

Hearing Information: 6/11/2019 8:30 AM

Assigned for all purposes to: Johnson, Barbara R., Judicial Officer: Stanley Mosk Dept. - 11

1 ALAN S. WATENMAKER, ESQ. (SBN: 54766)  
ERIC M. TOKUYAMA, ESQ. (SBN: 182217)  
2 HOFFMAN, SABBAN & WATENMAKER  
A Professional Corporation  
3 10880 Wilshire Boulevard, Suite 2200  
Los Angeles, California 90024  
4 Telephone No: (310) 470-6010  
Fax No: (310) 470-6735

5 Attorneys for ADRIA ROBIN PETTY,  
6 Beneficiary, Petitioner

7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10  
11 In the Matter of  
12  
13 THOMAS EARL PETTY LIVING  
TRUST dated 2/24/99, as amended

Case No. 19STPB03034  
PETITION FOR ORDER INSTRUCTING  
TRUSTEE TO IMMEDIATELY FUND  
ARTISTIC PROPERTY ENTITY

[Probate Code §17200(b)(6)]

Date:  
Time:  
Dept:

14  
15  
16  
17  
18  
19 Petitioner, ADRIA ROBIN PETTY, as a beneficiary of the THOMAS EARL  
20 PETTY LIVING TRUST dated 2/24/99, as amended and restated (the "Trust"), hereby Petitions  
21 for an Order Directing Trustee to Immediately Fund the Artistic Property Entity (the "Petition")  
22 as follows:

23 **PURPOSE OF PETITION**

24 1. The deceased Grantor was a singer, songwriter, and musician of world-  
25 wide renown in Rock music. He specifically directed in his Trust that his extensive "Artistic  
26 Properties" were to be held and managed by a limited liability company (the "Artistic Property  
27 Entity"). That Entity is to be allocated 1/3 to a trust for the benefit of the Grantor's surviving  
28 spouse, DANA PETTY ("DANA"), who is also the current Trustee of the Trust, and 2/3 to a

1 trust for the benefit of the Grantor's two adult daughters, Petitioner herein and her sister,  
2 ANNAKIM VIOLETTE, formerly known as ANNA KIM PETTY ("KIM," whose Joinder in this  
3 Petition will be filed herein).

4           2.       The limited liability company specified in the Trust as the Artistic  
5 Property Entity was formed by the Trustee on March 28, 2018. However, the Artistic Property  
6 Entity has not yet been funded with the Artistic Property assets, as directed by the Grantor in the  
7 Trust. A true and correct copy of the Articles of Organization for the Artistic Property Entity  
8 (known as "Petty Unlimited LLC"), is attached hereto as **Exhibit "A."** The LLC Statement of  
9 Information, filed on June 4, 2018, expressly identifies DANA, KIM, and Petitioner as Managers  
10 of the LLC. A true and correct copy of the Statement of Information is attached hereto as  
11 **Exhibit "B."**

12           3.       The Grantor specifically directed that DANA, KIM and Petitioner "shall  
13 be entitled to **participate equally in the management of the Artistic Property Entity...**"  
14 (Paragraph 5.2 of Article 5 of the Trust, emphasis added).

15           4.       However, it has now been more than sixteen (16) months since the  
16 Grantor's death on October 2, 2017, and it has been nearly one year since the Articles of  
17 Organization were filed forming the Artistic Property Entity. Petitioner and KIM, individually  
18 and through their respective counsel, have attempted to be allowed to participate in the  
19 management of the Artistic Property. Their efforts to participate in the management of the  
20 Artistic Property Entity have been resisted by the Trustee, who has claimed to be the sole  
21 authority over the management of the Artistic Property assets.

22           5.       DANA, as Trustee, has not yet funded the Artistic Property Entity with the  
23 Artistic Property, and has refused to fund it even after being requested to do so. DANA asserts  
24 that because the Artistic Property assets remain in the main Trust at this time, and not in the  
25 Artistic Property Entity, she, as Trustee, has the sole authority to manage and administer the  
26 Artistic Property assets, contrary to the explicit wishes of the Grantor.

27           6.       Petitioner requests herein that the Court order DANA, as Trustee, to  
28 immediately fund the Artistic Property Entity in order to carry out the deceased Grantor's explicit

1 direction that DANA, KIM and Petitioner “participate equally in the management” of the Artistic  
2 Property.

3  
4 **BACKGROUND**

5 7. **Trust.** THOMAS EARL PETTY (herein the “Grantor”) created the Trust  
6 on February 24, 1999, restated it in its entirety on September 7, 2006 in the Third Amended and  
7 Restated Thomas Earl Petty Living Trust (a copy of which is attached hereto as **Exhibit “C”**),  
8 and further amended it on December 18, 2009 in the First Amendment to the Third Amended and  
9 Restated Thomas Earl Petty Living Trust (a copy of which is attached hereto as **Exhibit “D”**).

10 8. **Article 5.** Article 5 of the Trust provides for the division and allocation of  
11 the Trust upon the Grantor’s death. Paragraph 5.1 directs the Trustee to pay death-related  
12 expenses and trust administration expenses during an administrative period.

13 9. **Priority for Artistic Property.** The Grantor’s specific priority intentions  
14 and specific directions for his “Artistic Property” are set forth in Paragraph 5.2 of the Trust,  
15 entitled “Creation of the Artistic Property Entity and Allocation of Interests Therein.”

16 Paragraph 5.2 gives priority to setting up the management for the Artistic Property. It states:

17 “The Trustee **shall first** set aside all of the Artistic Property (as that term  
18 is defined in Paragraph 15.2) held by the Trust Estate (or to be received by  
19 the Trust Estate as a result of the death of the Grantor).” [Emphasis  
20 added.]

21 Paragraph 5.2 further directs the Trustee to create the Artistic Property Entity, and to allocate a  
22 1/3 membership interest therein to DANA’s Marital Trust, and a 2/3 membership interest to  
23 Petitioner’s and KIM’s Issues’ Trust.

24 10. **Artistic Property Entity Never Funded.** Petitioner understands that the  
25 Artistic Property Entity has been created under California law, as directed by Paragraph 5.2.  
26 However, because DANA, as Trustee, has not yet funded such Entity with the Artistic Property,  
27 the Grantor’s intent that DANA, KIM and Petitioner participate equally in the management of  
28 those assets is being thwarted.

1                    11.     **Intent that Three Beneficiaries Participate Equally in Management.**

2 Paragraph 5.2 clearly directs the equal management rights of beneficiaries DANA, KIM and  
3 Petitioner in the Artistic Property:

4                    “With respect to the creation of the Artistic Property Entity, the Trustee is  
5 directed to create the governing documents of the Artistic Property Entity  
6 such that those of the **Spouse, ADRIA and KIM** who are living at the  
7 time....**shall be entitled to participate equally in the management of the**  
8 **Artistic Property Entity....**” [Emphasis added.]

9                    12.     **Trust Directs Funding By Six (6) Months.** Paragraph 5.1 of the Trust  
10 authorized an initial “Administrative Trust” period before funding the subtrusts such as those  
11 trusts for the benefit of DANA, KIM and Petitioner. The purpose of the Administrative Trust  
12 was to provide a period for the Trust’s handling of death-related expenses and trust  
13 administration expenses. Now, however, more than sixteen (16) months have passed since the  
14 Grantor’s death. The Grantor intended an “administrative period” before funding and  
15 distribution to subtrusts of no more than six (6) months. Paragraph 5.9, in pertinent part, states:

16                    “When the Trustee is directed to make a distribution of Trust assets or a  
17 division of Trust assets to separate Trust or shares on the death of the  
18 Grantor, the Trustee **may .... defer that distribution or division until six**  
19 **(6) months after the Grantor’s death.**” [Emphasis added.]

20                    13.     **Trustee Asserts Sole Management of Artistic Property.** Instead of  
21 funding of the Artistic Property Entity and distributing membership units thereof as directed to  
22 the three beneficiaries’ respective trusts within six (6) months from Grantor’s October 2, 2017  
23 death, DANA, as Trustee, has now delayed for more than sixteen (16) months, and has refused  
24 upon request to go forward with such funding and distribution, to the detriment of Petitioner and  
25 KIM, and in contravention of the Grantor’s specific instructions. DANA, as Trustee, has also  
26 refused to recognize management input from Petitioner and KIM, asserting that she has sole  
27 management rights as Trustee.

28 ///

1           14.    No Trust Reason to Delay Funding of Artistic Property Entity. There  
2 is no administrative reason for DANA, as Trustee, to continue to hold the Artistic Property assets  
3 in the Administrative Trust. The federal estate tax return was filed on or about January 2, 2019.  
4 The period for the filing of claims against the Grantor's estate closed on October 2, 2018. No  
5 Trust purpose is served by keeping the "Administrative Trust" period open at this time with  
6 respect to the Artistic Property assets. In fact, to do so contravenes the Grantor's specific  
7 direction in the Trust. It appears that DANA's primary purpose in maintaining the Artistic  
8 Property assets in the Administrative Trust at this time is to maintain her sole management  
9 authority over them.

10  
11                           **CURRENT ARTISTIC PROPERTY ACTIVITIES REQUIRE**  
12                           **CO-EQUAL MANAGEMENT AS DIRECTED BY GRANTOR**

13           15.    Active Management Participation by All 3 Beneficiaries Required.  
14 The deceased Grantor's Artistic Property involves an active, ongoing music business enterprise  
15 requiring expert and professional management to protect the value of the Artistic Property. Since  
16 the Grantor's death, two additional albums of the Grantor's works have been released, and a third  
17 release is pending. Petitioner and KIM should rightfully be participants in the marketing,  
18 promotional, and artistic considerations regarding these releases and the other Artistic Property  
19 assets, with the two-fold objective of (1) enhancing and preserving the deceased Grantor's  
20 image/brand/reputation, and (2) maximizing the economic value and return of the Artistic  
21 Property, all in conformity with the Grantor's specific directions.

22           16.    Participation Needed to Protect Interests of Petitioner and KIM. The  
23 interests of DANA, KIM and Petitioner, as beneficiaries of the Artistic Property Entity, have  
24 vested as of the Grantor's date of death on October 2, 2017, subject to administration. In order  
25 for the vested interests of Petitioner and KIM to be protected, Petitioner herein requests an Order  
26 directing DANA, as Trustee, to immediately fund the Artistic Property Entity with the Artistic  
27 Property assets, as directed by the Trust. Moreover, because DANA, KIM and Petitioner are  
28 expressly directed and intended to participate together in managing the Artistic Property Entity,

1 undue delay in the funding of the Artistic Property Entity will result not only in the preclusion of  
2 participation in the management of the Artistic Property by the Grantor's two daughters, contrary  
3 to the Grantor's express direction, but may also threaten the parties' ability to harmoniously  
4 collaborate in fulfillment of the Grantor's express wishes.

5  
6 **VENUE**

7 17. The principal place of administration of the Trust is Los Angeles County,  
8 California.

9  
10 **PERSONS ENTITLED TO NOTICE**

11 18. A list of the names and address of the persons entitled to notice of these  
12 proceedings is attached hereto as **Exhibit "E"**.

13 19. No one has requested Special Notice herein.

14  
15 **PRAYER**


16 WHEREFORE, Petitioner prays for an Order as follows:

17 1. Ordering the Trustee to immediately fund the Artistic Property Entity by  
18 immediately transferring the Artistic Property (as defined in Paragraph 15.2 of the Trust) from  
19 the Trust to the Artistic Property Entity.

20 2. Making such other Orders and awarding such other relief as the Court  
21 deems proper.

22  
23 Dated: April 1, 2019

HOFFMAN, SABBAN & WATENMAKER  
A Professional Corporation

24  
25 By:   
26 Eric M. Tokuyama  
Attorneys for Petitioner

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

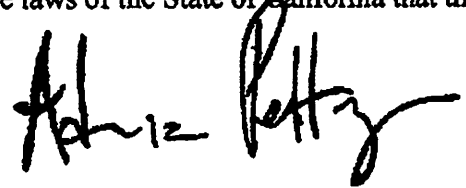
VERIFICATION

I have read the foregoing PETITION FOR ORDER INSTRUCTING TRUSTEE TO IMMEDIATELY FUND ARTISTIC PROPERTY ENTITY, and know its contents.

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

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

Dated: 03/19/2019




ADRIA ROBIN PETTY

**EXHIBIT A**



201810110442

	<b>Secretary of State</b> <b>Articles of Organization</b> <b>Limited Liability Company (LLC)</b>	<b>LLC-1</b>
	<p><b>IMPORTANT — Read Instructions before completing this form.</b></p> <p><b>Filing Fee — \$70.00</b></p> <p><b>Copy Fees — First page \$1.00; each attachment page \$0.50; Certification Fee - \$5.00</b></p> <p><b>Note:</b> LLCs may have to pay minimum \$800 tax to the California Franchise Tax Board each year. For more information, go to <a href="https://www.ftb.ca.gov">https://www.ftb.ca.gov</a>.</p>	

FILED  
 Secretary of State  
 State of California  
 MAR 28 2018  
 100 ALX  
 This Space For Office Use Only

**1. Limited Liability Company Name** (See Instructions – Must contain an LLC ending such as LLC or L.L.C. "LLC" will be added, if not included.)

Petty Unlimited LLC

**2. Business Addresses**

a. Initial Street Address of Designated Office in California - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
15260 Ventura Blvd., Suite 2100	Sherman Oaks	CA	91403
b. Initial Mailing Address of LLC, if different than Item 2a	City (no abbreviations)	State	Zip Code

**3. Service of Process** (Must provide either Individual OR Corporation.)

**INDIVIDUAL – Complete Items 3a and 3b only. Must include agent's full name and California street address.**

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
Bernard	H.	Gudvi	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
15260 Ventura Blvd., Suite 2100	Sherman Oaks	CA	91403

**CORPORATION – Complete Item 3c. Only include the name of the registered agent Corporation.**

c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete Item 3a or 3b

**4. Management** (Select only one box)

The LLC will be managed by:

One Manager    
  More than One Manager    
  All LLC Member(s)

**5. Purpose Statement** (Do not alter Purpose Statement)

The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

6. The information contained herein, including in any attachments, is true and correct.

Dana York Petty  
 Organizer sign here

Dana York Petty  
 Print your name here



I hereby certify that the foregoing transcript of 1 page(s) is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.

APR 12 2018 *AVF*

Date: \_\_\_\_\_

*Alex Padilla*

ALEX PADILLA, Secretary of State

## **EXHIBIT B**

18-312892



**Secretary of State  
Statement of Information**  
(Limited Liability Company)

LLC-12

133#

**FILED**  
Secretary of State  
State of California

**JUN 04 2018**

21.50/20/pc  
Above Space For Office Use Only

**IMPORTANT** — This form can be filed online at [bizfile.sos.ca.gov](http://bizfile.sos.ca.gov).

Read instructions before completing this form.

Filing Fee — \$20.00

Copy Fees — First page \$1.00; each attachment page \$0.50;  
Certification Fee — \$5.00 plus copy fees

1. Limited Liability Company Name (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)

Petty Unlimited LLC

2. 12-Digit Secretary of State Entity (File) Number

201810110442

3. State, Foreign Country or Place of Organization (only if formed outside of California)

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
15260 Ventura Blvd., Suite 2100	Sherman Oaks	CA	91403
b. Mailing Address of LLC, if different than Item 4a	City (no abbreviations)	State	Zip Code
c. Street Address of California Office, if Item 4a is not in California - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
		CA	

5. Manager(s) or Member(s)

If no managers have been appointed or elected, provide the name and address of each member. At least one name and address must be listed. If the manager/member is an individual, complete Items 5a and 5c (leave Item 5b blank). If the manager/member is an entity, complete Items 5b and 5c (leave Item 5a blank). Note: The LLC cannot serve as its own manager or member. If the LLC has additional managers/members, enter the name(s) and address(es) on Form LLC-12A.

a. First Name, if an individual - Do not complete Item 5b	Middle Name	Last Name	Suffix
Dana	York	Petty	
b. Entity Name - Do not complete Item 5a			
c. Address	City (no abbreviations)	State	Zip Code
c/o Bernard H. Gudvi, 15260 Ventura Blvd., Suite 2100	Sherman Oaks	CA	91403

6. Service of Process (Must provide either Individual OR Corporation.)

**INDIVIDUAL** — Complete Items 6a and 6b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
Bernard	H.	Gudvi	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
15260 Ventura Blvd., Suite 2100	Sherman Oaks	CA	91403

**CORPORATION** — Complete Item 6c only. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) — Do not complete Item 6a or 6b

7. Type of Business

Describe the type of business or services of the Limited Liability Company

holding company

8. Chief Executive Officer, if elected or appointed

a. First Name	Middle Name	Last Name	Suffix
b. Address	City (no abbreviations)	State	Zip Code


9. The information contained herein, including any attachments made part of this document, is true and correct.

5/29/18  
Date

Dana York Petty  
Type or Print Name of Person Completing the Form

Manager  
Title

*Dana York Petty*  
Signature

	<b>Attachment to Statement of Information (Limited Liability Company)</b>	<b>LLC-12A Attachment</b>
---	---	-------------------------------

**A. Limited Liability Company Name (Enter the exact name on file with the California Secretary of State.)**  
 Petty Unlimited LLC

*Above Space For Office Use Only*

**B. 12-Digit Secretary of State Entity (File) Number**  
 201810110442

**C. State, Foreign Country, or Place of Organization (only if formed outside of California)**

**D. List of Additional Manager(s) or Member(s) - If the manager/member is an individual, enter the individual's name and address. If the manager/member is an entity, enter the entity's name and address. Note: The LLC cannot serve as its own manager or member.**

2a. First Name - Do not complete Item 2b Adria	Middle Name Robin	Last Name Petty	Suffix
2b. Entity Name - Do not complete Item 2a			
2c. Address c/o Gerri Leonard, 11900 W. Olympic Blvd., Suite 410	City (no abbreviations) Los Angeles	State CA	Zip Code 90064
3a. First Name - Do not complete Item 3b Anna	Middle Name Kim	Last Name Petty	Suffix
3b. Entity Name - Do not complete Item 3a			
3c. Address c/o Gerri Leonard, 11900 W. Olympic Blvd., Suite 410	City (no abbreviations) Los Angeles	State CA	Zip Code 90064
4a. First Name - Do not complete Item 4b	Middle Name	Last Name	Suffix
4b. Entity Name - Do not complete Item 4a			
4c. Address	City (no abbreviations)	State	Zip Code
5a. First Name - Do not complete Item 5b	Middle Name	Last Name	Suffix
5b. Entity Name - Do not complete Item 5a			
5c. Address	City (no abbreviations)	State	Zip Code
6a. First Name - Do not complete Item 6b	Middle Name	Last Name	Suffix
6b. Entity Name - Do not complete Item 6a			
6c. Address	City (no abbreviations)	State	Zip Code
7a. First Name - Do not complete Item 7b	Middle Name	Last Name	Suffix
7b. Entity Name - Do not complete Item 7a			
7c. Address	City (no abbreviations)	State	Zip Code
8a. First Name - Do not complete Item 8b	Middle Name	Last Name	Suffix
8b. Entity Name - Do not complete Item 8a			
8c. Address	City (no abbreviations)	State	Zip Code

# **EXHIBIT C**

**FIRST AMENDMENT TO THE**  
**THIRD AMENDED AND RESTATED**  
**THOMAS EARL PETTY LIVING TRUST**

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

A. On February 24, 1999, the Grantor and Trustee executed the Thomas Earl Petty Living Trust (the "Original Trust").

B. On March 4, 1999, the Grantor and the Trustee executed a First Amendment to the Original Trust.

C. On January 28, 2002, the Grantor and the Trustee executed a Second Amendment to the Original Trust.

D. On August 20, 2003, the Grantor and Trustee executed the Amended and Restated Thomas Earl Petty Living Trust (the "First Amended Trust"), thereby amending and restating the Original Trust in its entirety.

E. On January 18, 2005, the Grantor and Trustee executed the Second Amended and Restated Thomas Earl Petty Living Trust (the "Second Amended Trust"), thereby amending and restating the First Amended Trust in its entirety.

F. On September 7, 2006, the Grantor and Trustee executed the Third Amended and Restated Thomas Earl Petty Living Trust (the "Third Amended Trust"), thereby amending and restating the Second Amended Trust in its entirety.

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

H. The Grantor desires to amend the Third Amended Trust as provided herein.

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 5.2 of the Third Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

**"5.2 Creation of the Artistic Property Entity and Allocation of Interests Therein.** The Trustee shall first set aside all of the Artistic Property (as that term is defined in Paragraph 15.2) held by the Trust Estate (or to be received by the Trust Estate as a result of the death of the Grantor). The Trustee is hereby directed to create a California limited liability company (or such other entity as the Trustee deems appropriate) (the 'Artistic Property Entity') to hold the Artistic Property. The membership interests in the Artistic Property Entity shall be held as follows:

(a) If the Spouse survives the Grantor, then the Trustee shall allocate an undivided one-third (1/3) membership interest (or other beneficial interest) in the Artistic Property Entity to the Marital Trust to be created pursuant to Paragraph 5.3. If the Spouse does not survive the Grantor, then the allocation of such undivided one-third (1/3) interest in the Artistic Property Entity pursuant to this Paragraph 5.2(a) shall lapse and such undivided one-third (1/3) interest in the Artistic Property Entity shall be added to the allocation pursuant to Paragraph 5.2(b).

(b) The Trustee shall allocate an undivided two-thirds (2/3) membership interest (or other beneficial interest) in the Artistic Property Entity to the Issue's Trust to be created pursuant to Paragraph 5.3.

With respect to the creation of the Artistic Property Entity, the Trustee is directed to create the governing documents of the Artistic Property Entity such that those of the Spouse, ADRIA and KIM who are living at the time of creation of the Artistic Property Entity shall be entitled to participate equally in the management of the Artistic Property Entity, even though their respective economic interests in the Artistic Property Entity are not equal."

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

**"5.4 Allocation to Marital Trust; Alternate Distribution of Marital Trust Assets If Spouse Does Not Survive the Grantor.** Subject to the provisions of Paragraph 5.5, the Trustee shall allocate certain of the assets of the Trust Estate as follows:

(a) If the Spouse Survives the Grantor. If the Spouse survives the Grantor, the Marital Trust shall consist of the



following property and shall be held, administered and distributed in accordance with the provisions of Article 6:

(1) Malibu Residence. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 27403 Pacific Coast Highway, Malibu, California, including any insurance thereon and any furniture, furnishings and appliances located therein, but subject to any encumbrances secured thereby (collectively, the 'Malibu Residence'). If the Trust Estate does not own an interest in the Malibu Residence at the time of operation of this Paragraph (and will not acquire such an interest in the Malibu Residence as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(1) shall be of no force or effect.

(2) Beach House Property. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 21244 Pacific Coast Highway, Malibu, California, including any insurance thereon, but subject to any encumbrances secured thereby (collectively, the 'Beach House Property'). If the Trust Estate does not own an interest in the Beach House Property at the time of operation of this Paragraph (and will not acquire such an interest in the Beach House Property as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(2) shall be of no force or effect.

(3) Zumeriz Condo. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 6435 Zumeriz Drive, #5, Malibu, California, including any insurance thereon, but subject to any encumbrances secured thereby or any residential real property which was purchased as a substitute residence and which is owned by the Trust Estate (or will be acquired by the Trust Estate as a result of the death of the Grantor) (the 'Zumeriz Condo'). If the Trust Estate does not own an interest in the Zumeriz Condo at the time of operation of this Paragraph (and will not acquire such an interest in the Zumeriz Condo as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(3) shall be of no force or effect.

(4) Palisades Residence. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 766 Almar Avenue, Pacific Palisades, California, including any insurance thereon, but subject to any encumbrances secured thereby or any residential real property which was purchased as a substitute residence and which is owned by the Trust Estate (or will be acquired by the Trust Estate as a result of the death of the Grantor) (the 'Palisades Residence'). If the Trust Estate does not own an interest in the Palisades Residence at the time of operation of this Paragraph (and will not acquire such an interest in the Palisades Residence as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(4) shall be of no force or effect.

(5) One-Third Beneficial Interest in the Artistic Property Entity. As stated in Paragraph 5.2, the Marital Trust shall hold an undivided one-third (1/3) beneficial interest in the Artistic Property Trust.

(6) 10% Interest in Balance of the Remaining Gross Trust Estate. The Trustee shall next allocate to the Marital Trust property equal in value to ten percent (10%) of the Remaining Gross Trust Estate (as hereafter defined). For purposes of this Trust Agreement, the term 'Remaining Gross Trust Estate' shall mean all the property held by the Trust Estate at the date of death of the Grantor (or to be acquired by the Trust Estate as a result of the death of the Grantor), but specifically excluding the following:

(A) The Artistic Property;

(B) The property which is the subject of the allocations contemplated by Paragraph 5.4(a)(1), Paragraph 5.4(a)(2), Paragraph 5.4(a)(3) and Paragraph 5.4(a)(4);

(C) Any proceeds from life insurance policies on the life of the Grantor; and

(D) Any proceeds from Qualified Retirement Plans (as defined in Paragraph 10.2), and further without deduction for

- 1) Death Taxes (as defined in Paragraph 13.8(a));
- 2) Other obligations payable by the Trust Estate at the date of death of the Grantor; and
- 3) Any administrative expenses of the Trust or otherwise relating to the Grantor.

The value of any property included in the Remaining Gross Trust Estate shall be equal to the value of such property as determined on the federal estate tax return of the Grantor. If any of such property is not valued on the federal estate tax return of the Grantor, then the value of such property shall be its net fair market value, as determined by the Trustee, using any reasonable method determined by the Trustee, in the Trustee's sole and absolute discretion. The Trustee's determination of which assets are to be considered part of the Remaining Gross Estate shall be binding upon all beneficiaries.

(b) Alternate Allocation If the Spouse Does Not Survive the Grantor. If the Spouse does not survive the Grantor, the Trustee shall instead make the following allocations:

(1) Specific Allocation to Dylan's Trust. If DYLAN is living at the time of operation of this Paragraph 5.4(b)(1), then the Trustee shall allocate the following assets to a separate Trust ("Dylan's Trust") to be held, administered and distributed in accordance with the provisions of Article 7:

- (A) Cash or other property (but specifically not including any interest in the Palisades Residence or the Zumeriz Condo) equal in value to One Million Five Hundred Thousand Dollars (\$1,500,000);
- (B) The Palisades Residence; and
- (C) The Zumeriz Condo.

If, however, neither the Spouse nor DYLAN survives the Grantor, Dylan's Trust shall not be created, and the allocation contemplated by this Paragraph 5.4(b)(1) shall lapse and be of no force or effect, and the property which would otherwise have been allocated pursuant to this Paragraph 5.4(b)(1)

shall remain as part of the Trust Estate, to be distributed as hereinafter provided.

(2) **Contingent Allocation of Palisades Residence.** If DYLAN is not living at the time of allocation pursuant to Paragraph 5.4(b)(1), but NANCY COSTICK is then living, the Palisades Residence shall be allocated to a separate Trust ('Nancy's Residence Trust'), to be held, administered and distributed in accordance with the provisions of Article 8. The Grantor has intentionally omitted to allocate any cash or other liquid assets to Nancy's Residence Trust to cover the expenses of the Palisades Residence. If NANCY COSTICK is not living at the time of operation of this Paragraph 5.4(b)(2) the allocation contemplated by this Paragraph 5.4(b)(2) shall lapse and be of no force or effect, and the property which would otherwise have been allocated pursuant to this Paragraph 5.4(b)(2) shall remain as part of the Trust Estate, to be distributed as hereinafter provided.

If the Trust Estate does not own an interest in one or more of the properties specifically identified in this Paragraph 5.4(b) at the time of operation of this Paragraph 5.4(b) (and will not acquire an interest in such property as a result of the death of the Grantor), thereby making that item unavailable for allocation, then the allocation of the unavailable property contemplated by this Paragraph 5.4(b) shall be of no force or effect and nothing shall be substituted in its place.

Other than as specifically provided in Paragraph 5.4(b), if the Spouse does not survive the Grantor, then the Marital Trust shall not be created and all of the assets that would have been allocated to the Marital Trust under the provisions of Paragraph 5.4(a) shall remain as part of the Trust Estate, be allocated to the Issue's Trust in accordance with Paragraph 5.6."

3. Paragraph 9.7 of the Third Amended Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"9.7 **Contingent Beneficiaries.** If at the time of the death of the Grantor, or at any later time before full distribution of the Trust Estate, no other disposition of the Issue's Trust (or the Article 9 Trusts created thereunder) is directed by this Trust Agreement, the property remaining in the Issue's Trust (or the Article 9 Trusts created thereunder) (collectively, the 'Remaining Article 9

Property') shall be distributed, free of trust, to the Spouse. If the Spouse is not living at the time of operation of this Paragraph (or, if the Spouse does not survive the Grantor, if this provision is operative at the Grantor's death), then the Remaining Article 9 Property shall be distributed, free of trust, to those persons who would then be the heirs of the Grantor, their identities and respective shares to be determined as though the death of the Grantor had occurred at that time, in accordance with the laws of the State of California then in effect relating to the succession of separate property not acquired from a predeceased spouse or ancestor."

4. Article 15.A is hereby added to the Third Amended Trust as follows:

"ARTICLE 15.A

NO CONTEST CLAUSE

15.A.1 General. The Grantor has intentionally made no provision in this Trust Agreement for any heirs or relatives of the Grantor who are not herein mentioned or designated, and the Grantor generally and specifically has intentionally omitted to provide for every person claiming to be or who may be determined to be an heir-at-law of the Grantor, except as otherwise mentioned in this Trust Agreement. If any beneficiary (a 'Contesting Beneficiary') under a Protected Instrument (as defined in this Article), singularly or in combination with any other persons, directly or indirectly, engages in any of the following contests without Probable Cause (as defined in this Article):

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

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

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

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

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

15.A.2 Definitions. For purposes of this Article, the following terms have the following meanings:

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

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

- (1) Forgery.
- (2) Lack of due execution.
- (3) Lack of capacity.

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

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

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

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

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

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

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

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

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

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

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

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

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

15.A.3 Authorization of Trustee. The Trustee is authorized to resist and defend against any contest or other attack of any nature upon any provision of the Trust (including this no-contest provision), any amendment to the Trust, the Grantor's Will or any codicil thereto, and any expenses incurred by the Trustee in connection therewith, including but not limited to attorneys' fees, shall be paid from the Trust Estate as an expense of trust administration.

15.A.4 Costs of Defenses Charged Against Contesting Beneficiary. Notwithstanding the foregoing provisions of this Article, if the Trustee is unsuccessful in defending any matter or action described therein, and does not settle such matter or action, and if for any reason the distributions and/or allocations of interests in the Trust Estate to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor are not forfeited, all of the costs of such defense shall be charged against the distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor, and all distributions and/or allocations of interests to the Contesting Beneficiary under this Trust Agreement and/or the Will of the Grantor shall be reduced on a dollar-for-dollar basis by the aggregate net value as determined by the Trustee, of all real and personal property passing to or distributable to or for the benefit of the Contesting Beneficiary as a result of such matter or action, including, without limitation, assets of the Trust Estate or the probate estate of the Grantor, insurance proceeds, employee benefits and deferred compensation. In making any settlement of such matter or action, the Trustee shall consider the foregoing provisions of this Article and shall abide by them to the extent possible."



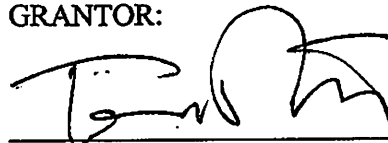
5. Paragraph 16.3 (titled "Incontestability"), Paragraph 16.4 (titled "Disinheritance for Assertion of Claims") and Paragraph 16.5 (titled "Costs of Defense Charged Against Contestant") of the Third Amended Trust are hereby deleted in their entirety and nothing is substituted in their place.

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

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

Executed at Malibu, California, on December 18,  
2009.

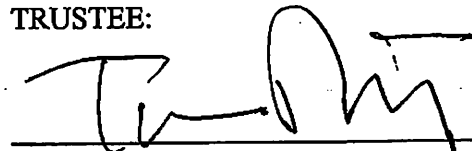
GRANTOR:



THOMAS EARL PETTY

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

TRUSTEE:



THOMAS EARL PETTY



# **EXHIBIT D**

**THIRD AMENDED AND RESTATED**  
**THOMAS EARL PETTY LIVING TRUST**

4198435v1

**EXHIBIT D**

**THIRD AMENDED AND RESTATED**  
**THOMAS EARL PETTY LIVING TRUST**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1    DECLARATIONS OF TRUST:	1
1.1    Principal of Trust.....	1
1.2    Amendment of Original Trust.....	2
1.3    Separate Property to Retain Character.....	2
1.4    Acceptance of Trust by the Trustee.....	2
ARTICLE 2    RIGHTS RESERVED TO THE GRANTOR:	2
2.1    Power to Amend Trust.....	2
2.2    Power to Revoke.....	2
2.3    Powers of Amendment and Revocation Personal to the Grantor .....	3
2.4    Trust Irrevocable Upon the Death of the Grantor .....	3
2.5    Additions.....	3
ARTICLE 3    ADMINISTRATION OF TRUST ESTATE DURING THE LIFE OF THE GRANTOR:	3
3.1    Accumulation of Income.....	3
3.2    Distribution of Principal .....	3
3.3    Support of the Grantor and Spouse .....	3
3.4    Support of Issue.....	4
3.5    Incapacity of the Grantor .....	4
3.6    Grantor Not To Be Placed in Nursing Home .....	5
3.7    Certain Transfers By Direction of Grantor During the Grantor's Lifetime .....	6
Article 4    DECLARATION CONCERNING FAMILY:	6
4.1    Declarations Concerning Family.....	6

**TABLE OF CONTENTS  
(CONTINUED)**

	<u>Page</u>
ARTICLE 5    CREATION AND ADMINISTRATION OF ADMINISTRATIVE TRUST; DIVISION AND ALLOCATION OF TRUST ESTATE UPON THE DEATH OF THE GRANTOR:	7
5.1    Creation and Administration of Administrative Trust.....	7
5.2    Creation of the Artistic Property Entity and Allocation of Interests Therein.....	8
5.3    Division of Remaining Trust Estate Into Two Trusts .....	8
5.4    Allocation to Marital Trust; Alternate Distribution of Marital Trust Assets If Spouse Is Not Living .....	9
5.5    Conditions Relating to Allocations Under Paragraph 5.4.....	12
5.6    Allocation to Issue's Trust.....	12
5.7    Incidence of Taxes; Abatement.....	12
5.8    Selection of Assets for Trusts.....	13
5.9    Discretion to Defer Distribution.....	14
5.10   Simultaneous Death.....	14
ARTICLE 6    ADMINISTRATION OF MARITAL TRUST:	14
6.1    Administration of Marital Trust as Set Forth in This Article.....	14
6.2    Income to Spouse for Life.....	15
6.3    Power of Spouse Regarding Non-Productive Property.....	15
6.4    Support of Spouse.....	15
6.5    Distribution of Marital Trust Upon the Death of the Spouse .....	15
ARTICLE 7    ADMINISTRATION OF DYLAN'S TRUST:	16
7.1    Administration of Dylan's Trust as Set Forth in This Article.....	16
7.2    Dylan's Trust for the Benefit of DYLAN .....	16
7.3    Distribution of Income.....	16
7.4    Income for Beneficiary Under Certain Age.....	17
7.5    Distribution of Principal .....	17
7.6    Distribution of Dylan's Trust Upon the Death of DYLAN.....	18

**TABLE OF CONTENTS  
(CONTINUED)**

		<u>Page</u>
ARTICLE 8	ADMINISTRATION OF NANCY'S RESIDENCE TRUST:	18
8.1	Administration of Nancy's Residence Trust as Set Forth in This Article .....	18
8.2	Distribution of Income.....	18
8.3	Support of NANCY COSTICK.....	18
8.4	No Distributions of Principal .....	18
8.5	Nancy's Residence for the Benefit of NANCY COSTICK.....	19
8.6	Distribution of Nancy's Residence Upon the Death of NANCY COSTICK.....	20
ARTICLE 9	ADMINISTRATION OF ISSUE'S TRUST:	20
9.1	Administration of Issue's Trust as Set Forth in This Article.....	20
9.2	Division of Remaining Issue's Trust.....	21
9.3	Distribution of Income of Article 9 Trust .....	21
9.4	Income of Article 9 Trusts for Beneficiary Under Certain Age .....	21
9.5	Distributions of Principal from Article 9 Trusts .....	21
9.6	Distribution of Article 9 Trust Upon the Death of a Beneficiary .....	22
9.7	Contingent Beneficiaries.....	23
ARTICLE 10	ADMINISTRATION OF RETIREMENT PLAN TRUSTS:	23
10.1	Administration of Retirement Plan Trusts As Set Forth in This Article .....	23
10.2	Qualified Retirement Plan.....	23
10.3	Distributions During Life of Beneficiary.....	24
10.4	Death Taxes.....	24
10.5	Not Liable for Debts, Expenses or Taxes of Other Trust Assets.....	24
10.6	Withdrawals from Qualified Retirement Plan and Trustee's Discretion to Accelerate.....	24
10.7	Distribution upon Beneficiary's Death.....	25
ARTICLE 11	SUCCESSOR TRUSTEE:	25
11.1	Designated Successor Trustee.....	25
11.2	Trustee of Dylan's Trust.....	25

**TABLE OF CONTENTS  
(CONTINUED)**

		<u>Page</u>
11.3	Trustees of Article 9 Trusts.....	25
11.4	Special Provisions Regarding Non-Resident Fiduciaries.....	26
11.5	Power to Designate a Successor Trustee .....	27
11.6	Right of Trustee to Resign .....	28
11.7	Declination of a Named Successor Trustee .....	28
11.8	Substitution of Corporate Trustee .....	28
11.9	Effect of Succession of Trustees .....	29
11.10	Powers and Authorities of Successor Trustee.....	29
11.11	No Duty of Successor Trustees to Investigate .....	29
11.12	Indemnification of Trustee.....	29
11.13	Special Trustee for Life Insurance Policies .....	30
11.14	Power to Designate a Successor Special Trustee .....	31
ARTICLE 12	POWERS OF TRUSTEE:	32
12.1	Powers of Trustee .....	32
12.2	Power to Act as Owner .....	32
12.3	Investment Powers.....	33
12.4	Power to Retain or Abandon Property.....	34
12.5	Management Powers.....	34
12.6	Reimbursement of Trustee .....	35
12.7	Power to Employ .....	35
12.8	Installment Payments of Income .....	35
12.9	Segregation and Distribution of Assets .....	35
12.10	Trust Distributions.....	36
12.11	Powers of Trustee In the Event of Beneficiary Misconduct.....	36
12.12	Principal and Income .....	38
12.13	Right to Compel Income Distributions from Retirement Arrangements .....	39
12.14	Acceptance of Gifts .....	40
12.15	Powers Over Securities.....	40
12.16	Transactions With Other Entities .....	41
12.17	Power to Purchase Insurance .....	41
12.18	Payments to or for Minors or Incapacitated Persons.....	41
12.19	Life Insurance and Other Death Benefits.....	42
12.20	Banks and Brokerage Accounts and Endorsements .....	43
12.21	Option to Terminate Shares or Trusts.....	44
12.22	Power to Combine and Divide Trusts.....	44
12.23	Power to Withhold Distribution .....	45



**TABLE OF CONTENTS  
(CONTINUED)**

	<u>Page</u>
12.24 Tax Elections.....	45
12.25 Powers in Event of Disputes .....	46
12.26 Subdivision of Real Property .....	46
12.27 Purchase at Foreclosure .....	47
12.28 Fiduciary Related Party Transactions.....	47
12.29 Power to Commence, Retain and Manage Closely Held Business.....	47
12.30 Power Regarding S Corporations .....	49
12.31 Intellectual Property Rights and Powers.....	49
12.32 Power Regarding Names of Trusts.....	50
12.33 Power to Transfer Trust to or from Another Jurisdiction .....	50
12.34 Power to Initiate and Defend Litigation; Power to Compromise Claims .....	50
12.35 Powers in Connection with Government Agencies.....	51
12.36 Environmental Matters .....	52
12.37 Discretion of Trustee .....	54
12.38 Power to Disclaim, Restrict or Enlarge Powers of Trustee .....	55
12.39 Disclosure to Third Parties.....	55
 ARTICLE 13 TRUST ADMINISTRATION:	 55
13.1 Trust Administrative Provisions Set Forth in This Article .....	55
13.2 Bond of Trustee.....	56
13.3 Compensation of Trustee .....	56
13.4 Profits and Losses Charged to Trust.....	56
13.5 Accrued and Undistributed Income.....	56
13.6 Payments Upon the Death of the Grantor or Spouse.....	56
13.7 Allocation of Payments to Trusts .....	57
13.8 Death Taxes; Apportionment .....	58
13.9 Payment of Expenses .....	61
13.10 Disbursements in Good Faith.....	61
13.11 Liability for Conduct of Co-Trustees, Predecessor Trustees and Successor Trustees .....	61
13.12 Accounting.....	62
13.13 Residence for Spouse.....	62
13.14 Notification to Beneficiaries .....	63
13.15 Subjection of Assets to Probate.....	63

**TABLE OF CONTENTS  
(CONTINUED)**

	<u>Page</u>
<b>ARTICLE 14 PROVISIONS REGARDING GST TAX:</b>	<b>63</b>
14.1 Intention Regarding GST Tax.....	63
14.2 Duties Regarding Allocation of GST Tax Exemption .....	64
14.3 Creation of Separate Trusts Based Upon Inclusion Ratio .....	64
14.4 Power to Grant and Revoke General Testamentary Power of Appointment.....	64
14.5 Powers and Duties Regarding Payment of GST Tax Liability.....	65
14.6 General Powers Regarding GST Tax and Other Considerations .....	66
14.7 Successor Trustee for Certain Purposes.....	67
14.8 Exoneration of Trustee.....	67
14.9 Simultaneous Death.....	67
<b>ARTICLE 15 DEFINITIONS AND RULES OF CONSTRUCTION:</b>	<b>68</b>
15.1 Definitions Set Forth in This Article .....	68
15.2 Beneficiary .....	68
15.3 Corporate Trustee .....	68
15.4 Education .....	68
15.5 Gender or Number .....	69
15.6 Incapacity .....	69
15.7 Internal Revenue Code.....	69
15.8 Issue; Child; Children .....	69
15.9 Net Income.....	70
15.10 Or.....	70
15.11 Spouse.....	70
15.12 Support, Maintenance and Health .....	70
15.13 Survival.....	70
15.14 Trust.....	70
15.15 Trustee .....	71
15.16 Trust Estate.....	71
<b>ARTICLE 16 GENERAL TRUST PROVISIONS:</b>	<b>71</b>
16.1 Termination .....	71
16.2 Spendthrift Provision .....	71
16.3 Incontestability .....	72
16.4 Disinheritance for Assertion of Claims .....	74
16.5 Costs of Defense Charged Against Contestant .....	75

**TABLE OF CONTENTS  
(CONTINUED)**

	<u>Page</u>
16.6 Invalidity .....	75
16.7 Governing Law .....	75
16.8 Disclaimers .....	75
16.9 Headings and Captions .....	76
16.10 Cross-References .....	76
16.11 Notices .....	76
 Article 17 EXECUTION:	 77
17.1 Declaration of the Grantor .....	77
17.2 Execution by the Grantor .....	77
17.3 Execution by the Trustee .....	77

**THIRD AMENDED AND RESTATED  
THOMAS EARL PETTY LIVING TRUST**

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

- A. On February 24, 1999, THOMAS EARL PETTY executed the Thomas Earl Petty Living Trust (the "Original Trust") as Grantor and Trustee.
- B. On March 4, 1999, the Grantor and the Trustee executed a First Amendment to the Original Trust.
- C. On January 28, 2002, the Grantor and the Trustee executed a Second Amendment to the Original Trust.
- D. On August 20, 2003, the Grantor and Trustee executed the Amended and Restated Thomas Earl Petty Living Trust (the "First Amended Trust"), thereby amending and restating the Original Trust in its entirety.
- E. On January 18, 2005, the Grantor and Trustee executed the Second Amended and Restated Thomas Earl Petty Living Trust (the "Second Amended Trust"), thereby amending and restating the First Amended Trust in its entirety.
- F. Pursuant to Paragraph 2.1 of the Second Amended Trust, the Grantor reserved the right to amend or alter the Second Amended Trust during his lifetime.
- G. The Grantor desires to amend and restate the Second Amended Trust in its entirety, as provided herein.

ARTICLE 1

**DECLARATIONS OF TRUST:**

1.1 **Principal of Trust.** The Grantor declares that the Grantor has set aside, transferred and delivered to the Trustee the sum of Fifty Dollars (\$50) and other assets of the Grantor, subject to any liabilities secured thereby, the receipt of which is hereby acknowledged by the Trustee. The Grantor may also transfer substantial additional property to this Trust by lifetime or testamentary transfer. The initial principal

of the Trust, together with any other property that is transferred to the Trust and any income thereon, shall be held, administered and distributed by the Trustee as provided herein.

1.2 Amendment of Original Trust. The Second Amended Trust, as previously amended, is hereby amended in its entirety by replacing the Second Amended Trust, as previously amended, with the following provisions of this Trust Agreement. The Trust shall for all purposes continue to be designated by reference to the date of execution of the Second Amended Trust as follows: the "Thomas Earl Petty Living Trust, dated February 24, 1999."

1.3 Separate Property to Retain Character. The Grantor intends that all separate property of either the Grantor or Spouse now or hereafter contributed to the Trust Estate shall remain the separate property of the Grantor. No provision of this Trust Agreement shall change the character of that property or the rents, issues and profits thereof to other than the separate property. Any separate property withdrawn by the Grantor, whether or not that withdrawal or distribution results from a revocation or termination of this Trust, shall remain the separate property of the Grantor.

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

## ARTICLE 2

### RIGHTS RESERVED TO THE GRANTOR:

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

2.2 Power to Revoke. During the life of the Grantor, the Grantor may revoke this Trust by giving written notice to the Trustee. On revocation, the Trustee shall promptly deliver to the Grantor all of the Trust Estate. If, after a revocation of the Trust by the Grantor, the Trustee has not distributed all of the Trust Estate prior to the death of the Grantor for whatever reason, the Trustee shall retain bare legal title to the Trust

Estate. Upon the death of the Grantor, the Trust Estate shall not be distributed in accordance with this Trust Agreement, but shall instead be distributed as designated by the Grantor in a Will or other written document executed concurrently with or after the date of revocation, or in the absence of such designation, shall be distributed to the Grantor's estate.

2.3 Powers of Amendment and Revocation Personal to the Grantor.

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

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

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

### ARTICLE 3

#### ADMINISTRATION OF TRUST ESTATE DURING THE LIFE OF THE GRANTOR:

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

3.2 Distribution of Principal. Upon the request of the Grantor, the Trustee shall distribute and deliver so much of the principal of the Trust Estate as is demanded by the Grantor. This power of the Grantor may be exercised by a power of attorney executed by the Grantor, if specific reference is made to this provision of this Trust Agreement, and only to the extent thereto and, in such event, such principal shall be distributed to the holder of such power of attorney.

3.3 Support of the Grantor and Spouse. In addition to the distributions from the Trust Estate set forth in the preceding Paragraphs of this Article, it shall be the discretionary duty of the Trustee to distribute to or apply for the use and benefit of either or both the Grantor and Spouse, from time to time, such reasonable amounts from the principal of the Trust Estate as the Trustee may deem necessary or advisable for the

proper and reasonable support, maintenance and health of either or both the Grantor and Spouse, in accordance with their then accustomed manner of living.

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

3.5 Incapacity of the Grantor. If at any time, as evidenced in writing by two (2) licensed physicians upon the request of any beneficiary or any successor Trustee, the Grantor has become substantially unable to manage the Grantor's own financial resources or resist fraud or undue influence (hereafter to be referred to as the Grantor's "Incapacity"), whether or not a court of competent jurisdiction has declared the Grantor incapacitated, mentally ill or in need of a conservator or the guardian of the person or estate, this Paragraph 3.5 shall apply.

(a) Limitation on Persons Able to Request a Determination of Incapacity. Notwithstanding any provision in this Paragraph 3.5 to the contrary, only a beneficiary or a named successor Trustee hereunder may request a determination of Incapacity pursuant to the provisions of this Paragraph 3.5. Specifically, no creditor of the Grantor, nor any person who may have a claim against the Trust Estate, nor any person who may otherwise qualify as an interested person as provided under California Probate Code Section 48 shall have the right to request a determination of Incapacity of the Grantor pursuant to the provisions of this Paragraph 3.5.

(b) Cooperation of the Grantor and Health Care Agent. The Grantor hereby directs any holder of an Advance Health Care Directive, including a durable power of attorney for health care decisions, reasonably to cooperate with the successor Trustee (in the case of the determination of the Incapacity of the Grantor) or the then-serving Trustee (in the case of a determination that the Grantor has regained the Grantor's capacity, as evidenced in writing by two (2) licensed physicians [hereafter to be referred to as the Grantor's "Capacity"]). The Grantor agrees reasonably to cooperate with the successor Trustee (in the case of a determination of the Incapacity of the

Grantor) to undergo an evaluation by one (1) or more physicians and/or independent experts to determine Incapacity or Capacity, at reasonable times and reasonable intervals, as appropriate. The Grantor and the successor Trustee shall reasonably cooperate in the selection of the physician(s) and/or independent expert(s).

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

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

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

3.6 Grantor Not To Be Placed in Nursing Home. Except as provided below, it is the Grantor's intention that the Grantor not be placed in a nursing home, convalescent home or other similar facility without the Grantor's informed consent. If at any time the Grantor is incapable of giving his informed consent, then, to the extent



possible, the Trustee shall use Trust income and, if insufficient, Trust principal for the purpose of providing nursing care for the Grantor in the Grantor's own home. To the extent such payments are from Trust principal, they shall be paid in the manner described in Paragraph 3.5 above. In the event that there are special circumstances in which the Trustee decides that a nursing home, convalescent home or other similar facility would provide substantially better medical care for the Grantor than the Grantor would receive in the Grantor's own home, and only if these special and unusual circumstances exist, the Trustee may choose to use Trust funds to provide for the Grantor's care in a nursing home, convalescent home or other similar facility of the highest quality. In making these decisions, the Trustee shall consult, to the extent the Trustee deems necessary, with the Grantor's health care agent and/or conservator.

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

#### ARTICLE 4

##### DECLARATION CONCERNING FAMILY:

4.1 Declarations Concerning Family. The Grantor is presently married to DANA PETTY, and any reference in this Trust to Spouse is to her. The Grantor was previously married to JANE B. PETTY, which marriage was terminated by divorce. The Grantor has intentionally omitted to provide for JANE B. PETTY under the terms of this Trust Agreement. The Grantor has two (2) children from the Grantor's marriage to JANE B. PETTY, namely ADRIA ROBIN PETTY ("ADRIA"), born November 28, 1974; and ANNA KIM PETTY ("KIM"), born January 17, 1982. DANA PETTY has one (1) child from a prior marriage, namely DYLAN EPPERSON ("DYLAN"), born October 23, 1992. The Grantor has made specific allocations to or for the benefit of DYLAN under this Trust Agreement; however, the Grantor does not intend to include DYLAN in the class of beneficiaries identified as a "child of the Grantor," "children of the Grantor" or "issue of the Grantor"; accordingly, any reference in this Trust Agreement

to "child of the Grantor" or "children of the Grantor" shall refer only to ADRIA and/or KIM. Further, any reference in this Trust Agreement to "issue of the Grantor" shall include only ADRIA, KIM and their respective issue. The Grantor is a permanent resident of the county of Los Angeles, state of California.

## ARTICLE 5

### CREATION AND ADMINISTRATION OF ADMINISTRATIVE TRUST; DIVISION AND ALLOCATION OF TRUST ESTATE UPON THE DEATH OF THE GRANTOR:

5.1 Creation and Administration of Administrative Trust. Upon the death of the Grantor, the Trust Estate, including any additions thereto by reason of the death of the Grantor, may thereafter be held as an "Administrative Trust." The Trustee may (a) make all of the payments required by the Paragraph titled "Payments Upon the Death of the Grantor or Spouse," (b) pay all expenses relating to the Administrative Trust, and (c) distribute the balance of the Administrative Trust (the "Balance") as provided in the remaining provisions of this Article. The Trustee may distribute the Balance in a single distribution or in a series of partial distributions. If distribution of the Balance is to be made to one or more Beneficiaries, then until full distribution has been made to any such Beneficiary, the Trustee of the Administrative Trust may pay to that Beneficiary (or to a Trust to be established for such Beneficiary pursuant to the terms hereof) such amounts of income and/or principal as are consistent with the terms hereof. Such payments shall be in lieu of and thus credited toward the income and/or principal remaining to be distributed to such Beneficiary (or to the Trust to be established for such Beneficiary pursuant to the terms hereof). No payment shall be made to any Beneficiary (or to the Trust to be established for such Beneficiary pursuant to the terms hereof) which exceeds the amount of income and/or principal then remaining to be distributed to such Beneficiary (or Trust) as provided herein, nor shall any payment of income and/or principal be made to any Beneficiary of any such Trust which exceeds the amount which might properly be distributed to such Beneficiary at that time under the terms of such Trust. No payment shall be made to the Spouse and credited toward any amount which would otherwise be distributed to the Marital Trust, to the extent possible, if such payment involves assets which are described in Paragraph 5.8. Nothing in this Paragraph shall be deemed to affect the federal estate tax marital deduction. The Grantor intends that, to the extent determined by the executor under the Will of the Grantor, in its sole discretion, or by such other person who can make the election in the absence of an executor, the Marital Trust will qualify for the federal estate tax marital deduction under Section 2056 of the Internal Revenue Code. In no event shall the Trustee take any action or have any power under this Paragraph that will impair the federal estate tax marital deduction, and any such power shall be void. All provisions regarding the Marital Trust shall be interpreted to conform to the primary objective that the federal estate tax marital

deduction shall be allowable. The Administrative Trust shall be deemed to be terminated when all of the assets of the Administrative Trust have been used to pay expenses or allocated or distributed as provided in this Article 5, except for a reasonable amount which is set aside for the payment of unascertained or contingent liabilities and expenses (excluding any claim by a Beneficiary in his or her capacity as such).

5.2 Creation of the Artistic Property Entity and Allocation of Interests Therein. The Trustee shall first set aside all of the Artistic Property (as that term is defined in Paragraph 15.2) held by the Trust Estate (or to be received by the Trust Estate as a result of the death of the Grantor). The Trustee is hereby directed to create a California limited liability company (or such other entity as the Trustee deems appropriate) (the "Artistic Property Entity") to hold the Artistic Property. The membership interests in the Artistic Property Entity shall be held as follows:

(a) If the Spouse is living at the time of operation of this Paragraph, then the Trustee shall allocate an undivided one-third (1/3) membership interest (or other beneficial interest) in the Artistic Property Entity to the Marital Trust to be created pursuant to Paragraph 5.3. If the Spouse is not living at the time of operation of this Paragraph, then the allocation of such undivided one-third (1/3) interest in the Artistic Property Entity pursuant to this Paragraph 5.2(a) shall lapse and such undivided one-third (1/3) interest in the Artistic Property Entity shall be added to the allocation pursuant to Paragraph 5.2(b).

(b) The Trustee shall allocate an undivided two-thirds (2/3) membership interest (or other beneficial interest) in the Artistic Property Entity to the Issue's Trust to be created pursuant to Paragraph 5.3.

With respect to the creation of the Artistic Property Entity, the Trustee is directed to create the governing documents of the Artistic Property Entity such that those of the Spouse, ADRIA and KIM who are living at the time of creation of the Artistic Property Entity shall be entitled to participate equally in the management of the Artistic Property Entity, even though their respective economic interests in the Artistic Property Entity are not equal.

5.3 Division of Remaining Trust Estate Into Two Trusts. As soon as reasonably practicable after the death of the Grantor, and after allowance for the allocation contemplated by Paragraph 5.2 and the payments required by the Paragraph titled "Payments Upon the Death of the Grantor or Spouse", the Trustee shall divide the remaining Trust Estate, including, without any limitation, any property received from the probate estate of the Grantor, proceeds received from life insurance policies on the life of the Grantor, or otherwise, into two (2) shares, each of which shall be a separate Trust, hereinafter referred to respectively as the "Marital Trust" and the "Issue's Trust", as hereinafter described in this Article. The Trustee shall have the discretion to make any

allocations, divisions and distributions required under this Article on a pro rata or non-pro rata basis, and shall take into account any written agreement between the Grantor and the Spouse providing for a non-pro rata division of their property and the effect of such agreement on community property passing outside of the Trust Estate. The assets allocated in kind shall be allocated on the basis of their net fair market values as finally determined for federal estate tax purposes; provided that the assets selected shall be fairly representative of any appreciation or depreciation that has occurred between the applicable valuation date and the date of allocation. The amount allocated, divided or distributed shall be equal in value to the amount required to be allocated, divided or distributed, regardless of the character of property for state law purposes as community property, separate property, quasi-community property or otherwise (although no such community property or quasi-community property is believed to exist).

5.4 Allocation to Marital Trust; Alternate Distribution of Marital Trust Assets If Spouse Is Not Living. Subject to the provisions of Paragraph 5.5, the Trustee shall allocate certain of the assets of the Trust Estate as follows:

(a) If the Spouse is Living. If the Spouse is living at the time of allocation pursuant to this Paragraph 5.4, the Marital Trust shall consist of the following property and shall be held, administered and distributed in accordance with the provisions of Article 6:

(1) Malibu Residence. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 27403 Pacific Coast Highway, Malibu, California, including any insurance thereon and any furniture, furnishings and appliances located therein, but subject to any encumbrances secured thereby (collectively, the "Malibu Residence"). If the Trust Estate does not own an interest in the Malibu Residence at the time of operation of this Paragraph (and will not acquire such an interest in the Malibu Residence as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(1) shall be of no force or effect.

(2) Beach House Property. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 21244 Pacific Coast Highway, Malibu, California, including any insurance thereon, but subject to any encumbrances secured thereby (collectively, the "Beach House Property"). If the Trust Estate does not own an interest in the Beach House Property at the time of operation of this Paragraph (and will not acquire such an interest in the Beach House Property as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(2) shall be of no force or effect.

(3) Zumeriz Condo. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 6435 Zumeriz Drive, #5, Malibu, California, including any insurance thereon, but subject to any encumbrances secured thereby or any residential real property which was purchased as a substitute residence and which is owned by the Trust Estate (or will be acquired by the Trust Estate as a result of the death of the Grantor) (the "Zumeriz Condo"). If the Trust Estate does not own an interest in the Zumeriz Condo at the time of operation of this Paragraph (and will not acquire such an interest in the Zumeriz Condo as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(3) shall be of no force or effect.

(4) Palisades Residence. The Trustee shall allocate to the Marital Trust any interest held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) in that certain real property located at 766 Almar Avenue, Pacific Palisades, California, including any insurance thereon, but subject to any encumbrances secured thereby or any residential real property which was purchased as a substitute residence and which is owned by the Trust Estate (or will be acquired by the Trust Estate as a result of the death of the Grantor) (the "Palisades Residence"). If the Trust Estate does not own an interest in the Palisades Residence at the time of operation of this Paragraph (and will not acquire such an interest in the Palisades Residence as a result of the death of the Grantor), then the allocation contemplated by this Paragraph 5.4(a)(4) shall be of no force or effect.

(5) One-Third Beneficial Interest in the Artistic Property Entity. As stated in Paragraph 5.2, the Marital Trust shall hold an undivided one-third (1/3) beneficial interest in the Artistic Property Trust.

(6) 10% Interest in Balance of the Remaining Gross Trust Estate. The Trustee shall next allocate to the Marital Trust property equal in value to ten percent (10%) of the Remaining Gross Trust Estate (as hereafter defined). For purposes of this Trust Agreement, the term "Remaining Gross Trust Estate" shall mean all the property held by the Trust Estate at the date of death of the Grantor (or to be acquired by the Trust Estate as a result of the death of the Grantor), but specifically excluding the following:

- (A) The Artistic Property;
- (B) The property which is the subject of the allocations contemplated by Paragraph 5.4(a)(1), Paragraph 5.4(a)(2), Paragraph 5.4(a)(3) and Paragraph 5.4(a)(4);
- (C) Any proceeds from life insurance policies on the life of the Grantor; and

(D) Any proceeds from Qualified Retirement Plans (as defined in Paragraph 10.2), and further without deduction for

- Paragraph 13.8(a));
- 1) Death Taxes (as defined in
  - 2) Other obligations payable by the Trust Estate at the date of death of the Grantor; and
  - 3) Any administrative expenses of the Trust or otherwise relating to the Grantor.

The value of any property included in the Remaining Gross Trust Estate shall be equal to the value of such property as determined on the federal estate tax return of the Grantor. If any of such property is not valued on the federal estate tax return of the Grantor, then the value of such property shall be its net fair market value, as determined by the Trustee, using any reasonable method determined by the Trustee, in the Trustee's sole and absolute discretion. The Trustee's determination of which assets are to be considered part of the Remaining Gross Estate shall be binding upon all beneficiaries.

(b) Alternate Allocation If the Spouse Is Not Living. If the Spouse is not living at the time of allocation pursuant to this Paragraph 5.4(b), the Trustee shall instead make the following allocations:

(1) Specific Allocation to Dylan's Trust. If DYLAN is living at the time of operation of this Paragraph 5.4(b)(1), then the Trustee shall allocate the following assets to a separate Trust ("Dylan's Trust") to be held, administered and distributed in accordance with the provisions of Article 7:

- (A) Cash or other property (but specifically not including any interest in the Palisades Residence or the Zumeriz Condo) equal in value to One Million Five Hundred Thousand Dollars (\$1,500,000);
- (B) The Palisades Residence; and .
- (C) The Zumeriz Condo.

If, however, neither the Spouse nor DYLAN is living at the time of operation of this Paragraph 5.4(b)(1), Dylan's Trust shall not be created, and the allocation contemplated by this Paragraph 5.4(b)(1) shall lapse and be of no force or effect, and the property which would otherwise have been allocated pursuant to this Paragraph 5.4(b)(1) shall remain as part of the Trust Estate, to be distributed as hereinafter provided.

(2) Contingent Allocation of Palisades Residence. If DYLAN is not living at the time of allocation pursuant to Paragraph 5.4(b)(1), but NANCY COSTICK is then living, the Palisades Residence shall be allocated to a separate Trust ("Nancy's Residence Trust"), to be held, administered and distributed in accordance with the provisions of Article 8. The Grantor has intentionally omitted to allocate any cash or other liquid assets to Nancy's Residence Trust to cover the expenses of the Palisades Residence. If NANCY COSTICK is not living at the time of operation of this Paragraph 5.4(b)(2) the allocation contemplated by this Paragraph 5.4(b)(2) shall lapse and be of no force or effect, and the property which would otherwise have been allocated pursuant to this Paragraph 5.4(b)(2) shall remain as part of the Trust Estate, to be distributed as hereinafter provided.

If the Trust Estate does not own an interest in one or more of the properties specifically identified in this Paragraph 5.4(b) at the time of operation of this Paragraph 5.4(b) (and will not acquire an interest in such property as a result of the death of the Grantor), thereby making that item unavailable for allocation, then the allocation of the unavailable property contemplated by this Paragraph 5.4(b) shall be of no force or effect and nothing shall be substituted in its place.

Other than as specifically provided in Paragraph 5.4(b), if the Spouse is not living at the time of allocation pursuant to this Paragraph 5.4, then the Marital Trust shall not be created and all of the assets that would have been allocated to the Marital Trust under the provisions of Paragraph 5.4(a) shall remain as part of the Trust Estate, be allocated to the Issue's Trust in accordance with Paragraph 5.6.

5.5 Conditions Relating to Allocations Under Paragraph 5.4. Notwithstanding the provisions of Paragraph 5.4 and in accordance with the provisions of Paragraph 16.3, if the Spouse elects in lieu of the specific allocations provided under Paragraph 5.4 to pursue any rights she may have to property held as part of the Trust Estate, which may be characterized as community property (although the Grantor believes that all property held under the Trust Estate is his separate property), then the allocations contemplated by Paragraph 5.4 (including any allocations to DYLAN or NANCY COSTICK) shall be of no force or effect and such property shall instead be allocated to the Issue's Trust, to be held as a part thereof and subject to its terms.

5.6 Allocation to Issue's Trust. After the allocations pursuant to the provisions of Paragraph 5.2 and Paragraph 5.4, the remaining Trust Estate shall be allocated to the Issue's Trust, to be held, administered and distributed in accordance with the provisions of Article 9

5.7 Incidence of Taxes: Abatement.

(a) Incidence of Taxes. Without limiting any of the provisions of Paragraph 13.8 and Article 14, it is the intent of the Grantor that all Death Taxes (as

defined in Paragraph 13.8) and all generation-skipping transfer ("GST") taxes, to the extent possible, shall be paid out of the remaining Trust Estate and that the specific allocations made in Paragraph 5.2 and Paragraph 5.4 shall be made free of any Death Taxes and GST taxes.

(b) Abatement. The Grantor acknowledges that the Trust Estate may not be sufficient to fully fund all of the allocations contemplated by Paragraph 5.2 and Paragraph 5.4. Accordingly, it is the intent of the Grantor that the allocations made in Paragraph 5.2 and Paragraph 5.4 shall be made in the following order of preference, so that if the Trust Estate is inadequate to make all of such allocations free of Death Taxes and GST taxes, the following allocations (in the order of priority listed) shall be reduced or eliminated first:

(1) The Remaining Gross Trust Estate shall be reduced or eliminated first;

(2) After the Remaining Gross Trust Estate has been eliminated, then the Trustee shall next reduce or eliminate any specific allocations under the provisions of Paragraph 5.4, specifically excluding any allocation of an interest in the Artistic Property Entity; and

(3) Only after all other property of the Trust Estate has been eliminated, the Trustee may reduce or eliminate any specific allocation of the Artistic Property Entity.

5.8 Selection of Assets for Trusts. Except as otherwise provided in this Article, the Trustee shall have full power and sole discretion to satisfy the allocation to the Trusts created under this Article wholly or partly in cash or in kind and to select the assets which shall constitute that allocation. The assets allocated in kind shall be deemed to satisfy the allocations set forth in this Trust Agreement on the basis of their net fair market values as finally determined for federal estate tax purposes. The Trustee shall select property to satisfy these amounts so that any appreciation or depreciation that has occurred in the value of Trust property between the applicable valuation date and the date of allocation shall be fairly representative between the Marital Trust and the Issue's Trust. The Trustee shall satisfy the amount allocated to the Marital Trust with assets eligible for the federal estate tax marital deduction. To the extent that other assets which qualify for the federal estate tax marital deduction are available, there shall not be allocated to the Marital Trust any one or more of the following:

(a) Any assets with respect to which any estate or death taxes are paid to any foreign country or any of its possessions or subdivisions.

(b) Any assets which are located outside the borders of the United States.



(c) Unmatured life insurance policies.

Notwithstanding anything in this Article to the contrary, to the extent possible, assets which constitute income in respect of a decedent shall be first allocated to the Marital Trust. All unclaimed administration expenses attributable in whole or in part to the Marital Trust shall be paid from the Issue's Trust (regardless of any other clause in this Trust Agreement or applicable law allocating administration expenses). The term "unclaimed administrative expenses" shall mean administration expenses, described in Sections 2053(a)(2) and 2053(b) of the Internal Revenue Code, that are eligible for deduction on the Grantor's federal estate tax return but that are not allowed on that return because they are claimed as deductions on the income tax return of the Grantor's estate.

5.9 Discretion to Defer Distribution. When the Trustee is directed to make a distribution of Trust assets or a division of Trust assets to separate Trusts or shares on the death of the Grantor, the Trustee may, in the sole and absolute discretion of the Trustee, defer that distribution or division until six (6) months after the Grantor's death. Notwithstanding the preceding sentence, the interest of the Spouse in the Marital Trust shall vest immediately on the death of the Grantor. When the Trustee defers distribution or division of the Trust assets, the deferred distribution or division shall be made as if it had taken place at the time set forth in this Trust Agreement for that distribution or division in the absence of this Paragraph, and all rights given to the Beneficiaries of those Trust assets under other provisions of this Trust Agreement shall be deemed to have accrued and vested as of that prescribed time.

5.10 Simultaneous Death. In the event the Grantor and the Spouse die simultaneously or under circumstances that make it difficult or impossible to determine which of them survived the other, then, for purposes of the division of the Trust Estate under this Article, the Trustee shall presume that the one of the Grantor and the Spouse who has the larger "Gross Estate" as defined in Section 2031 of the Internal Revenue Code, reduced by the deductions allowed by Sections 2053 and 2054 of the Internal Revenue Code, predeceased the other.

## ARTICLE 6

### ADMINISTRATION OF MARITAL TRUST:

6.1 Administration of Marital Trust as Set Forth in This Article. From and after the death of the Grantor, the income and principal of the Marital Trust shall be held, administered and distributed during the lifetime of the Spouse as hereinafter set forth. During the lifetime of the Spouse, the Trustee shall not make any distributions of principal or income of the Marital Trust to any person other than the Spouse. The Grantor intends that, to the extent determined by the executor under the Will of the Grantor, in its sole discretion, or by such other person who can make the election in the

absence of an executor, the Marital Trust will qualify for the federal estate tax marital deduction under Section 2056 of the Internal Revenue Code. In no event shall the Trustee take any action or have any power that will impair the federal estate tax marital deduction, and any such power shall be void. All provisions regarding the Marital Trust shall be interpreted to conform to the primary objective that the marital deduction shall be allowable.

6.2 Income to Spouse for Life. Commencing immediately on the date of death of the Grantor, all net income of the Marital Trust shall be distributed by the Trustee in monthly or other convenient installments, but not less frequently than quarterly, to the Spouse as long as she lives.

6.3 Power of Spouse Regarding Non-Productive Property. During the life of the Spouse, the Spouse shall have the power to require the Trustee to make all or part of the principal of the Marital Trust productive or convert promptly any unproductive part into productive property. This power shall be exercised by the Spouse in a written instrument delivered to the Trustee.

6.4 Support of Spouse. Notwithstanding anything to the contrary contained in this Article, it shall be the discretionary duty of the Trustee, from time to time, to distribute to or apply for the use and benefit of the Spouse for the proper and reasonable support, maintenance and health of the Spouse, all or any part of the principal of the Marital Trust. Subject to the foregoing, distributions to the Spouse under this Paragraph shall be on the basis of maintaining the standard of living to which the Spouse was accustomed at the time of the death of the Grantor. In making any distributions of principal to or for the Spouse under this Paragraph, the Trustee shall take into consideration, to the extent the Trustee deems advisable, any income or other resources of the Spouse, outside of the Marital Trust, known to the Trustee and reasonably available for those purposes.

6.5 Distribution of Marital Trust Upon the Death of the Spouse. Upon the death of the Spouse, the Trustee shall distribute any accrued but undistributed income of the Marital Trust to such one or more persons and entities, including the estate of the Spouse, on such terms and conditions, either outright or in trust, as the Spouse shall appoint by a Will or other written instrument, specifically referring to and exercising this power of appointment. In the event that the Spouse does not exercise the foregoing power of appointment, such income shall be added to the principal of the Marital Trust. The then balance of the principal of the Marital Trust shall be allocated and distributed as follows:

(a) If DYLAN Is Living. If DYLAN survives his mother and is living at the time of allocation hereunder, then the Trustee shall allocate the following assets to Dylan's Trust:

(1) Cash or other property (but specifically not including any interest in the Artistic Property Entity or the Malibu Residence) equal in value to One Million Five Hundred Thousand Dollars (\$1,500,000).

(2) The Palisades Residence; and

(3) The Zumeriz Condo.

If, however, DYLAN is not living at the time of allocation hereunder, Dylan's Trust shall not be created, and the allocation contemplated by this Paragraph 6.5(a) shall lapse and be of no force or effect, and the property which would otherwise have been allocated pursuant to this Paragraph 6.5(a) shall remain as part of the Trust Estate, to be distributed as hereinafter provided.

(b) If DYLAN Is Not Living, But NANCY COSTICK Is Then Living. If DYLAN is not living at the time of allocation hereunder, but NANCY COSTICK is then living, the Palisades Residence shall be allocated to Nancy's Trust.

If the Trust Estate does not own an interest in one or more of the properties specifically identified in Paragraph 6.5(a) or Paragraph 6.5(b) at the time of allocation pursuant to this Paragraph 6.5, thereby making that item unavailable for allocation, then the allocation of the unavailable property contemplated by Paragraph 6.5(a) or Paragraph 6.5(b) (as the case may be) shall be of no force or effect and nothing shall be substituted in its place.

(c) Remaining Marital Trust Assets. The balance of the principal of the Marital Trust remaining after the allocations pursuant to Paragraph 6.5(a) or Paragraph 6.5(b) (if any) shall be added to the Issue's Trust, to be held as a part thereof and subject to all of its terms.

## ARTICLE 7

### ADMINISTRATION OF DYLAN'S TRUST:

7.1 Administration of Dylan's Trust as Set Forth in This Article. The Trustee shall retain, divide, administer or distribute Dylan's Trust as set forth in this Article.

7.2 Dylan's Trust for the Benefit of DYLAN. Dylan's Trust shall be held as a single Trust for the benefit of DYLAN.

7.3 Distribution of Income. Subject to the remaining provisions of this Article, the net income of Dylan's Trust shall be distributed to or applied for the use and

benefit of DYLAN in monthly or other convenient installments, but not less frequently than quarter-annually.

7.4 Income for Beneficiary Under Certain Age. Notwithstanding anything to the contrary herein, if DYLAN shall become entitled to income from Dylan's Trust before he has reached the age of twenty-two (22) years, then the Trustee shall continue to hold the income from Dylan's Trust in trust, with like powers as to management and investment thereof as herein set out and shall use and apply that income, as the Trustee may deem necessary, directly for the proper and reasonable support, maintenance, health and education of DYLAN. Any unexpended part of the net income of Dylan's Trust shall be added to the principal until DYLAN reaches the age of twenty-two (22) years, from and after which time DYLAN shall be entitled to the net income from Dylan's Trust as hereinbefore set forth. Income not expended for DYLAN shall become principal of Dylan's Trust and shall be distributed as hereinafter set forth in this Article.

7.5 Distribution of Principal. Until complete distribution pursuant to the provisions of this Paragraph, the Trustee may distribute to or apply for the benefit of DYLAN, out of the principal of Dylan's Trust, those sums as the Trustee, in the Trustee's discretion, considers necessary for DYLAN's proper support, maintenance, health and education, after taking into consideration, to the extent the Trustee considers advisable, any income or other resources of DYLAN, outside of any Trust created pursuant to this Trust Agreement known to the Trustee and reasonably available for those purposes. When DYLAN shall attain the following ages, the Trustee shall distribute to DYLAN the following portion of the principal of Dylan's Trust:

<u>Age</u>	<u>Portion of Dylan's Trust to Be Distributed</u>
Twenty-five (25) years	One-third (1/3) of the balance of Dylan's Trust
Thirty-three (33) years	One-half (1/2) of the balance of Dylan's Trust
Forty (40) years	The balance of Dylan's Trust, together with any undistributed income therefrom.

If DYLAN has already reached any one or more of those ages upon the creation of Dylan's Trust, the Trustee shall distribute to DYLAN that portion or all of Dylan's Trust based on the age or ages set forth above and reached by DYLAN at that time. The Trustee shall determine that portion of Dylan's Trust to distribute by treating DYLAN as first reaching the first age level mentioned above and then, if applicable, proceeding to the next age level (and subsequent levels, if appropriate).

7.6 Distribution of Dylan's Trust Upon the Death of DYLAN. If DYLAN shall die prior to receiving full distribution of Dylan's Trust, the undistributed balance of Dylan's Trust shall be allocated as follows:

(a) If NANCY COSTICK Is Then Living. If NANCY COSTICK is living at the time of allocation hereunder, and if Dylan's Trust includes an interest in the Palisades Residence, such residence shall be allocated to Nancy's Residence Trust.

(b) Remaining Dylan's Trust Assets. The balance of the principal of Dylan's Trust remaining after the allocation pursuant to Paragraph 7.6(a) (if any) shall be added to the Issue's Trust, to be held as a part thereof and subject to all of its terms.

## ARTICLE 8

### ADMINISTRATION OF NANCY'S RESIDENCE TRUST:

8.1 Administration of Nancy's Residence Trust as Set Forth in This Article. The Trustee shall retain, administer or distribute Nancy's Residence Trust as set forth in this Article.

8.2 Distribution of Income. The net income of Nancy's Residence Trust shall be distributed to or applied for the use and benefit of NANCY COSTICK in monthly or other convenient installments, but not less frequently than quarter-annually.

8.3 Support of NANCY COSTICK. Notwithstanding anything to the contrary contained in this Article, at any time that Nancy's Residence Trust holds cash or other liquid assets, it shall be the discretionary duty of the Trustee, from time to time, to distribute to or apply for the use and benefit of NANCY COSTICK for her proper and reasonable support, maintenance and health, all or any part of the principal of Nancy's Residence Trust. Subject to the foregoing, distributions to NANCY COSTICK under this Paragraph shall be on the basis of maintaining the standard of living to which NANCY COSTICK was accustomed at the time of the death of the Grantor. In making any distributions of principal to or for the benefit of NANCY COSTICK under this Paragraph, the Trustee shall take into consideration, to the extent the Trustee deems advisable, any income or other resources of NANCY COSTICK, outside of Nancy's Residence Trust, known to the Trustee and reasonably available for those purposes.

8.4 No Distributions of Principal. The Trustee shall not make any distributions of principal from Nancy's Residence Trust, except upon termination of Nancy's Residence Trust.

8.5 Nancy's Residence for the Benefit of NANCY COSTICK. The Trustee is authorized and directed to allow NANCY COSTICK to use and occupy the Palisades Residence as her residence without payment of rent therefor during her lifetime.

(a) Expenses of Residence. To the extent possible, the Trustee shall pay from Nancy's Residence Trust the proportionate share of the costs and expenses of maintaining any residence held by Nancy's Residence Trust (whether the Palisades Residence or a Substitute Residence), including, but not limited to, property taxes, assessments (specifically including, but not limited to, condominium association dues), fire and casualty insurance premiums, maintenance costs, ordinary repairs and replacements, utilities and grounds maintenance (collectively, the "Residence Expenses"). To the extent possible, the Trustee shall also pay from Nancy's Residence Trust the proportionate share of any notes secured by mortgages or deeds of trust on any residence (whether the Palisades Residence or a Substitute Residence) held by Nancy's Residence Trust. However, if, as is anticipated, Nancy's Residence Trust does not have sufficient assets to pay the Residence Expenses, then NANCY COSTICK shall be responsible for all such payments. If NANCY COSTICK fails to pay such Residence Expenses within sixty (60) days of a written demand for such payment, then the Trustee is authorized to mortgage the Palisades Residence (or any Substitute Residence), subject to NANCY COSTICK's consent, in order to acquire funds for such expenses, whereupon NANCY COSTICK shall be responsible for all payments of mortgage interest and principal, or to sell Nancy's Residence (or any Substitute Residence) without the consent of NANCY COSTICK. The Trustee shall hold, administer and distribute the net proceeds of the sale or any refinance of the Palisades Residence (or any Substitute Residence) under the terms of this Article.

(b) Substitute Residence. Upon the written request of NANCY COSTICK (and subject to the approval of the Trustee based upon all circumstances then existing, including the ability of NANCY COSTICK to provide for the payment of expenses relating to the Substitute Residence from her own funds), the Trustee shall sell or otherwise transfer the interest of Nancy's Residence Trust in Nancy's Residence and shall purchase, acquire or build a residence of equal or lesser value (the "Substitute Residence"). Title to the Substitute Residence shall be taken in the name of the Trustee of Nancy's Residence Trust as to the interest so purchased or otherwise acquired, and NANCY COSTICK shall be allowed to occupy the Substitute Residence on the terms previously set out in this Paragraph. If NANCY COSTICK does not request acquisition of a Substitute Residence, or if the Substitute Residence is of lesser value, the Trustee shall invest the proceeds of that sale, or the amount not reinvested in the Substitute Residence, as the case may be, and shall administer and distribute the income and principal of those funds under the terms of this Article.

(c) Sale of Residence Under Certain Circumstances. If NANCY COSTICK ever ceases to occupy a residence held by Nancy's Residence Trust (whether Nancy's Residence or a Substitute Residence), the Trustee may sell the interest of Nancy's Residence Trust in that residence.

(d) Use of Sales Proceeds. If at any time while NANCY COSTICK is living, the Trustee sells Nancy's Residence (or any Substitute Residence) and either (1) does not acquire a Substitute Residence or (2) acquires a Substitute Residence which is lesser in value than Nancy's Residence (or the Substitute Residence which is being sold), the sales proceeds (or the sales proceeds remaining after purchase of the Substitute Residence), the Trustee shall invest the proceeds of that sale, or the amount not reinvested in the Substitute Residence, as the case may be, and shall administer and distribute the income and principal of those funds under the terms of this Article.

(e) Trustee's Power to Require Proof of Compliance with Terms of Nancy's Residence Trust. The Trustee shall have the power to demand any and all assurances from NANCY COSTICK that all Residence Expenses are being paid currently, including the ability to demand that Nancy's Residence Trust be named as a "designated third party" entitled to copies of billing statements relating to the Residential Expenses.

(f) Definition of "Residence". As used in this Paragraph, the word "residence" shall mean Nancy's Residence as originally distributed to the Trustee and/or any other Substitute Residence acquired in accordance with the provisions of this Paragraph, whether occupied on a full-time or part-time basis, including resort property. Further, the term "residence" as used in this Paragraph shall include, without limitation, a dwelling house, mobile home, condominium, co-operative, own-your-own apartment unit and any other residential unit, including life care in a retirement facility.

8.6 Distribution of Nancy's Residence Upon the Death of NANCY COSTICK. Upon the death of NANCY COSTICK, Nancy's Residence Trust shall terminate. Upon termination, any property remaining in Nancy's Residence Trust shall be allocated to the Issue's Trust, to be held as a part thereof and subject to its terms.

## ARTICLE 9

### ADMINISTRATION OF ISSUE'S TRUST:

9.1 Administration of Issue's Trust as Set Forth in This Article. The Trustee shall retain, divide, administer or distribute the Issue's Trust, including any assets received from time to time subsequent to the death of the survivor of the Grantor and the Spouse by the Issue's Trust, as set forth in this Article.

9.2 Division and Allocation of Issue's Trust. The Trustee shall divide the Issue's Trust into as many equal shares as there are children of the Grantor then living and children of the Grantor then deceased leaving issue then living. The Trustee shall allocate one (1) equal share to each living child of the Grantor and one (1) equal share to each group composed of the living issue of a deceased child of the Grantor, to be further allocated in subshares among those issue by right of representation. Each share or subshare established pursuant to this Paragraph shall be a separate Trust (an "Article 9 Trust"), to be held, administered and distributed in accordance with the remaining provisions of this Article. With respect to any benefits of a Qualified Retirement Plan (as hereafter defined in the Article entitled "Administration of Retirement Plan Trusts") to be allocated to the Issue's Trust, such benefits shall be specifically allocated among the Beneficiaries of the Issue's Trust (determined pursuant to this Paragraph in accordance with the foregoing principles set forth in this Paragraph). The share of such benefits allocated to each Beneficiary of the Issue's Trust shall be held by the Qualified Retirement Plan administrator as a separate account in accordance with the Article entitled "Administration of Retirement Plan Trusts."

9.3 Distribution of Income of Article 9 Trust. Subject to the remaining provisions of this Article, the net income of an Article 9 Trust shall be distributed to or applied for the use and benefit of the respective Beneficiary thereof in monthly or other convenient installments, but not less frequently than quarter-annually.

9.4 Income of Article 9 Trusts for Beneficiary Under Certain Age. Notwithstanding anything to the contrary herein, if any Beneficiary of an Article 9 Trust shall become entitled to income from that Beneficiary's Article 9 Trust before that Beneficiary has reached the age of twenty-two (22) years, then the Trustee shall continue to hold the income from that Beneficiary's Article 9 Trust in trust, with like powers as to management and investment thereof as herein set out and shall use and apply that income, as the Trustee may deem necessary, directly for the proper and reasonable support, maintenance, health and education of the Beneficiary. Any unexpended part of the net income shall be added to the principal until that Beneficiary reaches the age of twenty-two (22) years, from and after which time that Beneficiary shall be entitled to the net income from that Beneficiary's Article 9 Trust as hereinbefore set forth. Income not expended for a Beneficiary shall become principal of that Beneficiary's Article 9 Trust and shall be distributed as hereinafter set forth in this Article.

9.5 Distributions of Principal from Article 9 Trusts. Until complete distribution pursuant to the provisions of this Paragraph, the Trustee may distribute to or apply for the benefit of each Beneficiary or that Beneficiary's issue, out of the principal of that Beneficiary's Article 9 Trust, those sums as the Trustee, in the Trustee's discretion, considers necessary for the proper support, maintenance, health and education of any one or more of that Beneficiary or that Beneficiary's issue, after taking into consideration, to the extent the Trustee considers advisable, any income or other resources of the



Beneficiary or that Beneficiary's issue, as appropriate, outside of any Trust created pursuant to this Trust Agreement known to the Trustee and reasonably available for those purposes; provided, however, that no portion of the amount or amounts so distributed may be used to discharge any obligation of a parent of such issue to support any of those issue. Any distribution or application of benefits to or for any issue of a Beneficiary under this Paragraph shall be charged against that Beneficiary's Article 9 Trust as a whole, rather than against any potential ultimate distributive share of the issue (or such issue's lineal ancestors or lineal descendants) to whom or for whose benefit the distribution is made. When any Beneficiary shall attain the following ages, the Trustee shall distribute to that Beneficiary the following portion of the principal of that Beneficiary's Article 9 Trust:

<u>Age</u>	<u>Portion of Article 9 Trust to Be Distributed</u>
Twenty-five (25) years	One-third (1/3) of the balance of the Article 9 Trust
Thirty-three (33) years	One-half (1/2) of the balance of the Article 9 Trust
Forty (40) years	The balance of the Article 9 Trust, together with any undistributed income therefrom.

If any Beneficiary of an Article 9 Trust has already reached any one or more of those ages upon the death of the Grantor or at any later time when the Article 9 Trust for such Beneficiary is created, the Trustee shall distribute to that Beneficiary that portion or all of that Beneficiary's Article 9 Trust based on the age or ages set forth above and reached by that Beneficiary at that time. The Trustee shall determine that portion of the Beneficiary's Article 9 Trust to distribute by treating the Beneficiary as first reaching the first age level mentioned above and then, if applicable, proceeding to the next age level (and subsequent levels, if appropriate).

**9.6 Distribution of Article 9 Trust Upon the Death of a Beneficiary.**

Upon the death of a Beneficiary of an Article 9 Trust, the undistributed balance of that Beneficiary's Article 9 Trust shall be allocated into separate Article 9 Trusts among the issue of that deceased Beneficiary, with allocation to be made among such issue by right of representation. If there is no then-living issue of that deceased Beneficiary, the deceased Beneficiary's Article 9 Trust shall be divided into shares and/or subshares for the then-living issue of that deceased Beneficiary's nearest ancestor (provided any such issue is a lineal descendant of the Grantor) not more remote than the Grantor, with allocation to be made among such issue by right of representation. Any share so established for either (a) the issue of that deceased Beneficiary or (b) the issue of that deceased Beneficiary's nearest ancestor not more remote than the Grantor (provided any such issue is a lineal descendant of the Grantor) shall be held in trust and distributed in

accordance with this Article. However, if any part of that deceased Beneficiary's Article 9 Trust would otherwise be held in trust for a Beneficiary for whose benefit a Trust is already then being administered under this Trust Agreement, that part shall instead be added to that Trust and shall thereafter be administered according to its terms, except that, if that Trust provides for distribution in installments and if that Beneficiary has received a fractional distribution of that Trust pursuant to its terms, then there shall be distributed to that Beneficiary, free of trust, a fraction of that part equal to the fraction of that Beneficiary's interest previously distributed to that Beneficiary.

9.7 Contingent Beneficiaries. If at the time of the death of the Grantor, or at any later time before full distribution of the Trust Estate, no other disposition of the Issue's Trust (or the Article 9 Trusts created thereunder) is directed by this Trust Agreement, the property remaining in the Issue's Trust (or the Article 9 Trusts created thereunder) (collectively, the "Remaining Article 9 Property") shall be distributed, free of trust, to the Spouse. If the Spouse is not living at the time of operation of this Paragraph, then the Remaining Article 9 Property shall be distributed, free of trust, to those persons who would then be the heirs of the Grantor, their identities and respective shares to be determined as though the death of the Grantor had occurred at that time, in accordance with the laws of the State of California then in effect relating to the succession of separate property not acquired from a predeceased spouse or ancestor.

## ARTICLE 10

### ADMINISTRATION OF RETIREMENT PLAN TRUSTS:

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

10.2 Qualified Retirement Plan. The term "Qualified Retirement Plan" refers to any employee benefit plan or individual retirement arrangement that is allowed

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

10.3 Distributions During Life of Beneficiary. During the life of the Beneficiary, the Trustee shall distribute each year to or for the benefit of the Beneficiary from the Beneficiary's Retirement Plan Trust all amounts distributed from the Qualified Retirement Plan to the Beneficiary's Retirement Plan Trust in that year (net of expenses), but disregarding distributions taken by the Trustee from the Qualified Retirement Plan to the extent applied to pay Death Taxes and GST taxes (if any) and income taxes thereon paid in accordance with Paragraph 10.4 below. During the life of the Beneficiary, no distributions may be made to anyone other than the Beneficiary in accordance with such Beneficiary's Retirement Plan Trust.

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

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

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

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

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

## ARTICLE 11

### SUCCESSOR TRUSTEE:

11.1 Designated Successor Trustee. If THOMAS EARL PETTY shall become unable to serve or otherwise cease to act as Trustee hereunder, then, subject to the provisions of Paragraph 11.2 and Paragraph 11.3, the following named alternative successor Trustees shall serve in the order listed:

FIRST: SPOUSE  
SECOND: ADRIA  
THIRD: BERNARD H. GUDVI.

11.2 Trustee of Dylan's Trust. Notwithstanding the provisions of the Paragraph 10.1 or any other provisions in this Trust Agreement to the contrary, if Dylan's Trust is created, NANCY COSTICK shall act as Trustee of Dylan's Trust. If NANCY COSTICK shall fail to qualify, become unable to serve or otherwise cease to act as Trustee of Dylan's Trust, then the Trustee serving under Paragraph 11.1 shall act as successor Trustee of Dylan's Trust.

11.3 Trustees of Article 9 Trusts. Notwithstanding the provisions of Paragraph 11.1 or any other provisions in this Trust Agreement to the contrary, the following individuals shall serve as Co-Trustees or sole Trustee of the Article 9 Trusts created for the following Beneficiaries:

(a) ADRIA's Article 9 Trust. BERNARD H. GUDVI and ADRIA shall act as Co-Trustees of any Article 9 Trust created for the benefit of ADRIA. If either BERNARD H. GUDVI or ADRIA shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee of ADRIA's Article 9 Trust, then the remaining Co-Trustee shall act as sole Trustee of ADRIA's Article 9 Trust. Notwithstanding the foregoing, if ADRIA's Article 9 Trust is still in effect five (5) years after its creation (in other words, it has not yet been fully distributed to ADRIA pursuant to its terms), and further if BERNARD H. GUDVI is acting as Co-Trustee with ADRIA at that time, then

BERNARD H. GUDVI shall resign as Co-Trustee and ADRIA shall thereafter serve as sole Trustee of ADRIA's Article 9 Trust.

(b) KIM's Article 9 Trust. BERNARD H. GUDVI and KIM shall act as Co-Trustees of any Article 9 Trust created for the benefit of KIM. If either BERNARD H. GUDVI or KIM shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee of KIM's Article 9 Trust, then the remaining Co-Trustee shall act as sole Trustee of KIM's Article 9 Trust. Notwithstanding the foregoing, if KIM's Article 9 Trust is still in effect five (5) years after its creation (in other words, it has not yet been fully distributed to KIM pursuant to its terms), and further if BERNARD H. GUDVI is acting as Co-Trustee with KIM at that time, then BERNARD H. GUDVI shall resign as Co-Trustee and KIM shall thereafter serve as sole Trustee of KIM's Article 9 Trust.

(c) Article 9 Trusts for the Benefit of Issue of ADRIA and/or KIM. BERNARD H. GUDVI shall act as sole Trustee of any Article 9 Trust created for the benefit of any issue of ADRIA and/or KIM.

11.4 Special Provisions Regarding Non-Resident Fiduciaries.

Notwithstanding the provisions of the foregoing Paragraph or any other provision in this Trust Agreement, if at any time an individual (the "Non-Resident Fiduciary") who is named or nominated as a Trustee or successor Trustee of any irrevocable trust created hereunder is not a United States citizen or a United States resident for United States federal income tax purposes, then the next named successor Trustee shall act as Co-Trustee with the Non-Resident Fiduciary, provided such named successor Trustee is a United States citizen or United States resident for United States federal income tax purposes. If the next named successor Trustee shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee hereunder, then the next named successor Trustee, if any, shall act as Co-Trustee with the Non-Resident Fiduciary, provided such named successor Trustee is a United States citizen or United States resident for United States federal income tax purposes. If there are no named successor Trustees or if all the named successor Trustees shall fail to qualify, become unable to serve or otherwise cease to act as Co-Trustee hereunder, then the Non-Resident Fiduciary shall either (a) exercise the Non-Resident Fiduciary's power under this Article to designate a Co-Trustee (either an individual or a Corporate Trustee) who is a United States citizen or a United States domestic corporation, who or which is not a related or subordinate party to the Non-Resident Fiduciary within the meaning of Section 672(c) of the Internal Revenue Code, to serve with the Non-Resident Fiduciary or (b) if the Non-Resident Fiduciary fails to exercise such power, the adult Beneficiaries and the guardians of any minor Beneficiaries of any Trust created hereunder, acting by majority vote, shall name a Co-Trustee (either an individual or a Corporate Trustee) who is a United States citizen or a United States domestic corporation, who or which is not a related or subordinate party to the Non-Resident Fiduciary within the meaning of Section 672(c) of the Internal

Revenue Code, to serve with the Non-Resident Fiduciary. Moreover, notwithstanding the foregoing, unless the Non-Resident Fiduciary is a United States citizen or United States resident for United States federal income tax purposes, at no time shall the Non-Resident Fiduciary have the authority to control any substantial decisions of the Trust, and the Co-Trustee who is acting with the Non-Resident Fiduciary shall solely control all such decisions.

11.5 Power to Designate a Successor Trustee. If at any time, any individual is named or acting as a Trustee hereunder and there is no named successor Trustee to that individual or the named successor is then unavailable to act as Trustee hereunder, then that individual shall have the power:

(a) to designate one or more successor Trustees or Co-Trustees who shall act as Trustee or Co-Trustees hereunder, as the case may be, in the order designated if and when that individual ceases to act as Trustee hereunder, or

(b) to designate a Co-Trustee to serve only with such individual.

If, at any time, any individual is named as a Trustee hereunder and there is a named successor Trustee or Trustees, that individual shall have the foregoing power:

(1) contingent upon such named successor(s) not being available to serve as Trustee at the time needed, or

(2) when such named successor(s) ceases to act as Trustee hereunder.

The foregoing power may be exercised by a Trustee by giving written notice of the designation of a successor Trustee to the then-living adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries, and as otherwise required by law. If more than one individual named Trustee exercises the foregoing power, priority shall be given to the designations of the earlier named Trustee hereunder, irrespective of the order in time that the foregoing notices were given. A Co-Trustee shall have the same power to nominate successors as granted to a sole Trustee hereunder, except that if two or more Co-Trustees make such designation, the named successor Trustees of a Co-Trustee shall be deemed to be named successor Co-Trustees (to serve in the order of priority designated) with the named successor Trustees (also to serve in the order of priority designated) of the other one or more Co-Trustees who made such designation. Any designation pursuant to this Paragraph may be revoked or amended by such Trustee by giving written notice in the same manner as the designation was made as provided above. Any Trustee designated pursuant to this Paragraph shall have all of the powers conferred upon a named Trustee under this Trust Agreement, shall

serve without bond and shall for all other purposes be treated as a named Trustee under this Trust Agreement.

11.6 Right of Trustee to Resign. Any Trustee acting as a Trustee under any Trust created hereunder may resign and be discharged from acting as a Trustee of that Trust by giving written notice of its resignation to any remaining Co-Trustee, to the adult Beneficiaries, to the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries. The notice shall be served personally or by certified or registered mail, postage prepaid, return receipt requested, and shall specify the date when the resignation shall take effect. The effective date of the resignation shall be at least thirty (30) days after the service or mailing thereof, unless the person or persons to whom notice of the resignation shall have been given shall otherwise consent. The adult Beneficiaries, the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries, unless a successor Trustee is designated or otherwise appointed as provided in this Trust Agreement, may by action of a majority in interest, in a written instrument, designate a successor Trustee or Co-Trustees (either individual Trustees and/or a Corporate Trustee) for the Trusts herein created; provided that any designated successor Corporate Trustee has either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least Fifty Million Dollars (\$50,000,000), or (b) assets under management (including assets under management by its affiliated entities) of at least One Billion Dollars (\$1,000,000,000) and provided further, that the Beneficiaries shall not be permitted to designate any individual Trustee who is considered to be a related or subordinate party subservient to the wishes of any Beneficiary, within the meaning of Internal Revenue Code Section 672(c) or any successor to that Section.

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

11.8 Substitution of Corporate Trustee. At any time that a Corporate Trustee is serving as Trustee of any Trust created pursuant to the provisions of this Trust Agreement, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries of such Trusts shall have the power, by action of a majority in interest (except for the Administrative Trust which shall require unanimity), to transfer the administration of those Trusts to a new Corporate Trustee who has either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least Fifty Million Dollars (\$50,000,000), or (b) assets under

management (including assets under management by its affiliated entities) of at least One Billion Dollars (\$1,000,000,000). The substitution of a new Corporate Trustee shall be made by the giving of written notice by the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries, directed to the then-acting Corporate Trustee, indicating the desire of the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries to effect a substitution in the office of Corporate Trustee and designating the new Corporate Trustee selected. Upon securing the approval of the transfer and substitution by a court of competent jurisdiction to the extent that the approval may be required by law, or within thirty (30) days after receipt of the above-mentioned notice, the Corporate Trustee then serving as Trustee hereunder shall transfer and convey the entire interest of that Corporate Trustee in the Trust Estate to the new and substituted Corporate Trustee. The purposes of the foregoing provisions are to insure harmonious relations between the Corporate Trustee and the Beneficiaries, and to further the effective and efficient management of the Trusts created hereunder. At any time that a Corporate Trustee is named as a Trustee of any Trust created pursuant to the provisions of this Trust Agreement and that Corporate Trustee (a) declines to act as Trustee, (b) otherwise does not commence to act as Trustee or (c) is a named successor Trustee, the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries of such Trust shall have the power, by action of a majority in interest, to substitute a new Corporate Trustee in the place of the named Corporate Trustee. The new Corporate Trustee must have either (a) a combined capital and surplus (including the capital and surplus of its affiliated entities) of at least Fifty Million Dollars (\$50,000,000), or (b) assets under management (including assets under management by its affiliated entities) of at least One Billion Dollars (\$1,000,000,000). The new Corporate Trustee shall replace the named Corporate Trustee for all purposes of this Trust Agreement.

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

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

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

11.12 Indemnification of Trustee. To the greatest extent not inconsistent with the laws and public policies of the state of California, no Trustee serving under this



Trust Agreement shall be liable, responsible or accountable in damages or otherwise to the beneficiaries of the Trust for any acts performed within the scope of the authority conferred on such Trustee by this Trust Agreement, except for such Trustee's gross negligence or willful misconduct. The Trust shall indemnify and hold harmless the Trustee from and against any and all losses, claims, demands, costs, damages, liabilities, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, brought against, or threatened against, such Trustee because such Trustee was a Trustee of the Trust. Such indemnification shall be provided regardless of whether the Trustee continues to be a Trustee at the time any such liability or expense is paid or incurred.

(a) Expenses incurred by a Trustee in defending any claim, demand, action, suit or proceeding subject to this Paragraph shall from time to time be advanced by the Trust prior to the final disposition of such claim, demand, action, suit or proceeding.

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

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

11.13 Special Trustee for Life Insurance Policies. Notwithstanding anything contained in this Trust Agreement to the contrary, at any time while the Spouse is acting as Trustee of the Issue's Trust, the next named successor Trustee hereunder shall have all powers, duties and obligations hereunder with respect to life insurance policies held by the Issue's Trust. The next named successor Trustee hereunder shall hold the powers in trust as "Special Trustee." At any time while the Spouse is acting as Trustee of the Issue's Trust, the Spouse shall, on the request of an insurance company, execute any documents required to implement the actions taken by the Special Trustee. If the next named successor Trustee hereunder shall fail to qualify, become unable to serve or otherwise cease to act as Special Trustee hereunder, then the next named successor Trustee hereunder, if any, who qualifies and is willing to act, shall act as successor Special Trustee under this Trust Agreement.

11.14 Power to Designate a Successor Special Trustee. If, at any time, any individual is named as a Special Trustee hereunder and there is no named successor Special Trustee to that individual or the named successor is then unavailable to act as Special Trustee hereunder, then that individual shall have the power:

(a) to designate one or more successor Special Trustees or Special Co-Trustees who shall act as Special Trustee or Special Co-Trustees hereunder, as the case may be, in the order designated if and when that individual ceases to act as Special Trustee hereunder, or

(b) to designate a Special Co-Trustee to serve only with such individual, which designation shall provide that such designated Special Co-Trustee shall be deemed to resign and shall cease to serve as Special Co-Trustee if, as and when the individual who designated him ceases to serve as Special Co-Trustee.

If, at any time, there is a named successor Special Trustee or Special Trustees, that individual shall have the foregoing power:

(1) contingent upon such named successor(s) not being available to serve as Special Trustee at the time needed, or

(2) when such named successor(s) ceases to act as Special Trustee hereunder.

The foregoing power may be exercised by a Special Trustee by giving written notice of the designation of a successor Special Trustee to the then-living adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries, and as otherwise required by law. If more than one individual named Special Trustee exercises the foregoing power, priority shall be given to the designations of the earlier named Special Trustee hereunder, irrespective of the order in time that the foregoing notices were given. A Special Co-Trustee shall have the same power to nominate successors as granted to a sole Special Trustee hereunder, except that if two or more Special Co-Trustees make such designation, the named successor Special Trustees of a Special Co-Trustee shall be deemed to be named successor Special Co-Trustees (to serve in the order of priority designated) with the named successor Special Trustees (also to serve in the order of priority designated) of the other one or more Special Co-Trustees who made such designation. Any designation pursuant to this Paragraph may be revoked or amended by such Special Trustee by giving written notice in the same manner as the designation was made as provided above. Any Special Trustee designated pursuant to this Paragraph shall have all of the powers conferred upon a named Special Trustee under this Trust Agreement, shall serve without bond and shall for all other purposes be treated as a named Special Trustee under this Trust Agreement.

## ARTICLE 12

### POWERS OF TRUSTEE:

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

12.2 Power to Act as Owner. The Trustee is authorized to do all acts, initiate all proceedings and exercise all rights and privileges in the management of the Trust Estate as if the absolute owner thereof. Without limiting the generality of the foregoing, the Trustee shall have the right and power to acquire, grant, bargain, sell (for cash or on deferred payments), sell short, convey, exchange, convert, lease for terms either within or beyond the duration of the Trust, grant for like terms the right to mine or drill for and remove from Trust properties gas, oil or minerals, encumber, borrow, hypothecate, assign, partition, divide, subdivide, improve, loan, reloan or grant options on any and all property of the Trust Estate. The Trustee is authorized to borrow money for any Trust purpose for the debts of the Trust or the joint debts of the Trust and a beneficiary, upon terms and conditions as the Trustee may deem to be proper and to obligate the Trust Estate for repayment; and the Trustee may encumber the Trust Estate or any of its property (for the obligations of the Trust or any beneficiary) by mortgage, deed of trust, pledge, guarantee or otherwise, using such procedure or procedures to consummate the transaction or transactions as the Trustee may deem advisable. The Trustee is authorized to guarantee any loans made to the Grantor and any other obligations (including obligations of unrelated third parties and obligations of business entities in which the Grantor may have an interest), and to encumber any and all of the Trust Estate or any of its property by mortgage, deed of trust, pledge or otherwise, using such procedure or procedures to consummate the transaction or transactions as the Trustee may deem advisable. Except as otherwise specifically provided in this Trust Agreement, all transactions shall be for fair and adequate consideration.

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

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

The Trustee shall consider individual investments as part of an overall investment strategy having risk and return objectives reasonably suited to the purposes of the Trust. In so doing, the Trustee shall act as a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, to attain the goals of the Grantor as determined from the Trust Agreement. Within the limitations of the foregoing standard and considering individual investments as part of an overall investment strategy, the Trustee is authorized to acquire every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate and government obligations of every kind, preferred or common stocks (on margin or otherwise), interests in limited liability companies, commodities (on margin or otherwise), options (whether covered or not) or futures for stocks, stock index options, commodities or other assets, any other derivative securities, shares of investment trusts, shares of investment companies, shares of mutual funds (including mutual funds of which the then-acting Trustee or an affiliate of the then-

acting Trustee serves as investment adviser), mortgage participations, partnership interests (general or limited) and common trust funds (including common trust funds administered by the then-acting Trustee or an affiliate of the then-acting Trustee). Further, subject to the standards and limitations stated in this Trust Agreement, the Trustee is specifically authorized to (but is not required to) invest funds or assets belonging to the Trust Estate (a) in the purchase or construction of a home for a Beneficiary and/or (b) in the commencement or conduct of a trade or business by a Beneficiary. The Trustee is authorized to invest the entire Trust Estate in interest-bearing accounts, certificates of deposit, market funds, index funds or any other non-equity income-producing investment, notwithstanding the possible decrease of purchasing power of the value of the principal of the Trust Estate.

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

12.5 Management Powers. The Trustee may, at the option of the Trustee, at any time, in connection with the management of the Trust Estate or the collection of any monies due or payable to a Trust hereunder, compromise any claims existing in favor of or against the Trust. The Trustee may loan or advance the Trustee's own funds for any Trust purpose to the Trust without security or upon the security of all or any portion of the principal of the Trust involved. Those loans shall bear interest at the then-current rate from date of advancement until repaid. However, the Trustee shall in no event be required to make any loan or advancement to the Trust. Any certificate, security or any evidence of indebtedness or ownership of property may be registered or taken and held in the name of the Trustee, or in the name of the nominee or nominees of the Trustee, with or without the disclosure of fiduciary relations, in order to more readily facilitate the handling of the Trust Estate. However, the Trustee shall be liable for any loss occasioned by the acts of such nominee or nominees affecting these securities if the Trustee would have been liable had the Trustee done the same acts.

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

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

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

12.9 Segregation and Distribution of Assets. There need be no physical segregation or division of the various Trusts, except as segregation or division may be required by the termination of any Trusts. Regardless of any segregation or division of the various Trusts, the Trustee shall keep separate accounts for the different undivided interests. Upon any division of the Trust Estate into separate shares or Trusts occurring after the separate Trusts were created in Article 5, and upon any distribution of the income or principal, the Trustee may apportion and allocate the assets of the Trust Estate in cash or in kind, or partly in cash and partly in kind, or in undivided interests in such manner and at such values as the Trustee in its discretion deems advisable. Any distribution or division in kind may be made on a proportionate or a disproportionate basis so long as the respective assets allocated or distributed have equivalent or proportionate fair market value. In making in kind allocations of assets, the Trustee shall take into consideration the income tax basis of specific property to be so allocated in determining equivalence of value, to the extent that the Trustee deems it advisable and/or to the extent any other adjustments are determined by the Trustee to be reasonable. The

Trustee may sell such property as it deems necessary to make any division or distribution. After any division of the Trust Estate, the Trustee may make joint investments with funds from some or all of the several shares or Trusts.

12.10 Trust Distributions. Upon any distribution of a Trust, in whole or in part, the Trustee may assign, transfer or deliver in kind to the Beneficiary then entitled thereto, any part of the Trust Estate or an undivided interest in the Trust Estate, or any portion thereof, at the value as the Trustee may establish as the then fair market value. No interest shall be paid on any specific distribution of cash or property (if any) set forth in this Trust; except, however, this provision shall not be applicable to (a) the Marital Trust nor to any other specific distribution to the Spouse; and (b) any pecuniary gift if a failure to pay interest thereon or with respect thereto would adversely affect the use of the exemption from the generation-skipping transfer ("GST") tax of the Grantor. If the Trust Estate includes one or more promissory notes with respect to which gain would be accelerated under Section 453B of the Internal Revenue Code if distributed to a Beneficiary, the Trustee, in its sole discretion, may elect not to distribute such note(s) at the time provided in this Trust Agreement. In the event the Trustee so elects, such note(s) shall continue to be held in trust and the payments received by the Trustee under the note(s) shall be divided, held, administered and distributed as otherwise set forth in this Trust Agreement, until the Trustee determines to distribute the note(s) or until the note(s) are paid in full. Further, the Trustee may, for any reason, elect not to distribute all or any portion of the principal of the Trust Estate with the consent of the Beneficiary who or which is entitled to receive such distribution, until such time as that Beneficiary desires to receive distribution of such principal. In connection with any principal distributions required hereunder as a result of a Beneficiary attaining a stated age, the Trustee may make such distribution at any time after the date on which such Beneficiary attains such stated age and ending on the last day of the same calendar year.

12.11 Powers of Trustee In the Event of Beneficiary Misconduct.

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

- (1) The Beneficiary is incarcerated.

(2) The Beneficiary has been convicted of any crime, other than misdemeanors or minor traffic violations, within five (5) years of the Distribution Date.

(3) The Beneficiary is on probation in connection with any criminal conviction.

(4) The Beneficiary previously has been on probation and any such period of probation has expired less than two (2) years prior to the Distribution Date.

(5) The Trustee determines that within three (3) years of the Distribution Date, the Beneficiary has used or engaged in the purchase and/or sale of any illegal drugs or other illegal substances or, in the Trustee's discretion, the Trustee determines that the Beneficiary has abused the use of alcohol.

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

(b) Optional Reduction or Suspension of Discretionary Distributions. Any discretionary distributions for a Beneficiary's health, education, support and maintenance shall be made by the Trustee after considering the Grantor's desire that a Beneficiary lead a life free of crime and substance abuse and the Grantor's intent that the assets of the Trust may not be used to encourage or support a Beneficiary in a lifestyle including criminal activities, illegal drugs or abuse of alcohol. Notwithstanding any other provisions in this Trust Agreement to the contrary, the Trustee shall withhold any and all distributions for support and maintenance which in the Trustee's sole and absolute discretion may (1) encourage a lifestyle involving criminal activities or (2) contribute to a chemical dependence or substance abuse, or otherwise free funds for such use by the Beneficiary; provided, however, that such distributions for support may be provided for a hospital or other program of recovery or a stay in a recovery house, plus all costs incident thereto. Nothing in this Trust Agreement shall prevent the Trustee from making discretionary distributions for the health, education, support and maintenance of a Beneficiary and/or a Beneficiary's issue as otherwise provided in this Trust Agreement to the extent that the Trustee, in its sole and absolute discretion, determines that the conditions described in this Paragraph 12.11(b), are satisfied and that the Beneficiary will use such funds for the purposes for which they are distributed.



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

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

(e) "Interested" Trustee. In the event that one of two or more individual Co-Trustees then serving is an "Interested Trustee" (as that term is defined in this Paragraph 12.11(e), then the remaining Co-Trustees who are not Interested Trustees shall exercise the discretionary authorities under this Paragraph. In the event that the sole Trustee, or all of the Co-Trustees then serving, are Interested Trustees, then the next Trustee who is not an Interested Trustee and who is not related or subordinate to such individual serving Trustee (within the meaning of Section 672 of the Internal Revenue Code) shall exercise the discretionary authorities under this Paragraph. For purposes of this Paragraph, "Interested Trustee" (as to any Beneficiary whose rights as a Beneficiary could be affected by that Trustee's exercise of discretionary authorities hereunder) means an individual Trustee who would be entitled to any portion of the interest in the Trust Estate held for that Beneficiary in the event of that Beneficiary's death. Further, for purposes of this Paragraph, an individual Trustee will be deemed to "be entitled to any portion of the interest in the Trust Estate held for that Beneficiary in the event of that Beneficiary's death," if a person who is related or subordinate to such individual Trustee would be entitled to any portion of the interest in that Beneficiary's Trust in the event of that Beneficiary's death.

(f) Provisions Regarding Beneficiary Misconduct Not Applicable to the Marital Trust or to Retirement Plan Trusts. Notwithstanding any provision in this Trust Agreement to the contrary, the provisions of this Paragraph shall not apply to the Marital Trust nor to any Retirement Plan Trust created hereunder.

12.12 Principal and Income. Except when the Trust Agreement specifically provides otherwise, the Trustee shall determine principal and income of the Trust Estate and from time to time apportion and allocate receipts, expenses, and other

charges between those accounts according to the provisions of the California Uniform Principal and Income Act ("UPAIA") (California Probate Code Sections 16320-16375). With respect to matters not provided for in the UPAIA, the Trustee shall have the absolute discretion to determine what is principal or income, and apportion and allocate any and all receipts and disbursements between those accounts, subject only to fiduciary standards and limitations of law. The exercise of that discretion within the above set forth limitations shall be conclusive on all persons interested in the Trust Estate.

12.13 Right to Compel Income Distributions from Retirement Arrangements. Notwithstanding anything to the contrary herein, should the Grantor designate the Trust or the Marital Trust to receive benefits ("Benefits") from any qualified pension, profit sharing, or stock bonus plan, qualified annuity plan, or individual retirement account, as such terms are defined in Sections 401, 403 and 408, respectively, of the Internal Revenue Code (a "Retirement Arrangement"), the following provisions shall apply:

(a) To the extent that the value of the Benefits are includible in the gross estate of the Grantor under Section 2039 of the Internal Revenue Code or otherwise, and to the extent that the value of the Benefits does not exceed the amount allocated to the Marital Trust, the rights to the Trust's interest in the Benefits shall be allocated to the Marital Trust prior to the allocation of any other assets thereto.

(b) To the maximum extent possible, the Trustee shall not make any of the payments required by the Paragraph titled "Payments Upon the Death of the Grantor" out of the Benefits.

(c) To the maximum extent possible, the Trust's interest in the Benefits shall be allocated to that portion of the Marital Trust for which the Trustee did not make the election under Section 2652(a)(3) of the Internal Revenue Code to treat the assets of the Marital Trust as if the qualified terminable interest property election had not been made for purposes of the GST tax.

(d) To the extent that the Benefits are allocated to the Marital Trust, the Spouse shall have the right, exercisable annually, to compel the trustee, custodian or other fiduciary of the Retirement Arrangement to withdraw therefrom an amount equal to the income earned on the assets held in the Retirement Arrangement and to distribute the same to the Marital Trust, for distribution to the Spouse as a portion of the income of the Marital Trust in accordance with Paragraph 6.2. The right to compel a distribution under this Paragraph 12.13 shall be cumulative and shall not lapse during the lifetime of the Spouse.

(e) The Trustee is authorized to make or not make distribution elections to accelerate or defer distribution to the Trust of the Benefits from the Retirement Arrangement, taking into account, to the extent that the Trustee deems

advisable, the tax consequences of such elections and the liquidity needs of the Marital Trust. In this connection, the Trustee is authorized, but not required, to elect to defer distribution to the maximum extent permissible under Section 401(a)(9)(B) of the Internal Revenue Code.

(f) The Trustee shall make reasonable efforts to maintain records of: (1) the income generated within the Retirement Arrangement; (2) the allocation of each distribution of Benefits from the Retirement Arrangement between income and principal; and (3) the tracing of distributions from the Marital Trust to the Spouse with respect thereto.

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

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

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

The signature of the Trustee, or one of two or more acting Co-Trustees, if applicable, shall be sufficient to bind the Trust with respect to any of the foregoing actions taken pursuant to this Paragraph and any third party may rely upon the signature of one of two

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

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

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

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

- (a) directly to the beneficiary;

(b) to the guardian, conservator or other fiduciary of the person or estate of the beneficiary;

(c) to a Uniform Transfers to Minors Act account, already existing or created for a minor, in any jurisdiction;

(d) to any person or organization furnishing care, support, maintenance or education of the beneficiary; or

(e) by itself making expenditures directly for the support, maintenance, health or education of the beneficiary.

The Trustee shall not be required to see to the application of any funds so paid or applied and the receipt by such payee shall be full acquittance of the Trustee. The decision of the Trustee as to direct payments or application of funds shall be conclusive and binding upon all parties in interest. The Trustee shall be guided by the foregoing principles in this Paragraph for any minor beneficiary or an incapacitated adult beneficiary, other than a child of the Grantor.

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

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

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

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

(d) Upon the receipt of proof of death of any person whose life is insured for the benefit of any Trust hereunder, or upon maturity of any policy payable

to a Trustee prior to the death of the insured, the Trustee shall collect all sums payable with respect thereof and shall thereafter hold such sums as principal of the respective Trust, except that any interest paid by the insurer for a period subsequent to maturity shall be considered as income.

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

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

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

of two or more acting Co-Trustees, if applicable, shall be sufficient to endorse any check, payment or other instrument which may be received for the account of the Trust, and such endorsement shall be a sufficient receipt to the person giving that check, payment or other instrument to the Trust. The Trustee is authorized, in its discretion, to appoint additional signatories to any accounts and safe deposit boxes maintained or opened at banks, savings and loan associations, brokerage houses and other financial institutions (including with the Trustee and affiliates of the Trustee) for the Trust Estate in such manner that funds may be withdrawn with respect to such accounts upon the signature of such additional signatory or signatories. The signature of such additional signatory or signatories shall be sufficient to endorse any check, payment or other instrument which may be received for the account of the Trust, and such endorsement shall be a sufficient receipt to the person giving the check, payment or other instrument to the Trust.

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

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

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

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

the Trustee may, in its discretion, but is not required to, terminate that Trust or those Trusts and, regardless of the age of the Beneficiary, distribute the principal and any accrued or undistributed net income thereon to the Beneficiary, or to its guardian, conservator, custodian under the California Uniform Transfers to Minors Act or other similar statute, or other fiduciary.

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

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

any subtrust thereof may not be combined with any trust other than a subtrust of the Marital Trust prior to the death of the Spouse; and

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

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

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

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

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

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

12.24 Tax Elections. The Trustee shall have the power in the Trustee's absolute discretion to take any action and to make any election to minimize the tax liabilities of this Trust and/or one or more of its beneficiaries, regardless of the resulting effect on the Trust, the other beneficiaries or any other person interested in this Trust, to allocate the benefits among the various beneficiaries, and to make adjustments in the rights of any beneficiaries or between the income and principal accounts, to compensate for the consequences of any tax election or any investment or administrative decision that



the Trustee believes has had the effect of directly or indirectly preferring one beneficiary or group of beneficiaries over others. In allocating assets hereunder, the Trustee may take into consideration the basis of such assets to the extent appropriate, as determined by the Trustee in its sole and absolute discretion. The Trustee shall cooperate with the executor of the Will of the Grantor or such other person who can make the election in the absence of an executor in electing to (a) treat all or a portion of the Marital Trust as Qualified Terminable Interest Property (as that term is defined in Section 2056 of the Internal Revenue Code) and (b) if applicable, to treat the Grantor as the transferor of all or a portion of the Marital Trust for purposes of the GST tax (pursuant to Section 2652(a)(3) of the Internal Revenue Code). The Trustee shall also have the power to file any income tax returns as may be required on behalf of the Grantor, whether a separate income tax return on behalf of the Grantor or a joint income tax return on behalf of the Grantor and the Spouse, and to pay all or any portion of the taxes due with respect to such returns. If any additional assessment shall be made on account of any income tax return filed by or on behalf of either the Grantor or Spouse, whether separately or jointly, the Trustee is authorized to pay the additional assessment. The exercise of authority hereunder by the Trustee shall be conclusive and binding on all persons.

12.25 Powers in Event of Disputes. The Trustee shall have the power to commence or defend such litigation with respect to the Trust or any property of the Trust Estate as the Trustee may deem advisable, at the expense of the Trust, and to compromise or otherwise adjust any claims or litigation against or in favor of the Trust. The Trustee's powers under this Paragraph shall apply during the term of the Trust and after distribution of Trust assets. However, the Trustee shall have no obligations or duties with respect to any litigation or claims occurring after distribution of Trust assets, unless the Trustee is adequately indemnified by the distributee for any loss in connection with such matters.

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

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

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

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

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

delivered to the Trustee (all of which, if more than one, are hereinafter referred to as "the Company"). Pending sale or final distribution of said securities or ownership interest or liquidation of the Company, the Trustee shall have the following authorities and discretions, in addition to any other grant of authority and discretion given elsewhere in this Trust Agreement:

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

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

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

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

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

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

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

12.31 Intellectual Property Rights and Powers.

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

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

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

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

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

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

(a) The Trustee may, in the Trustee's discretion, initiate or defend, at the expense of the Trust, any litigation relating to the Trust or any property of the Trust Estate that the Trustee considers advisable. The Trustee's powers under this Paragraph shall apply during the term of the Trust and after distribution of Trust assets.

The Trustee shall have no duties, however, regarding any litigation or claims occurring after distribution of Trust assets, unless the Trustee is adequately indemnified by the distributees for any loss occasioned by exercise of these powers.

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

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

- (a) make home improvements and additions to the family residence of the Grantor or Spouse;
- (b) pay off partly or in full the encumbrance, if any, on the family residence of the Grantor or Spouse;
- (c) purchase a family residence, if the Grantor or Spouse does not own one;
- (d) purchase a more expensive family residence;
- (e) give the family residence to the Spouse if it is the Grantor who needs long-term medical, health or nursing care under the Welfare & Institutions Code; and
- (f) obtain current information about Medi-Cal gifting rules and asset preservation rules before making any gifts or transferring assets from the Trust.

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

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

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

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

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

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

(3) Acts performed by a proposed or designated Trustee under this Paragraph shall not constitute acceptance of the Trust.

(4) If an asset of the Trust is discovered upon environmental audit by any proposed or designated Trustee to be contaminated with hazardous waste or otherwise not in compliance with environmental law or regulation, the Trustee may decline to act as Trustee solely as to such asset, and accept the Trusteeship as to all other assets of the Trust. A court of competent jurisdiction shall appoint a receiver or Special Trustee to hold and manage the rejected asset under the preceding sentence, pending its final disposition. Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to the Trustee.

(b) Termination, Bifurcation or Modification of the Trust Due to Environmental Liability.

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

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

(B) bifurcation of the Trust; or

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

(2) With court approval, the Trustee may terminate the Trust or partially or totally distribute the Trust Estate to its Beneficiaries.

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

(c) The Trustee shall have the power to take, on behalf of the Trust, any action necessary to prevent, abate or otherwise remedy any actual or threatened violation of any federal, state or local environmental law or regulation, relating to any asset, which is or has been held by the Trustee as part of the Trust Estate.

(d) Indemnification of the Trustee from Trust Assets for Environmental Expenses.

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

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

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



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

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

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

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

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

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

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

(5) The right of indemnification or reimbursement shall apply to all Environmental Expenses, except those resulting from the Trustee's intentional wrongdoing, bad faith or reckless disregard of fiduciary obligation.

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

12.37 Discretion of Trustee. Unless specifically limited, all discretions conferred upon the Trustee shall be absolute, and their exercise conclusive on all persons interested in the Trusts. The enumeration of certain powers of the Trustee shall not limit its general powers, the Trustee being vested with and having all the rights, powers and privileges with relation to the Trust Estate as could be exercised and executed by an

individual holding and owning the same property in absolute and unconditional ownership. All powers of the Trustee shall be exercised in a fiduciary capacity. The Trustee shall not be liable to the Trust or to any beneficiaries as a result of any losses, costs or damages of any kind, type or nature suffered or incurred by the Trust or by any beneficiary resulting from the Trustee's reasonable actions taken in good faith, the actual result of which could not have been reasonably anticipated.

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

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

## ARTICLE 13

### TRUST ADMINISTRATION:

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

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

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

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

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

13.6 Payments Upon the Death of the Grantor or Spouse. Upon the death of either the Grantor or Spouse, the Trustee shall make the following payments:

- (a) the specific monetary and other bequests contained in the Will of the Grantor;
- (b) the charitable pledges of the Grantor, whether or not such charitable pledges are legally enforceable against the Grantor;
- (c) the expenses of burial and last illness of the Grantor;
- (d) any income, state, county and other taxes attributable to or chargeable against the Grantor;
- (e) all Death Taxes (as defined in Paragraph 13.8) attributable to
  - (1) properties subject to probate administration,

- (2) properties included in the Trust Estate and occasioned or payable by reason of the death of the Grantor,
- (3) insurance proceeds included in the Grantor's taxable estate,
- (4) retirement benefits included in the Grantor's taxable estate, or
- (5) any other property which passed through a pay on death provision and which is included in the Grantor's taxable estate,

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

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

13.7 Allocation of Payments to Trusts. Except as otherwise provided in the Paragraphs titled "Death Taxes; Apportionment" and "Powers and Duties Regarding Payment of GST Tax Liability" or elsewhere in this Trust Agreement, payments pursuant to the Paragraph titled "Payments Upon the Death of the Grantor or Spouse" shall be charged to and paid from that Trust on account of which the obligation is incurred or to which the obligation is properly attributable without any proration or charge therefor against any specifically designated Beneficiary thereof provided, however, that this direction shall not apply if the result of the application of this instruction would be an increase in state or federal death taxes, which could be avoided by a different allocation of such charges; provided further that such alternative allocation of charges is, in the Trustee's sole and absolute discretion, reasonably fair to all Beneficiaries of any Trust created hereunder. By way of illustration, in the event an election is made to qualify the Marital Trust for the federal estate tax marital deduction upon the death of the Grantor, no amount of estate tax occasioned or payable by reason of the death of the Grantor would be incurred with respect to or attributable to the Marital Trust; accordingly, no portion of such estate tax would be paid from, allocated to or otherwise charged against the Marital Trust.

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

limitations expressly provided in this Trust Agreement including, without limitation, the provisions of the Marital Trust.

In general, any payment required to be made pursuant to the Paragraph titled "Payments Upon the Death of the Grantor or Spouse" or otherwise by reason of the death of, or an assignment by, the Grantor or Spouse, shall be charged, first, entirely, or to the extent possible, to a Nonexempt Trust (as defined in the Article titled "Provisions Regarding GST Tax"). Moreover, if by reason of the death of the Spouse any estate tax (including applicable interest and penalties, if any) is attributable to (or would subsequently be recoverable from) an Exempt Trust created under the Marital Trust of which the Grantor is considered the transferor for GST tax purposes, any payments pursuant to the Paragraph titled "Payments Upon the Death of the Grantor or Spouse" shall be charged instead, to the extent possible, to the Nonexempt Trust created under the Marital Trust of which the Grantor is the transferor for GST tax purposes, if any, provided, however, that this direction shall not apply if the result of the application of this instruction would be an increase in state or federal death taxes, which could be avoided by a different allocation of such charges; provided further that such alternative allocation of charges is, in the Trustee's sole and absolute discretion, reasonably fair to all Beneficiaries of any Trust created hereunder.

No payment of a community property liability hereunder shall exceed the Grantor's one-half (1/2) share of such community property liability. Further, for the purposes of making any of the payments mentioned in the Paragraph titled "Payments Upon the Death of the Grantor or Spouse," the Trustee shall not use (a) any proceeds of any insurance policies on the life of the Grantor, unless such insurance policies are includible in the estate of the Grantor, or (b) any distribution from a qualified retirement plan or individual retirement account with respect to the Grantor, for the payment of any taxes or expenses which shall be paid in accordance with the provisions of this Paragraph.

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

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

(b) Apportionment. Except as otherwise expressly provided in this Trust, including the provisions of this Paragraph 13.8, or in the Grantor's Will, it is the Grantor's intent that each recipient of property that is includible in the Grantor's taxable estate (whether passing under the provisions of this Trust or otherwise) shall pay

the Death Taxes (other than GST taxes) attributable to the property such recipient receives in accordance with the principles of Section 20110 of the California Probate Code and related sections, or any successor statutes or amendments thereto. The benefit of any credit, deduction, exclusion, exemption, or similar benefit relating to specific property, including but not limited to the marital deduction and charitable deduction, shall inure to the benefit of the recipient of the specific property.

(c) Death Taxes Attributable to Qualified Terminable Interest Property. Death Taxes (other than GST taxes) attributable to qualified terminable interest property includible in the Grantor's taxable estate under Section 2044 of the Internal Revenue Code and/or Section 2519 of the Internal Revenue Code, shall be apportioned, to the extent possible, to the qualified terminable interest property with the highest inclusion ratio, to the extent that doing so will not constitute a constructive addition with respect to any qualified terminable interest property with a lower inclusion ratio.

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

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

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

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

Section 2035(b) of the Internal Revenue Code. All taxable gifts made by the Grantor during the Grantor's lifetime shall not be subject to apportionment.

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

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

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

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

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

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

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

assets allocated to any Trust to compensate for the effect of any such action or for the effect on the amount of any Death Tax attributable to any recipient of property includible in the Grantor's estate for Death Tax purposes.

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

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

(a) all expenses incurred in the administration of this Trust and the protection of the Trust against legal attack (including but not limited to reasonable attorneys' fees and compensation payable to the Trustee under the provisions of this Trust Agreement); provided, however, that no such expenses shall be paid from the Marital Trust as a result of the death of the Grantor except to the extent there is no other source available from which to pay such expenses; and

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

It is the desire of the Grantor that the Trustee exercise its discretion pursuant to this Paragraph in a manner consistent with the intention of the Grantor to obtain the maximum federal estate tax marital deduction upon the death of the Grantor and not to reduce or otherwise adversely affect the Trust's qualification for any charitable deduction otherwise available for federal estate tax purposes. In particular, the Trustee may not exercise the discretion granted pursuant to this Paragraph so as to impose a material limitation on the income from Trust property otherwise qualifying for the federal estate tax marital deduction or charitable deduction, whether as provided in Treasury Regulation Section 20.2056(b)-4(a) or otherwise, and any such attempted exercise of discretion shall be void.

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

13.11 Liability for Conduct of Co-Trustees, Predecessor Trustees and Successor Trustees. No Trustee or Co-Trustee shall be liable or responsible for any act,



omission or default of any other Co-Trustee, predecessor Trustee or successor Trustee, as the case may be, provided that such Trustee or Co-Trustee shall have had no knowledge of that act, omission or default and no knowledge of facts which might reasonably be expected to put such Trustee or Co-Trustee on notice thereof.

13.12 Accounting. Except as may otherwise be required by law, the Trustee shall not at any time be required to make any accounting of the administration of the Trust Estate to any court or public authority whatsoever. During the lifetime of the Grantor, the Trustee shall account or report information regarding any Trust created hereunder ("Account") only to the Grantor. Following the death of the Grantor and during the lifetime of the Spouse, the Trustee shall Account to the Spouse and the other Beneficiaries (or to the legal guardian or conservator of any Beneficiary who has not reached the age of majority or who has been declared incapacitated) as to each Trust created hereunder. After the death of the Spouse, the Trustee shall Account to the other Beneficiaries (or to the legal guardian or conservator of any Beneficiary who has not reached the age of majority or who has been declared incapacitated) as to each Trust created hereunder. Notwithstanding the provisions of Section 16062 of the California Probate Code or any other applicable law requiring an annual Account, any account or report required to be made pursuant to the terms of this Paragraph shall not be required to be made annually but, rather, shall be required to be made no more frequently than annually upon the reasonable request of the Grantor, the Spouse or the Beneficiaries (or legal guardian or conservator, as appropriate); provided, however, that nothing in this sentence shall alter the duty of the Trustee to Account at the termination of a Trust and upon a change of Trustees. The Trustee shall not be required to (but may, in the Trustee's sole discretion) Account to any person having a future interest (whether vested or contingent) in the Trust Estate. The written approval of an account by the Grantor, the Spouse, and the other Beneficiaries, as provided above, shall not be required; however, if such written approval is provided, it shall be final and conclusive with regard to all transactions disclosed in the account or report as to all beneficiaries of that Trust, including unborn and contingent beneficiaries.

13.13 Residence for Spouse. If any interest in the residence the Grantor and Spouse may be occupying at the time of the death of the Grantor is allocated to any Trust created hereunder, the Trustee is authorized and directed to allow the Spouse to use and occupy that residence as her residence without payment of rent therefor during her life, or so long as she continues to occupy that residence. Upon the written request of the Spouse, the Trustee shall sell or otherwise transfer the Trust's interest in that residence and shall purchase, acquire or build a residence of equal or lesser value, if and as requested by the Spouse. Title shall be taken in the name of the Trustee as to the interest so purchased or otherwise acquired, and the Spouse shall be allowed to occupy that residence on the terms previously set out in this Paragraph. If the Spouse does not request acquisition of another residence, or if the other residence is of lesser value, the Trustee shall invest the proceeds of that sale, or the amount not reinvested in another

residence, as the case may be, and shall administer and distribute the income and principal of those funds under the terms of this Trust Agreement exclusive of this Paragraph. If the Spouse ever ceases to occupy the residence in which a Trust hereunder owns an interest, the Trustee may sell that Trust's interest in that residence. The Trustee shall pay that Trust's proportionate share of the cost and expenses of maintaining that residence, including, but not limited to, property taxes, assessments, fire and casualty insurance premiums, maintenance costs, ordinary repairs and replacements, and reasonable improvements for that residence, from that Trust. The Trustee shall also pay that Trust's proportionate share of any notes secured by mortgages or deeds of trust on that residence from that Trust. As used in this Paragraph, the word "residence" shall mean the residence originally distributed to the Trustee and any other residence acquired in lieu thereof in accordance with the provisions of this Paragraph, whether occupied on a full-time or part-time basis, including resort property. Further, the term "residence" as used in this Paragraph shall include, without limitation, a dwelling house, mobile home, condominium, co-operative, own-your-own apartment unit and any other residential unit, including life care in a retirement facility.

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

13.15 Subjection of Assets to Probate. It is the intention of the Grantor to avoid probate through the use of this Trust. If, however, the Trustee determines that it shall be in the best interests of the Beneficiaries of the Trust, and the beneficial interests of the Beneficiaries shall not thereby be altered, the Trustee may subject any asset to probate to accomplish any appropriate purpose for the Estate of either the Grantor or the Spouse, this Trust, any Trust created hereunder or any Beneficiary.

## ARTICLE 14

### PROVISIONS REGARDING GST TAX:

14.1 Intention Regarding GST Tax. The Grantor intends that the Trustee shall perform (or refrain from performing) such acts as authorized pursuant to the terms of this Trust Agreement, or otherwise, as the Trustee shall determine, in the Trustee's sole discretion, with respect to any liability for the GST tax pursuant to Section

2601 of the Internal Revenue Code, whether imposed upon the Grantor, the Spouse, the Estate of the Grantor, the Estate of the Spouse, any trust created by either the Grantor or the Spouse, including, without limitation, the Trust or any subtrust created hereunder, or any beneficiary thereof, or upon any transferee or any other person or entity, in order to minimize the aggregate liability with respect to all estate, inheritance or other death taxes (including, without limitation, any GST tax) occasioned or payable by reason of the death of either the Grantor or the Spouse or both or otherwise arising as a result of transfers of property, whether outright or in trust, made by or on behalf of, or which are otherwise attributable to, either or both the Grantor and Spouse, whether during life or upon the death of either the Grantor or the Spouse.

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

14.3 Creation of Separate Trusts Based Upon Inclusion Ratio. Notwithstanding any other provision of this Trust Agreement, if all or a portion of the GST tax exemption is or is anticipated to be allocated to any Trust hereunder, unless that Trust will thereby have an inclusion ratio (as defined in Section 2642 of the Internal Revenue Code) (the "Inclusion Ratio") of zero, that Trust shall be divided into two or more separate Trusts so that each Trust so created has an Inclusion Ratio of either zero (an "Exempt Trust") or one (a "Nonexempt Trust"). In so dividing a Trust, the Trustee shall distribute to the Nonexempt Trust property equal in value to the minimum amount necessary to establish that Trust with property in an amount necessary to produce an Inclusion Ratio of one while leaving the Exempt Trust with an Inclusion Ratio of zero. If a valid election is made pursuant to Section 2652(a)(3) to treat the Grantor as the transferor of all or part of the Marital Trust for purposes of the GST tax, the Trustee shall further divide any Exempt Trust and Nonexempt Trust created under the Marital Trust into separate Trusts, based upon the identity of the transferor of such Trust for purposes of the GST tax. Further, if property in a Trust having a certain Inclusion Ratio is directed to be added to a Trust with a different Inclusion Ratio, the Trustee may decline to make the addition and, instead, may administer the property as a separate Trust with provisions identical to the Trust to which it otherwise would have been added.

14.4 Power to Grant and Revoke General Testamentary Power of Appointment. The Trustee shall have the sole discretionary authority to amend the terms

of any Trust created hereunder (with the exception of the Marital Trust and any subtrusts thereunder) having an Inclusion Ratio greater than zero (a) to grant to any Beneficiary thereof a general testamentary power of appointment (as defined for federal estate tax purposes) with respect to such Beneficiary's interest therein, if the Trustee deems, in the Trustee's sole discretion, such action to be in the best interests of the beneficiaries of the Trust as a group, and (b) to eliminate or otherwise revoke such power of appointment, if created. Any amendment pursuant to this Paragraph may limit the amount subject to the power of appointment, may limit the class of permissible appointees of such Beneficiary's interest (including, without limitation, an appointment to only that Beneficiary's creditors), may require that the power of appointment be exercised jointly with another in a manner consistent with the objectives of the power or otherwise impose such conditions and limitations on its exercise as the Trustee shall determine. Any amendment granting a power of appointment shall be in writing stating any limitations on the exercise of such power and the manner in which it may be exercised. The Trustee shall send a copy of such amendment to the Beneficiary who is the grantee of the power. The Trustee may exercise the powers described in this Paragraph from time to time, and the Trustee may modify or reverse their prior exercise at any time.

14.5 Powers and Duties Regarding Payment of GST Tax Liability. If the Trustee determines that (a) any termination of an interest in or a power over Trust property constitutes a taxable termination pursuant to Section 2612(a) of the Internal Revenue Code, or (b) any distribution of Trust property constitutes a direct skip pursuant to Section 2612(c) of the Internal Revenue Code, the Trustee shall pay the amount of GST tax arising from such termination or distribution from the Trust property to which it relates, without adjustment of the relative interests of the Trust beneficiaries. If the Trustee determines that any distribution from a Trust (other than pursuant to a power to withdraw or appoint) is a taxable distribution pursuant to Section 2612(b) of the Internal Revenue Code, the Trustee shall have the power, exercisable if and to the extent determined by the Trustee in the Trustee's sole discretion, to augment the distribution by an amount which the Trustee estimates to be sufficient to pay all or a portion of the GST tax arising as a result of such distribution and shall charge the amount of the augmentation against the Trust to which the distribution relates. Any payments required or otherwise authorized pursuant to the terms of this Paragraph shall be made in coordination with the payments required by the Paragraph titled "Payments Upon the Death of the Grantor or Spouse" and shall be subject to the limitations expressly provided in this Trust Agreement including, without limitation, the provisions of Article 6 regarding the Marital Trust. If any GST tax paid pursuant to this Paragraph is imposed in part by reason of Trust property and in part by reason of property not held as part of the Trust Estate, the Trustee shall only pay that portion of the tax which the value of the Trust property taxed bears to the total property taxed, taking into consideration deductions, exemptions and other factors which the Trustee deems pertinent, in the Trustee's sole discretion.

14.6 General Powers Regarding GST Tax and Other Considerations.

All provisions of this Trust Agreement, except to the extent inconsistent with the marital deduction objectives of the Marital Trust or other objectives of the Grantor, shall be construed to permit the division, consolidation and administration of, and distributions from, the Trust in a timely manner consistent with the Grantor's objective of obtaining the efficient and effective use of the respective available GST tax exemptions of the Grantor and the Spouse and otherwise reducing the incidence of the GST tax and other death taxes. Except as expressly provided in this Trust Agreement to the contrary, including, without limitation, the provisions of Article 6 regarding the Marital Trust, the Trustee shall have the sole discretionary authority to do any and all acts as the Trustee may deem necessary or desirable in furtherance of the Grantor's intentions, subject to the Trustee's fiduciary and other considerations, including, without limitation, the authority to:

- (a) allocate the burden of any GST tax in an equitable manner, whether or not pro rata;
- (b) pay or withhold any GST taxes levied upon any Trust from such sources of funds as the Trustee deems prudent and advisable;
- (c) make adjustments, unless otherwise restricted, in the amounts to be received by the beneficiaries in compensation for the tax consequences of paying or otherwise allocating the burden of the GST tax;
- (d) make distributions to beneficiaries from such sources of funds or other property as the Trustee deems prudent and advisable, unless otherwise restricted;
- (e) divide any Trust established or to be established pursuant to this Trust Agreement, including, without limitation, the Marital Trust, into separate Trusts; and
- (f) consolidate or otherwise combine separate Trusts: (1) having identical Inclusion Ratios; or (2) having different Inclusion Ratios if the Trustee believes that economic efficiency or other compelling considerations justify sacrificing their distinct GST tax characteristics; provided, however, that the Marital Trust or any subtrust thereof may not be combined with any Trust other than a subtrust of the Marital Trust prior to the death of the Spouse.

Except as expressly provided to the contrary in this Trust Agreement, if a Trust otherwise to be established is divided under the provisions of this Article into separate Trusts, each such subtrust shall have the same provisions as the Trust from which it was established and references in this Trust Agreement to such original Trust shall collectively refer to the separate subtrusts derived from it. The Trustee may exercise the powers described in this Paragraph from time to time, and such powers may be used to modify or reverse their

prior exercise. In deciding whether and how to exercise these powers, the Trustee may take account of efficiencies of administration, GST and other transfer tax considerations, income tax factors affecting the various Trusts and their beneficiaries, present and future financial and other objectives of the various Trusts and their beneficiaries, the need or desirability of having the same or different Trustees for various Trusts or shares, and any other considerations the Trustee may deem appropriate. There is no requirement that any acts taken to reduce the incidence of any tax occasioned or payable by reason of the death of either or both the Grantor and the Spouse benefit the transferees of such property equally, proportionally or in any other particular manner.

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

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

14.9 Simultaneous Death. Notwithstanding any provision in this Trust Agreement to the contrary, if pursuant to the terms of this Trust Agreement (a) property is to pass to or is to be held in trust for a lineal descendant of the Grantor (or of the Spouse or of a former spouse of the Grantor) (a "Deceased Child") and (b) in the event of the death of such Deceased Child, such property is to pass to a further lineal descendant of the Grantor (or of the Spouse or of a former spouse of the Grantor) assigned to a generation (as determined pursuant to the provisions of Internal Revenue Code Section 2651) younger than the Deceased Child (a "Deceased Grandchild"), then, in the event that a Deceased Child and a Deceased Grandchild die simultaneously or under circumstances that make it difficult or impossible to determine their order of survival, the Trustee is

hereby authorized to and shall presume, for purposes of this Article, that the Deceased Child and the Deceased Grandchild have died simultaneously.

## ARTICLE 15

### DEFINITIONS AND RULES OF CONSTRUCTION:

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

15.2 Artistic Property. For purposes of this Trust Agreement, the term "Artistic Property" means (A) all intellectual property rights beneficially held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) (whether such ownership is outright or through an entity), which are attributable to any and all of the Grantor's efforts with respect to his music, including, without limitation, all of his rights as a recording artist, composer, publisher and/or record producer; and (B) all tangible personal property held by the Trust Estate (or to be acquired by the Trust Estate as a result of the death of the Grantor) which are attributable to any and all of the Grantor's efforts with respect to his music, including, without limitation, as a recording artist, composer, publisher and/or record producer (such as audio and visual recording masters).

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

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

15.5 Education. The term "education" shall be construed to include private preschool, elementary and secondary education (including instruction in music, art, computers, sports and physical education, and other subjects and topics, and whether conducted before, during or after the regular school day, and wherever located or held), vocational training, college and postgraduate study (including professional education), so long as pursued to the advantage of a beneficiary, at any recognized educational institution of a beneficiary's choice; and in determining payments to be made for education, the Trustee shall take into consideration a beneficiary's tuition, books,

supplies, tutors, appropriate travel expenses and reasonable living expenses. Notwithstanding the foregoing, education shall not have any meaning broader than that allowed by Section 2041(b) of the Internal Revenue Code.

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

15.7 Incapacity. The terms "incapacitated" or "incapacity," and the term "unable to serve" or equivalents thereof, as applied to any beneficiary or successor Trustee hereunder, shall be deemed to include not only a person who has been judicially declared incapacitated and a person for whom a guardian or conservator or other fiduciary of the person or estate or both shall have been appointed, but also a person who shall be deemed to have become substantially unable to manage his or her own financial resources or resist fraud or undue influence. That incapacity shall be evidenced by the written statement of two (2) licensed physicians upon the request of any beneficiary, Trustee or successor Trustee hereunder. In the case of a person who is serving as Trustee hereunder, the person or institution designated as next successor Trustee may commence acting in such capacity upon that evidence without liability by reason thereof. Any person who has been determined to be incapacitated under the provisions of this Paragraph shall be deemed to have regained his or her capacity for all purposes of this Trust, including to resume acting as Trustee, upon a written statement to that effect by two (2) licensed physicians.

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

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

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

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

(c) A person born as a result of artificial insemination, in vitro fertilization or other medical intervention, which person shall be deemed to be a genetic



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

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

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

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

15.12 Spouse. The term "spouse" shall include only persons who are lawfully married to and not legally separated from the person to whose spouse reference is made.

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

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

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

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

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

## ARTICLE 16

### GENERAL TRUST PROVISIONS:

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

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

All principal and undistributed income of any Trust so terminated shall be distributed to the then income Beneficiaries of that Trust in the proportions in which they are, at the time of termination, entitled to receive that income. However, if the rights to income are not then fixed by the terms of that Trust, distribution under this Paragraph shall be made to the Beneficiaries as are then entitled or authorized in the discretion of the Trustee to receive payments from that Trust. In the event there are no Beneficiaries so entitled, the Trustee shall use any reasonable method to make the distribution required hereunder, as determined in the Trustee's discretion.

16.2 Spendthrift Provision. No interest of any Beneficiary of any Trust created in this Trust Agreement shall be subject to sale, assignment, hypothecation or transfer by any Beneficiary, other than in the exercise of a power of appointment given to the Beneficiary, nor shall the principal of any Trust, or the income arising therefrom, be liable for any debt of any Beneficiary, or be subject to attachment by or the interference by or control of any creditor of any Beneficiary, or be taken or reached by any legal or equitable process in satisfaction of any debt or liability of any Beneficiary, including, without limitation, the process of any court in aid of execution of any judgment so rendered. All of the income and principal under any Trust shall be transferable, payable

and deliverable only to the designated Beneficiary at the time the Beneficiary is entitled to take under the terms of this Trust. The personal receipt of the Beneficiary may be made a condition precedent to the payment or delivery by the Trustee to that Beneficiary. The Trustee may, however, deposit in any bank designated in writing by a Beneficiary, to his or her credit, income or principal payable to that Beneficiary. This Article shall not restrict any authority of the Trustee to use and disburse funds for the support, maintenance, health and education of a Beneficiary, or to disburse funds to a guardian or conservator as herein provided.

16.3 Incontestability.

(a) Intentional Omission. The Grantor has intentionally made no provision in this Trust Agreement for any heirs or relatives of the Grantor who are not herein mentioned or designated, and the Grantor generally and specifically has intentionally omitted to provide for every person claiming to be or who may be determined to be an heir-at-law of the Grantor, except as otherwise mentioned in this Trust Agreement.

(b) Contest. Anyone (singly or in conjunction with anyone else) who is or who may become a beneficiary under this Trust Agreement and any charitable organization who may be a beneficiary under this Trust Agreement who shall contest, attack or seek to impair or invalidate in any court any provision of the following:

- (1) the Trust (or any Trusts created hereunder) or any other revocable or irrevocable trust established by the Grantor, and any amendments to any of the foregoing Trusts;
- (2) the Will of the Grantor or any codicil to any Will of the Grantor;
- (3) any designation of beneficiary executed by the Grantor with respect to any insurance policy, annuity, individual retirement account, or qualified or non-qualified employee benefit plan or plan of deferred compensation or other assets passing outside this Trust Agreement or the Will of the Grantor;
- (4) any written agreement between the Grantor and the Spouse defining or altering their property rights as married persons;
- (5) the characterization of the property held as part of the Trust Estate as the Grantor's separate property;
- (6) any buy-sell agreements; or

(7) any family partnership agreements or limited liability company operating agreements,

and anyone who shall conspire with or voluntarily assist anyone attempting to do any of these things, shall not be entitled to any benefits under any Trust created hereby, and any and all benefits and portions of the income or principal or both of this Trust otherwise provided to be paid to that person or charitable organization (1) in the case of a person, shall be paid and distributed as though that person had died without issue before becoming entitled to receive any income or any portion of the principal of this Trust or (2) in the case of a charitable organization, shall be distributed to any one or more other charitable organization(s) which qualify for tax exemption under Internal Revenue Code Section 501(c)(3) and which meet the charitable intentions of the Grantor consistent with the provisions of this Trust Agreement (including, without limitation, any one or more of the charitable organizations named in this Trust Agreement which are not disqualified under this Paragraph), as determined by the Trustee, in the Trustee's sole discretion.

(c) Election of Spouse. The Grantor believes that all property made a part of the Trust Estate and all rents, issues, profits, increases and appreciation therefrom are the Grantor's separate property. The provisions regarding the division and allocation of the Trust Estate reflect the Grantor's intention to dispose of the Trust Estate in whole. In the event that the Spouse pursues her independent legal rights (if any) to community or separate property of the Spouse which she believes (reasonably or otherwise) to be held as part of the Trust Estate, the Spouse shall be deemed to have elected to renounce all right or interest in the specific allocation conditionally provided pursuant to Paragraph 5.4 (including any right of NANCY COSTICK and/or DYLAN), in accordance with the principles established in *Burch v. George*, 7 Cal 4th 246 (1994). In furtherance of the Grantor's intentions and his desire to discourage litigation relating to the division and allocation of the Trust Estate, the Grantor expressly intends that any action or proceeding to determine the character, title or ownership of property held as part of the Trust Estate shall be deemed to be a contest of this Trust and the Trusts created hereunder, in accordance with Section 21305(a)(2) of the California Probate Code. In interpreting and administering the provisions of this Paragraph 16.3(c), the Trustee is directed to take all actions necessary to preserve the availability of the federal estate tax marital deduction under Section 2056 of the Internal Revenue Code.

(d) Intentions of the Grantor. The provisions of this Paragraph shall apply even though such person or entity shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause. Notwithstanding anything to the contrary contained herein, a "contest" shall include any similar action to the above in an arbitration proceeding. The provisions of this Paragraph shall not apply to any disclaimer by any person of any benefit under this Trust Agreement or under any Will. The Trustee is specifically authorized to defend, at the expense of the Trust Estate, any contest or attack of any nature upon this Trust Agreement, and any

other action or matter that would interfere with the disposition of assets of the Trust Estate pursuant to the Grantor's estate plan as provided in this Trust Agreement, the Grantor's Will, said beneficiary designations, amendments to said documents and any other documents that are testamentary in nature.

16.4 Disinheritance for Assertion of Claims. Anyone (singly or in conjunction with anyone else) who is or may become a beneficiary under this Trust Agreement and any charitable organization who may be a beneficiary under this Trust Agreement who asserts any claim against the Trust Estate, the Grantor's probate estate, or against any other trust created in whole or in part by the Grantor based on:

- (a) common-law marriage;
- (b) the theory of Marvin v. Marvin, 18 Cal. 3d 660 (1976), or any similar theory;
- (c) a "quantum meruit" theory;
- (d) a constructive trust theory; or
- (e) an alleged oral agreement (or an alleged written agreement which is to be proved by parol evidence), claiming that the Grantor agreed to give or bequeath anything to such person or entity or to pay such person or entity for services rendered (whether or not the court finds such agreement exists),

or otherwise files a frivolous petition or objection, and anyone who shall not defend or assist in good faith in the defense of any and all such claims shall not be entitled to any benefits under any Trust created hereby, and any and all benefits and portions of the income or principal or both of this Trust otherwise provided to be paid to that provided to be paid to that person or charitable organization (1) in the case of a person, shall be paid and distributed as though that person had died without issue before becoming entitled to receive any income or any portion of the principal of this Trust or (2) in the case of a charitable organization, shall be distributed to any one or more other charitable organization(s) which qualify for tax exemption under Internal Revenue Code Section 501(c)(3) and which meet the charitable intentions of the Grantor consistent with the provisions of this Trust Agreement (including, without limitation, any one or more of the charitable organizations named in this Trust Agreement which are not disqualified under this Paragraph), as determined by the Trustee, in the Trustee's sole discretion. The provisions of this Paragraph shall apply even though such person or entity shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause. The provisions of this Paragraph shall not apply to any disclaimer by any person of any benefit under this Trust Agreement or under any Will. The Trustee is specifically authorized to defend, at the expense of the Trust Estate, any contest or attack

of any nature upon this Trust Agreement. This Paragraph shall not be applicable to the Spouse with respect to the Marital Trust.

16.5 Costs of Defense Charged Against Contestant. Notwithstanding the foregoing provisions of Paragraph 16.3 and Paragraph 16.4, if the Trustee is unsuccessful in defending any matter or action described therein and does not settle such matter or action and if for any reason the distributions and/or allocations of interests in the Trust Estate to the contestant under this Trust Agreement and/or the Will of the Grantor are not forfeited, all of the costs of such defense shall be charged against the distributions and/or allocations of interests to the contestant under this Trust Agreement and/or the Will of the Grantor, and all distributions and/or allocations of interests to the contestant under this Trust Agreement and/or the Will of the Grantor shall be reduced on a dollar-for-dollar basis by aggregate net value as determined by the Trustee, of all real and personal property passing to or distributable to or for the benefit of the contestant as a result of such matter or action, including, without limitation, assets of the Trust Estate or the Grantor's probate estate, insurance proceeds, employee benefits and deferred compensation. In making any settlement of such matter or action, the Trustee shall consider the foregoing provisions of this Paragraph and shall abide by them to the extent possible.

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

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

16.8 Disclaimers. Any Beneficiary shall have the right to disclaim all or any part of any interest in property to which he or she may be entitled under this Trust Agreement, by giving written notice of such disclaimer to the then-acting Trustee, to the adult Beneficiaries, to the guardians of any minor Beneficiaries and to the conservators of any incapacitated Beneficiaries; provided, however, that a failure to notify the adult Beneficiaries, the guardians of any minor Beneficiaries and the conservators of any incapacitated Beneficiaries regarding a Beneficiary's disclaimer shall not affect the validity or qualification of any disclaimer under any federal or state law. The notice shall be delivered personally or by certified or registered mail, postage prepaid, return receipt

requested. Such disclaimer shall also in all respects comply with the applicable laws, rules, regulations and procedures, whether legislative, administrative, judicial or otherwise, as may be appropriate. Except as otherwise provided herein, any interest so disclaimed shall be held or distributed as if the disclaimant was deceased as of the effective date of such disclaimer. No other interest of the Beneficiary shall be affected by the disclaimer, unless that interest shall also be disclaimed.

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

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

16.11 Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if served personally or if deposited in the United States mail, certified or registered, postage prepaid or if transmitted by telegraph, telecopy or other electronic written transmission device. If such notice, demand or other communication is served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication is given by mail, it shall be conclusively deemed given seventy-two (72) hours after the deposit thereof in the United States mail. If such notice, demand or other communication is served by telegraph or if by other carrier service, it shall be conclusively deemed given upon confirmation of delivery by the carrier. If such notice, demand or other communication is served by electronic transmission device, it shall be deemed given seventy-two (72) hours after sending such notice, demand or communication, unless proof of earlier receipt is available. Any notice, demand or other communication to be given hereunder shall be addressed to the party to whom such notice, demand or other communication is to be given at the last known address for that party. Any party hereto may change its address for the purpose of receiving notices, demands and other communications as herein provided by a written notice given in the manner aforesaid to the Trustee hereof.

ARTICLE 17

EXECUTION:

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

17.2 Execution by the Grantor. Executed at Malibu, California, on September 7, 2006.

GRANTOR:

  
THOMAS EARL PETTY

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

TRUSTEE:

  
THOMAS EARL PETTY



ACKNOWLEDGMENT

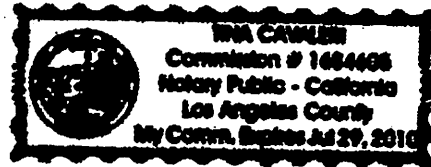
STATE OF CALIFORNIA )  
 )  
COUNTY OF LOS ANGELES )

On September 7, 2006, before me, Tina Cavaleri,  
(here insert name and title of the officer)

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

WITNESS my hand and official seal.

Signature Tina Cavaleri



(SEAL)

# **EXHIBIT E**

1 PETITION FOR ORDER DIRECTING TRUSTEES TO ACCOUNT

2 EXHIBIT "E"

3 PERSONS ENTITLED TO NOTICE OF HEARING

4  
5 Trustee:

6 DANA PETTY  
15260 Ventura Blvd. #2100  
7 Sherman Oaks, CA 91403

8 Attorneys for DANA PETTY as Trustee:

9 Burton A. Mitchell, Esq.  
10 Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067

11  
12 Affected Beneficiaries:

13 ADRIA ROBIN PETTY, Petitioner

14  
15 ANNAKIM VIOLETTE, formerly known as ANNA KIM PETTY  
11900 W. Olympic Blvd. #410  
16 Los Angeles, CA 90064

17 Attorney for ANNAKIM VIOLETTE, formerly known as ANNA KIM PETTY:

18 Gregory B. Gershuni, Esq.  
Gershuni Law Firm  
19 11377 W. Olympic Blvd., Suite 521  
Los Angeles, CA 90064

20  
21 DANA PETTY as a beneficiary  
15260 Ventura Blvd. #2100  
22 Sherman Oaks, CA 91403

23 Attorneys for DANA PETTY as a beneficiary:

24 Adam F. Streisand, Esq.  
Sheppard Mullin Richter & Hampton LLP  
25 1901 Avenue of the Stars, Suite 1600  
Los Angeles, CA 90067

26  
27  
28 H:\CLIENTS\Nq\Petty\Pleadings\PT to Fund APE v6.wpd