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**Alaska Community Property Trust**

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**THE CONSEQUENCES OF THIS TRUST MAY BE VERY EXTENSIVE, INCLUDING, BUT NOT LIMITED TO, YOUR RIGHTS WITH RESPECT TO CREDITORS AND OTHER THIRD PARTIES, AND YOUR RIGHTS WITH YOUR SPOUSE BOTH DURING THE COURSE OF YOUR MARRIAGE AND AT THE TIME OF A DIVORCE. ACCORDINGLY, THIS AGREEMENT SHOULD ONLY BE SIGNED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS AGREEMENT, YOU SHOULD SEEK COMPETENT ADVICE.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Alaska Community Property Trust**

**THIS DECLARATION OF TRUST** made the day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a married couple residing in \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ (hereinafter respectively referred to as the "Husband" and the "Wife" and each referred to as a "Grantor", and collectively referred to as the "Grantors"), and the Husband and the Wife as "Benefits Trustees" and "Investment Trustees" and the PEAK TRUST COMPANY-AK, having its principal place of business in Anchorage, Alaska as the "Administrative Trustee" (the Benefits, Investment and Administrative Trustees collectively referred to herein as the "Trustees").

**W I T N E S S E T H :**

**WHEREAS,** the Grantors desire to create a trust of the property hereinafter specified for the purposes hereinafter set forth,

**WHEREAS,** the Grantors desire the trust to be an Alaska Community Property Trust within the meaning of Alaska Statute 34.77.100,

**NOW, THEREFORE,** in consideration of the premises and of the mutual covenants herein contained, the Grantors do hereby assign, convey, transfer and deliver, jointly and/or severally, to the Trustees the property, described in Schedule A hereto annexed, which the Grantors hereby declare to be community property under Chapter 77 of Title 34 of the Laws of the State of Alaska,

**TO HAVE AND TO HOLD** the same and any other property which the Trustees may hereafter at any time hold or acquire hereunder (the "trust estate"), IN TRUST, for the following uses and purposes and subject to the terms and conditions hereinafter set forth:

# ARTICLE FIRST

# NAME OF TRUST

This trust shall be known and may be referred to as "The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Alaska Community Property Trust."

# ARTICLE SECOND

# TRUST ESTATE

The following property shall constitute the trust estate.

## Original Trust Property.

All right, title and interest of either Grantor or of both Grantors in and to the property described on the Schedule annexed hereto and made a part hereof.

## Future Trust Property.

Either Grantor, both Grantors, or any other person or persons, may at any time and from time to time transfer and deliver or may bequeath or devise by Last Will and Testament to the Trustees additional cash or other property acceptable to the Trustees, which shall thereupon become a part of the trust estate and shall be held and disposed of by the Trustees in all respects subject to the provisions of this Agreement. Such property if delivered to the Trustees by either or both Grantors while both are living shall be upon such delivery and are hereby declared to be community property under Chapter 77 of Title 34 of the Laws of the State of Alaska except to the extent, if any, declared in writing at the time of delivery to the Trustees to constitute separate property.

## Management and Disposition of Trust Property.

All trust property shall be held as a part of the trust estate and shall be managed, invested, reinvested and disposed of in accordance with the terms and conditions of this Agreement.

# ARTICLE THIRD

# DISPOSITION OF TRUST PROPERTY WHILE

# BOTH GRANTORS ARE ALIVE

While both Grantors are alive, the Trustees shall manage, invest and reinvest the trust estate, shall collect the income thereof, and shall pay over or apply the net income and principal thereof as follows:

## Community Property.

The Trustees shall pay over or apply the net income and principal of the community property portion of the trust estate to such extent, if any, including the whole thereof, in such amounts and proportions, including all to one to the exclusion of the other, at such time or times and in such manner or manners, (i) as either Grantor or both Grantors may demand by an acknowledged, written instrument delivered to the Trustees (and to the other Grantor, if the instrument is executed by only one Grantor and the other Grantor is then living), or (ii) as the Trustees, in the exercise of sole and absolute discretion, shall determine, to or for the benefit of either or both of the Grantors, as the Trustees, in the exercise of sole and absolute discretion, shall select; provided, however, that no more than one-half (1/2) of the income and/or principal of the trust constituting community property may be distributed to either Grantor without the acknowledged written consent of the other Grantor. Distributions following the demand of either Grantor or both Grantors shall be made at such time or times and in such manner or manners as is set forth in the demand; provided, however, that any community property so distributed shall retain its character as community property under Alaska law and, if the property is distributed to only one Grantor, such Grantor shall have the same duty to use said property (and the net income thereof) for the benefit of both Grantors as such Grantor would have had with respect to any other community property. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof. It is the intent of the Grantors that, if any gift is deemed to be made for Federal gift tax purposes upon creation of this trust or the transfer of property by either or both Grantors to the trust, such gift shall qualify for the marital deduction under the Internal Revenue Code of 1986, as amended, and any successor thereto (the "Code"), and this Agreement shall be construed and the trusts hereunder administered in accordance with that intent.

## Separate Property Portion.

The Trustees shall pay over or apply to or for the benefit of the person who contributed separate property (the "contributing party") the net income and principal of such separate property portion of the trust estate, to such extent, if any, including the whole thereof, at such time or times and in such manner or manners, (i) as the contributing party may demand by an acknowledged, written instrument delivered to the Trustees, or (ii) as the Trustees, in the exercise of sole and absolute discretion, shall determine. Distributions following the demand of the contributing party shall be made at such time or times and in such manner or manners as is set forth in the demand. Any separate property so distributed shall retain its character as the separate property of the contributing party. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof.

## Gifts, Contributions and Other Payments.

In addition to any other distributions authorized under this Article, while both Grantors are alive, the Trustees shall be specifically authorized, in the exercise of sole and absolute discretion, but in the case of any community property, subject to the veto of either Grantor (including that of any conservator, guardian, committee of either Grantor or any attorney-in-fact expressly authorized in the power of attorney to exercise such veto), and in the case of any separate property, subject to the veto of the contributing party (including that of any conservator, guardian, committee or any attorney-in-fact expressly authorized in the power of attorney to exercise such veto) to take the following acts:

1. With respect to any separate property, the Trustees (other than the spouse of the contributing party or any descendant of the Grantors) shall be authorized to make gifts, grants, distributions or other transfers (including the forgiveness of indebtedness) without consideration (hereinafter, "transfers") either outright or in trust to or for the benefit of the spouse of the contributing party;

2. With respect to any separate property, the Trustees (other than any descendant of the Grantors) shall be authorized to make transfers either outright or in trust to any descendant of the Grantors' parents (other than the spouse of the contributing party) and/or to any spouse of any such descendant;

3. With respect to any community property, the Trustees (other than any descendant of the Grantors) shall be authorized to make transfers either outright or in trust to any descendant of the Grantors' parents (other than either Grantor) and/or to any spouse of any such descendant; and

4. With respect to any community property and/or any separate property, provided that either Grantor or any descendant of the Grantors is acting as Trustee and consents to such transfer, the Trustees shall be authorized to make transfers to such one or more organizations described in Sections 170(c) and 2522(c) of the Code and in such amounts or proportions as the Trustees, in the exercise of sole and absolute discretion, shall determine.

5. No Trustee shall make any transfer under this paragraph to himself or herself, his or her estate, his or her creditors or the creditor's of his or her estate nor to any person he or she has any obligation to support (other than the Grantors).

6. The Trustees shall be authorized to make any transfer under this paragraph by the transfer of property from this trust either directly, as the Trustees may determine, to such recipient or to either Grantor or to either Grantor's attorney-in-fact (who may or may not be a Trustee), who may decide on behalf of such Grantor to complete or not to complete such transfer.

7. The Trustees shall be authorized to prepare, execute and file any gift tax return required by any such transfer and to pay from the trust estate any gift tax that may arise by reason of any such transfer.

# ARTICLE FOURTH

# RIGHTS TO REVOKE

## Revocation and Amendment During Joint Lifetimes of Grantors.

With respect to any community property held hereunder, while both of the Grantors are alive, this Agreement may be revoked in whole or in part by either of them, but may be amended in whole or in part only by both of them. With respect to either Grantor's separate property held hereunder, while both of the Grantors are alive, this instrument may be amended or revoked in whole or in part with respect to such separate property only by the contributing party.

The power of revocation shall be exercised while both Grantors are alive by an acknowledged, written instrument (i) signed by the Grantor or Grantors making the revocation (or if he and/or she, as the case may be, is not competent, by his and/or her guardian, conservator, committee or attorney-in-fact if the attorney-in-fact is expressly authorized to do so under the power-of-attorney and if the power-of-attorney expressly provides that it is not affected by the principal's disability and if under applicable law the power-of-attorney is not revoked or made ineffective by reason of such incompetency), and (ii) delivered to any Grantor who is not a signatory to the written instrument, and to the then acting Trustees. In the event of a revocation, the community property (or the revoked portion thereof) shall retain its character as community property under Alaska law, and a Grantor's separate property (or the revoked portion thereof) shall retain its character as his or her separate property.

The power of amendment shall be exercised while both of the Grantors are alive by an acknowledged, written instrument signed by both Grantors, in the case of community property, or by the contributing party, in the case of separate property, and delivered to the then acting Trustees.

## Revocation and Amendment After Death of First to Die of the Grantors.

For purposes of this Agreement, the first to die of the Grantors shall hereinafter sometimes be referred to as the "First Decedent" and the survivor of the Grantors following such first death shall hereinafter sometimes be referred to as the "Surviving Spouse." From and after the First Decedent's death, the Surviving Spouse shall have the power to amend or revoke the trust held under Article NINTH hereof (the "Survivor's Trust") in whole or in part as provided in paragraph B of Article NINTH hereof. Neither the Surviving Spouse nor any other person shall have the power to amend, revoke or terminate any other trust held hereunder (other than pursuant to the Trustees' power hereunder to pay over all or any portion of the principal of such trust as expressly authorized hereunder and other than pursuant to the exercise of a power of appointment expressly granted to a beneficiary hereunder). In the event of a revocation, the Survivor's Trust (or the revoked portion thereof) shall be transferred, conveyed and paid over to the Surviving Spouse, free of any trust. Any amendment to or revocation of the Survivor's Trust shall be by an acknowledged, written instrument signed by the Surviving Spouse and delivered to the then acting Trustees.

## Revocation and Amendment After Death of the Surviving Spouse.

From and after the death of the Surviving Spouse, no trust created under this Agreement may be amended or revoked by any person (other than pursuant to the Trustees' power hereunder to pay over all or any portion of the principal of such trust as expressly authorized hereunder and other than pursuant to the exercise of a power of appointment expressly granted to a primary beneficiary hereunder).

## Powers Exercisable on Behalf of a Grantor.

Any powers granted to or retained by a Grantor (including the Surviving Spouse) pursuant to the foregoing provisions of this Article may be exercised by his and/or her guardian, conservator, committee or attorney-in-fact if the attorney-in-fact is expressly authorized to do so under the power-of-attorney and if the power-of-attorney expressly provides that it is not affected by the principal's disability and if under applicable law the power-of-attorney is not revoked or made ineffective by reason of such incompetency.

## Payment of Liabilities.

If this Agreement is revoked with respect to all or any part of the trust estate, the Trustees may retain as much thereof as the Trustees shall deem necessary, in the exercise of sole and absolute discretion, to secure the payment of liabilities lawfully incurred by the Trustees in the administration and termination of the Trust, including Trustee's fees that have been earned hereunder, unless the Grantor or Grantors indemnify the Trustees, in a manner reasonably satisfactory to the Trustees, against all such liability, loss and expense attributable to the trust estate.

# ARTICLE fIFTH

# DIVISION AND DISTRIBUTIONS UPON FIRST DECEDENT'S DEATH

Upon the First Decedent's death, the trust estate, including any property passing to the Trustees (a) pursuant to the terms of the First Decedent's Last Will and Testament and directed to be disposed of in accordance with the terms and conditions of this Agreement or (b) otherwise passing to the Trustees by reason of the First Decedent's death and directed to be disposed of in accordance with the terms and conditions of this Agreement, shall be disposed of as hereinafter provided:

## Assets Comprising the First Decedent's Property.

(i) The First Decedent's separate property, if any, (ii) the First Decedent's one-half (1/2) interest in the Community Property, if any (including, but not limited to, any community property passing to the Trustees pursuant to the terms of the First Decedent's Will or otherwise passing to the Trustees by reason of the First Decedent's death), and (iii) any other property allocated to the First Decedent's property, passing to the Trustees pursuant to the terms of the First Decedent's Will or otherwise

passing to the Trustees by reason of the First Decedent's death (the "First Decedent's property") shall be held and disposed of in accordance with the terms and conditions of Article SIXTH hereof.

## Assets Comprising the Survivor's Trust.

(i) The Surviving Spouse's separate property, if any, (ii) the Surviving Spouse's one-half (1/2) interest in the Community Property, if any (including, but not limited to, any community property passing to the Trustees pursuant to the terms of the First Decedent's Will or otherwise passing to the Trustees by reason of the First Decedent's death), and (iii) any other property expressly allocated to the Survivor's Trust or made payable to the Survivor's Trust from any other source shall be transferred, conveyed and paid over to the Trustees of the Survivor's Trust to be held and disposed of in accordance with the terms and conditions of Article NINTH hereof.

## Authority to Pay Debts and Funeral and Administration Expenses.

Upon the First Decedent's death, the Trustees are authorized, but not directed, to transfer, convey and pay over from the First Decedent's property to or for the account of the legal representative of the estate of the First Decedent, such portion or all thereof as such legal representative shall certify in writing to the Trustees is needed for the payment of the expenses of administration of the First Decedent's estate (including, but not limited to, expenses related to any ancillary probate proceeding whether or not the fiduciary acting in such ancillary jurisdiction is the same person or entity acting as fiduciary in the domiciliary jurisdiction), debts and funeral expenses payable by the First Decedent's estate (excluding "death taxes" as hereinafter defined). The Trustees shall have no duty or obligation to inquire as to the correctness of any amount so certified by the legal representative, and the payment of such amount shall be a full and complete discharge to the Trustees with respect to such payment.

## Payment of Death Taxes on Trust Property and Certain Other Property.

The Trustees shall pay from the First Decedent's property otherwise passing pursuant to Article SIXTH hereof, unless otherwise directed by the First Decedent's Will, all estate, inheritance, legacy, succession, transfer or other death taxes, including any interest and penalties thereon (other than (a) any generation-skipping transfer tax imposed by Chapter 13 of the Code and any comparable tax imposed by any other taxing authority [including any interest or penalties], (b) any taxes imposed by the Federal government on property includible in the First Decedent's estate under section 2044 of the Code or any comparable tax imposed by any other taxing authority [including any interest or penalties], and (c) any additional estate tax imposed by section 2031(c), 2032A or 2057 of the Code [including any interest or penalties]) imposed by reason of the First Decedent's death by any domestic or foreign taxing authority (herein referred to as "death taxes") with respect to (a) any property passing to the Trustees by reason of the First Decedent's death (including any property passing to the Trustees pursuant the First Decedent's Last Will and Testament) and (b) all property held by the Trustees under this Agreement at the time of the First Decedent's death.

Any such payments of death taxes shall be charged against and paid without apportionment out of the First Decedent's residuary estate (as hereinafter defined) and without apportionment within that property. The Grantors acknowledge that the burden of death taxes may be borne, in whole or in part, by Portion A disposed under Article SIXTH by reason of the formula by which the size of that portion is determined.

The Trustees may rely solely upon the written certification of the legal representative of the estate of the First Decedent as to the amount of such death taxes payable to each taxing authority, may pay any such death taxes in one or more installments, and shall have no duty or responsibility to make any further inquiry or take part in the determination or apportionment of such death taxes, and upon making payment of such death taxes as the same shall be finally determined, the Trustees shall have no further liability in connection therewith. The Trustees may, but shall have no duty to, take any part in the preparation of any death tax return or in any negotiation or proceeding to determine the amount of any such death taxes.

## Simultaneous Death of Grantors.

In the event the Grantors die simultaneously or in such circumstances as to render it impossible to determine who predeceased the other, (i) the Husband shall be deemed to have predeceased the Wife with respect to the Husband's separate property and his one-half (1/2) interest in any community property and (ii) the Wife shall be deemed to have predeceased the Husband with respect to the Wife's separate property and her one-half (1/2) interest in any community property, and the provisions of this Agreement shall be construed upon that assumption.

# ARTICLE SIXTH

# DISTRIBUTION OF First Decedent's property

Upon the First Decedent's death, such portion of the First Decedent's property as shall not have been effectively disposed of pursuant to Article FIFTH hereof and any other property directed to be held and disposed of in accordance with this Article shall be disposed of as follows:

## Tangible Personal Property.

Any furniture, furnishings, rugs, pictures, books, silver, plate, linen, china, glassware, objects of art, wearing apparel, jewelry, automobiles and their accessories, and other tangible personal property not used as of the time of the First Decedent's death primarily in a trade or business, together with any policies of insurance related thereto ("tangible personal property"), shall be transferred, conveyed and paid over to the Trustees, IN TRUST, to be held and disposed as part of the Survivor's Trust in accordance with the terms and conditions as set forth in Article NINTH hereof.

## Residential Property.

All real property used by the Grantors or either of them at the time of the First Decedent's death as a residence (whether permanent, temporary or seasonal) including all buildings thereon and all rights and easements appurtenant thereto and any policies of insurance relating thereto, and all stock owned in any corporation which is the owner of any building in which there is a cooperative apartment used by Grantors or either of them at the time of the First Decedent's death as a residence (whether permanent, temporary or seasonal), together with any lease to such apartment and all right, title and interest in and to any agreement relating to said building and the real property upon which it is located, together with any policy of insurance related thereto ("residential property"), shall be transferred, conveyed and paid over to the Trustees, IN TRUST, to be held and disposed of as part of the Survivor's Trust in accordance with the terms and conditions as set forth in Article NINTH hereof.

## Balance.

All the rest, residue and remainder of the First Decedent's property (the "First Decedent's residuary estate"), subject to the payment therefrom of the First Decedent's funeral expenses, his or her debts, the expenses of administering his or her estate, the taxes directed to be paid from the First Decedent's residuary estate as provided in Article FIFTH hereof and the disposition of the personal property and real property as provided in paragraph A and paragraph B of this Article SIXTH (the "First Decedent's net residuary estate"), shall be divided into three (3) portions to be known as Portion A, Portion B and Portion C, such portions to be constituted and disposed of as follows:

1. Description Of Portion A. a. Portion A shall consist of that fractional part of the First Decedent's net residuary estate of which (a) the numerator shall be an amount equal to the maximum amount by which the First Decedent's Federal taxable estate may be increased without causing an increase in the Federal estate tax payable by reason of his or her death after taking into account all credits available against such tax, and (b) the denominator shall be the value of the First Decedent's net residuary estate as finally determined for Federal estate tax purposes. For this purpose, the First Decedent's Federal taxable estate shall be determined before giving effect to this subparagraph 1 and before giving effect to any disclaimer or renunciation which the Surviving Spouse may make of any interests in property passing to him or her upon the First Decedent's death whether under this Agreement or otherwise, and on the basis that the election under section 2056(b)(7) of the Code has been made wherever applicable with respect to all property includible in First Decedent's estate for Federal estate tax purposes whether under this Agreement or otherwise, regardless of what election is in fact made, and after taking into account all credits available against such tax, except that the credit for state death taxes shall be taken into account only to the extent that it does not result in an increase in the state death taxes which would otherwise be payable.

b. Portion A shall be transferred, conveyed and paid over to the Trustees, IN TRUST, to be held and disposed of in accordance with Article SEVENTH hereof.

2. Description Of Portion B and Portion C. a. Portion B shall consist of that fractional part of the First Decedent's net residuary estate of which (a) the numerator shall be an amount equal to the First Decedent's "Remaining Unused GST Exemption" and (b) the denominator shall be the value of the First Decedent's net residuary estate as finally determined for Federal estate tax purposes. The First Decedent's "Remaining Unused GST Exemption" shall be his or her "Unused GST Exemption" (as defined in section d of this subparagraph 2) reduced by the amount of the First Decedent's GST Exemption which he or she has allocated (or is deemed to have allocated) to property or which the First Decedent's Executor allocates to property other than property forming part of Portion B.

b. Portion C shall consist of the balance of the First Decedent's net residuary estate.

c. Portion B and Portion C shall be transferred, conveyed and paid over to the Trustees, IN TRUST, each to be held as a separate trust with identical terms and disposed of in accordance with Article EIGHTH hereof.

d. The First Decedent's Executor, in the exercise of sole and absolute discretion, may allocate to Portion A and Portion B so much of the maximum GST Exemption against generation-skipping transfer ("GST") tax allowed at the First Decedent's death under section 2631(a) of the Code as shall be unused at the time of his or her death (the First Decedent's "Unused GST Exemption") as the Executors, in the exercise of sole and absolute discretion, shall determine including, but without limitation, such portion thereof as shall make Portion A and Portion B wholly exempt from Federal GST tax under Chapter 13 of the Code.

e. There shall be allocated to Portion A property (and the proceeds of any property), to the extent not used in the payment of debts, administration expenses and taxes, which does not qualify for the marital deduction allowable in determining the Federal estate tax on the First Decedent's estate or which is includible in the First Decedent's gross estate for Federal estate tax purposes and also subject by reason of the First Decedent's death to any inheritance tax, transfer tax or other death duties in any foreign country or political subdivision thereof, together with such additional property as may be necessary to fund Portion A in full.

3. Rules for Computing Portions. In computing Portion A, Portion B and Portion C, the values and amounts as finally determined for Federal estate tax purposes shall control. The First Decedent acknowledges that decisions by his or her Executor and/or the Trustees (including, but not limited to, the selection of dates to value property for estate tax purposes and whether to deduct expenses for income or estate tax purposes) may affect the size of these Portions. The First Decedent intends that no equitable or other adjustment shall be made by reason of such decisions and that no claim may be made against the First Decedent's Executor or the Trustees for making or not making such decisions. Each of Portion A, Portion B and Portion C is intended to be a fractional share which participates in appreciation and depreciation occurring in the property disposed of under this Paragraph C of this Article. Portion A, Portion B and Portion C may be funded with cash or other property, or a combination thereof, and any such other property so used shall be valued as of the date of distribution.

4. Surviving Spouse Disclaimer. To the extent, if any, the Surviving Spouse, or his or her Executor, disclaims or renounces the Surviving Spouse's income interest in any part or all of the principal of either trust created for his or her benefit under Article EIGHTH hereof, such property which would have been used to fund such part or all of the principal of such trust shall be transferred, conveyed and paid over to the Trustees hereinafter named, IN TRUST, to be held and disposed of as a separate trust in accordance with the provisions of Article SEVENTH hereof.

# ARTICLE sEVENTH

# TRUST FOR SURVIVING SPOUSE AND FAMILY

Any property directed to be held and disposed of in accordance with this Article shall be held by the Trustees, IN TRUST, to manage, invest and reinvest the same, to collect the income thereof, and to pay over or apply so much of the net income and principal thereof, to such extent, if any, including the whole thereof, in such amounts and proportions, including all to one to the exclusion of the others, at such time or times and in such manner or manners, as the Benefits Trustees, in the exercise of sole and absolute discretion, may determine to or for the benefit of such one or more members of the class consisting of the Surviving Spouse, the Grantors' descendants and their spouses who are living from time to time, as the Benefits Trustees may determine in the exercise of sole and absolute discretion. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof. Without in any way limiting the discretion of the Benefits Trustees, it would be in keeping with the Grantors' present intentions, although it is not their directions, for the Benefits Trustees to prefer the Surviving Spouse over and to the exclusion of the other beneficiaries of this trust.

Upon the death of the Surviving Spouse, the Trustees shall dispose of the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, as follows: To the extent of any property then being held by the Trustees other than as a result of any renunciation or disclaimer by the Surviving Spouse, such as under subparagraph 4 of paragraph C of Article SIXTH hereof, the Trustees shall transfer, convey and pay over such property to or for the benefit of such person or persons or corporation or corporations other than the Surviving Spouse, his or her estate, his or her creditors or the creditors of his or her estate, to such extent, if any, in such amounts or proportions, and in such lawful interests or estates, whether absolute or in trust, as the Surviving Spouse may by his or her Last Will and Testament appoint by a specific reference to this power. If this power of appointment is for any reason not effectually exercised in whole or in part, then the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, to the extent not effectually appointed by the Surviving Spouse, and any property then being held by the Trustees as a result of a renunciation or disclaimer by the Surviving Spouse, shall, upon the death of the Surviving Spouse, be divided into a sufficient number of equal shares such that there shall be set aside one (1) such share for each child of the First Decedent who is then living and one (1) such share for the collective descendants who are then living of each child of the First Decedent who shall have previously died. Each such share so set aside for the collective descendants who are then living of any child of the First Decedent who has previously died shall be further subdivided into per stirpital subshares for such descendants who are then living. Each child who is then living and for whom a share is set aside and each descendant who is then living of a child of the First Decedent who has previously died and for whom a subshare is set aside is herein referred to as the "primary beneficiary". Each share or subshare so set aside for the primary beneficiary shall be held as a separate trust upon the terms and conditions set forth inArticle TENTH hereof.

# ARTICLE EIGHTH

# MARITAL TRUST

Portion B and Portion C of the First Decedent's net residuary estate and any other property which is directed to be held and disposed of in accordance with this Article, shall each be held as a separate trust by the Trustees, IN TRUST, to manage, invest and reinvest the same, to collect the income thereof, and to pay over or apply the net income, on a quarterly basis insofar as may be practicable, but at least annually, to or for the benefit of the Surviving Spouse during his or her life.

## A. During Life of Surviving Spouse.

The Grantors authorize the Benefits Trustees (other than the Surviving Spouse), at any time and from time to time, to pay over to or apply for the benefit of the Surviving Spouse, out of the principal of the trust, such portion, if any, including the whole thereof, in such amount and proportions, and at such time or times, as the Benefits Trustees (other than the Surviving Spouse), in the exercise of sole and absolute discretion, may determine; provided, however, the Grantors request, but do not direct, the Trustees to give careful consideration to the advisability of making any such distributions from Portion B while property remains in Portion C.

## B. Upon the Death of the Surviving Spouse.

Upon the death of the Surviving Spouse, the remainder of the principal of each trust, as then constituted, subject to the payment of any taxes directed to be paid therefrom, shall be transferred, conveyed, and paid over to or for the benefit of such person or persons or corporation or corporations other than the Surviving Spouse, his or her estate, his or her creditors or the creditors of his or her estate, to such extent, if any, in such amounts or proportions, and in such lawful interests or estates, whether absolute or in trust, as the Surviving Spouse may by his or her Last Will and Testament appoint by a specific reference to this power. If this power of appointment is for any reason not effectually exercised in whole or in part, then the remainder of the principal of each trust, to the extent not effectually appointed by the Surviving Spouse, shall, upon his or her death, be divided into a sufficient number of equal shares such that there shall be set aside one (1) such share for each child of the First Decedent who is then living and one (1) such share for the collective descendants who are then living of each child of the First Decedent who has previously died. Each such share so set aside for the collective descendants who are then living of any child of the First Decedent who has previously died shall be further subdivided into per stirpital subshares for such descendants who are then living. Each child who is then living and for whom a share is set aside and each descendant who is then living of a child of the First Decedent who has previously died and for whom a subshare is set aside is herein referred to as the "primary beneficiary". Each share or subshare so set aside for the primary beneficiary shall be held as a separate trust upon the terms and conditions set forth in Article TENTH hereof.

## C. QTIP Provisions.

It is the Grantors' intention by this Article to create interests which are "qualifying income interests for life" as defined in section 2056(b)(7) of the Code, so that, if and to the extent the First Decedent's Executors shall so elect, the trusts under this Article will constitute "qualified terminable interest property" as defined in that section. To that end, the following provisions shall apply to these trusts:

1. The trusts shall not be funded with any property or the proceeds of any property (i) which would not qualify for the marital deduction allowable in determining the Federal estate tax on the First Decedent's estate, or (ii) which is includible in the First Decedent's gross estate for Federal estate tax purposes and also subject by reason of the First Decedent's death to any inheritance tax, succession tax, transfer tax, estate tax or other death duty in any foreign country or political subdivision thereof, except that the property described in this clause (ii) may be allocated to the trusts to the extent that other property of the First Decedent estate which does qualify for the marital deduction is not sufficient to fund the trusts in full.

2. If any property forming a part of the principal of either trust is unproductive at the time of its receipt by the Trustees or thereafter becomes unproductive, the Trustees may retain the same if the Trustees determine the retention of such property to be in the best interests of the trust estate; provided, however, that the Trustees, upon written demand of the Surviving Spouse, shall make such property productive or convert it to productive property within a reasonable time.

3. This Agreement shall be construed and the trusts shall be administered in all respects so as to effectuate the intentions referred to above in this paragraph C, and that the Trustees shall not exercise any of the general powers conferred elsewhere in this Agreement or otherwise to the extent such exercise would defeat such intentions. Any net income on hand or accrued upon the death of the Surviving Spouse shall be paid to his or her estate to the extent provided by applicable law and to any greater extent required to make the interest of the Surviving Spouse a qualifying income interest for life.

## D. Authorization of Election.

The First Decedent authorizes his or her Executor, in the exercise of sole and absolute discretion, to elect or not to elect to have the First Decedent treated under section 2652(a)(3) of the Code as the transferor of the property passing pursuant to Portion B under subparagraph 2 of paragraph C of Article SIXTH hereof. Because the First Decedent anticipates that the Portion B trust will be exempt from the Federal GST tax, if property of Portion B is effectually directed to be disposed of in accordance with Article TENTH hereof, the First Decedent directs that such property shall be held as a separate trust under Article TENTH hereof from any other property that may also be disposed of under that Article.

## E. Payment of Death Taxes from Trust.

Except to the extent that the Will of the Surviving Spouse shall by specific reference to this provision direct to the contrary, the Trustees shall pay from the trust under this Article EIGHTH the increase in all estate, inheritance, legacy, succession, transfer or other death taxes (including any interest and penalties thereon) (hereinafter, "taxes") imposed by any domestic or foreign taxing authority on the death of the Surviving Spouse by reason of the inclusion in the gross estate of the Surviving Spouse for the purposes of any such tax of all or any part of the principal of the trust under this Article EIGHTH (such increase being the difference between all such taxes actually paid by reason of the death of the Surviving Spouse and the taxes which would have been payable if such part or all of the trust principal had not been included in the gross estate of the Surviving Spouse); provided, however, that such payments shall be made only from the portion of this trust which, without regard to the provisions of this paragraph, shall be includible in the gross estate of the Surviving Spouse for Federal estate tax purposes. Such payments shall be made either to the legal representative of the estate of the Surviving Spouse for payment by such legal representative of such taxes, interest and penalties or directly to such taxing authorities as the Trustees, in the exercise of sole and absolute discretion, shall determine. The Trustees may rely solely upon the written certification of the legal representative of the estate of the Surviving Spouse as to the amount of such increase payable to each taxing authority, may pay any such increase in one or more installments and shall have no duty or responsibility to make any further inquiry or take part in the determination or apportionment of such taxes, and upon making payment of such increase as the same shall be finally determined the Trustees shall have no further liability in connection therewith. Payment of such increase in such taxes, interest and penalties shall fully discharge all liability of this trust for such taxes, interest and penalties, it being the Deceased Spouse's intention and direction that the Surviving Spouse not have any power to apportion additional taxes, interest or penalties against this trust.

# ARTICLE NINTH

# SURVIVOR'S TRUST

The assets of the Survivor's Trust and any other property which is directed to be held and disposed of in accordance with this Article shall be held by the Trustees, IN TRUST, to manage, invest and reinvest the same, to collect the income thereof, and to pay or apply the net income and principal for the following uses and purposes and subject to the provisions hereinafter set forth:

## A. Distributions to or for Benefit of the Surviving Spouse.

1. Income and Principal.

During the lifetime of the Surviving Spouse, the Trustees shall pay over or apply to or for the benefit of the Surviving Spouse the net income and principal of the Survivor's Trust to such extent, if any, including the whole thereof, in such amounts and proportions, at such time or times and in such manner or manners, (i) as the Surviving Spouse may demand by an acknowledged, written instrument delivered to the Trustees, or (ii) as the Trustees, in the exercise of sole and absolute discretion, shall determine. Distributions following demand by the Surviving Spouse shall be made at such time or times and in such manner or manners as is set forth in the demand. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof.

2. Gifts, Contributions, and Other Payments.

In addition to any other distributions authorized under this Article, the Trustees shall be specifically authorized subject to the veto of the Surviving Spouse (including that of any conservator, guardian, or committee of the Surviving Spouse or any attorney-in-fact expressly authorized in the power of attorney to exercise such veto power), to take the following acts:

a. The Trustees (other than any descendant of the Grantors) shall be authorized to make transfers either outright or in trust to any descendant of either of the Grantors' parents and/or to any spouse of any of the foregoing individuals; and

b. Provided that either the Surviving Spouse or any descendant of the Grantors is acting as Trustee and consents to such transfer, the Trustees shall be authorized to make transfers to such one or more organizations described in Sections 170(c) and 2522(c) of the Code and in such amounts or proportions as the Trustees, in the exercise of sole and absolute discretion, shall determine.

c. No Trustee shall make any transfer under this paragraph to himself or herself, his or her estate, his or her creditors or the creditor's of his or her estate nor to any person he or she has any obligation to support (other than the Surviving Spouse).

d. The Trustees shall be authorized to make any transfer under this paragraph by the transfer of property from this trust either, as the Trustees may determine, directly to such recipient or to the Surviving Spouse or to the Surviving Spouse's attorney-in-fact (who may or may not be a Trustee), who may decide on behalf of such Surviving Spouse to complete or not to complete such transfer.

e. The Trustees shall be authorized to prepare, execute and file any gift tax return required by any such transfer and to pay from the trust estate any gift tax that may arise by reason of any such transfer.

## B. Revocation and Amendment.

From and after the First Decedent's death, the Surviving Spouse shall have the power to amend or revoke the Survivor's Trust in whole or in part. In the event of a revocation, the Survivor's Trust or revoked portion thereof shall be transferred, conveyed and paid over to the Surviving Spouse, free of any trust. Any amendment or revocation shall be by an acknowledged, written instrument signed by the Surviving Spouse and delivered to the then acting Trustees.

## C. Disposition of Assets Following Death of the Surviving Spouse.

Upon the Surviving Spouse's death, the principal of the Survivor's Trust, if any, as it is then constituted, together with any accrued, accumulated and undistributed income, and together with any property passing to the Trustees pursuant to the Surviving Spouse's Will or otherwise by reason of the Surviving Spouse's death (the "Surviving Spouse's property"), shall be disposed of as follows:

1. Authority to Pay Debts and Funeral and Administration Expenses.

Upon the Surviving Spouse's death, the Trustees are authorized, but not directed, to transfer, convey and pay over from the Surviving Spouse's property passing pursuant to this paragraph, to or for the account of the legal representative of the estate of the Surviving Spouse, such portion or all thereof as such legal representative shall certify in writing to the Trustees is needed for the payment of the expenses of administration of the Surviving Spouse's estate (including, but not limited to, expenses related to any ancillary probate proceeding whether or not the fiduciary acting in such ancillary jurisdiction is the same person or entity acting as fiduciary in the domiciliary jurisdiction), debts and funeral expenses payable by the Surviving Spouse's estate (excluding "death taxes" as hereinafter defined). The Trustees shall have no duty or obligation to inquire as to the correctness of any amount so certified by the legal representatives, and the payment of such amount shall be a full and complete discharge to the Trustees with respect to such payment.

2. Payment of Death Taxes On Trust Property and Certain Other Property.

Unless otherwise directed by the Surviving Spouse's Will, the Trustees shall pay all estate, inheritance, legacy, succession, transfer or other death taxes, including any interest and penalties thereon (other than (a) any generation-skipping transfer tax imposed by Chapter 13 of the Code and any comparable tax imposed by any other taxing authority [including any interest or penalties], (b) any taxes imposed by the Federal government on property includible in the Surviving Spouse's estate under section 2044 of said Code or any comparable tax imposed by any other taxing authority [including any interest or penalties], (c) any additional estate tax imposed by section 2031(c), 2032A or 2057 of the Code [including any interest or penalties]) or (d) any taxes imposed by any other taxing authority [including any interest or penalties] imposed by reason of the Surviving Spouse's death by any domestic or foreign taxing authority (herein referred to as "death taxes") with respect to (1) any property passing to the Trustees by reason of the Surviving Spouse's death and (2) all property held by the Trustees of the Survivor's Trust as of the date of the death of the Surviving Spouse. Such payments shall be made either to the legal representative of the estate of the Surviving Spouse for payment by such legal representative of such death taxes (including any interest and penalties) or directly to the appropriate taxing authorities as the Trustees, in the exercise of sole and absolute discretion, shall determine. The Trustees may rely solely upon the written certification of the legal representative of the estate of the Surviving Spouse as to the amount of such taxes payable to each taxing authority, may pay any such taxes in one or more installments and shall have no duty or responsibility to make any further inquiry or take part in the determination or apportionment of such death taxes, and upon making payment of such taxes as the same shall be finally determined, the Trustees shall have no further liability in connection therewith. The Trustees may, but shall have no duty to, take any part in the preparation of any death tax returns or in any negotiation or proceeding to determine the amount of any such death taxes.

Any death taxes paid by the Trustees pursuant to this Article shall be charged against and paid without apportionment out of the Surviving Spouse's residuary estate (as hereinafter defined) and without apportionment within that property.

3. Further Disposition of Surviving Spouse's Property.

Upon the Surviving Spouse's death, such portion of the Surviving Spouse's property as shall not have been effectively disposed of pursuant to subparagraphs 1 and 2 of this paragraph C shall be disposed of as provided in paragraph D of this Article.

## D. Distribution Upon Surviving Spouse's Death.

Upon the Surviving Spouse's death, any part of the Survivor's Trust not effectually appointed upon the Surviving Spouse's Death shall be disposed of as follows:

1. Tangible Personal Property. Any furniture, furnishings, rugs, pictures, books, silver, plate, linen, china, glassware, objects of art, wearing apparel, jewelry, automobiles and their accessories, and other tangible personal property not used as of the time of the Surviving Spouse's death primarily in a trade or business, together with all policies of insurance related thereto, shall be transferred, conveyed and paid over by the Trustees to the Grantors' descendants who are then living, in approximate per stirpital shares as may be practicable, the composition of which shall be determined by the Benefits Trustees in the exercise of sole and absolute discretion.

2. Residential Property. a. The Trustees shall sell any real property held as part of the Survivor's Trust at the time of the Surviving Spouse's death and used by the Surviving Spouse at the time of his or her death as a residence (whether permanent, temporary or seasonal) including all buildings thereon and all rights and easements appurtenant thereto and all policies of insurance relating thereto, and the net proceeds of sale shall be added to the trust estate, thereafter to be held, administered and disposed of as a part thereof.

b. The Trustees shall sell any stock owned in any corporation which is the owner of any building in which the Surviving Spouse has a cooperative apartment held as part of the Survivor's Trust at the time of the Surviving Spouse's death and used by the Surviving Spouse at the time of his or her death as a residence (whether permanent, temporary or seasonal), together with any lease to such apartment and all right, title and interest in and to any agreement relating to said building and the real property upon which it is located, and the net proceeds of sale shall be added to the trust estate, thereafter to be held, administered and disposed of as a part thereof.

3. Balance. a. All the rest, residue and remainder of the Survivor's Trust (the "Surviving Spouse's residuary estate"), subject to the payment therefrom of the Surviving Spouse's funeral expenses, his or her debts, the expenses of administering his or her estate and the taxes directed to be paid from the Surviving Spouse's residuary estate (the "Surviving Spouse's net residuary estate"), shall be divided into a sufficient number of equal shares such that there shall be set aside one (1) such share for each child of the Grantors who survives the Surviving Spouse and one (1) such share for the collective descendants who survive the Surviving Spouse of each child of the Grantors who shall have predeceased the Surviving Spouse. Each such share so set aside for the collective descendants who survive the Surviving Spouse of any child of the Grantors who shall have predeceased the Surviving Spouse shall be further subdivided into per stirpital subshares for such descendants who survive the Surviving Spouse. Each child who survives the Surviving Spouse and for whom a share is set aside and each descendant who survives the Surviving Spouse of a child of the Grantors who has predeceased and for whom a subshare is set aside is herein referred to as the "the primary beneficiary" of such share or subshare.

b. The Surviving Spouse's Executors (other than any descendant of the Surviving Spouse) shall divide any share or subshare for a primary beneficiary into two fractional parts: (a) one consisting of that fractional part of the share or subshare of which (i) the numerator is the amount, if any, of the Unused GST Exemption (as hereinabove defined) of the Surviving Spouse which the Surviving Spouse's Executor (other than any descendant of the Surviving Spouse), in the exercise of sole and absolute discretion, may elect to allocate to such share or subshare and (ii) the denominator is the value of such share or subshare as finally determined for Federal estate tax purposes (hereinafter referred to as "Portion I"), and (b) the other consisting of the balance of the share or subshare (hereinafter referred to as "Portion II").

c. Portion I for a primary beneficiary and Portion II for a primary beneficiary shall be transferred, conveyed and paid over to the Trustees, IN TRUST, each to be held as a separate trust with identical terms and disposed of in accordance with Article TENTH hereof.

d. In computing Portion I and Portion II, the values and amounts as finally determined for Federal estate tax purposes in the estate of the Surviving Spouse shall control. Each of Portion I and Portion II is intended to be a fractional share which participates in appreciation and depreciation occurring in the property disposed of under this subparagraph 3. Each portion may be funded with cash or other property, or a combination thereof, and any such other property so used shall be valued as of the date of distribution.

# ARTICLE TENTH

# SEPARATE TRUSTS FOR DESCENDANTS

## During Life of Primary Beneficiary.

Any share, subshare or portion directed to be held and disposed of in accordance with this Article shall be held by the Trustees, IN TRUST, as a separate trust, to manage, invest and reinvest the same, to collect the income thereof, and to pay over or apply the net income and principal thereof, to such extent, if any, including the whole thereof, in such amounts and proportions, including all to one to the exclusion of others, at such time or times and in such manner or manners, as the Benefits Trustees may determine in the exercise of sole and absolute discretion, to or for the benefit of such one or more members of the class consisting of the primary beneficiary for whom the share, subshare or portion shall have been set aside, his or her spouse and his or her descendants and their spouses who are living from time to time as the Benefits Trustees may determine in the exercise of sole and absolute discretion. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof. Without in any way limiting the discretion of the Benefits Trustees, it would be keeping with the Grantors' present intentions, but it is not their direction, if the Benefits Trustees would prefer the primary beneficiary over and to the exclusion of the other beneficiaries and prefer the Grantors' other descendants over the other beneficiaries.

## Upon the Death of the Primary Beneficiary.

1. Upon the death of the primary beneficiary, the Trustees shall transfer, convey and pay over the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, to or for the benefit of such one or more of the descendants of the Grantors other than such primary beneficiary, his or her estate, his or her creditors or the creditors of his or her estate, subject, however, to the power conferred on the Trustees in paragraph C of Article SIXTEENTH hereof, in such amounts or proportions, and in such lawful interests or estates, whether absolute or in trust (and including, without limitation, granting presently exercisable general or non-general powers of appointment), as such primary beneficiary may appoint by his or her Last Will and Testament by a specific reference to this power.

2. If this power of appointment is for any reason not effectually exercised in whole or in part by the primary beneficiary, and if any descendant of the primary beneficiary is then living, the principal of such trust, together with any accrued, accumulated and undistributed income, to the extent not effectually appointed by him or her, shall, upon his or her death, be divided into a sufficient number of equal shares such that there shall be set aside one (1) such share for each child of the primary beneficiary who is then living and one (1) such share for the collective descendants who are then living of each child of the primary beneficiary who is not then living. Each such share so set aside for the collective descendants who are then living of each child of the primary beneficiary who is not then living shall be further subdivided into per stirpital subshares for such descendants who are then living. Each child of the primary beneficiary who is then living and for whom a share is set aside and each descendant who is then living of a primary beneficiary who is not then living and for whom a subshare is set aside shall thereafter be the "primary beneficiary" of such share or subshare. Each share or subshare so set aside for a primary beneficiary shall be held as a separate trust upon the terms and conditions set forth in this Article TENTH.

3. If this power of appointment is for any reason not effectually exercised in whole or in part by the primary beneficiary, and if no descendant of the primary beneficiary is then living, but if any descendant of the Grantors is then living, the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, shall be divided and set aside into shares for the then living descendants per stirpes of the lineal ancestor of the primary beneficiary having the closest degree of consanguinity to the primary beneficiary, which ancestor has descendants who are then living and which ancestor is (or was) a lineal descendant of the Grantors or which ancestors were the Grantors. Each descendant for whom a per stirpital share is set aside shall thereafter be the "primary beneficiary" of such share. Each per stirpital share so set aside for a primary beneficiary shall be held as a separate trust upon the terms and conditions set forth in this Article TENTH.

4. If no descendant of the Grantors is then living, the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, shall be disposed of in accordance with the provisions of Article ELEVENTH hereof.

## Multiple Trusts.

Notwithstanding the foregoing, if upon the division as provided above of any property disposed of pursuant to this Article a separate trust is already being held hereunder for an individual who is the primary beneficiary of such trust, then the separate share or subshare for such primary beneficiary resulting from such division may, but need not, in the sole and absolute discretion of the Trustees, instead be added to the existing trust for such primary beneficiary, thereafter to be held, administered and disposed of as a part thereof; subject, however, to the provisions of Article SIXTEENTH hereof. Any such exercise of discretion by the Trustees to add a share or subshare to an existing trust shall be effectuated by the execution, by the Trustees, of an acknowledged, written instrument delivered to the primary beneficiary of such trust and a copy of which shall be maintained with the records of the trust.

# ARTICLE ELEVENTH

# ALTERNATIVE DISPOSITIVE PROVISIONS

If no descendant of the Grantors survives the Surviving Spouse, or if upon the termination of any trust created hereunder there is no effective disposition of the property in that trust by other provisions of this Agreement, the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, shall be divided into a sufficient number of equal shares such that there shall be set aside one (1) such share for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, if it is then a qualified charitable organization, one (1) such share for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, if it is then a qualified charitable organization, one (1) such share for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, if it is then a qualified charitable organization, and one (1) such share for such qualified charitable organization as shall be selected by the Benefits Trustees, in the exercise of sole and absolute discretion, which is devoted to research concerning, and/or the treatment of, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, such shares to be disposed of as follows:

A. The one (1) such share so set aside for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ shall be transferred, conveyed and paid over to it, if it is then a qualified charitable organization.

B. The one (1) such share so set aside for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ shall be transferred, conveyed and paid over to it, if it is then a qualified charitable organization.

C. The one (1) such share so set aside for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_ shall be transferred, conveyed and paid over to it, if it is then a qualified charitable organization.

D. The one (1) such share so set aside for such qualified charitable organization as shall be selected by the Benefits Trustees which is devoted to research concerning, and the treatment of, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall be transferred, conveyed and paid over to the qualified charitable organization so selected.

# ARTICLE TWELFTH

# POWER TO DISTRIBUTE PRINCIPAL OR INCOME

Any application of principal or income to or for the benefit of any beneficiary hereunder made by payment to such person or persons (including, but not limited to, other trusts, estates, individuals and institutions) as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, and the written receipt of the person or persons so paid shall be a full discharge to the Trustees from all liability with respect thereto. Any such payment or application may be made without bond, without intervention of any guardian or committee, and without the order of any court.

# ARTICLE tHIRTEENTH

# MINORITY TRUST PROVISION

## Minority Trust.

Unless it shall not be permissible under the applicable rules of law to create a trust of the property described in this paragraph A, if any individual under the age of twenty-one (21) years becomes entitled to any property from any trust created hereunder, such property may be held by the Benefits Trustees, IN TRUST, for the following uses and purposes: To manage, invest and reinvest the same, to collect the income and to apply the net income and principal to such extent, if any, including the whole thereof, in such amounts and proportions, for such individual's general use, at such time or times and in such manner or manners, as the Trustees, in the exercise of sole and absolute discretion, shall determine, until such individual reaches the age of twenty-one (21) years, and thereupon to transfer, convey and pay over the principal of the trust, if any, as it is then constituted, together with any accrued, accumulated and undistributed income, to such individual. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof. Upon the death of such individual before reaching the age of twenty-one (21) years, the Trustees shall transfer, convey and pay over the principal of the trust, as it is then constituted, together with any accrued, accumulated and undistributed income, to such individual's executors or administrators.

If the Benefits Trustees, in the exercise of sole and absolute discretion, determine at any time not to transfer in trust or not to continue to hold in trust any part or all of such property, as the case may be, the Benefits Trustees shall have full power and authority to transfer and pay over such property, or any part thereof, without bond, to such individual, if an adult under the law of the state of his or her domicile at the time of such payment, or to his or her parent, the guardian of his or her person or property, or to a custodian for such individual under any Uniform Gifts to Minors Act or Uniform Transfers to Minors Act pursuant to which a custodian is acting or may be appointed.

The receipt of such individual, if an adult, or the parent, the guardian or custodian to whom any principal or income is transferred and paid over pursuant to any of the above provisions shall be a full discharge to the Trustees from all liability with respect thereto.

## Donees of Power in Trust.

If it shall not be permissible under the applicable rules of law to create a trust of the property hereinabove described in paragraph A, and if such individual is a minor as hereinafter defined, in that event such property shall vest absolutely in such minor, subject to the following: The Trustees are hereby authorized and empowered to retain such minor's property without bond, as donees of a power in trust for the following uses and purposes: To manage, invest and reinvest the same, to collect the income and to apply the net income and principal to such extent, if any, including the whole thereof, in such amount and proportions, for such minor's general use, at such time or times and in such manner or manners, as the Trustees, in the exercise of sole and absolute discretion, shall determine, until such minor reaches the age of majority, and thereupon to transfer, convey and pay over the property, as it is then constituted, together with any accrued, accumulated and undistributed income, to such minor. Any net income not so paid over or applied (which may be the whole of such income) shall be accumulated and added to the principal of the trust and thereafter shall be held, administered and disposed of as a part thereof. Upon the death of such minor before reaching his or her majority, the Trustees shall transfer, convey and pay over the property, as it is then constituted, together with any accrued, accumulated and undistributed income, to such minor's executors or administrators.

If the Trustees, in the exercise of sole and absolute discretion, determine at any time not to transfer to the Trustees as such donees of a power in trust or not to continue to hold any part or all of such property as hereinabove provided, as the case may be, the Trustees shall have full power and authority to transfer and pay over such property or any part thereof, without bond, to such minor's parent or to the guardian of such minor's person or property, or to a custodian for such minor under any Uniform Gifts to Minors Act or Uniform Transfers to Minors Act pursuant to which a custodian is acting or may be appointed.

The receipt of the parent, guardian or custodian to whom any property is transferred and paid over pursuant to any of the above provisions shall be a full discharge to the Trustees from all liability with respect thereto.

As compensation for his services under this paragraph B, the Trustees shall be entitled to commissions at the rates and in the manner allowed to trustees of testamentary trusts under the laws of the State of Alaska in effect from time to time.

In administering any property pursuant to this paragraph B, the Trustees shall have all of the powers conferred upon the Trustees under this Agreement.

The term "minor" as used in this paragraph B shall be deemed to refer to an individual under the age at which such individual may execute a binding contract to dispose of intangible personal property under the laws of the State of his or her domicile and with respect to any tangible personal property or real property, also under the laws of the situs of such tangible personal property or real property as the case may be.

## Not For Support.

Notwithstanding anything to the contrary contained herein, the Trustees shall not exercise any discretionary power to pay or apply income or principal pursuant to this Article in discharge of any person's duty to support any individual for whom a trust is held hereunder.

# ARTICLE FOURTEENTH

# TRUSTEES' POWERS

## A. Powers of Investment Trustees.

The Investment Trustees shall have the sole and absolute authority and shall be the only Trustees who need to execute documents or take other action regarding decisions about the investment of the assets of the trusts hereunder including, but not limited to, the purchase, retention or sale of any assets held in any trust. In addition to all investment powers conferred by law upon trustees, and all other powers herein granted to the Investment Trustees, the Grantors expressly authorize the Investment Trustees, in the exercise of sole and absolute discretion (but subject to the provisions of Article EIGHTH hereof):

1. To purchase or otherwise acquire, and to retain, whether originally a part of the trust estate or subsequently acquired, any and all common or preferred stocks, bonds, notes or other securities, or any variety of real or personal property, whether within or without the United States, including, but without limitation, insurance on the life of either or both of the Grantors (including entering into any form of split-dollar agreement with respect to such insurance), foreign real estate or foreign securities, securities of a corporation in which any of the Trustees is a director, officer, employee or shareholder, securities of any corporate fiduciary, interests in any business venture (incorporated or unincorporated), and interests in entities formed principally for the commingling of assets for investment, such as common trust funds, investment companies, mutual funds, real estate and other investment trusts, and interests in any partnership, limited liability company or other entity, provided, however, that the Investment Trustees may, by an acknowledged, written instrument delivered to the beneficiaries hereunder, irrevocably renounce the power to use the income (including capital gain) to pay for insurance on the life of either or both of the Grantors;

2. To sell, lease, pledge, mortgage, transfer, exchange, convert, grant options with respect to, or otherwise dispose of, any and all real or personal property or interest therein, at any time forming a part of any trust estate, in any manner, at any time or times, for any purpose, for any price and upon any terms, credits and conditions; and to enter into leases, mortgages or options which extend beyond the period fixed by law for leases and options made by fiduciaries or beyond the term of the trust;

3. To borrow money from any lender, including, but without limitation any individual or corporate fiduciary hereunder or any member of the Grantors' family, or any trust, corporation or association in which any one or more of the foregoing may be interested, for any purpose connected with the preservation or improvement of any trust estate, and to mortgage or pledge as security upon any terms and conditions any real or personal property held;

4. To vote in person or by general or limited proxy with respect to any shares of stock or other security; directly or through a committee or other agent, to oppose or consent to the reorganization, consolidation, merger, dissolution or liquidation of any corporation, or to the sale, lease, pledge or mortgage of any property by or to any such corporation; and to make any payments and take any steps proper to obtain the benefits of any such transaction;

5. To the extent permitted by law, to register any security in the name of a nominee with or without the addition of words indicating that such security is held in a fiduciary capacity; to hold any security in bearer or non‑certificated form; and to use a central depository for securities; to employ a broker-dealer as custodian of all or part of the securities at any time held by any trust estate and to register such securities in the name of such broker-dealer;

6. To complete, extend, modify or renew any loans, notes, bonds, mortgages, contracts or any other obligations which may at any time form part of any trust estate or which may be liens or charges against any property of the trust; to pay, compromise, compound, adjust, submit to arbitration, sell or release any claims or demands of any trust estate against others or of others against any trust estate upon any terms and conditions, including the acceptance of deeds to real property in satisfaction of bonds and mortgages, and to make any payments in connection therewith;

7. While no corporate fiduciary is acting as to the trust estate, to place and leave all or any part of the funds or securities at any time held by any trust estate in the care and custody of any bank or trust company, with no obligation while such securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank or trust company or its nominee; to appoint such bank or trust company the agent and attorney of the Trustees to collect, receive, receipt for and disburse any income, and generally to perform the duties and services incident to a so‑called "custodian account"; and to allocate the charges and expenses of such bank or trust company to income or to principal or partially to income and partially to principal as the Investment Trustees determine;

8. To continue the operation of any business, incorporated or unincorporated, which may be held or acquired by the Trustees, and any successor business thereto, and to purchase or otherwise acquire any business or interest in any business; to take part in the management of any business in which investment is retained or made hereunder and to delegate duties with respect to such management, with the requisite powers, to any employee, manager, partner or associate of such business, without liability for such delegation; to reduce, expand, limit or otherwise fix and change the operation or policy of any such business and to act with respect to any other matter in connection with any such business; to subject to the risks of any such business, any part or all of any trust estate, for such term or period as the Investment Trustees, in the exercise of sole and absolute discretion, may determine; to advance money or other property to any such business; to make loans, subordinated or otherwise, of cash or securities to any such business and to guarantee the loans of others made to any such business (but not to guarantee loans made to or by the Grantors); to borrow money for any such business, either alone or with other persons interested therein, and to secure such loan or loans by a pledge or mortgage of any part of any trust estate; to select and vote for directors, partners, associates and officers of any such business; to act as directors, general or limited partners, associates and officers of any such business either individually or through an officer or officers if any Trustee be a corporation, and to receive compensation from such business for so acting; to enter into stockholders' agreements with corporations in which any trust estate has an interest and/or with the stockholders of such corporations; to liquidate, either alone or jointly with others, any such business or any interest in any such business; and generally to exercise any and all powers as the Investment Trustees may deem necessary with respect to the continuance, management, sale or liquidation of any such business;

9. To manage, insure against loss, subdivide, partition, develop, improve, mortgage, lease or otherwise deal with any real property or interests therein which may form at any time a part of any trust estate; to satisfy and discharge or extend the term of any mortgage thereon; to demolish, rebuild, improve, repair and make alterations from time to time in any of the structures upon any such real property; to plat into lots and prepare any such real property for building purposes; to construct and equip buildings and other structures upon any such real property and to make any and all other improvements of any kind or character whatsoever in connection with the development and improvement thereof; to execute the necessary instruments and covenants to effectuate the foregoing powers, including the granting of options in connection therewith;

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

11. To keep assets held hereunder or the physical evidence of their ownership in any state or country whatsoever, and from time to time to move the same to any other state or country;

12. To manage the assets of any trusts created hereunder in solido with any other trust created hereunder or with any other trust created by either or both of the Grantors which has similar terms, conditions and beneficiaries;

13. To delegate any duties or powers, discretionary or otherwise, to a co‑fiduciary or any other person or institution for such periods and upon such terms and conditions as may be designated in an acknowledged, written instrument delivered to such co‑fiduciary, other person or institution; and if such duties or powers are delegated to a co-fiduciary, the fiduciary so delegating any duties or powers hereunder shall have no further responsibility with respect to the exercise of such duties or powers so long as such delegation shall remain in effect; and any such delegation shall be revocable by a similar instrument so delivered at any time provided, however, that no duties or powers described in the paragraph hereunder entitled "Restrictions on Trustees Who Are Beneficiaries" of Article SIXTEENTH hereof may be delegated to any individual who is prohibited therein from participating in the exercise of such duties or powers;

14. While no corporate fiduciary is acting as to the trust estate, to place and leave all or any part of the funds or securities at any time held by any trust estate in the care and custody of any bank or trust company, with no obligation while such securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank or trust company or its nominee; to appoint such bank or trust company the agent and attorney of the Trustees to collect, receive, receipt for and disburse any income, and generally to perform the duties and services incident to a so‑called "custodian account"; and to allocate the charges and expenses of such bank or trust company to income or to principal or partially to income and partially to principal as the Investment Trustees determine;

15. To appoint, employ and remove at any time and from time to time any accountants, attorneys, investment or other expert advisers, agents, clerks and employees; and to fix and pay their reasonable compensation; and to delegate discretionary authority to make changes in investments to investment counsel;

16. To execute and deliver any and all instruments to carry out any of the foregoing powers, no party to any such instrument being required to inquire into the validity of any such instrument, and generally to deal with any trust estate created hereunder as in the Investment Trustees' judgment the best interests of such trust may require; and

17. To purchase life insurance payable to any trust held hereunder on the life of any individual in which any beneficiary hereunder may have an insurable interest; to enter into any form of split-dollar arrangement with respect to such insurance (including a split-dollar arrangement with another trust of which any Trustee hereunder is acting as a Trustee notwithstanding that such arrangement may constitute an act of self-dealing), to pay any premiums on any such life insurance policy held hereunder, to exercise with respect to said insurance policies held hereunder from time to time all options, rights, elections and privileges exercisable with respect to said policies, including, but not limited to, the right to demand and collect from the company or companies issuing said policies all such proceeds as shall be payable to the Trustee, to designate and change the beneficiaries thereunder, provided, however, the Grantors may not be designated as such beneficiary, to modify, exchange, surrender or cancel any such policies of insurance, to borrow upon and pledge any said policy in connection with a loan, to assign and distribute any and all of the rights thereunder to or for the benefit of any beneficiary under this Agreement, to direct the disposition of dividends or surplus, to convert said policies into different forms of insurance and to elect methods of settlement with respect thereto, provided, however, that the Investment Trustees may, by an acknowledged, written instrument delivered to the beneficiaries hereunder, irrevocably renounce the power to use the income (including capital gain) to pay for insurance on the life of either of both of the Grantors.

## B. Powers of Benefits Trustees.

Except as otherwise provided herein, the Benefits Trustees shall have the sole and absolute authority and shall be the only Trustees who needs to execute documents or take other action regarding the exercise of, or decision not to exercise, any discretion over beneficial payments, distributions, applications, uses or accumulations of income or principal to or for the benefit of the beneficiaries of the trusts hereunder. In addition to all other powers herein granted to the Benefits Trustees but subject to the provisions of Article EIGHTH hereof, the Grantors expressly authorize the Benefits Trustees, in the exercise of sole and absolute discretion:

1. To purchase, acquire, hold and maintain any residence (whether held as real property, condominium or cooperative apartment) for the use and benefit of such one or more of the beneficiaries of any trust, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, and, if the Benefits Trustees, in the exercise of sole and absolute discretion, determine that it would be in the best interests of the beneficiaries of any trust to maintain a residence for the use of such one or more of the beneficiaries, but that the residence owned by the Trustees should not be used for such purposes, the Trustees are authorized to sell said residence and to apply the net proceeds of sale to the purchase of such other residence or to make such other arrangements as the Benefits Trustees, in the exercise of sole and absolute discretion, deem suitable for the purpose, any proceeds of sale not needed for reinvestment in a residence as provided above to be added to the principal of the trust and thereafter held, administered and disposed of as a part thereof; to pay all carrying charges of such residence, including but not limited to, any taxes, assessments and maintenance thereon, and all expenses of the repair and operation thereof, including the employment of domestic servants and other expenses incident to the maintenance of a household for the benefit of one or more of the benefici­aries of the trust as the Benefits Trustees, in the exercise of sole and absolute discretion, shall determine; to expend such amounts to maintain the current life style of any one or more of the beneficiaries, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, including, but not limited to, complete authority to provide for the personal care and comfort of any one or more of the beneficiaries in any manner whatsoever, and in the case of any trust created under Article EIGHTH of this Agreement for the benefit of the Surviving Spouse, such occupancy or use shall be rent-free and any other condition shall be consistent with the Grantors' intention that the Surviving Spouse have that degree of beneficial enjoyment of the trust property during life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust, so that the Surviving Spouse's interest is a qualifying income interest for life for purposes of the marital deduction (and the power conferred upon the Benefits Trustees by this subparagraph 1 shall usurp the powers of the Investment Trustees to the extent the Benefits Trustees so direct in an acknowledged, written instrument delivered to the Investment Trustees);

2. To purchase, acquire, hold and maintain as a part of each trust created hereunder any and all articles of tangible personal property for the use and benefit of the beneficiaries of any trust, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, whether such property is productive, underproductive or unproductive of income, and without any duty to convert such property to productive property, subject, however, to the right of the Surviving Spouse to demand that any property held in any trust created under Article EIGHTH of this Agreement for the benefit of the Surviving Spouse be made productive; to pay the expenses of safekeeping of any such property, including insurance, and all expenses of the repair and maintenance of such property, and to sell such property and to apply the net proceeds of sale to the purchase of such other property as the Benefits Trustees, in the exercise of sole and absolute discretion, deem suitable for the purpose (and the power conferred upon the Benefits Trustees by this subparagraph 2 shall usurp the powers of the Investment Trustees to the extent the Benefits Trustees so direct in an acknowledged, written instrument delivered to the Investment Trustees);

3. To permit any one or more of the beneficiaries of any trust hereunder, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, to occupy any real property and to use any tangible personal property forming part of the trust estate on such terms as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, whether for rent, rent‑free in consideration of payment of taxes, insurance, maintenance or ordinary repairs, or otherwise and, in the case of any trust created under Article EIGHTH of this Agreement for the benefit of the Surviving Spouse, such occupancy or use shall be rent-free and any other condition shall be consistent with the Grantors' intention that the Surviving Spouse have that degree of beneficial enjoyment of the trust property during life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust, so that the Surviving Spouse's interest is a qualifying income interest for life for purposes of the marital deduction;

4. To divide the trust, into one or more separate trusts for the benefit of one or more of the beneficiaries (to the exclusion of the other beneficiaries) of the trust so divided, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine and to allocate to such divided trust some or all of the assets of the trust estate for any reason including, but not limited to, enabling any such trust or trusts to qualify as an eligible shareholder of a Subchapter S corporation as described in section 1361(d)(3) of the Code, or for any other purpose as the Benefits Trustees, in the exercise of sole and absolute discretion, determine;

5. Except with respect to any trust created under Article EIGHTH of this Agreement for the benefit of the Surviving Spouse, to grant a term of years interest or a life estate to any one or more of the beneficiaries of any trust created hereunder, as the Benefits Trustees, in the exercise of sole and absolute discretion, determine, and to terminate the same, retaining the reversionary interest in the trust or for the benefit of any other beneficiary of the trust and to make any property of the trust available for the use and benefit of any beneficiary hereunder;

6. To make distributions from any trust in kind or partially in kind and to cause any distributive share to be composed of cash, property or undivided fractional shares in property different in kind from any other distributive share, and without regard to the income tax basis of such property; and any property distributed in satisfaction of a distributive share shall be valued as of its date of distribution;

7. To make such elections under the tax laws as the Benefits Trustees, in the exercise of sole and absolute discretion, may determine to be appropriate, regardless of the effect thereof on any interests in any trust created under this Agreement, and to determine whether or not any adjustment of such interests shall be made by reason of any such election;

8. To make or terminate elections with respect to S corporation stock, and to make such adjustments between income and principal to compensate for the consequences of the trust's ownership of S corporation stock as the Benefits Trustees shall deem just and equitable; provided, however, that if the trust holds S corporation stock, the Benefits Trustees shall immediately take such actions to insure that the trust qualifies as either an Electing Small Business Trust within the meaning of section 1361(e)(1)(A) of the Code or a Qualified Subchapter S Trust within the meaning of section 1361(d)(3) of the Code and (A) if the Benefits Trustees seek to qualify the trust as an Electing Small Business Trust, the Benefits Trustees shall have the authority to exclude by an acknowledged, written instrument any person or organization from having any interest therein, and (B) if the Benefits Trustees seek to qualify the trust as a Qualified Subchapter S Trust, the Benefits Trustees shall not make (and no other Trustee hereunder shall be authorized to make) adjustments that would have the effect of denying to the income beneficiary the net income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S Trust under section 1361(d) of the Code; and no Trustee shall exercise any power conferred under this Article or under this Agreement that would have the effect of denying to the income beneficiary the net income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S Trust under section 1361(d) of the Code; and provided further, during the term of any trust created hereunder, (i) if the Trustees sell any interest in a corporation or if the assets of any entity constituting a corporation in which the trust has an ownership interest are sold, and (ii) if that corporation has made an election to be taxed under Subchapter S of the Code, then in the sole and absolute discretion of the Benefits Trustees, the Trustees may distribute to the income beneficiary such amounts of principal as shall be necessary to pay any income tax caused by that sale, if the income or gain attributable to that sale is taxed directly to the income beneficiary under applicable federal tax law;

9. To delegate any duties or powers, discretionary or otherwise, to a co‑fiduciary or any other person or institution for such periods and upon such terms and conditions as may be designated in an acknowledged, written instrument delivered to such co‑fiduciary, other person or institution; and if such duties or powers are delegated to a co-fiduciary, the fiduciary so delegating any duties or powers hereunder shall have no further responsibility with respect to the exercise of such duties or powers so long as such delegation shall remain in effect; and any such delegation shall be revocable by a similar instrument so delivered at any time provided, however, that no duties or powers described in the paragraph hereunder entitled "Restrictions on Trustees Who are Beneficiaries" of Article SIXTEENTH hereof may be delegated to an individual who is prohibited therein from participating in the exercise of such duties or powers;

10. To keep assets held hereunder or the physical evidence of their ownership in any state or country whatsoever, and from time to time to move the same to any other state or country;

11. To appoint, employ and remove at any time and from time to time any accountants, attorneys, investment or other expert advisers, agents, clerks and employees; and to fix and pay their reasonable compensation; and to delegate discretionary authority to make changes in investments to investment counsel; and

12. To execute and deliver any and all instruments to carry out any of the foregoing powers, no party to any such instrument being required to inquire into the validity of any such instrument, and generally to deal with any trust estate created hereunder as in the Benefits Trustees' judgment the best interests of such trust may require.

## C. Powers of Administrative Trustee.

In addition to all other powers herein granted to the Administrative Trustee, the Grantors expressly authorize the Administrative Trustee, in the exercise of sole and absolute discretion:

1. To maintain books and records of the trusts created hereunder;

2. To prepare and file or to arrange for the preparation and filing of all tax returns required to be filed by any trust created hereunder;

3. To the extent deemed appropriate by the Investment Trustees, to maintain custody of all assets of the trusts created hereunder (other than real property and other than tangible personal property which the Benefits Trustees, in the exercise of sole and absolute discretion, may determine to make available for the use of any beneficiary hereunder);

4. To undertake any other duties to assist the Investment Trustees as the Investment Trustees, in the exercise of sole and absolute discretion, may determine to be appropriate;

5. To implement without responsibility therefor any decisions of the Investment Trustees or the Benefits Trustees hereunder;

6. To appoint, employ and remove, at any time and from time to time, any accountants, attorneys, expert advisers, agents, clerks and employees in furtherance of fulfilling the responsibilities of Administrative Trustee hereunder, and to pay them such reasonable compensation for their services as approved by the Investment Trustees;

7. While no corporate fiduciary is acting as to the trust estate, to place and leave all or any part of the funds or securities at any time held by any trust estate in the care and custody of any bank or trust company, with no obligation while such securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank or trust company or its nominee; to appoint such bank or trust company the agent and attorney of the Trustees to collect, receive, receipt for and disburse any income, and generally to perform the duties and services incident to a so‑called "custodian account;" and to allocate the charges and expenses of such bank or trust company to income or to principal or partially to income and partially to principal as the Trustees determine; and

8. To execute and deliver any and all instruments to carry out any of the foregoing powers, no party to any such instrument being required to inquire into its validity or to see to the application of any money or other property paid or delivered pursuant to the terms of any such instrument.

## D. Trustees' Powers Exercised Without Court Authorization.

The powers granted to the Trustees hereunder in and by this Agreement may be exercised in whole or in part and from time to time, and without court authorization, and shall be deemed to be supplemental and not exclusive, it being the Grantors' intention that the Trustees hereunder shall have all of the general powers of fiduciaries as well as all of the special powers herein expressly granted, and all powers incidental to, reasonably to be implied from or necessary to the proper exercise of, the special powers herein enumerated (subject, however, to the division of responsibilities between the Investment, Benefits and Administrative Trustees hereunder). If any power is not specifically granted to the Benefits Trustees, Investment Trustees or Administrative Trustee hereunder, such power shall be exercisable solely by the Benefits Trustees.

## E. "Prudent Person" Rule Waived.

In addition to the investment powers conferred above (but subject to the provisions of Article EIGHTH hereof), the Investment Trustees are authorized (but is not directed) to acquire and retain investments not regarded as traditional for trusts, including investments that would be forbidden by the "prudent person" or "prudent investor" rule, or any other rule or law which restricts a fiduciary's capacity to make investments. The Investment Trustees, in the exercise of sole and absolute discretion, may invest in any type of property, wherever located, including any type of security or option, improved or unimproved real property, and tangible or intangible personal property, and in any manner, including direct purchase, joint ventures, partnerships, limited partnerships, limited liability companies, corporations, mutual funds, business trusts or any other form of participation or ownership whatsoever. In making investments, the Investment Trustees may disregard all of the following factors:

1. Whether a particular investment, or the trust investments collectively, will produce a reasonable rate of return or result in the preservation of principal.

2. Whether the acquisition or retention of a particular investment or the trust investments collectively are consistent with any duty of impartiality as to the different beneficiaries. The Grantors intend that no such duty shall exist and hereby waive any such duty which otherwise would exist.

3. Whether the trust is diversified. The Grantors intend that no duty to diversify shall exist and hereby waive any such duty which otherwise would exist.

4. Whether any or all of the trust investments would traditionally be classified as too risky or speculative for trusts. The entire trust may be so invested. (The Grantors intend the Investment Trustees to have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy.)

The Grantors' purpose in granting the foregoing authority is to modify the "prudent person" rule, "prudent investor" rule, or any other rule or law which restricts a fiduciary's ability to invest insofar as any such rule or law would prohibit an investment or investments because of one or more factors listed above, or any other factor relating to the nature of the investment itself. The Grantors do this because the Grantors believe it is in the best interests of the beneficiaries of the trusts created hereunder to give the Investment Trustees broad discretion in managing the assets of the trusts created hereunder. Accordingly, the Investment Trustees shall not be liable for any loss in value of an investment merely because of the nature of the investment or the degree of risk presented by the investment.

## F. Division and Combination Provision.

The Benefits Trustees, in the exercise of sole and absolute discretion, are authorized to divide (whether before or after any trust is funded and whether before or after any allocation of GST exemption under section 2631 of the Code is made to property passing to a trust created under this Agreement) any trust or any property used or to be used to fund or augment any trust created hereunder into two or more fractional shares. The shares shall be held and administered by the Benefits Trustees as separate trusts but may be managed and invested in solido. One of the purposes for granting this authority is to provide an inclusion ratio (within the meaning of section 2642(a) of the Code) of zero for the separate trust receiving the fractional share to which the allocation of GST exemption is made.

If two trusts created under this Agreement are directed to be combined into a single trust (for example, because property of one trust is to be added to the other), whether or not the trusts have different inclusion ratios with respect to any common transferor or have different transferors in whole or in part for generation-skipping transfer tax purposes, the Benefits Trustees are authorized, in the exercise of sole and absolute discretion, instead of combining the trusts, to hold and administer them as separate trusts with identical terms in accordance with the provisions that would have governed the combined trusts. However, the Benefits Trustees may manage and invest such separate trusts in solido. If anyone adds or is deemed to add by gift or bequest property to a trust created hereunder, the Benefits Trustees, in the exercise of sole and absolute discretion, are authorized to hold the added property as a separate trust with terms identical to the trust to which it would have been added and the Benefits Trustees may manage and invest such separate trusts in solido.

The Benefits Trustees are authorized, in the exercise of sole and absolute discretion, to combine any one or more trusts with identical terms for an identical beneficiary or beneficiaries created under this Agreement as a single trust. The Benefits Trustees are also authorized, in the exercise of sole and absolute discretion, later to divide such trust as provided above in this Article. Without in any way limiting the discretion of the Benefits Trustees granted by this Article, it is envisioned that the Benefits Trustees will not elect to combine two or more trusts with different inclusion ratios for generation-skipping transfer tax purposes.

Any division or combination effected by the Trustees pursuant to this paragraph F shall be manifested by an acknowledged, written instrument executed by the Trustees, a copy of which shall be delivered by first class mail or in person to each beneficiary then eligible or entitled to receive distributions from the trust or trusts with resect to which the division or combination is taken.

## G. Special Trustee Liability Provision.

The Grantors recognize that some persons may be hesitant to serve as Trustees hereunder because of a concern about potential liability. Therefore, the Grantors direct that with respect to any trust created hereunder, in the case of any Trustee (i) such Trustee shall not incur any liability by reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken in connection with the administration of any trust created hereunder if in good faith reasonably believed by such Trustee to be in accordance with the provisions and intent hereof, except for matters involving such Trustee's own willful misconduct or gross negligence proved by clear and convincing evidence, (ii) the Investment Trustees shall not have any fiduciary responsibility to observe, monitor or evaluate the actions of the Benefits Trustees or the Administrative Trustee and shall not be liable to any party for the failure to seek to remedy a breach of trust, or in a recurring situation to request instructions from a court having jurisdiction over the trust, even if a Trustee may be guilty of a gross violation of fiduciary duties hereunder, (iii) the Benefits Trustees shall not have any fiduciary responsibility to observe, monitor or evaluate the actions of the Investment Trustees or the Administrative Trustee and shall not be liable to any party for the failure to seek to remedy a breach of trust, or in a recurring situation to request instructions from a court having jurisdiction over the trust, even if a Trustee may be guilty of a gross violation of fiduciary duties hereunder, (iv) the Administrative Trustee shall not have any fiduciary responsibility to observe, monitor or evaluate the actions of the Investments or the Benefits Trustees and shall not be liable to any party for the failure to seek to remedy a breach of trust, or in a recurring situation to request instructions from a court having jurisdiction over the trust, even if a Trustee may be guilty of a gross violation of fiduciary duties hereunder, and (v) each Trustee shall be fully indemnified by the trust estate against any claim or demand by any trust beneficiary or trust creditor, except for any claim or demand based on such Trustee's own willful misconduct or gross negligence proved by clear and convincing evidence. Expenses incurred by a Trustee in defending any such claim or demand shall be paid by the trust estate in advance of the final disposition of such claim or demand upon receipt of an undertaking by or on behalf of such Trustee to repay such amount if it shall ultimately be determined that such Trustee is not entitled to be indemnified as authorized by this paragraph. In no event shall any Trustee hereunder be liable for any matter with respect to which he, she or it is not authorized to participate hereunder (including the duty to review or monitor trust investments).

## H. Intent to Qualify For Marital Deduction.

Notwithstanding anything in this Article or in this Agreement to the contrary, the powers granted to the Trustees hereunder are subject to the right of the Surviving Spouse to demand that any property held in any trust created under Article EIGHTH hereof for his or her benefit be made productive and such powers shall only be exercised in such manner as will not disqualify such trust for the marital deduction.

# ARTICLE fifteenth

# TRUSTEES PROVISIONS

## Trustees.

If either \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ceases to act as Benefits Trustee and/or Investment Trustee, the other of them shall act as sole Benefits Trustee and/or Investment Trustee.

## Appointment of Successor Trustee.

During either of the Grantors' lifetime (other than during such time that both of the Grantors are determined to be incapacitated pursuant to paragraph C of this Article), if at any time there is no Investment Trustee, no Administrative Trustee and/or no Benefits Trustee serving hereunder, the Grantors or the Grantor who is not incapacitated as the case may be, shall appoint such individual, bank or trust company as the Grantors, or the Grantor who is not incapacitated, as the case may be, in the exercise of sole and absolute discretion shall select, to act as successor Investment Trustee, successor Administrative Trustee, or successor Benefits Trustee, as the case may be. Any such appointment shall be made by an acknowledged, written instrument delivered to the Trustees.

## Trustee Upon Incapacity of Grantor.

If either Grantor, or any other Trustee, becomes incapacitated, he or she shall cease to act as a Trustee hereunder. If both Grantors become incapacitated or otherwise cease to act as Trustees hereunder during their lifetimes, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is appointed to act as the Benefits Trustee and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, is appointed to act as the Investment Trustee. For all purposes of this Agreement, a Trustee will be considered incapacitated if (i) such Trustee's spouse, if living and not incapacitated, (ii) such of the Trustee's children, if any, who are living and not incapacitated and (iii) such Trustee's attending physician (or, if none, a physician chosen by such Trustee's spouse if living and not incapacitated or, if the spouse is not living or is incapacitated, by such Trustee's eldest living descendant who is not incapacitated) unanimously conclude and evidenced by an acknowledged, written instrument executed by them and delivered to the Trustees that such Trustee is having substantial difficulty managing such Trustee's financial affairs and that substantial difficulty is not expected to be short-term.

## Trustee After First Decedent's Death.

1. Upon the death of the First Decedent, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed the Investment Trustee and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed the Benefits Trustee of all trusts hereunder (including the "wind-up" of any trust which terminates upon the death of the First Decedent or the death of the Surviving Spouse) other than any trust under Article TENTH hereof.

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed the Investment Trustee and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed the Benefits Trustee of any trust of which \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a primary beneficiary under Article TENTH hereof.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed the Investment Trustee, and an individual (not ineligible to act as Benefits Trustee under paragraph F of this Article) or a bank or trust company selected by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by an acknowledged, written instrument is appointed the Benefits Trustee of any trust of which a grandchild or more remote descendant of the Grantors is a primary beneficiary under Article TENTH hereof.

## Trustee Acting in More Than One Capacity.

A Trustee acting hereunder can act simultaneously as Investment Trustee and/or as Benefits Trustee (if not ineligible to act as a Benefits Trustee under paragraph F of this Article) and/or as Administrative Trustee, if appointed to so act hereunder.

## Benefits Trustee.

No individual, other than a Grantor, who is a beneficiary then eligible to receive a distribution from any trust hereunder may be appointed as a "Benefits Trustee" of any trust hereunder. No spouse or former spouse of any descendant of the Grantors shall ever serve as a Trustee hereunder.

## Appointment Of Co-Trustee.

At any time that there is an Investment Trustee, a Benefits Trustee and an Administrative Trustee of a trust acting hereunder (and whether or not one person is acting in all of those capacities) the Trustee or Trustees of a trust acting hereunder are authorized (but not directed), by an acknowledged, written instrument delivered to the adult and competent beneficiaries then eligible to receive a distribution from the trust hereunder and to the parents or guardians of the minor or incompetent beneficiaries then eligible to receive a distribution from the trust hereunder, to appoint as co-Trustee or co-Trustees of the trust such individual or individuals or such bank or trust company (wherever located) as the Trustee or Trustees, in the exercise of sole and absolute discretion, shall select; provided, however, that no co-Benefits Trustee shall be appointed without the consent of the then-acting Benefits Trustee(s) (and must be eligible to be a Benefits Trustee under paragraph F of this Article), no co-Investment Trustee shall be appointed without the consent of the then-acting Investment Trustee(s), and no co-Administrative Trustee shall be appointed without the consent of the then-acting Administrative Trustee(s). In addition, the Trustee or Trustees acting hereunder are authorized (but not directed) to appoint the individual who is the primary beneficiary of a trust created hereunder as an Investment Trustee of such trust at such time, if any, as the Trustees believe that it would be appropriate to do so. The Grantors are not granting to such individual the right to serve as an Investment Trustee hereunder but are merely granting the Trustees the authority to make such appointment.

## No Trustee Upon the Grantor's Death or Incapacity.

Upon and after the Surviving Spouse's death or during such time that either or both Grantors are living but have been determined to be incapacitated pursuant to paragraph C of this Article, if there is no Investment Trustee acting as to a trust hereunder, the successor Investment Trustee(s) shall be such individual or individuals or such bank or trust company (including any person already acting as a Benefits Trustee or an Administrative Trustee hereunder) as shall be designated in the manner set forth under paragraph J of this Article.

Upon and after the Surviving Spouse's death or during such time that either or both Grantors are living but have been determined to be incapacitated pursuant to paragraph C of this Article, if there is no Administrative Trustee acting as to a trust hereunder, the successor Administrative Trustee(s) shall be such individual or individuals or such bank or trust company (including any person already acting as a Benefits Trustee or an Investment Trustee hereunder) as shall be designated in the manner set forth under paragraph J of this Article; provided, however, that any Administrative Trustee must be domiciled in the same jurisdiction as the Administrative Trustee being replaced, unless the Benefits Trustee consents to the appointment of an Administrative Trustee domiciled in a different jurisdiction.

Upon and after the Surviving Spouse's death or during such time that either or both Grantors are living but have been determined to be incapacitated pursuant to paragraph C of this Article, if there is no Benefits Trustee acting as to a trust hereunder, the successor Benefits Trustee(s) shall be such individual or individuals (not ineligible to act as Benefits Trustee under paragraph F of this Article) or such bank or trust company (including any person already acting as an Investment Trustee or an Administrative Trustee hereunder) as shall be designated in the same manner set forth under paragraph J of this Article.

## Removal of Trustee Upon the Grantor's Death of Incapacity.

Upon and after the Surviving Spouse's death or during such time that either or both Grantors are living but have been determined to be incapacitated pursuant to paragraph C of this Article, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ during any time that he is competent, whether or not he is acting as a Trustee, is authorized, but not more frequently than once every three calendar years, to remove any Trustee acting hereunder and to designate a successor Trustee in such Trustee's place; provided, however, that he may not appoint, remove, or as successor Trustee, an individual or bank or trust company that is related or subordinate to him within the meaning of section 672(c) of the Code.

Upon and after the Surviving Spouse's death or during such time that either or both Grantors are living but have been determined to be incapacitated pursuant to paragraph C of this Article, if \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is not then living or during any time that he is not competent, the majority of the Grantors' then living and competent adult descendants who are then eligible to receive distributions of a trust hereunder may, not more frequently than once every three years, remove any Trustee acting of that trust and designate a successor Trustee in such Trustee's place; provided, however, that no successor Trustee so removed or appointed hereunder shall be an individual or bank or trust company that is related or subordinate within the meaning of section 672(c) of the Code to any such descendant.

Any removal of a Trustee and designation of a successor Trustee pursuant to this paragraph I shall be evidenced by an acknowledged, written instrument delivered to the Trustees.

## Appointment of Successor Trustees.

(i) In the event that there is no Investment Trustee acting as to a trust hereunder, the successor Investment Trustee(s), or (ii) in the event there is no Administrative Trustee acting as to a trust hereunder the successor Administrative Trustee(s), or (iii) in the event there is no Benefits Trustee acting as to a trust hereunder, the successor Benefits Trustee(s), as the case may be, shall be designated (a) by majority vote of the Grantors' children as are then living and competent, or, if none, (b) by majority vote of the Grantors' three (3) eldest adult and competent descendants (or all of such descendants if there are fewer than three (3) then adult and competent) who are able and willing to do so (or with respect to any trust under Article TENTH hereof, the three (3) eldest adult and competent descendants of the Grantors [or all of such descendants if there are fewer than three (3) then adult and competent] who are then eligible to receive distributions from the trust), or if none (c) by majority vote of the parent(s), guardian(s) of the person, conservator(s) or committee of the Grantors' then living three (3) eldest descendants (or all of such descendants if there are fewer then three (3) then living), or with respect to any trust under Article TENTH hereof, of the three (3) eldest (or all of such descendants if there are fewer than three (3) then living) descendants of the Grantors who are then eligible to receive distributions from the trust, with the parent(s), guardian(s) of the person, conservator(s) or committee of each minor or incompetent descendant collectively having only one vote.

Any appointment of a successor Trustee pursuant to this paragraph shall be evidenced by an acknowledged, written instrument delivered to the Trustee so appointed.

Notwithstanding anything contained herein to the contrary, unless the Benefits Trustee has determined to change the situs of the trust from Alaska, at least one (1) Trustee must at all times be an individual or a bank or trust company domiciled in Alaska.

## Acceptance.

The acceptance of trusteeship by any Trustee not a party to this Agreement shall be evidenced by an acknowledged, written instrument delivered to the Grantors, if then living and competent, and to the then acting Trustee or Trustees or, if no Trustee is then acting, to the persons then authorized to appoint a successor Trustee hereunder.

## Resignation.

Any Trustee may resign from office of one or all of the trusts of which he, she or it is acting hereunder without leave of court at any time and for any reason. Such resignation shall be made by an acknowledged, written instrument delivered in person or by registered mail to the Trustee, or, if there is no Trustee then in office, to the Grantors, or, if the Grantors are not then living, to the adult beneficiaries of the trust then eligible to receive distributions from the trust or, if none, to the guardians of the beneficiaries then eligible to receive distributions from the trust, or if no such guardians are serving, to the persons with whom such beneficiaries reside.

## Retirement.

Any individual (other than the Grantors or a descendant of the Grantors) who serves as a Trustee hereunder from time to time shall cease to serve upon reaching the age of seventy (70) years (provided that if \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is acting as a Trustee hereunder, he shall cease to serve upon reaching the age of eighty (80) years).

## Rights and Duties of Successor Trustee.

Upon appointment of a successor Trustee and the assignment, transfer and conveyance of the trust estate to such successor Trustee, and obtaining receipt therefor, a Trustee shall be released and discharged from any and all claims, demands, duties and obligations arising out of this Agreement and the management of the trust estate hereunder, excepting only claims based upon the Trustee's dereliction of duty. The successor Trustee shall have all the rights, duties, powers, discretions and immunities of the original Trustee, including the right to appoint a successor trustee. No successor Trustee shall be obligated to investigate the acts of a prior Trustee, except upon written request of any beneficiary, who shall pay the costs thereof.

## Term of Trustees' Duties.

The title, powers, duties, immunities and discretions herein conferred upon the Trustees shall continue after the termination of each trust hereby created until final distribution of the particular trust estate.

## Bond.

Except as provided by law, no bond or security of any kind shall be required of any Trustee acting hereunder. If notwithstanding the foregoing direction any bond is required by any law, statute or rule of court, no sureties shall be required thereon.

## Accounting.

No Trustee acting hereunder shall be under a duty to render a judicial accounting periodically, or upon resignation, or otherwise, provided, however, that the expenses of any accounting for a resigning Trustee shall be a proper charge against the trust estate.

## Merger.

Any corporation resulting from any merger, conversion, reorganization or consolidation to which any corporation acting as Trustee hereunder shall be a party, or any corporation to which shall be transferred all or substantially all of any such corporation's trust business, shall be the successor of such corporation as Trustee hereunder, without the execution or filing of any instrument or the performance of any further act and shall have the same powers, authorities and discretions as though originally named in this Trust Agreement; provided, however, that in the case of any corporation that is acting as a Trustee hereunder, the provisions of this paragraph shall apply only if the resulting or transferee corporation is domiciled in the same jurisdiction as the corporation that was acting as Trustee.

## Authorization of Conflict of Interest.

The Grantors have appointed the individuals named in this Article as Trustees hereunder cognizant of the fact that they may also serve as general and limited partners, directors, officers, accountants and/or employees with respect to the partnerships and corporations which form a substantial part of the trust estate and that their interests as Trustees may conflict with their individual interests as such general and limited partners, directors, officers, accountants and/or employees. Notwithstanding the foregoing, the Grantors wish these individuals to serve as Trustees because of the Grantors' confidence in their individual skills and because they are the most appropriate individuals as a result of their involvement with the partnerships and corporations to manage and operate the partnerships and corporations including making decisions related to the sale of any real property held by any such partnership or corporation and the reinvestment of the proceeds of sale in a new real estate project. In addition, the Grantors expressly authorize any Trustee to act as a general and limited partner, director, officer, accountant and/or employee with respect to the said partnerships and corporations and to receive from the said partnerships and corporations compensation for his or her services.

## Trustee Has Absolute Discretion.

The Trustees shall have full and complete discretion in the exercise of the powers given him or her, and his or her determination as to matters left to his or her judgment or decision shall, to the extent permitted by law, be final and conclusive on all persons, and the Trustee may exercise his or her powers from time to time in respect of all or any part of such property.

## Indemnification Provisions.

To the extent not prohibited by law, the Grantors direct that if \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the Peak Trust Company-AK shall be acting in any capacity with respect to this Agreement (including, but not limited to, as a Trustee), except for their own willful misconduct or wantonness proved by clear and convincing evidence, they shall not incur any liability by reason of any error of judgment, mistake of law, or action of any kind taken or omitted to be taken under this Agreement if taken or omitted to be taken in good faith. To the extent not prohibited by law, the Grantors direct that if a judgment is entered in any action of any kind brought by a beneficiary of this trust against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the Peak Trust Company-AK on a standard of evidence of less than clear and convincing evidence and/or for any ground other than their own willful misconduct or wantonness, the assets then held under this Agreement (other than any fund which holds assets for which a marital and/or charitable deduction was or is allowable for Federal estate tax purposes in the Grantors' estates) shall be used to indemnify and make them whole for such judgment and any reasonable expenses (including but not limited to attorney's fees) incurred by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the Peak Trust Company-AK in connection therewith ("judgment plus costs") and there shall be transferred to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the Peak Trust Company-AK such assets held under this Agreement (other than any fund which holds assets for which a marital and/or charitable deduction was or is allowable for Federal estate tax purposes in the Grantors' estates) equal to such judgment plus costs. For purposes of this paragraph, all references to this Agreement shall be deemed to refer also to any amendments to this Agreement.

## Trustee Acting In Fiduciary Capacity.

Every act done, power exercised or obligation assumed by any Trustee pursuant to the provisions of this Agreement shall be held to be done, exercised or assumed, as the case may be, by the Trustee acting in a fiduciary capacity and not otherwise, and every person, firm or corporation contracting or otherwise dealing with the Trustee shall look only to the funds and property of the trust estate for payment under such contract or payment of any money that may become due or payable under any obligation arising under this Agreement, in whole or in part, and the Trustee shall not be individually liable therefor even though the Trustee did not exempt the Trustee from individual liability when entering into any contract, obligation or transaction in connection with or growing out of the trust estate.

## Compensation During Grantors' Life.

Until the death of the survivor of the Grantors, the Trustee shall receive such compensation for services hereunder as is agreed upon by the Grantors (or the Surviving Spouse) and each Trustee; provided, however, that if neither Grantor is competent, the Trustee shall be compensated as agreed upon by the Grantors' children and each Trustee; and provided further, that any child or grandchild of the Grantors who may become a Trustee hereunder shall serve without compensation until the death of the Surviving Spouse.

## Compensation After Surviving Spouse's Death.

After the Surviving Spouse's death, each Trustee shall receive such reasonable compensation for services hereunder as is agreed upon by the Trustee and the adult and competent beneficiaries acting by majority vote from time to time eligible to receive income from the trust, or, if there are no such adult and competent beneficiaries, as agreed upon by the Trustee and the majority vote of the parents or guardians of the then living minor or incompetent descendants of the Grantors who are beneficiaries of the trust eligible to receive income from the trust (with the parent(s) or guardian(s) of each minor or incompetent descendant collectively having only one vote).

# ARTICLE SIXTEENTH

# RESTRICTIONS ON CERTAIN TRUSTEES AND OTHER MATTERS

## Restrictions on Trustees Who are Beneficiaries.

Notwithstanding any other provision of this Agreement (including, but without limitation, any power specifically conferred upon a Trustee hereunder), no Trustee who is currently eligible or entitled to receive income or principal of any trust created hereunder shall ever participate as a Trustee of that trust in (i) the exercise, or decision not to exercise, any discretion over beneficial payments, distributions, applications, uses or accumulations of income or principal to or for the benefit of a beneficiary by the Trustee, (ii) any decision about whether or not to change the situs of the trust, (iii) the exercise or decision not to exercise any power as Trustee to disclaim any property or power, (iv) any power of a Benefits Trustee hereunder, or (v) the exercise of any general power of appointment described in section 2041 or 2514 of the Code. If any Trustee is under a duty to support a beneficiary or is acting as a guardian, conservator or committee of any person who is a beneficiary, such Trustee shall not participate in the exercise, or decision not to exercise, any discretion over payments, distributions, applications or uses of trust property to or for the benefit of a beneficiary in discharge of any obligation of support. No Trustee shall participate in the exercise of any discretion (including, but without limitation, any discretion which would constitute an "incident of ownership" within the meaning of section 2042(2) of the Code) with respect to any insurance policy on his or her life held hereunder. In each case, the determination of the remaining Trustees or Trustee shall be final and binding upon the beneficiaries of such trust. In addition, no individual shall serve as Trustee of any trust which holds property with respect to which such individual has made a qualified disclaimer within the meaning of section 2518 of the Code.

## Restrictions of Beneficiary who Disclaims.

Notwithstanding any other provision of this Agreement, if the Surviving Spouse or any other beneficiary disclaims any interest created under this Agreement within nine (9) months of the First Decedent's death, and the Surviving Spouse or such other beneficiary is acting as a fiduciary under this Agreement, neither the Surviving Spouse nor such other beneficiary shall participate in any of the elections (including any allocation and any division of property) hereinabove described which affects any property so disclaimed by such individual.

## Power to Confer General Power of Appointment.

With respect to any trust held for a primary beneficiary under Article TENTH hereof, the Trustees hereunder (other than any beneficiary of any trust hereunder) may, in the exercise of sole and absolute discretion, with respect to all or any part of the principal of the trust (including a pecuniary amount), by an instrument filed with the trust records, (a) confer on such primary beneficiary a general power of appointment within the meaning of section 2041 of the Code (including a power the exercise of which requires the consent of the Trustees other than any beneficiary) that may be exercised by deed or will but that may take effect only upon the death of such primary beneficiary and may dispose only of the principal as then constituted, (b) eliminate such power for all or any part of such property as to which such power was previously created, (c) irrevocably release the right to create or eliminate such power, and (d) divide the trust property into two fractional shares based upon the portion of the trust that would be includible in the gross estate of the primary beneficiary holding such power if he or she died immediately before such division (in which case the power thereafter shall extend to all of one share and no part of the other), and each such share shall be administered as a separate trust unless the Trustees (other than any beneficiary), in the exercise of sole and absolute discretion, thereafter shall combine such separate trusts into a single trust, which the Trustees may do. In authorizing such action it is the Grantors' hope (but not direction) that a general power will be kept in effect when the Trustees (other than any beneficiary) believe the inclusion of the property affected thereby in the primary beneficiary's gross estate may achieve a significant savings in taxes, for example by having an estate tax rather than a generation‑skipping transfer tax imposed on the property subject to the general power, or by permitting a greater use of the primary beneficiary's GST exemption under section 2631(a) of the Code.

# ARTICLE SEVENTEENTH

# ADDITIONAL PROPERTY

The Grantors, or any other person, may from time to time transfer and deliver, or may bequeath or devise by Last Will and Testament, to the Trustees any property acceptable to the Trustees which shall be held and disposed of in all respects subject to the provisions of this Agreement.

# ARTICLE EIGHTEENTH

# LIFE INSURANCE

The Trustees shall take appropriate action to collect all sums payable under the provisions of or in settlement of any insurance policies, at maturity or otherwise, to which the Trustees may become entitled as the beneficiary named in such policies. The Trustees, however, shall not be responsible for inability to enforce collection of any proceeds or amounts payable under such policies. The Trustees shall not be obligated to enter into or maintain any litigation to enforce payment of any such policies until the Trustees shall have been satisfactorily indemnified against all expenses and liabilities which the Trustees, in the exercise of sole and absolute discretion, may deem incident to such litigation, and the Trustees may utilize any property held hereunder to meet expenses reasonably incurred in connection with enforcing the payment of such policies.

The Trustees shall be under no duty whatever to make payments of any premiums, dues, assessments, interest or other charges which may become due and payable on any policy of insurance held hereunder or to which the Trustees are designated as the beneficiary or to see that such payments are made or to notify the insured or any other persons that such payments are or will become due, and the Trustees shall have no responsibility in case such premiums, dues, assessments or other charges are not paid. With respect to any policies of insurance held hereunder, the Trustees, in the exercise of sole and absolute discretion, may make payment of the premiums thereon out of income or principal of the trust estate.

# ARTICLE NINETEENTH

# Ninety Day rule

## Predeceased Descendant Rule.

The Grantors intend to take full advantage of the special rule under section 2651(e) of the Code for transfers to great-grandchildren (and more remote descendants) of the Grantors' parents who are descendants of a predeceased descendant of the Grantors' parents, with respect to any property held in trust under this Agreement for the benefit of descendants of the Grantors' parents who are descendants of a predeceased descendant of the Grantors' parents, and the provisions of this Agreement shall be construed consistent with and to carry out that intent.

## Certain Persons Treated as Predeceasing.

(1) If any person dies within ninety (90) days after a Grantor's death, the termination of any trust created hereunder or any other event covered by Treas. Reg. 26.2612-1(a)(2), as the case may be, or within any analogous or comparable period specified in regulations or proposed regulations under section 2651(e) of the Code, and (2) if such person had not, in fact, survived that Grantor's death, the trust termination or the other event, as the case may be, such failure to survive would have caused the special rule relating to a predeceased child or other descendant under section 2612(c)(2) or under section 2651(e) of the Code to apply to any property passing under this Agreement, then the Grantors direct that such person shall be treated with respect to such property as having predeceased that Grantor, the trust termination or other event, as the case may be, so that in accordance with Treas. Reg. 26.2612-1(a)(2) or any regulations or proposed regulations under section 2651(e) of the Code, as the case may be, the special rule under section 2612(c)(2) or under section 2651(e) of the Code, as the case may be, shall apply with respect to such property.

# ARTICLE twentieth

# INTENT TO CREATE ALASKA TRUST

It is the Grantor's intention that the trusts created under this Agreement be trusts described in Alaska Statutes ("AS") 34.40.110, 13.36.035(a) and (c). Accordingly, unless the Benefits Trustee determines to move the situs of a trust hereunder to another jurisdiction in accordance with paragraph B of Article TWENTY-SECOND hereof, (a) notwithstanding the provisions of AS 13.36.080 or any other provision of Alaska law, the Trustees shall have no duty to inform the current or future beneficiaries of the trusts created under this Agreement of (i) the court in which the trust is registered and (ii) the Trustees' names and addresses and (b) the Grantor directs that (i) at all times at least one Trustee of each trust shall be a "qualified person" under AS 13.36.390(2), (ii) the duties of that Trustee, regardless of whether that Trustee is acting in the capacity of Investment, Benefits and/or Administrative Trustee, shall include the duty and responsibility to maintain books and records of the trust in Alaska and to prepare or to arrange for the preparation of the tax returns of the trust, (iii) at least some assets of the trust shall be deposited in Alaska within the meaning of AS 13.36.035(c)(1), and (iv) at least part of the administration of the trust shall occur in Alaska within the meaning of AS 13.36.035(c)(4).

# ARTICLE TWENTy-first

# SPENDTHRIFT TRUST PROVISION

The interest of a beneficiary of any trust hereunder may not be either voluntarily or involuntarily transferred before the payment or delivery of the interest to the beneficiary by the Trustees, within the meaning of AS 34.40.110(a). No beneficial interest in any trust created hereunder, whether in income or in principal, shall be subject to anticipation, assignment, pledge, sale or transfer in any manner, and no beneficiary of any such trust or other person interested therein shall have the power to anticipate, encumber or charge his or her interest therein, and no trust estate created hereunder shall be liable for or subject to the debts, contracts, obligations, liabilities or torts of any beneficiary of any such trust or other person interested therein; provided, however, that nothing contained herein shall be construed as preventing any beneficiary from making a qualified disclaimer within the meaning of section 2518 of the Code with respect to interests herein.

# ARTICLE TWENTY-second

# GOVERNING LAW, SITUS AND BACK UP PERPETUITIES PROVISION

## Governing Law.

The validity, construction and effect of the provisions of this Agreement in all respects shall be governed and regulated according to and by the laws of the State of Alaska.

## Situs Of Property.

The original situs of the trusts created hereunder shall be Alaska. The situs of any trust created hereunder may be maintained in any jurisdiction (including outside the United States), as the Benefits Trustee, in the exercise of sole and absolute discretion, may determine, and thereafter transferred at any time or times to any jurisdiction selected by the Benefits Trustee. Upon any such transfer of situs, the trust estate may thereafter, at the election of the Benefits Trustee of said trust, be administered exclusively under the laws of (and subject, as required, to the exclusive supervision of the courts of) the jurisdiction to which it has been transferred. Accordingly, if the Benefits Trustee of any trust created hereunder elects to change the situs of any such trust, the Trustee of said trust are hereby relieved of any requirement of having to qualify in any other jurisdiction and of any requirement of having to account in any court of such other jurisdiction.

## Back-Up Perpetuities Provisions.

The trusts created hereunder shall be perpetual to the fullest extent permitted by Alaska law. If any trust created hereunder is deemed to be subject to the law of a jurisdiction that has a rule against perpetuities or similar rule which limits the period during which property can be held in trust, then such trust (other than a trust created by the exercise of a power of appointment conferred hereunder which exercise commences a new rule against perpetuities period under the law of such jurisdiction) shall terminate in all events upon the expiration of the longest period that property may be held in trust under this Agreement under the law of such jurisdiction (including any applicable period in gross, such as 21 years, 90 years or 110 years); provided, however, that if the jurisdiction has a rule against perpetuities or similar rule which applies only to certain types of property, such as real property, the provisions of this paragraph shall apply only to such property. If under the law of such jurisdiction the longest period that property may be held in trust may be determined (or alternatively determined) with reference to the death of the last survivor of a group of individuals in being upon the commencement of such rule against perpetuities period (or similar rule), those individuals shall consist of all of the descendants of the parents of both Grantors who were in being on the date of the commencement of such rule against perpetuities period (or similar rule). Upon termination of a trust pursuant to the provisions of this paragraph, the trust property shall be transferred, conveyed and paid over to such one or more of the class consisting of those persons who are eligible or entitled to receive the income of such trust, in such amounts and proportions, including all to one to the exclusion of the others, as the Benefits Trustee, in the exercise of sole and absolute discretion, may determine prior to such termination, or, to the extent the Benefits Trustee does not so effectively determine, to the primary beneficiary, or, if the primary beneficiary is not then living, to the then living descendants of the primary beneficiary, per stirpes, or, if no descendant of the primary beneficiary is then living, to the then living descendants, per stirpes, of the lineal ancestor of the primary beneficiary of the closest degree of consanguinity to the primary beneficiary which ancestor has descendants who are then living and which ancestor is (or was) also a descendant of the Grantors or which ancestors were the Grantors, or, if none, in accordance with the terms and conditions set forth in Article ELEVENTH hereof.

# ARTICLE TWENTY-third

# DEFINITIONS

## Child, Children, Descendant and Descendants.

For purposes of beneficial interests in the income and/or principal of any trust created hereunder, the words "child," "children," "descendant" and "descendants" as used herein shall include any individual adopted by the Grantors or by any descendant of the Grantors, and any descendant by blood or adoption of any such adopted individual.

## Spouse.

The term "spouse" as used herein shall mean the person to whom a descendant of the Grantors is lawfully married and with whom the descendant is living as husband and wife at the time any payment may be made to a spouse of a descendant during the descendant's lifetime or at the descendant's death, as the case may be. A person shall not fail to be treated as a spouse of a descendant merely on account of separation on account of medical, business, vacation, educational or similar reasons.

## Per Stirpes.

A disposition in this Agreement to the descendants of a person per stirpes, or described as per stirpital, shall be deemed to require a division into a sufficient number of equal shares to make one share for each child of such person living at the time such disposition becomes effective and one share for each then deceased child of such person having one or more descendants then living, regardless of whether any child of such person is then living, with the same principle to be applied in any required further division of a share at a more remote generation.

## Trustees.

Whenever the terms "Trustee" and "Trustees" are used in this Agreement, they shall be deemed to refer to the Trustee or Trustees acting hereunder from time to time, and shall be construed as masculine, feminine or neuter and in the singular or plural, as the sense requires.

## Qualified Charitable Organization.

As used in this Agreement, the term "Qualified Charitable Organization", "Qualified Charity" or Qualified Charities," shall mean one or more organizations described in sections 170(c), 2055(a) and 2522(a) of the Code.

# ARTICLE TWENTY-fourth

# RECEIPT

The Trustees acknowledge the receipt from the Grantors of the property set forth in the annexed Schedule and accept the trusts hereby created upon the terms set forth herein.

# ARTICLE TWENTY-Fifth

# APPLICATION To SUCCESSORS

This Agreement shall extend to and be binding upon the executors, administrators, successors and assigns of the Grantors and upon the successors of the Trustees.

# ARTICLE TWENTY-sixth

# DISCLAIMERS

Any beneficiary, in addition to any rights conferred on him or her by the law governing the validity, construction and effect of this Agreement, is authorized at any time within nine (9) months after the date of a Grantor's death to renounce or disclaim, in whole or in part or with reference to specific amounts, parts, fractional shares or assets, any interest, right, privilege, or power granted to that person by this Agreement. Any property so renounced or disclaimed shall pass under this Agreement as if the person renouncing or disclaiming had predeceased said Grantor. Any such renunciation or disclaimer shall be made by an acknowledged, written instrument executed by that person or by his or her conservator, guardian, committee, custodian, executor, or administer, delivered to the Trustees and filed with the clerk of the appropriate court.

# ARTICLE TWENTY-SEVENTH

# HEADINGS

The headings used in this Agreement are for convenience only and shall not be relied upon in order to construe this Agreement.

# ARTICLE TWENTY-EIGHTH

# COUNTERPARTS

This Agreement may be executed in counterparts and such counterparts taken together shall constitute a single instrument which shall be binding upon the executor(s), administrators and assigns of the Grantors and upon the successors to the Trustees.

**IN WITNESS WHEREOF,** the undersigned Grantors and Trustees have executed this Agreement as of the date first above written.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

Grantor and Benefits and Investment Trustee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

Grantor and Benefits and Investment Trustee

PEAK TRUST COMPANY-AK,

Administrative Trustee

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Subscribed and sealed by the Grantors in the presence of us and of each of us, and at the same time published, declared and acknowledged by them to us to be a Declaration of Trust executed by them, and thereupon we, at the request of said Grantors, in their presence and in the presence of each other, have hereunto subscribed our names as witnesses this day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF \_\_\_\_\_\_\_\_\_\_ )

: ss.:

COUNTY OF )

We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Grantors and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, having been sworn, declared to the undersigned officer that the Grantors, in the presence of the witnesses, signed the instrument as their Declaration of Trust, that they signed voluntarily, and that each of the witnesses, in the presence of the Grantors and in the presence of each other, signed the Declaration of Trust as witnesses and that to the best of the knowledge of each witness, the Grantors were at the time of execution over the age of eighteen (18) years and, in the respective opinions of the witnesses, of sound mind, memory and understanding and not under any restraint or in any respect incompetent to execute a Declaration of Trust.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Grantor and Trustee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Grantor and Trustee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

Subscribed and sworn to before me by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Grantors, and by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the witnesses, on the day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

STATE OF \_\_\_\_\_\_\_\_\_\_ )

: ss.:

COUNTY OF )

On the day of \_\_\_\_\_\_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and he acknowledged to me that he executed the same, and that by his signature on the instrument, the individual executed the instrument as Grantor, as Benefits Trustee and as Investment Trustee, and that such individual made such appearance before the undersigned in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

STATE OF \_\_\_\_\_\_\_\_\_\_ )

: ss.:

COUNTY OF )

On the day of \_\_\_\_\_\_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and she acknowledged to me that she executed the same, and that by her signature on the instrument, the individual executed the instrument as Grantor, as Benefits Trustee and as Investment Trustee, and that such individual made such appearance before the undersigned in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

STATE OF ALASKA )

: ss.:

THIRD JUDICIAL DISTRICT )

On the day of \_\_\_\_\_\_\_\_\_\_ in the year of \_\_\_\_\_, before me, the undersigned, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and (s)he acknowledged to me that (s)he resides in , Alaska; that (s)he is a of the PEAK TRUST COMPANY-AK, the corporation described in and which executed the foregoing instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that (s)he executed the instrument by like order, in its capacity as Administrative Trustee and that such individual made such appearance before the undersigned in Anchorage Alaska.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

**SCHEDULE**