a person or the person's estate. In the case of a minor beneficiary, the beneficiary's parent or another adult with custody of the beneficiary, except for any transferor to a trust created under this instrument, will be considered the beneficiary's Legal Representative for purposes of this trust.

**(m) Primary Beneficiary**

The *Primary Beneficiary* of a trust created under this trust is that trust's oldest Income Beneficiary, unless some other individual is specifically designated as the Primary Beneficiary of that separate trust.

**(n) Shall and May**

Unless otherwise specifically provided in this trust or by the context in which used, we use the word *shall* in this trust to impose a duty, command, direct, or require, and the word *may* to allow or permit, but not require. In the context of our Trustee, when we use the word *shall* we intend to impose a fiduciary duty on our Trustee. When we use the word *may* we intend to empower our Trustee to act with the Trustee's sole and absolute discretion unless otherwise stated in this trust. When we use the words *may not* in reference to our Trustee, we specifically mean our Trustee *is not permitted to*.

**(o) Trust**

The terms *this trust*, *this document*, *instrument*, and *this trust document* refer to this trust and all trusts created under the terms of this trust.

**(p) Trustee**

The terms *our Trustee* and *Trustee* refer to the Initial Trustees named in Article One and to any successor, substitute, replacement, or additional person, corporation, or other entity that ever acts as the Trustee of any trust created under the terms of this trust. The term *Trustee* refers to singular or plural as the context may require.

**(q) Trustmaker**

*Trustmaker* has the same legal meaning as *Grantor*, *Settlor*, *Trustor* or any other term referring to the maker of a trust.

**(r) Trust Property**

The term *trust property* means all property acquired from any source and held by a Trustee under this trust.

**Section 12.09 General Provisions and Rules of Construction**

The following general provisions and rules of construction apply to this trust.

**(a) Multiple Originals; Validity of Paper or Electronic Copies**

This trust may be executed in any number of counterparts, each of which will be considered an original.

Any person may rely on a paper or electronic copy of this trust that the Trustee certifies to be a true copy as if it were an original.

**(b) Singular and Plural; Gender**

Unless the context requires otherwise, singular words may be construed as plural, and plural words may be construed as singular. Words of one gender may be construed as denoting another gender as is appropriate within the context. The word *or*, when used in a list of more than two items, may function as both a conjunction and a disjunction as the context requires.

**(c) Headings of Articles, Sections, and Subsections**

The headings of Articles, Sections, and Subsections used within this trust are included solely for the convenience of the reader. They have no significance in the interpretation or construction of this trust.

**(d) Governing State Law**

This trust is governed, construed, and administered according to the laws of California, as amended except as to trust property required by law to be governed by the laws of another jurisdiction and unless the situs of administration is changed under Section 12.06.

**(e) Notices**

Unless otherwise stated, any notice required under this trust will be in writing. The notice may be personally delivered with proof of delivery to the party requiring notice and will be effective on the date personally delivered. Notice may also be mailed, postage prepaid, by certified mail with return receipt requested to the last known address of the party requiring notice. Mailed notice is effective on the date of the return receipt. If a party giving notice does not receive the return receipt but has proof that he or she mailed the notice, notice will be effective on the date it would normally have been received via certified mail. If the party requiring notice is a minor or incapacitated individual, notice will be given to the parent or Legal Representative.

**(f) Severability**

The invalidity or unenforceability of any provision of this trust does not affect the validity or enforceability of any other provision of this trust. If a court of competent jurisdiction determines that any provision is invalid, the remaining provisions of this trust are to be interpreted as if the invalid provision had never been included.

We have executed this trust on October 27, 2018. This trust instrument is effective when signed by us, whether or not now signed by a Trustee.

\_\_\_\_\_  
First Name Last Name, Trustmaker and Trustee

\_\_\_\_\_  
Wife First Name Last Name, Trustmaker and Trustee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of County )

On October 27, 2018 before me, Kira Wattenburg King, a Notary Public, personally appeared First Name Last Name and Wife First Name Last Name, 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)





