

IN THE SUPREME COURT OF NEVADA

In the MATTER OF THE JORDAN DANA
FRASIER FAMILY TRUST

AMY FRASIER WILSON,

Appellant,

v.

U.S. BANK WEALTH MANAGEMENT;
BRADLEY L. FRASIER, M.D.; NORI
FRASIER; STANLEY H. BROWN, JR.,
Special Administrator, ESTATE OF DINNY
FRASIER; CHAPMAN UNIVERSITY;
TEMPLE BETH SHOLOM OF ORANGE
COUNTY, INC.; IRVINE COMMUNITY
ALLIANCE FUND; AMERICAN SOCIETY
FOR PREVENTION OF CRUELTY TO
ANIMALS; ST. JUDE CHILDREN'S
RESEARCH HOSPITAL, INC.; SARA CADY;
DANIELLE FRASIER AROESTE; ELIOT
CADY; ELISSA CADY; and BRENDAN
FRASIER,

Respondents.

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Clerk of Supreme Court

APPEAL

from the Second Judicial District Court, Washoe County
The Honorable Tammy Riggs, District Judge
District Court Case No. PR16-00128

**APPENDIX TO APPELLANT'S OPENING BRIEF
VOLUME 4 OF 6**

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CERTIFICATE OF SERVICE

I certify that I am an employee of SOLOMON DWIGGINS FREER & STEADMAN, LTD. and that on the 22nd day of April, 2024, **APPELLANT’S OPENING BRIEF** (“Brief”), and **APPELLANT’S APPENDIX (VOLUMES 1-6)** (“Appendix”) were filed electronically with the Clerk of the Nevada Supreme Court, and that I caused a true and correct copy of the Brief and Appendix to the following in the manner set forth below:

Via:

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IN THE SECOND JUDICIAL DISTRICT COURT - STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the Matter of the

Case No: PR16-00128

JORDAN DANA FRASIER FAMILY TRUST

Dept. No.: 3 [PR]

**JOINT PETITION TO CONFIRM SETTLEMENT AGREEMENT, APPROVE
DISTRIBUTION OF THE SURVIVOR'S TRUST PURSUANT TO THE
SETTLEMENT AGREEMENT, AND PETITION FOR MODIFICATION OF
THE TAX-EXEMPT TRUST TO ENABLE TERMINATION OF TRUST AND
ALL SUB-TRUSTS CREATED THEREUNDER**

The Estate of Dinny Frasier, Amy Frasier Wilson, and the Charitable Beneficiaries of the Survivor's Trust identified below respectfully petition the Court to approve the Settlement Agreement attached hereto as **Exhibit 1** in order to conclude all pending litigation before the Court in the above-captioned matter.¹

This Petition is based on the following allegations, statements of fact, statements of procedure, applicable law, written arguments, and oral arguments at the hearing upon this Petition.

¹ As stated above, the Settlement Agreement is attached hereto as Exhibit 1. The Petitioner notes Ms. Amy Frasier Wilson made changes to the Settlement Agreement by interlineation. Those revisions to the Settlement Agreement by interlineation were not countersigned by the Estate or the Charities. As such, the version Ms. Wilson signed, as well as the version the Estate and Charities signed are all included in Exhibit 1.

INTRODUCTION

As the Court is aware, this matter involved litigated claims between the Estate of Dinny Frasier and Amy Frasier Wilson, Dinny Frasier's daughter, regarding the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust for the benefit of Dinny Frasier created under the Jordan Dana Frasier Family Trust. In short, Ms. Wilson contended the Third, Fourth, and Fifth Amendments to the Survivor's Trust were not valid, because Ms. Frasier lacked the requisite capacity to lawfully amend the Survivor's Trust following its Second Amendment.² Consequently, Ms. Wilson claimed she was the sole beneficiary of the Survivor's Trust under its Second Amendment.

Following a directive from the Nevada Supreme Court, the Estate defended the enforceability of the Third, Fourth, and Fifth Amendments to the Survivor's Trust. *See Matter of Jordan Dana Frasier Fam. Tr.*, 136 Nev. 486, 492, 471 P.3d 742, 747 (2020). The Parties engaged in discovery and litigation, including extensive motion practice before the Court, in advance of an evidentiary hearing scheduled to commence March 27, 2023 to determine the validity and enforceability of the Third, Fourth, and Fifth Amendments to the Survivor's Trust.

Prior to the March 27, 2023 Hearing, the Estate requested the competing beneficiaries of the Survivor's Trust attend a mediation to avoid incurring the significant expense of trial, as well as a potential appeal. Consequently, the Charitable Beneficiaries of the Survivor's Trust under the Third, Fourth and Fifth Amendments, Ms. Wilson as the sole beneficiary of the Survivor's Trust under its Second Amendment, and the Estate held a mediation on March 6, 2023 before former District Court judge the Honorable Elliot Sattler.

² Pursuant to mandate of the Nevada Supreme Court, claims of undue influence in formation of the Third, Fourth, and Fifth Amendments to the Survivor's Trust were not at issue.

1 During the March 6, 2023 Mediation, the Parties resolved the dispute
2 regarding whether the Third, Fourth, and Fifth Amendments benefitting the
3 Charities, or the Second Amendment benefitting Ms. Wilson, was the applicable
4 amendment to administer and distribute the Survivor's Trust. Specifically, the
5 Charities and Ms. Wilson agreed to liquidate certain assets of the Survivor's Trust
6 and divide the proceeds of the Survivor's Trust as stated in the Agreement attached
7 hereto as **Exhibit 1**.

8 In addition to agreeing upon distribution and termination of the Survivor's
9 Trust, the Estate and Ms. Wilson agreed to Petition the Court to modify the Tax-
10 Exempt Trust to require distribution of Ms. Wilson's share of the Tax-Exempt Trust
11 outright and free of trust. *Id.* The Charities have no opposition to this Trust
12 modification. *Id.* The Estate and Ms. Wilson reached this accord for a singular
13 purpose – to eliminate any potential for future litigation over the administration of
14 the Tax-Exempt Trust between the Trustee or the Frasier Children, which has been
15 occurring since 2016 at the cost of hundreds of thousands of dollars to the Trust, by
16 fully distributing and terminating both the Survivor's Trust and Tax-Exempt Trust
17 created under the Jordan Dana Frasier Family Trust.

18 Modification of the Trust is permitted by law under NRS 153.031, and the
19 Court has already utilized NRS 153.031 to modify the Trust in this case. In fact, the
20 Honorable David Hardy modified the Trust to effectuate certain distribution
21 payments following the evidentiary hearing in this matter in October 2018. Of note,
22 no party objected to or appealed the Court's prior modification of the Trust.
23 Therefore, modification of the Trust to effectuate full distribution and termination of
24 both the Survivor's Trust and the Tax-Exempt Trust, thereby eliminating the
25 potential for future litigation, is both legally permissible and in accordance with the
26 prior conduct of the Court in resolving Trust litigation issues.

27 In sum, this Petition requests the Court approve the Settlement Agreement
28 with respect to the Survivor's Trust in order to fully resolve and dispose of the legal

1 dispute before the Court regarding whether the Third, Fourth, and Fifth
2 Amendments to the Survivor's Trust are enforceable. Court-approval of the
3 Survivor's Trust resolution **is not contingent upon** modification of the Tax-Exempt
4 Trust. Separate and apart from approving resolution of the Survivor's Trust, the
5 Estate and Ms. Wilson respectfully petition the Court to modify the Tax-Exempt
6 Trust to enable full distribution of the Trust to Bradley Frasier, Nori Frasier and
7 Amy Frasier Wilson as equal beneficiaries, thereby fully concluding and distributing
8 the Jordan Dana Frasier Family Trust and all Sub-Trusts created thereunder to stop
9 the plague of litigation engulfing this Trust for the past seven years.

11 **RELEVANT CASE PROCEDURE**

12 This case arose in District Court when Ms. Dinny Frasier and Premier Trust,
13 Inc. ("PT") filed a "Petition for Confirmation of Trustees, for Construction of the Trust
14 Instruments, and for Instructions" on March 2, 2016 regarding the Jordan Dana
15 Frasier Family Trust, as amended and restated (the "Trust"). See Docket. The
16 Petition requested the District Court assume jurisdiction over the Trust pursuant to
17 NRS 164.010, confirm Ms. Frasier as a co-trustee of the Trust, confirm PT is the
18 corporate and primary co-trustee of the Trust, order PT to provide an annual
19 accounting of the Trust to Ms. Frasier, and provide guidance on PT's duties with
20 respect to a medical office building in which the Trust allegedly had partial
21 ownership. See generally March 2, 2016 Petition on file with the Court. The District
22 Court assumed ongoing jurisdiction over the Trust pursuant to NRS 164.010 in
23 August of 2016. See Docket.

24 After assuming jurisdiction over the Trust, the initial dispute before this Court
25 involved the Trust's purported ownership interest in a medical office building in
26 Southern California also purportedly owned by Dr. Bradley Frasier, one of Ms.
27 Frasier's three children. See March 2, 2016 Petition. The District Court set a bench
28 trial for May 8, 2017, to determine the Trust's legal rights and responsibilities with

1 respect to the medical office building in dispute. *See* Docket. On February 24, 2017,
2 PT filed a "Status Report" indicating the Parties mediated the medical office building
3 issues to resolution on January 27, 2017 (the "Medical Building Settlement"). *Id.*

4 Dinny Frasier, and her three children, Amy Frasier Wilson, Nori Frasier, and
5 Dr. Bradley Frasier, mediated the medical office building dispute before the
6 Honorable Justice Jeffrey King, Retired. The Court confirmed the Settlement
7 Agreement was binding upon the Trust and all beneficiaries in its July 6, 2017 Order
8 Confirming the Settlement Agreement on file with the Court.

9 Following confirmation of the Settlement Agreement, litigation then ensued
10 regarding Premier Trust's Second Supplemental Petition for Instructions and
11 confirmation of its accounting during Premier's tenure as Co-Trustee alongside Ms.
12 Frasier. *See generally* Docket. The litigation regarding Premier Trust's accounting
13 ultimately came before the Court for evidentiary hearing on October 11-12, 2018. In
14 advance of the hearing, Ms. Wilson filed a Prehearing Statement wherein she raised
15 concerns about fees a professional fiduciary, Janie Mulrain, charged Ms. Frasier, as
16 well as her belief Ms. Frasier did not have capacity or was subject to undue influence.
17 *See* October 8, 2018 Prehearing Statement filed by Ms. Wilson.

18 When the October 2018 Hearing commenced, the Honorable David A. Hardy
19 questioned Ms. Frasier's children regarding the issues they wished to resolve during
20 the Hearing in addition to the settling the account of Premier Trust in order to
21 establish the scope of the Hearing. In that regard, Ms. Wilson identified several
22 objectives she hoped to resolve at the Hearing, including distribution of Trust A,
23 which is the Survivor's Trust currently in dispute before the Court. Pursuant to Ms.
24 Wilson's request to resolve distribution of Trust A, the Court issued its order following
25 the October 11-12, 2018 Hearing wherein the Court confirmed the Third and Fourth
26 Amendments to the Survivor's Trust were valid. *See* December 21, 2018 Order. The
27 Court also confirmed Premier Trust's Final Accounting and substituted U.S. Bank as
28

1 Trustee of the Trust in its December 21, 2018 Order. *Id.* U.S. Bank is the current
2 Trustee of the Trust as appointed and confirmed by the Court. *Id.*

3 Following issuance of the December 21, 2018 Order making rulings on the
4 issues considered at the October 11-12, 2018 Hearing, Ms. Wilson timely appealed
5 the Order. *See* Docket. The Nevada Supreme Court issued an Opinion holding an
6 evidentiary hearing was required to determine whether Dinny had capacity to
7 execute the Third and Fourth Amendments to the Trust under California Law after
8 Ms. Wilson filed a written objection to confirmation of those Amendments on
9 December 10, 2018. *See Matter of Jordan Dana Frasier Fam. Tr.*, 136 Nev. 486, 492,
10 471 P.3d 742, 747 (2020). The Nevada Supreme Court also expressly held undue
11 influence was not at issue in this proceeding. *Id.* Thus, the Nevada Supreme Court
12 held an evidentiary hearing was necessary to determine the issue of Ms. Frasier's
13 capacity to execute the Third, Fourth, and Fifth Amendments to the Survivor's Trust.

14 Following remand to the District Court, the Court held a status hearing on
15 October 28, 2020 to discuss further proceedings in this matter. However, Judge
16 Hardy was forced to recuse himself following the status hearing because of a conflict
17 of interest with Mr. Ryan Earl, who appeared in this matter to represent the
18 Charities. The Clerk of the Court then transferred this matter to your Honor's Court,
19 Department 3. *See* Docket.

20 The Estate, Ms. Wilson, and the Charities set the dispute regarding the
21 validity of Third, Fourth, and Fifth Amendments to the Survivor's Trust for hearing
22 on March 27, 2023. Prior to the hearing, the Parties resolved the dispute over the
23 enforceability of the Third, Fourth, and Fifth Amendments to the Survivor's Trust at
24 mediation on March 6, 2023. Therefore, the Estate, Ms. Wilson, and the Charities
25 now petition the Court to approve the Settlement Agreement resolving the dispute
26 before the Court to enable closure of the Survivor's Trust as agreed to by the Estate,
27 Ms. Wilson and the Charities, as well as distribution of the Tax-Exempt Trust as
28 delineated below.

1 **RELEVANT FACTUAL BACKGROUND PRECIPITATING SETTLEMENT**

2 ***I. THE ORIGINAL TRUST***

3 Jordan Frasier and Dinny Frasier, husband and wife, are the settlors of the
4 Jordan Dana Frasier Family Trust established on December 29, 1980 (the "Initial
5 Trust"). *See* Trust attached as **Exhibit 2**. Mr. and Ms. Frasier amended the Initial
6 Trust five times. *See* Fifth Amendment to the Original Trust attached as **Exhibit 3**.
7 Mr. and Ms. Frasier executed the Fifth Amendment to the Initial Trust on June 7,
8 2000. *Id.*

9 ***II. DIVISION OF THE TRUST INTO THE SURVIVOR'S TRUST AND TAX-EXEMPT***
10 ***TRUST FOLLOWING JORDAN FRASIER'S DEATH***

11 Jordan Frasier died on October 22, 2014. Pursuant to the Fifth Amendment
12 of the Initial Trust, upon Jordan's death, the Initial Trust was to split into a
13 Survivor's Trust, a Tax-Exempt Trust and a Marital Trust. *Id.* The Survivor's Trust
14 is referred to in this litigation as Trust A. The Tax-Exempt Trust and the Marital
15 Trust combined for distribution purposes and are referred to as Trust B. Ms. Frasier
16 had the power to amend and dispose of the Survivor's Trust (Trust A) following
17 Jordan Frasier's death in October 2014, while the Tax-Exempt Trust (Trust B)
18 became irrevocable upon Jordan Frasier's passing.

19 ***III. AMENDMENT OF THE SURVIVOR'S TRUST***

20 Pursuant to Ms. Frasier's power to amend and dispose of the Corpus in the
21 Survivor's Trust, which consisted of her separate property and her share of the
22 community property, Ms. Frasier amended the Survivor's Trust five times following
23 Jordan Frasier's death. She first amended the Survivor's Trust on June 26, 2015 to
24 essentially disinherit Dr. Frasier and Nori Frasier - two of her three children. *See*
25 First Amendment to Survivor's Trust attached as **Exhibit 4**. The First Amendment
26 to the Survivor's Trust conveyed the Survivor's Trust Corpus to Ms. Wilson, with the
27 residual beneficiaries being Dr. Frasier's and Nori's children per stirpes. *Id.*
28

1 Ms. Frasier amended the Survivor's Trust for a second time on June 24, 2016
2 in order to remove Dr. Frasier's and Nori Frasier's children as residual beneficiaries.
3 See Second Amendment to the Survivor's Trust attached as **Exhibit 5**. Thus, Ms.
4 Wilson is the sole beneficiary of the Second Amendment to the Survivor's Trust. No
5 interested person in the Trust contested the validity of the Second Amendment to the
6 Survivor's Trust.

7 Ms. Frasier amended the Survivor's Trust for a third time on April 27, 2017 to
8 disinherit Ms. Wilson and convey the Survivor's Trust to charity. See Third
9 Amendment to the Survivor's Trust attached as **Exhibit 6**. Following execution of
10 the Third Amendment, Ms. Frasier amended the Survivor's Trust a fourth and fifth
11 time. See Fourth Amendment to Survivor's Trust attached as **Exhibit 7**; see also
12 Fifth Amendment to Survivor's Trust attached as **Exhibit 8**. Ms. Frasier executed
13 the Fourth Amendment to the Survivor's Trust on November 13, 2018. See **Exhibit**
14 **7**. The Fourth Amendment effectuated the equalization payments and disposition of
15 real property required by the Medical Building Settlement agreed upon in 2017.
16 Thereafter, Ms. Frasier executed the Fifth Amendment to the Survivor's Trust on
17 December 4, 2018 to correct a scrivener's error in the Fourth Amendment regarding
18 the amount of the equalization payments required by the Medical Building
19 Settlement. See **Exhibit 8**. Therefore, the Fourth and Fifth Amendments
20 effectuated payments required by the terms of the Medical Building Settlement
21 confirmed by the Court and agreed to by Ms. Wilson. As stated above, Ms. Wilson
22 contended the Second Amendment was the applicable instrument to administer the
23 Survivor's Trust under because Ms. Frasier lacked the requisite capacity to execute
24 the Third, Fourth, and Fifth Amendments to the Survivor's Trust. Conversely, the
25 Estate argued the Third, Fourth, and Fifth Amendments benefitting the Charities
26 were enforceable. The only prospective beneficiaries of the Survivor's Trust, the
27 Charities and Ms. Wilson, have now resolved their dispute regarding distribution of
28 the Survivor's Trust as described in **Exhibit 1**.

1 **IV. THE TAX-EXEMPT TRUST**

2 The Tax-Exempt Trust consists of the remainder of the Trust Estate that was
3 not funded into the Survivor's Trust or the Marital Trust. The Tax-Exempt Trust
4 requires division of its corpus into three equal shares for the benefit of Nori Frasier,
5 Dr. Bradley Frasier, and Amy Frasier Wilson, the Settlor's children. See **Exhibit 3**.
6 Nori Frasier and Dr. Bradley Frasier are entitled to receive their one-third portion of
7 the Tax-Exempt Trust outright and free of Trust upon attaining the age of 35. All of
8 the Settlor's children are over the age of 35 and, therefore, the Trustee will distribute
9 Dr. Frasier's and Nori Frasier's one-third interest in the Tax-Exempt Trust to them
10 outright and free of Trust.

11 On the other hand, Amy Frasier Wilson's one-third share of the Tax-Exempt
12 Trust was to be held in Trust for her benefit in order to allow her to qualify for public
13 assistance programs designed to support her physical limitations. See **Exhibit 3**.
14 However, since the Fifth Amendment to the Trust was executed on June 7, 2000, Ms.
15 Wilson does not take aid or rely upon any public aid or assistance programs to
16 accommodate her physical limitations. Thus, the point of holding Ms. Wilson's share
17 of the Tax-Exempt Trust in trust on June 7, 2000 is no longer applicable, relevant, or
18 purposeful at this time because Ms. Wilson does not rely upon or take aid from public
19 assistance programs thereby obviating the need for the Tax-Exempt Trust to exist.
20 In addition, the Tax-Exempt Trust states "[t]he trustee is to be mindful that it is the
21 settlors' desire that this trust fund be preserved primarily for the benefit of Amy
22 Michelle Frasier Wilson, and not for any remainder beneficiaries." (emphasis
23 added). The Trust also states the primary beneficiary of Ms. Wilson's share of the
24 Tax-Exempt Trust is Ms. Wilson, "and she is to be preferred to more remote
25 beneficiaries." Therefore, in light of the fact Ms. Wilson is the preferred beneficiary
26 of her share in the Tax-Exempt Trust, her share of the Tax-Exempt Trust should be
27 used for her benefit and not for any remainder beneficiaries, and the changed
28 circumstance whereby Ms. Wilson does not rely upon any public assistance programs

1 necessitating holding her share of the Tax-Exempt Trust in trust to qualify under
2 certain low-income standards, the Estate and Ms. Wilson agreed to modify the Trust
3 to permit her receipt of the Tax-Exempt Trust outright and free of Trust as discussed
4 below.

5 6 THE SETTLEMENT AGREEMENT

7 The Settling Parties initially signed a "Material Terms" sheet at the mediation
8 setting forth the framework of the resolution between them. Thereafter, the Parties
9 executed a formal and comprehensive Settlement Agreement attached hereto as
10 **Exhibit 1.** The Settlement Agreement effectively creates two separate
11 resolutions, which are not contingent upon the other being approved by the Court.

12 ***I. THE SURVIVOR'S TRUST RESOLUTION***

13 First, the Settlement Agreement resolves the current dispute before the Court
14 regarding the validity of the Third, Fourth, and Fifth Amendments to the Survivor's
15 Trust. The Settling Parties resolved this dispute by agreeing the Trustee shall make
16 the equalization payments owed from the Survivor's Trust to the Tax-Exempt Trust
17 as stated in the Settlement Agreement. Moreover, the Settling Parties agreed to
18 liquidate the Survivor's Trust and divide the remaining proceeds 55% to the Charities
19 and 45% to Ms. Wilson after paying the expenses of the Survivor's Trust such as the
20 Estate's administrator's and attorney's fees.

21 Moreover, all necessary parties to the Survivor's Trust Agreement consented
22 to the terms because the only potential beneficiaries of the Survivor's Trust are Ms.
23 Wilson and the Charities. In other words, no other interested person in the Trust can
24 object to the Survivor's Trust Resolution because the beneficiaries with an interest in
25 the Survivor's Trust, Ms. Wilson and the Charities, have agreed upon its resolution.
26 As such, the Agreement resolving the Survivor's Trust is ripe for Court approval to
27 enable final distribution and closure of the Survivor's Trust, as well as definitively
28

1 terminate the litigation before the Court over the validity of the Third, Fourth, and
2 Fifth Amendments to the Survivor's Trust.

3 ***II. THE TAX-EXEMPT TRUST RESOLUTION***

4 During mediation, the Estate and Ms. Wilson agreed upon one overarching
5 premise – prevent future litigation regarding the Trust in order to provide a definitive
6 end to a seven-year litigation that commenced in 2016. In other words, the Estate
7 and Ms. Wilson were cognizant this Trust has been engulfed by litigation for over 7
8 years costing the Trust in excess of a half-million dollars in attorney's fees, as well as
9 significant resources and time invested by the Court to resolve one dispute, which
10 seemingly always gave rise to another. As such, the Estate, Ms. Wilson, and the
11 Mediator were guided by the fundamental goal shared by all beneficiaries, which is
12 to create, and provide the beneficiaries with, a permanent and definitive end to all
13 litigation over the Jordan Dana Frasier Family Trust.

14 Against this backdrop, the Estate and Ms. Wilson examined the Tax-Exempt
15 Trust. First, the Mediating Parties agreed to reimbursement of all funds owed to the
16 Tax-Exempt Trust from the Survivor's Trust to enable the Trustee to make a
17 complete and final distribution of all funds in the Tax-Exempt Trust to Nori Frasier
18 and Dr. Bradley Frasier. As stated above, Ms. Nori Frasier and Dr. Bradley Frasier
19 shall receive their respective 1/3 interest in the Tax-Exempt Trust outright and free
20 of Trust once the Tax-Exempt Trust is paid the funds owed to it by the Survivor's
21 Trust.

22 The Estate and Ms. Wilson further agreed Ms. Wilson shall receive her 1/3
23 interest in the Tax-Exempt Trust outright and free of Trust, to which the Charities
24 had no objection. The Estate and Ms. Wilson agreed to this premise because her 1/3
25 interest in the Tax-Exempt Trust was to be held in Trust to enable her to qualify for
26 public assistance programs. See **Exhibit 3**. However, Ms. Wilson is not disabled and
27 does not receive aid from any public assistance programs. As such, the reason the
28 Settlers held Ms. Wilson's share of the Tax-Exempt Trust in Trust has not been

1 applicable for 23 years and, therefore, is moot. In light of this fact, there is no reason
2 to treat Ms. Wilson disproportionately to the Settlor's other two children who will
3 receive their respective share of the Tax-Exempt Trust outright and free of Trust
4 immediately.

5 Finally, and perhaps most importantly, the only mechanism to ensure
6 termination of litigation regarding the Trust is to distribute the Trust and terminate
7 its ongoing administration. Therefore, the Special Administrator and Ms. Wilson
8 agreed it was in the best interest of all beneficiaries, the Trustee, and the Trust itself
9 to permanently conclude the administration of the Trust, which has been a
10 boondoggle of litigation and disputes between the Settlor and her children; the
11 children themselves, and between the Settlor, her children and the prior Trustee.

12 13 APPLICABLE LAW

14 **I. NRS 164.015 and NRS 153.031 permit the Court to Approve the** 15 **Settlement Agreement.**

16 The Court has previously assumed *in rem* jurisdiction over the Trust pursuant
17 to NRS 164.010(1) and *in personam* jurisdiction over the Trustee pursuant to NRS
18 164.010(5)(b). Having assumed jurisdiction over the Trust, the Court may issue
19 orders regarding the internal affairs of the Trust pursuant to NRS 164.015(1). Orders
20 regarding the internal affairs of a trust include, but are not limited to, the
21 administration and distribution of trusts, as well as the determination of matters
22 involving trustees and beneficiaries of trusts. NRS 164.015(1). In addition, NRS
23 164.015(1) enables the Court to grant the relief codified in NRS 153.031, which
24 expressly permits modification and termination of trusts. NRS 153.031(1)(n). An
25 order approving the Settlement Agreement in this case, upon notice and proper
26 hearing, would then be binding on the Trustee and all beneficiaries pursuant to NRS
27 164.015(6).
28

1 a. NRS 164.015(1) permits the Court to approve resolution of
2 the Survivor's Trust because the Settlement Agreement
3 resolves administration and distribution of the Survivor's
4 Trust, as well as the rights of the competing beneficiaries
 in the Survivor's Trust.

5 As stated above, there are two potential residual beneficiaries of the Survivor's
6 Trust after the equalization payments are made pursuant to the Fifth Amendment of
7 the Survivor's Trust – Ms. Wilson under the Second Amendment and the Charities
8 under the Third, Fourth and Fifth Amendments to the Survivor's Trust. Thus, Ms.
9 Wilson and the Charities respectfully request the Court exercise its statutory
10 authority under NRS 164.015(1) to declare the rights of Ms. Wilson and the Charities
11 in the Survivor's Trust as agreed upon in the Settlement Agreement attached hereto
12 as Exhibit 1.

13 b. NRS 153031(1)(n) permits the Court to modify the Tax-
14 Exempt Trust to enable final distribution and termination
15 of the Tax-Exempt Trust.

16 The modification of trusts is permitted under fundamental trust law, codified
17 in NRS 153.031(1)(n). In addition, NRS 153.031(1)(n) permits the Court to terminate
18 a trust. With this provision in mind, the Estate, on behalf of Dinny Frasier, and Ms.
19 Wilson, a 1/3 beneficiary of the Tax-Exempt Trust, agreed to modify her interest
20 thereunder to enable full distribution and termination of the Tax-Exempt Trust. This
21 was agreed to for the reasons stated above, summarized as this Settlement
22 Agreement is designed to create a definitive endpoint to the litigation involving all
23 aspects of the Jordan Dana Frasier Family Trust and the Sub-Trusts created
24 thereunder, including potential future claims related to the Tax-Exempt Trust.
25 Moreover, the Settling Parties were also cognizant the reason Ms. Wilson's interest
26 was to be held in Trust rather than distributed, to enable her to qualify for public
27 assistance programs, is moot and inapplicable because Ms. Wilson has never sought,
28 requested, or obtained aid from any governmental or public assistance program. As

1 such, the Tax-Exempt Trust should be modified to permit its termination,
2 particularly in light of the fact that the basis to hold Ms. Wilson's money in Trust is
3 moot and has not been applicable since the year 2000 when the Settlor's executed the
4 Fifth Amendment to the Original Trust.

5
6 **CONCLUSION & REQUESTED RELIEF**

7 WHEREFORE, the Estate, the Charities, and Ms. Wilson respectfully request
8 the Court approve the Settlement Agreement in its entirety. Alternatively, it is
9 requested the Court approve resolution of the Survivor's Trust separate and apart
10 from the Tax-Exempt Trust as those agreements are not contingent on approval of
11 the other.

12 **AFFIRMATION**

13 The undersigned affirms this document does not contain the social security
14 number or legally private information of any person.

15 Dated this 26th day of June 2023

16 By: /s/ Patrick R. Millsap.
17 *F. McClure Wallace, Esq.*
Nevada Bar No.: 10264
18 *Patrick R. Millsap, Esq.*
Nevada Bar No.: 12043
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Dated this 26th day of June 2023

Counsel for the Estate of Dinny Frasier

Wallace & Millsap
510 W. Plumb Lane, Suite A, Reno, NV 89509
(775) 683-9599

INDEX OF EXHIBITS

EXHIBIT NO.	DESCRIPTION
1	Settlement Agreement
2	The Original Trust
3	Fifth Amendment to the Original Trust
4	First Amendment to Survivor's Trust
5	Second Amendment to the Survivor's Trust
6	Third Amendment to Survivor's Trust
7	Fourth Amendment to Survivor's Trust
8	Fifth Amendment to the Survivor's Trust

Wallace & Millar
510 W. Plumb Lane, Suite A, Reno, NV 89509
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Exhibit 1

Exhibit 1

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SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

This Agreement is deemed effective as of March 6, 2023 (the "Effective Date"). This Agreement is entered into and agreed to by the following individuals and entities in the matter of *The Jordan Dana Frasier Family Trust* brought before Department 3 of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, bearing case number PR16-00128, wherein Amy Frasier Wilson contested the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust and disputed the terms of the 2017 Settlement Agreement involving the Tax-Exempt Trust and Survivor's Trust created under the Jordan Dana Frasier Family Trust (hereinafter referred to at times as the "Case"):

PARTIES TO THE AGREEMENT

- I. **AMY FRASIER WILSON** ("Ms. Wilson"), individually, and as a beneficiary of the Tax-Exempt Trust, and the First, Second, Fourth, and Fifth Amendments to the Survivor's Trust, created under the Jordan Dana Frasier Family Trust.
- II. **TEMPLE BETH SHOLOM** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.
- III. **CHAPMAN UNIVERSITY** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.
- IV. **ST. JUDE CHILDREN'S RESEARCH HOSPITAL** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.
- V. **THE ASPCA** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.
- VI. **IRVINE COMMUNITY ALLIANCE FUND** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.
- VII. **THE ESTATE OF DINNY FRASIER** (the "Estate"), by and through its Court-appointed Special Administrator Stanley H. Brown. Esq.

The individuals and entities listed above may be collectively referred to in this Agreement as the "Parties" or individually referred to as a "Party". The Entities identified in Paragraphs II. through VI. may be collectively referred to herein as the

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"Charities". The Parties represent and warrant they each have the full and unqualified authority to execute this Agreement in both their individual and representative capacities as set forth above.

RECITALS PRECIPITATING THE AGREEMENT

A. Jordan Frasier ("Jordan") and Dinny Frasier("Dinny"), husband and wife, are the settlors of the Jordan Dana Frasier Family Trust established by Jordan and Dinny on December 29, 1980 (the "Initial Trust").

B. Jordan and Dinny amended the Initial Trust five times.

C. Jordan Frasier died on October 22, 2014.

D. Pursuant to the Fifth Amendment of the Initial Trust, upon Jordan's death, the Initial Trust was to split into a Survivor's Trust, a Tax-Exempt Trust and a Marital Trust.

E. The Tax-Exempt Trust and the Marital Trust combined for distribution purposes.

F. Dinny had the power to amend and dispose of the Survivor's Trust following Jordan's death in October of 2014, while the Tax-Exempt Trust became irrevocable upon the Jordan's passing.

G. Pursuant to Dinny's power to amend and dispose of the Corpus in the Survivor's Trust, which consisted of her separate property and her share of the community property, Ms. Frasier amended the Survivor's Trust five times.

H. She first amended the Survivor's Trust on June 26, 2015 to disinherit Dr. Bradley Frasier and Nori Frasier - two of Dinny's three children. The First Amendment to the Survivor's Trust conveyed the Survivor's Trust Corpus to Ms. Wilson, with the residual beneficiaries being Dr. Frasier's children per stirpes.

I. Dinny amended the Survivor's Trust for a second time on June 24, 2016 in order to remove Dr. Frasier's children as residual beneficiaries. No interested person to the Trust contested the validity of the First and Second Amendments to the Survivor's Trust.

J. Dinny amended the Survivor's Trust for a third time on April 27, 2017. The Third Amendment restates the entirety of the Survivor's Trust and disinherits Ms. Wilson as a beneficiary. The Third Amendment also conveys the Survivor's Trust to the Charities.

K. Following execution of the Third Amendment, Dinny amended the Survivor's Trust a Fourth and Fifth time. Dinny executed the Fourth Amendment to the Survivor's Trust on November 13, 2018. The Fourth Amendment effectuated certain equalization payments required by a January 27, 2017 Settlement Agreement

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between Dinny and her children Ms. Wilson, Bradley Frasier and Nori Frasier, with the residual beneficiary being the Charities.

L. Thereafter, Dinny executed the Fifth Amendment to the Survivor's Trust on December 4, 2018 to correct a scrivener's error in the Fourth Amendment regarding the amount of the equalization payments required by the January 27, 2017 Settlement Agreement.

M. The Third, Fourth, and Fifth Amendments to the Survivor's Trust were the subject of Ms. Wilson's appeal to the Nevada Supreme Court and the validity of those Amendments was the subject of the March 27-31, 2023 Evidentiary Hearing addressed below.

N. Around the time Dinny executed the Second Amendment to the Survivor's Trust and prior to execution of the Third Amendment, Dinny and the former Trustee of the Jordan Dana Frasier Family Trust, Premier Trust ("PT"), filed a "Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions" on March 2, 2016. This filing was the inception of the Case.

O. The Petition requested the District Court assume jurisdiction over the Trust pursuant to NRS 164.010, confirm Dinny as a co-trustee of the Trust, confirm PT is the corporate and primary co-trustee of the Trust, order PT to provide an annual accounting of the Trust to Mrs. Frasier, and provide guidance on PT's duties with respect to a medical office building in which the Trust allegedly had partial ownership.

P. After assuming jurisdiction over the Trust, the initial dispute before the Court involved the Trust's purported ownership interest in a medical office building in Southern California also purportedly owned by Dr. Bradley Frasier.

Q. Dinny Frasier, and her three children, Amy Frasier Wilson, Nori Frasier, and Dr. Bradley Frasier, mediated the medical office building dispute before the Honorable Justice Jeffrey King, Retired, on January 27, 2017. At the mediation, Justice King negotiated a settlement of the medical office building dispute with Dinny, Dr. Frasier, Ms. Wilson, Premier Trust, and Nori Frasier, which contemplated certain dispositions from the Survivor's Trust to Dinny's children, including Ms. Wilson. The terms of the Settlement Agreement required a determination Dinny was competent to enter into the Settlement Agreement and also required Dinny to amend the Survivor's Trust to effectuate the terms of the Settlement Agreement.

R. Specifically, the medical office building settlement agreement executed on January 27, 2017 required Dinny to make equalization payments to each of her children from the Survivor's Trust, which have still not been effectuated. In May of 2017, the Court confirmed the January 27, 2017 Settlement Agreement was enforceable, thereby requiring the Survivor's Trust to effectuate certain payments to the Tax-Exempt Trust and Dinny's children. Ms. Wilson disputed the efficacy of

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certain terms of the Settlement Agreement implemented in the Fourth and Fifth Amendments to the Survivor's Trust.

S. Following confirmation of the January 27, 2017 Settlement Agreement regarding the medical office building, litigation then ensued regarding Premier Trust's Second Supplemental Petition for Instructions and confirmation of its accounting during Premier's tenure as Co-Trustee alongside Ms. Frasier. The litigation regarding Premier Trust's accounting ultimately came before the Court for evidentiary hearing on October 11-12, 2018. In advance of the hearing, Ms. Wilson filed a Prehearing Statement wherein she raised concerns about her belief Dinny did not have capacity or was subject to undue influence. Thus, Ms. Wilson placed Dinny's capacity at issue in advance of the October 11-12, 2018 Evidentiary Hearing.

T. Ms. Wilson appeared in proper person at the October 11-12, 2018 Evidentiary Hearing where she reaffirmed her concerns about Dinny's capacity to amend the Survivor's Trust.

U. Following the October 11-12, 2018 Evidentiary Hearing, Dinny petitioned the Court to confirm the validity of the Third and Fourth Amendments to the Survivor's Trust. Ms. Wilson objected to the Petition to Confirm the validity of the Third and Fourth Amendments to the Survivor's Trust on the basis Dinny lacked the requisite capacity to validly form the Amendments. The Court issued an order on December 21, 2018 denying Ms. Wilson's objection to the validity of the Third and Fourth Amendments to the Survivor's Trust, thereby confirming the validity of those Amendments with the exception of requiring Dinny to amend the Fourth Amendment to correct a scrivener's error, which was corrected in the Fifth Amendment to the Survivor's Trust.

V. Ms. Wilson timely appealed the December 21, 2018 Order confirming the Third and Fourth Amendments to the Survivor's Trust. The Nevada Supreme Court issued an opinion overruling the December 21, 2018 Order with respect to the validity of the Third and Fourth Amendments to the Survivor's Trust and remanded this case to the District Court for an evidentiary hearing to determine whether Dinny had capacity to execute the Third, Fourth, and Fifth Amendments to the Survivor's Trust. Following remand, the Court issued an order on November 30, 2020 identifying several issues for litigation on remand. *Dinny Frasier died May 3, 2019 AFW 6/5/23*

W. On remand, the Estate and Ms. Wilson began litigating the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust. The Estate and Ms. Wilson conducted discovery and filed several dispositive motions in this regard.

X. The Charities allege they did not receive timely notice of the proceedings upon remand from the Supreme Court.

Y. The Court set the evidentiary hearing to determine the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust for March 27-31, 2023.

Z. Prior to the March 27-31, 2023 Evidentiary Hearing, the Parties attended mediation on March 6, 2023, before the Honorable Elliott Sattler. The Parties participated in mediation in good faith, and the mediation resulted in a binding settlement agreement between the Parties to resolve the Case.

AA. The Parties reduced the material terms of the agreement to a writing entitled the "Material Terms of Settlement Agreement." A copy of the "Material Terms of Settlement Agreement" is attached hereto as **Exhibit 1**. This Agreement is executed to provide further detail regarding the agreed upon resolution of the Case between the Parties as stated in the Material Terms of Settlement Agreement.

AGREEMENT

The purpose of this Agreement is to fully and completely resolve and extinguish those issues, claims, and defenses by and among the Parties related to Amy Frasier Wilson's contest to the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust's, along with the dispute as to the efficacy of certain terms of the Settlement Agreement arising out of the challenge to the Fourth and Fifth Amendments of the Survivor's Trust, as well as Ms. Wilson's and the Charities competing claims to the Survivor's Trust, or otherwise related to the Case and the Estate of Dinny Frasier in order to avoid the expense, delay, and risks associated with ongoing and potential future litigation between the Parties.

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. RESOLUTION OF THE SURVIVOR'S TRUST: The Charities and Ms. Wilson each asserted beneficial rights to the residual balance of the Survivor's Trust and Ms. Wilson objected to the enforcement of the January 2017 Settlement Agreement and certain repayments to the Tax-Exempt Trust from the Survivor's Trust. The Charities and Ms. Wilson agree to divide the Survivor's Trust as follows in order to resolve the dispute regarding the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust, as well as the validity of certain terms of the 2017 Settlement Agreement effectuated through the Fourth and Fifth Amendments to the Survivor's Trust in dispute:

- a. The Charities and Ms. Wilson agree the real property held in the Survivor's Trust shall be liquidated in an arm's length transaction to

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secure a fair market value for the real property. Priority in the sale of real property from the Survivor's Trust shall be given to prospective buyers who provide the best economical terms to purchase said real property, and between multiple buyers who provide comparable terms, then to the buyer whom agrees to close escrow most expediently.

- b. The Charities and Ms. Wilson agree any stocks, securities, or investments held in the Survivor's Trust shall be liquidated for distribution.
- c. All costs, fees, and expenses associated with liquidation of the real property and investments in the Survivor's Trust, excluding tax liabilities, shall be paid from the Survivor's Trust.

**FOLLOWING LIQUIDATION OF THE REAL PROPERTY AND ANY
INVESTMENTS IN THE SURVIVOR'S TRUST**

- d. The Charities and Ms. Wilson agree the equalization payments totaling \$368,000 identified in the Fifth Amendment to the Survivor's Trust shall be paid from the Survivor's Trust in accordance with the January 27, 2017 Settlement Agreement.
- e. The Charities and Ms. Wilson agree the Survivor's Trust shall pay the Tax-Exempt Trust the appraised values of the Pacifica Way Property (\$410,000) and the Vista Way Property (\$384,000) totaling \$794,000 as required by the January 27, 2017 Settlement Agreement.
- f. The Charities and Ms. Wilson agree any funds held by PT's Counsel in this matter, G. David Robertson, shall be repaid to the Tax-Exempt Trust for distribution thereunder.
- g. The Charities and Ms. Wilson agree the Survivor's Trust shall pay Amy Frasier Wilson \$3,683.71 in costs previously awarded to her by the Court.

**FOLLOWING THE PAYMENTS FROM THE SURVIVOR'S TRUST
TO THE TAX-EXEMPT TRUST**

- h. The Charities shall receive 55% of the remaining funds in the Survivor's Trust outright and free of trust. Ms. Wilson shall receive 45% of the remaining funds in the Survivor's Trust outright and free of trust.
- i. The Charities 55% interest in the remaining funds in the Survivor's Trust shall be apportioned as follows:
 - i. 1/3 to the Irvine Community Alliance Fund

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- ii. 1/3 to Chapman University
- iii. 1/9 to the ASPCA
- iv. 1/9 to Temple Beth Shalom of Orange County, Inc.
- v. 1/9 to St. Jude Children's Research Hospital

2. CONFIRMATION OF THE SURVIVOR'S TRUST RESOLUTION: The Estate, the Charities, and Ms. Wilson shall jointly petition the Court to confirm, approve, and direct the Trustee to effectuate resolution and distribution of the Survivor's Trust as described in Paragraph 1. Distribution of the Survivor's Trust as agreed herein is contingent on approval by the Court. If the Court does not approve resolution of the Survivor's Trust, then the Parties shall reschedule the previously vacated evidentiary hearing.

3. MS. WILSON'S SHARE OF THE TAX-EXEMPT TRUST: Ms. Wilson has a beneficial interest in the Tax-Exempt Trust created under the Jordan Dana Frasier Family Trust. Ms. Wilson's agreement to forego contestation of the Fourth and Fifth Amendments to the Survivor's Trust and the 2017 Settlement Agreement effectuated through the Fourth and Fifth Amendments allows for payment of \$1.162 million to the Tax-Exempt Trust and beneficiaries of the Tax-Exempt Trust as stated in Paragraphs 1.d. and 1.e. above. In order to prevent future litigation of issues involving the interplay between the Survivor's Trust, the Tax-Exempt Trust, and/or certain aspects of the January 27, 2017 Settlement Agreement; the Estate and Ms. Wilson agree to petition the Court to modify and/or terminate the terms of the Tax-Exempt Trust to state Ms. Wilson shall receive all of her beneficial interest in the Tax-Exempt Trust outright and free of trust. The Petition to modify and/or terminate the Tax-Exempt Trust as stated in this Paragraph may be set forth in the same Petition required by Paragraph 2 of this Agreement. The objective of the Parties' agreement with respect to the Tax-Exempt Trust as stated in this Paragraph is to allow for the immediate full, final, and outright distribution of the Tax-Exempt Trust to eliminate any potential future litigation regarding ongoing administrative issues involving the Tax-Exempt Trust, and to permit the simultaneous termination of both the Survivor's Trust and Tax-Exempt Trust should the Court issue such an order. The Charities will not object to, or contest, the petition to modify and/or terminate the Tax-Exempt Trust described in this Paragraph. In agreeing to this Paragraph, the Estate makes no guaranty or assurance the Court will approve modification and/or termination of the Tax-Exempt Trust in order to permit Ms. Wilson to receive her interest in the Tax-Exempt Trust outright and free of trust.

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4. RESOLUTION OF THE SURVIVOR'S TRUST IS NOT CONTINGENT ON MODIFICATION AND/OR TERMINATION OF THE TAX-EXEMPT TRUST: The validity, enforceability, and confirmation and approval by the Court of the resolution to the Survivor's Trust described in Paragraphs 1 and 2 of this Agreement are not contingent on the Court ordering a modification and/or termination of the Tax-Exempt Trust as described in Paragraph 3. In other words, the Court may confirm both resolutions to the Survivor's Trust and Tax-Exempt Trust as stated herein, or the Court may deny modification and/or termination of the Tax-Exempt Trust as stated in Paragraph 3 while still confirming the validity and enforceability of the resolution of the Survivor's Trust in order to conclude the current litigation before the Court.

5. REMAINING PERSONAL PROPERTY IN THE SURVIVOR'S TRUST: The Charities agree and consent to the Trustee distributing the beneficial interest for all personal property and non-real property in the Survivor's Trust as of March 6, 2023, excluding stock, equities, cash, cash equivalents, and investment property disposed of by Paragraphs 1-4 of this Agreement, to Ms. Wilson.

6. MATERIAL TERMS OF AGREEMENT: The Material Terms of Agreement attached hereto as **Exhibit 1** are incorporated and adopted herein by reference.

7. TAX LIABILITIES: A tax liability will or may arise as a result of liquidating the Survivor's Trust and making the distributions described in Paragraphs 1, 3, and 5 of this Agreement. Consequently, the Charities and Ms. Wilson agree to assume responsibility for any and all tax liabilities, such as estate tax, gift tax, income tax, capital gains, or transfer tax, arising out of the distributions to each of them from the Jordan Dana Frasier Family Trust, and the Subtrusts created thereunder including the Survivor's Trust and Tax-Exempt Trust. The Estate shall not be liable for any tax liability arising as a result of the distributions called for in this Agreement. The Charities shall not have any tax liability for distributions made from the Tax-Exempt Trust. Ms. Wilson and the Charities shall provide birthdates, EIN numbers, Tax I.D. numbers, corporate information, social security numbers and any other information necessary to permit the Trust to issue Ms. Wilson and the Charities a schedule K-1 or 1099 form as required by the Internal Revenue Code. The tax liabilities arising out of the distributions called for by this Agreement shall be apportioned between Ms. Wilson and the Charities as dictated by the applicable provisions of the Internal Revenue Code, and any State tax codes applicable to the distributions. The distributions called out for herein to the Charities and Ms. Wilson shall be to them in their capacity as beneficiaries of the Survivor's Trust. The distributions called out

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for herein to the Charities and Ms. Wilson from the Survivor's Trust shall be in resolution of their potential interest and claims to the Survivor's Trust Corpus, and the distribution to Ms. Wilson from the Tax-Exempt Trust shall be made to her as a beneficiary.

8. **DISMISSAL OF CLAIMS:** The Parties shall execute a dismissal with prejudice of any claims resolved by the Court's confirmation of this Agreement in full, or any part of this Agreement.

9. **RATIFICATION OF ESTATE ADMINISTRATION:** By virtue of resolving the Case with Ms. Wilson, the Parties hereby ratify, agree to, and confirm the propriety of the acts, or inaction, of the Estate's Special Administrator and his Counsel of record, and agree to release the Special Administrator and his Counsel of record from any further duties and liabilities to the Estate following the Estate's completion of the acts required by this Agreement.

10. **MUTUAL RELEASES OF ALL PARTIES:** The Parties fully and forever release and discharge each other, and their respective attorneys of record in this matter, from any and all forms of liability, damages, and/or claims alleged in the Case, or that could have been alleged in the Case, or that are in any way related to the Case. The only claim not released by the Parties under this Agreement is a claim for a breach of this Agreement.

11. **CONFIDENTIALITY:** The Parties promise and agree the terms of this Settlement Agreement and the terms of the Material Terms of Settlement Agreement attached as **Exhibit 1** shall be confidential and shall not be disclosed to any third party with the following exceptions: **1)** in response to a court order, **2)** disclosure to tax professionals or other professional advisors, **3)** if compelled by legal process or audit, **4)** disclosure to any Party's attorney or spouse, or **5)** disclosure to the Court and the interested persons in the Trust in order to confirm this Agreement before the Court. Any breach of this confidential provision will be subject to an evidentiary hearing before the Court to determine damages to be assessed against the breaching Party in order to deter future violations of this provision and compensate the non-breaching Parties for any damages they have sustained.

12. **WAIVER OF LITIGATION AND APPEAL:** The Parties immediately and forever waive, release, and relinquish any and all litigation rights or claims, and any and all prospective appellate rights or appellate claims, related to the Case, of the Jordan Dana Frasier Family Trust and all Trusts created thereunder, including but

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not limited to the Tax Exempt Trust and Survivor's Trust, save and except for a claim or cause of action that a Party violated a term of this Agreement and/or a denial of the petition to modify and/or terminate the Tax-Exempt Trust as stated above. However, the Estate shall have no duty to appeal any order denying modification and/or termination of the Tax-Exempt Trust.

13. **DUTY OF COOPERATION AND GOOD FAITH:** The Parties hereby consent they will cooperate in good faith, and with alacrity, to fulfill the conditions of the Parties' settlement, and to complete all mechanics of this Agreement.

14. **REPRESENTATIVE CAPACITIES:** Each Party's signature below is made both individually and in all representative capacities.

15. **ATTORNEY'S FEES AND COSTS:** Amy Frasier Wilson and the Charities shall be responsible for their own attorney's fees and costs. The Parties agree the Estate's unpaid attorney's fees and unpaid special administrator's fees shall be paid from the Survivor's Trust created under the Jordan Dana Frasier Family Trust and that said fees were reasonable, necessary, and properly incurred in accordance with the mandate of the Nevada Supreme Court as stated in the *Matter of Jordan Dana Frasier Fam. Tr.*, 136 Nev. 486, 487, 471 P.3d 742, 743 (2020). Ms. Wilson and the Charities ratify, consent to, and affirm all prior payments from the Trust of the Estate's attorney's fees and special administrator fees.

16. **WRITTEN MODIFICATION REQUIRED:** This Agreement may not be modified, discharged, or terminated orally, but only by a writing executed by all Parties to this Agreement.

17. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement among the Parties with respect to this Case and there are no other verbal or written agreements between the Parties related to the Case aside from the terms stated herein.

18. **NO ADMISSION OF LIABILITY:** This Agreement represents the settlement and compromise of disputed claims, allegations, and causes of action among the Parties. Neither the statements, nor the promises contained herein, are to be construed as an admission of liability or wrongdoing on the part of any Party.

19. **ACKNOWLEDGEMENT OF TERMS:** By entering into this Agreement, the Parties acknowledge the terms herein have been completely read, fully

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understood, and voluntarily accepted by them free of coercion, duress, undue influence, or fraud. The Parties further acknowledge they each had legal Counsel to aid them in reviewing and understanding the terms of this Agreement prior to its execution, and that their Attorney explained the meaning and terms of this Agreement to each Party such that each Party fully understood the meaning and effect of each term contained in this Agreement without questions or confusion about the meaning of this Agreement and/or their respective obligations to perform the terms of this Agreement.

20. NO TAX ADVICE: Each signatory to this Agreement agrees and acknowledges they have not been provided any tax advice by their respective Counsel, and they each have been advised to seek out tax advice from a competent tax professional, and that each Party's Counsel cannot guaranty how the Internal Revenue Service will treat any payment or distribution required by this Agreement, or term of this Agreement, from a taxation standpoint.

21. GENDER: Whenever, in this Settlement Agreement, the context may so require, the masculine or neutral gender shall be deemed to refer to and include the feminine, masculine, and neutral, and the singular to refer to and include the plural.

22. LACK OF ASSIGNMENT OF RIGHTS: Each Party represents to the other Parties that he or she has not assigned or transferred to any other person or entity any rights in, or matters being released hereunder.

23. PREVAILING PARTY'S ATTORNEYS' FEES AND COSTS: In any action by or among the Parties arising out of, or in relation to this Agreement, the prevailing party in such action will be awarded his, her, their, or its costs and expenses, including reasonable attorneys' fees.

24. ONGOING JURISDICTION OF SETTLEMENT: The Parties consent and expressly agree the Honorable Elliott Sattler, former District Court Judge, shall retain jurisdiction over the interpretation of the terms of this Agreement and agree he shall be paid his standard rate for mediation services if interpretation of this Agreement is required.

25. GOVERNING LAW / VENUE: This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, and the venue for any dispute arising out of this Agreement shall be the Second Judicial District Court of the State of Nevada, In and For the County of Washoe.

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26. SUCCESSORS AND ASSIGNS: This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns, heirs, devisees, legatees, issue, executors, administrators, affiliates, representatives, officers, agents, testamentary instruments, estates, and employees wherever the context requires or admits.

27. COUNTERPARTS: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement. Both facsimile and scanned electronic signatures shall be deemed valid original signatures.

28. INVALIDITY OF A PROVISION: If any term or provision of this Agreement shall, to any extent be determined by a court of competent jurisdiction to be invalid, denied by court order, and/or unenforceable, the remainder of this Agreement shall not be effected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law. It is the intention of the Parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, invalid, or deniable, and the other of which would render the provision valid and enforceable, the provision shall have the meaning which renders it valid and enforceable.

29. NECESSARY ACTS TO EFFECTUATE AGREEMENT: Each Party to this Agreement hereby agrees to do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Agreement in a timely fashion, with alacrity, and in good faith.

30. TIME IS OF THE ESSENCE: Time is of the essence with respect to each provision in this Agreement.

31. RULES OF CONSTRUCTION: The Parties hereto agree that any rule of construction to the effect that ambiguities are resolved against the drafting party shall not apply to the interpretation of this Agreement as each Party contributed to the drafting of this Agreement through arm's length negotiation and, therefore, there is no scrivener of this Agreement against which ambiguities may be construed.

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6/5/23

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of Temple Beth Shalom

Signature of Authorized Representative
of Chapman University

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of the ASPCA

Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this _____ day of JUNE, 2023

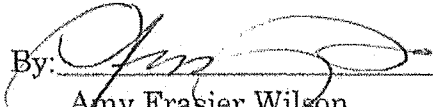
Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this 5th day of JUNE, 2023

By: 
Amy Frasier Wilson

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6/5/23

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST**

This Agreement is deemed effective as of March 6, 2023 (the "Effective Date"). This Agreement is entered into and agreed to by the following individuals and entities in the matter of *The Jordan Dana Frasier Family Trust* brought before Department 3 of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, bearing case number PR16-00128, wherein Amy Frasier Wilson contested the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust and disputed the terms of the 2017 Settlement Agreement involving the Tax-Exempt Trust and Survivor's Trust created under the Jordan Dana Frasier Family Trust (hereinafter referred to at times as the "Case"):

PARTIES TO THE AGREEMENT

I. **AMY FRASIER WILSON** ("Ms. Wilson"), individually, and as a beneficiary of the Tax-Exempt Trust, and the First, Second, Fourth, and Fifth Amendments to the Survivor's Trust, created under the Jordan Dana Frasier Family Trust.

II. **TEMPLE BETH SHOLOM** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.

III. **CHAPMAN UNIVERSITY** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.

IV. **ST. JUDE CHILDREN'S RESEARCH HOSPITAL** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.

V. **THE ASPCA** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.

VI. **IRVINE COMMUNITY ALLIANCE FUND** as a beneficiary of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust.

VII. **THE ESTATE OF DINNY FRASIER** (the "Estate"), by and through its Court-appointed Special Administrator Stanley H. Brown. Esq.

The individuals and entities listed above may be collectively referred to in this Agreement as the "Parties" or individually referred to as a "Party". The Entities identified in Paragraphs II. through VI. may be collectively referred to herein as the

"Charities". The Parties represent and warrant they each have the full and unqualified authority to execute this Agreement in both their individual and representative capacities as set forth above.

RECITALS PRECIPITATING THE AGREEMENT

A. Jordan Frasier ("Jordan") and Dinny Frasier ("Dinny"), husband and wife, are the settlors of the Jordan Dana Frasier Family Trust established by Jordan and Dinny on December 29, 1980 (the "Initial Trust").

B. Jordan and Dinny amended the Initial Trust five times.

C. Jordan Frasier died on October 22, 2014.

D. Pursuant to the Fifth Amendment of the Initial Trust, upon Jordan's death, the Initial Trust was to split into a Survivor's Trust, a Tax-Exempt Trust and a Marital Trust.

E. The Tax-Exempt Trust and the Marital Trust combined for distribution purposes.

F. Dinny had the power to amend and dispose of the Survivor's Trust following Jordan's death in October of 2014, while the Tax-Exempt Trust became irrevocable upon the Jordan's passing.

G. Pursuant to Dinny's power to amend and dispose of the Corpus in the Survivor's Trust, which consisted of her separate property and her share of the community property, Ms. Frasier amended the Survivor's Trust five times.

H. She first amended the Survivor's Trust on June 26, 2015 to disinherit Dr. Bradley Frasier and Nori Frasier - two of Dinny's three children. The First Amendment to the Survivor's Trust conveyed the Survivor's Trust Corpus to Ms. Wilson, with the residual beneficiaries being Dr. Frasier's children per stirpes.

I. Dinny amended the Survivor's Trust for a second time on June 24, 2016 in order to remove Dr. Frasier's children as residual beneficiaries. No interested person to the Trust contested the validity of the First and Second Amendments to the Survivor's Trust.

J. Dinny amended the Survivor's Trust for a third time on April 27, 2017. The Third Amendment restates the entirety of the Survivor's Trust and disinherits Ms. Wilson as a beneficiary. The Third Amendment also conveys the Survivor's Trust to the Charities.

K. Following execution of the Third Amendment, Dinny amended the Survivor's Trust a Fourth and Fifth time. Dinny executed the Fourth Amendment to the Survivor's Trust on November 13, 2018. The Fourth Amendment effectuated certain equalization payments required by a January 27, 2017 Settlement Agreement

between Dinny and her children Ms. Wilson, Bradley Frasier and Nori Frasier, with the residual beneficiary being the Charities.

L. Thereafter, Dinny executed the Fifth Amendment to the Survivor's Trust on December 4, 2018 to correct a scrivener's error in the Fourth Amendment regarding the amount of the equalization payments required by the January 27, 2017 Settlement Agreement.

M. The Third, Fourth, and Fifth Amendments to the Survivor's Trust were the subject of Ms. Wilson's appeal to the Nevada Supreme Court and the validity of those Amendments was the subject of the March 27-31, 2023 Evidentiary Hearing addressed below.

N. Around the time Dinny executed the Second Amendment to the Survivor's Trust and prior to execution of the Third Amendment, Dinny and the former Trustee of the Jordan Dana Frasier Family Trust, Premier Trust ("PT"), filed a "Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions" on March 2, 2016. This filing was the inception of the Case.

O. The Petition requested the District Court assume jurisdiction over the Trust pursuant to NRS 164.010, confirm Dinny as a co-trustee of the Trust, confirm PT is the corporate and primary co-trustee of the Trust, order PT to provide an annual accounting of the Trust to Mrs. Frasier, and provide guidance on PT's duties with respect to a medical office building in which the Trust allegedly had partial ownership.

P. After assuming jurisdiction over the Trust, the initial dispute before the Court involved the Trust's purported ownership interest in a medical office building in Southern California also purportedly owned by Dr. Bradley Frasier.

Q. Dinny Frasier, and her three children, Amy Frasier Wilson, Nori Frasier, and Dr. Bradley Frasier, mediated the medical office building dispute before the Honorable Justice Jeffrey King, Retired, on January 27, 2017. At the mediation, Justice King negotiated a settlement of the medical office building dispute with Dinny, Dr. Frasier, Ms. Wilson, Premier Trust, and Nori Frasier, which contemplated certain dispositions from the Survivor's Trust to Dinny's children, including Ms. Wilson. The terms of the Settlement Agreement required a determination Dinny was competent to enter into the Settlement Agreement and also required Dinny to amend the Survivor's Trust to effectuate the terms of the Settlement Agreement.

R. Specifically, the medical office building settlement agreement executed on January 27, 2017 required Dinny to make equalization payments to each of her children from the Survivor's Trust, which have still not been effectuated. In May of 2017, the Court confirmed the January 27, 2017 Settlement Agreement was enforceable, thereby requiring the Survivor's Trust to effectuate certain payments to the Tax-Exempt Trust and Dinny's children. Ms. Wilson disputed the efficacy of

certain terms of the Settlement Agreement implemented in the Fourth and Fifth Amendments to the Survivor's Trust.

S. Following confirmation of the January 27, 2017 Settlement Agreement regarding the medical office building, litigation then ensued regarding Premier Trust's Second Supplemental Petition for Instructions and confirmation of its accounting during Premier's tenure as Co-Trustee alongside Ms. Frasier. The litigation regarding Premier Trust's accounting ultimately came before the Court for evidentiary hearing on October 11-12, 2018. In advance of the hearing, Ms. Wilson filed a Prehearing Statement wherein she raised concerns about her belief Dinny did not have capacity or was subject to undue influence. Thus, Ms. Wilson placed Dinny's capacity at issue in advance of the October 11-12, 2018 Evidentiary Hearing.

T. Ms. Wilson appeared in proper person at the October 11-12, 2018 Evidentiary Hearing where she reaffirmed her concerns about Dinny's capacity to amend the Survivor's Trust.

U. Following the October 11-12, 2018 Evidentiary Hearing, Dinny petitioned the Court to confirm the validity of the Third and Fourth Amendments to the Survivor's Trust. Ms. Wilson objected to the Petition to Confirm the validity of the Third and Fourth Amendments to the Survivor's Trust on the basis Dinny lacked the requisite capacity to validly form the Amendments. The Court issued an order on December 21, 2018 denying Ms. Wilson's objection to the validity of the Third and Fourth Amendments to the Survivor's Trust, thereby confirming the validity of those Amendments with the exception of requiring Dinny to amend the Fourth Amendment to correct a scrivener's error, which was corrected in the Fifth Amendment to the Survivor's Trust.

V. Ms. Wilson timely appealed the December 21, 2018 Order confirming the Third and Fourth Amendments to the Survivor's Trust. The Nevada Supreme Court issued an opinion overruling the December 21, 2018 Order with respect to the validity of the Third and Fourth Amendments to the Survivor's Trust and remanded this case to the District Court for an evidentiary hearing to determine whether Dinny had capacity to execute the Third, Fourth, and Fifth Amendments to the Survivor's Trust. Following remand, the Court issued an order on November 30, 2020 identifying several issues for litigation on remand.

W. On remand, the Estate and Ms. Wilson began litigating the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust. The Estate and Ms. Wilson conducted discovery and filed several dispositive motions in this regard.

X. The Charities allege they did not receive timely notice of the proceedings upon remand from the Supreme Court.

Y. The Court set the evidentiary hearing to determine the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust for March 27-31, 2023.

Z. Prior to the March 27-31, 2023 Evidentiary Hearing, the Parties attended mediation on March 6, 2023, before the Honorable Elliott Sattler. The Parties participated in mediation in good faith, and the mediation resulted in a binding settlement agreement between the Parties to resolve the Case.

AA. The Parties reduced the material terms of the agreement to a writing entitled the "Material Terms of Settlement Agreement." A copy of the "Material Terms of Settlement Agreement" is attached hereto as **Exhibit 1**. This Agreement is executed to provide further detail regarding the agreed upon resolution of the Case between the Parties as stated in the Material Terms of Settlement Agreement.

AGREEMENT

The purpose of this Agreement is to fully and completely resolve and extinguish those issues, claims, and defenses by and among the Parties related to Amy Frasier Wilson's contest to the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust's, along with the dispute as to the efficacy of certain terms of the Settlement Agreement arising out of the challenge to the Fourth and Fifth Amendments of the Survivor's Trust, as well as Ms. Wilson's and the Charities competing claims to the Survivor's Trust, or otherwise related to the Case and the Estate of Dinny Frasier in order to avoid the expense, delay, and risks associated with ongoing and potential future litigation between the Parties.

NOW THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **RESOLUTION OF THE SURVIVOR'S TRUST:** The Charities and Ms. Wilson each asserted beneficial rights to the residual balance of the Survivor's Trust and Ms. Wilson objected to the enforcement of the January 2017 Settlement Agreement and certain repayments to the Tax-Exempt Trust from the Survivor's Trust. The Charities and Ms. Wilson agree to divide the Survivor's Trust as follows in order to resolve the dispute regarding the validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust, as well as the validity of certain terms of the 2017 Settlement Agreement effectuated through the Fourth and Fifth Amendments to the Survivor's Trust in dispute:

- a. The Charities and Ms. Wilson agree the real property held in the Survivor's Trust shall be liquidated in an arm's length transaction to

secure a fair market value for the real property. Priority in the sale of real property from the Survivor's Trust shall be given to prospective buyers who provide the best economical terms to purchase said real property, and between multiple buyers who provide comparable terms, then to the buyer whom agrees to close escrow most expediently.

- b. The Charities and Ms. Wilson agree any stocks, securities, or investments held in the Survivor's Trust shall be liquidated for distribution.
- c. All costs, fees, and expenses associated with liquidation of the real property and investments in the Survivor's Trust, excluding tax liabilities, shall be paid from the Survivor's Trust.

**FOLLOWING LIQUIDATION OF THE REAL PROPERTY AND ANY
INVESTMENTS IN THE SURVIVOR'S TRUST**

- d. The Charities and Ms. Wilson agree the equalization payments totaling \$368,000 identified in the Fifth Amendment to the Survivor's Trust shall be paid from the Survivor's Trust in accordance with the January 27, 2017 Settlement Agreement.
- e. The Charities and Ms. Wilson agree the Survivor's Trust shall pay the Tax-Exempt Trust the appraised values of the Pacifica Way Property (\$410,000) and the Vista Way Property (\$384,000) totaling \$794,000 as required by the January 27, 2017 Settlement Agreement.
- f. The Charities and Ms. Wilson agree any funds held by PT's Counsel in this matter, G. David Robertson, shall be repaid to the Tax-Exempt Trust for distribution thereunder.
- g. The Charities and Ms. Wilson agree the Survivor's Trust shall pay Amy Frasier Wilson \$3,683.71 in costs previously awarded to her by the Court.

**FOLLOWING THE PAYMENTS FROM THE SURVIVOR'S TRUST
TO THE TAX-EXEMPT TRUST**

- h. The Charities shall receive 55% of the remaining funds in the Survivor's Trust outright and free of trust. Ms. Wilson shall receive 45% of the remaining funds in the Survivor's Trust outright and free of trust.
- i. The Charities 55% interest in the remaining funds in the Survivor's Trust shall be apportioned as follows:
 - i. 1/3 to the Irvine Community Alliance Fund

- ii. 1/3 to Chapman University
- iii. 1/9 to the ASPCA
- iv. 1/9 to Temple Beth Sholom of Orange County, Inc.
- v. 1/9 to St. Jude Children's Research Hospital

2. CONFIRMATION OF THE SURVIVOR'S TRUST RESOLUTION: The Estate, the Charities, and Ms. Wilson shall jointly petition the Court to confirm, approve, and direct the Trustee to effectuate resolution and distribution of the Survivor's Trust as described in Paragraph 1. Distribution of the Survivor's Trust as agreed herein is contingent on approval by the Court. If the Court does not approve resolution of the Survivor's Trust, then the Parties shall reschedule the previously vacated evidentiary hearing.

3. MS. WILSON'S SHARE OF THE TAX-EXEMPT TRUST: Ms. Wilson has a beneficial interest in the Tax-Exempt Trust created under the Jordan Dana Frasier Family Trust. Ms. Wilson's agreement to forego contestation of the Fourth and Fifth Amendments to the Survivor's Trust and the 2017 Settlement Agreement effectuated through the Fourth and Fifth Amendments allows for payment of \$1.162 million to the Tax-Exempt Trust and beneficiaries of the Tax-Exempt Trust as stated in Paragraphs 1.d. and 1.e. above. In order to prevent future litigation of issues involving the interplay between the Survivor's Trust, the Tax-Exempt Trust, and/or certain aspects of the January 27, 2017 Settlement Agreement; the Estate and Ms. Wilson agree to petition the Court to modify and/or terminate the terms of the Tax-Exempt Trust to state Ms. Wilson shall receive all of her beneficial interest in the Tax-Exempt Trust outright and free of trust. The Petition to modify and/or terminate the Tax-Exempt Trust as stated in this Paragraph may be set forth in the same Petition required by Paragraph 2 of this Agreement. The objective of the Parties' agreement with respect to the Tax-Exempt Trust as stated in this Paragraph is to allow for the immediate full, final, and outright distribution of the Tax-Exempt Trust to eliminate any potential future litigation regarding ongoing administrative issues involving the Tax-Exempt Trust, and to permit the simultaneous termination of both the Survivor's Trust and Tax-Exempt Trust should the Court issue such an order. The Charities will not object to, or contest, the petition to modify and/or terminate the Tax-Exempt Trust described in this Paragraph. In agreeing to this Paragraph, the Estate makes no guaranty or assurance the Court will approve modification and/or termination of the Tax-Exempt Trust in order to permit Ms. Wilson to receive her interest in the Tax-Exempt Trust outright and free of trust.

4. RESOLUTION OF THE SURVIVOR'S TRUST IS NOT CONTINGENT ON MODIFICATION AND/OR TERMINATION OF THE TAX-EXEMPT TRUST: The validity, enforceability, and confirmation and approval by the Court of the resolution to the Survivor's Trust described in Paragraphs 1 and 2 of this Agreement are not contingent on the Court ordering a modification and/or termination of the Tax-Exempt Trust as described in Paragraph 3. In other words, the Court may confirm both resolutions to the Survivor's Trust and Tax-Exempt Trust as stated herein, or the Court may deny modification and/or termination of the Tax-Exempt Trust as stated in Paragraph 3 while still confirming the validity and enforceability of the resolution of the Survivor's Trust in order to conclude the current litigation before the Court.

5. REMAINING PERSONAL PROPERTY IN THE SURVIVOR'S TRUST: The Charities agree and consent to the Trustee distributing the beneficial interest for all personal property and non-real property in the Survivor's Trust as of March 6, 2023, excluding stock, equities, cash, cash equivalents, and investment property disposed of by Paragraphs 1-4 of this Agreement, to Ms. Wilson.

6. MATERIAL TERMS OF AGREEMENT: The Material Terms of Agreement attached hereto as **Exhibit 1** are incorporated and adopted herein by reference.

7. TAX LIABILITIES: A tax liability will or may arise as a result of liquidating the Survivor's Trust and making the distributions described in Paragraphs 1, 3, and 5 of this Agreement. Consequently, the Charities and Ms. Wilson agree to assume responsibility for any and all tax liabilities, such as estate tax, gift tax, income tax, capital gains, or transfer tax, arising out of the distributions to each of them from the Jordan Dana Frasier Family Trust, and the Subtrusts created thereunder including the Survivor's Trust and Tax-Exempt Trust. The Estate shall not be liable for any tax liability arising as a result of the distributions called for in this Agreement. The Charities shall not have any tax liability for distributions made from the Tax-Exempt Trust. Ms. Wilson and the Charities shall provide birthdates, EIN numbers, Tax I.D. numbers, corporate information, social security numbers and any other information necessary to permit the Trust to issue Ms. Wilson and the Charities a schedule K-1 or 1099 form as required by the Internal Revenue Code. The tax liabilities arising out of the distributions called for by this Agreement shall be apportioned between Ms. Wilson and the Charities as dictated by the applicable provisions of the Internal Revenue Code, and any State tax codes applicable to the distributions. The distributions called out for herein to the Charities and Ms. Wilson shall be to them in their capacity as beneficiaries of the Survivor's Trust. The distributions called out

for herein to the Charities and Ms. Wilson from the Survivor's Trust shall be in resolution of their potential interest and claims to the Survivor's Trust Corpus, and the distribution to Ms. Wilson from the Tax-Exempt Trust shall be made to her as a beneficiary.

8. DISMISSAL OF CLAIMS: The Parties shall execute a dismissal with prejudice of any claims resolved by the Court's confirmation of this Agreement in full, or any part of this Agreement.

9. RATIFICATION OF ESTATE ADMINISTRATION: By virtue of resolving the Case with Ms. Wilson, the Parties hereby ratify, agree to, and confirm the propriety of the acts, or inaction, of the Estate's Special Administrator and his Counsel of record, and agree to release the Special Administrator and his Counsel of record from any further duties and liabilities to the Estate following the Estate's completion of the acts required by this Agreement.

10. MUTUAL RELEASES OF ALL PARTIES: The Parties fully and forever release and discharge each other, and their respective attorneys of record in this matter, from any and all forms of liability, damages, and/or claims alleged in the Case, or that could have been alleged in the Case, or that are in any way related to the Case. The only claim not released by the Parties under this Agreement is a claim for a breach of this Agreement.

11. CONFIDENTIALITY: The Parties promise and agree the terms of this Settlement Agreement and the terms of the Material Terms of Settlement Agreement attached as **Exhibit 1** shall be confidential and shall not be disclosed to any third party with the following exceptions: **1)** in response to a court order, **2)** disclosure to tax professionals or other professional advisors, **3)** if compelled by legal process or audit, **4)** disclosure to any Party's attorney or spouse, or **5)** disclosure to the Court and the interested persons in the Trust in order to confirm this Agreement before the Court. Any breach of this confidential provision will be subject to an evidentiary hearing before the Court to determine damages to be assessed against the breaching Party in order to deter future violations of this provision and compensate the non-breaching Parties for any damages they have sustained.

12. WAIVER OF LITIGATION AND APPEAL: The Parties immediately and forever waive, release, and relinquish any and all litigation rights or claims, and any and all prospective appellate rights or appellate claims, related to the Case, or the Jordan Dana Frasier Family Trust and all Trusts created thereunder, including but

not limited to the Tax Exempt Trust and Survivor's Trust, save and except for a claim or cause of action that a Party violated a term of this Agreement and/or a denial of the petition to modify and/or terminate the Tax-Exempt Trust as stated above. However, the Estate shall have no duty to appeal any order denying modification and/or termination of the Tax-Exempt Trust.

13. **DUTY OF COOPERATION AND GOOD FAITH:** The Parties hereby consent they will cooperate in good faith, and with alacrity, to fulfill the conditions of the Parties' settlement, and to complete all mechanics of this Agreement.

14. **REPRESENTATIVE CAPACITIES:** Each Party's signature below is made both individually and in all representative capacities.

15. **ATTORNEY'S FEES AND COSTS:** Amy Frasier Wilson and the Charities shall be responsible for their own attorney's fees and costs. The Parties agree the Estate's unpaid attorney's fees and unpaid special administrator's fees shall be paid from the Survivor's Trust created under the Jordan Dana Frasier Family Trust and that said fees were reasonable, necessary, and properly incurred in accordance with the mandate of the Nevada Supreme Court as stated in the *Matter of Jordan Dana Frasier Fam. Tr.*, 136 Nev. 486, 487, 471 P.3d 742, 743 (2020). Ms. Wilson and the Charities ratify, consent to, and affirm all prior payments from the Trust of the Estate's attorney's fees and special administrator fees.

16. **WRITTEN MODIFICATION REQUIRED:** This Agreement may not be modified, discharged, or terminated orally, but only by a writing executed by all Parties to this Agreement.

17. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement among the Parties with respect to this Case and there are no other verbal or written agreements between the Parties related to the Case aside from the terms stated herein.

18. **NO ADMISSION OF LIABILITY:** This Agreement represents the settlement and compromise of disputed claims, allegations, and causes of action among the Parties. Neither the statements, nor the promises contained herein, are to be construed as an admission of liability or wrongdoing on the part of any Party.

19. **ACKNOWLEDGEMENT OF TERMS:** By entering into this Agreement, the Parties acknowledge the terms herein have been completely read, fully

understood, and voluntarily accepted by them free of coercion, duress, undue influence, or fraud. The Parties further acknowledge they each had legal Counsel to aid them in reviewing and understanding the terms of this Agreement prior to its execution, and that their Attorney explained the meaning and terms of this Agreement to each Party such that each Party fully understood the meaning and effect of each term contained in this Agreement without questions or confusion about the meaning of this Agreement and/or their respective obligations to perform the terms of this Agreement.

20. NO TAX ADVICE: Each signatory to this Agreement agrees and acknowledges they have not been provided any tax advice by their respective Counsel, and they each have been advised to seek out tax advice from a competent tax professional, and that each Party's Counsel cannot guaranty how the Internal Revenue Service will treat any payment or distribution required by this Agreement, or term of this Agreement, from a taxation standpoint.

21. GENDER: Whenever, in this Settlement Agreement, the context may so require, the masculine or neutral gender shall be deemed to refer to and include the feminine, masculine, and neutral, and the singular to refer to and include the plural.

22. LACK OF ASSIGNMENT OF RIGHTS: Each Party represents to the other Parties that he or she has not assigned or transferred to any other person or entity any rights in, or matters being released hereunder.

23. PREVAILING PARTY'S ATTORNEYS' FEES AND COSTS: In any action by or among the Parties arising out of, or in relation to this Agreement, the prevailing party in such action will be awarded his, her, their, or its costs and expenses, including reasonable attorneys' fees.

24. ONGOING JURISDICTION OF SETTLEMENT: The Parties consent and expressly agree the Honorable Elliott Sattler, former District Court Judge, shall retain jurisdiction over the interpretation of the terms of this Agreement and agree he shall be paid his standard rate for mediation services if interpretation of this Agreement is required.

25. GOVERNING LAW / VENUE: This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, and the venue for any dispute arising out of this Agreement shall be the Second Judicial District Court of the State of Nevada, In and For the County of Washoe.

26. **SUCCESSORS AND ASSIGNS:** This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors, assigns, heirs, devisees, legatees, issue, executors, administrators, affiliates, representatives, officers, agents, testamentary instruments, estates, and employees wherever the context requires or admits.

27. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement. Both facsimile and scanned electronic signatures shall be deemed valid original signatures.

28. **INVALIDITY OF A PROVISION:** If any term or provision of this Agreement shall, to any extent be determined by a court of competent jurisdiction to be invalid, denied by court order, and/or unenforceable, the remainder of this Agreement shall not be effected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law. It is the intention of the Parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, invalid, or deniable, and the other of which would render the provision valid and enforceable, the provision shall have the meaning which renders it valid and enforceable.

29. **NECESSARY ACTS TO EFFECTUATE AGREEMENT:** Each Party to this Agreement hereby agrees to do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Agreement in a timely fashion, with alacrity, and in good faith.

30. **TIME IS OF THE ESSENCE:** Time is of the essence with respect to each provision in this Agreement.

31. **RULES OF CONSTRUCTION:** The Parties hereto agree that any rule of construction to the effect that ambiguities are resolved against the drafting party shall not apply to the interpretation of this Agreement as each Party contributed to the drafting of this Agreement through arm's length negotiation and, therefore, there is no scrivener of this Agreement against which ambiguities may be construed.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

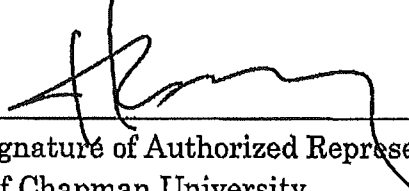
Dated this 20 day of JUNE, 2023

Dated this 21 day of JUNE, 2023

By: Michael Winston
Print Name

By: Harold W. Hewitt, Jr. / EVP & COO
Print Name

Michael Winston
Signature of Authorized Representative
of Temple Beth Shalom


Signature of Authorized Representative
of Chapman University

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of the ASPCA

Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this _____ day of JUNE, 2023

By: _____
Amy Frasier Wilson

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of Temple Beth Shalom

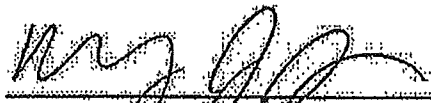
Signature of Authorized Representative
of Chapman University

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name


Signature of Authorized Representative
of the ASPCA

Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this 21st day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: Burtley J. Jones, Esq. + CLO
Print Name

By: _____
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this _____ day of JUNE, 2023

By: _____
Amy Frasier Wilson

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of Temple Beth Shalom

Signature of Authorized Representative
of Chapman University

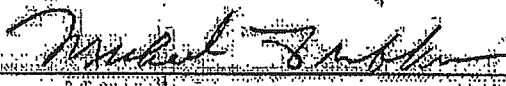
Dated this _____ day of JUNE, 2023

Dated this 21 day of JUNE, 2023

By: _____
Print Name

By: MICHAEL CRIBB
Print Name

Signature of Authorized Representative
of the ASPCA


Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this _____ day of JUNE, 2023

By: _____
Amy Frasier Wilson

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of Temple Beth Shalom

Signature of Authorized Representative
of Chapman University

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of the ASPCA


Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this 16th day of JUNE, 2023

Dated this _____ day of JUNE, 2023

Fred E. Jones, Jr.
By: Senior Counsel - Legal / ALSAC

By: _____
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Print Name


Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this _____ day of JUNE, 2023

By: _____
Amy Frasier Wilson

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS
IN THE MATTER OF THE JORDAN DANA FRASIER FAMILY TRUST

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of Temple Beth Shalom

Signature of Authorized Representative
of Chapman University

Dated this _____ day of JUNE, 2023

Dated this _____ day of JUNE, 2023

By: _____
Print Name

By: _____
Print Name

Signature of Authorized Representative
of the ASPCA

Signature of Authorized Representative
of Irvine Community Alliance Fund

Dated this _____ day of JUNE, 2023

Dated this 7th day of JUNE, 2023

By: _____
Print Name

By: 
Stanley Brown, Special Administrator
for the Estate of Dinny Frasier

Signature of Authorized Representative
of St. Jude Children's Research Hospital

Dated this _____ day of JUNE, 2023

By: _____
Amy Frasier Wilson

Exhibit 4

Exhibit 4

This
REVOCABLE FAMILY WEALTH TRUST
prepared for
DINNY G. FRASIER

The Law Offices of H. Brooks Travis, PC.
HBTTravis.Law@cox.net
www.HBTTravis-Law.com

Laguna Niguel Office
28202 Cabot Road, 3rd Floor
Laguna Niguel, CA 92677
Phone: (949) 454-8706
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First Amendment and Restatement

of the

SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980

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First Amendment and Restatement

of the

SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980

Article One - Creation of Amendment and Restatement

Section 1. Parties to My Trust Amendment and Restatement

This First Amendment and Restatement, dated May 29, 2015, of my Survivor's Trust is made between DINNY G. FRASIER, the Trustor, and the Initial Trustees appointed under Section 4 of Article Three.

Section 2. Trust Recitals

Trustor and Trustees entered into a Trust Agreement dated December 29, 1980 ("Trust Agreement"). The original Trust Agreement was first amended on December 31, 1984. That original Trust Agreement was amended for the second time on April 8, 1987. That original Trust Agreement was amended for a third time and completely restated on September 21, 1999. The restated Trust Agreement was amended for a fourth time on March 15, 2000. The restated Trust Agreement was amended for the 5th time on June 7, 2000. Trustor Jordan Dana Frasier died on October 22, 2014. Upon his death the 3rd Amendment and Restatement requires the split of assets between the Survivor's Trust and the Tax Exempt Trust. With this document, I desire to amend and restate the entire existing Survivor's Trust agreement created under the 3rd Amendment and Restatement dated September 21, 1999. This document is the first amendment and restatement of the Survivor's Trust created under that 3rd Amendment and Restatement of the Jordan Dana Frasier Family Trust dated December 29, 1980. By this Amendment and Restatement, I desire to amend and restate the entire existing Trust Agreement and Trustees agree to accept the changes set forth in this Amendment and Restatement.

Section 3. Trust Name

My Trust may be referred to as the:

FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST DATED December 29, 1980.

The formal name of my Trust and the designation to be used for the transfer of title to the name of my Trust is:

DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY, Co-Trustees, or their successors in trust, under the FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED December 29, 1980, and any amendments thereto.

Section 4. My Trust is Revocable

My Trust is a revocable trust. My Trust is a grantor trust under the provisions of Sections 673 – 677 of the Code.

Section 5. My Family Members

All references to "children" are to (i) all of the children so identified in this Section 5 (subject to the exclusion of any child under subsequent provisions of this Section 5), (ii) any children conceived by me but not yet born at the time of the execution of my Trust, and (iii) any children conceived or adopted by me subsequent to the execution of my Trust and prior to my death.

a. Marital Status

I am presently unmarried.

b. My Children

The names of my children are as follows:

Name

BRADLEY L. FRASIER
NORI BETH CADY
AMY FRASIER WILSON

c. Exclusion of Certain Descendants

I hereby acknowledge the existence of BRADLEY L. FRASIER and intentionally, with full knowledge, have chosen to exclude him but not his descendants under the terms of my Survivor's Trust Agreement.

I hereby acknowledge the existence of NORI BETH CADY and intentionally, with full knowledge, have chosen to exclude her and her descendants under the terms of my Trust Agreement.

Section 6. Citizenship of Trustor

DINNY G. FRASIER is a citizen of the United States of America.

Article Two - Trust Property

Section 1. Initial Trust Property

To the extent not previously assigned, conveyed, transferred or delivered, I hereby assign, convey, transfer and deliver to my Trustee all property set forth on Schedule A, attached hereto, and made part of my Trust Estate. My Trustee acknowledges receipt of all assets listed on the attached Schedule and agrees to hold, manage and distribute my Trust Estate under the provisions set forth in my Trust Agreement.

All assets titled in the name of my Trust, in the name of my Trustee, or in the name of a nominee as authorized under my Trust Agreement but not listed on Schedule A, shall be considered a part of my Trust Estate as if they had been set forth on the attached Schedule.

Section 2. Additional Trust Property

I, or any other person or entity, may transfer or devise to my Trustee additional assets, real or personal, and may name my Trustee as the beneficiary of life insurance policies, annuities, retirement plans or similar contracts. Such assets, policies and proceeds, upon notice and acceptance by my Trustee, shall be a part of my Trust Estate, subject to all the terms of my Trust Agreement.

Section 3. Character of Trust Property

All property transferred by me into my Trust shall retain its character. All such property transferred, and income thereon less withdrawals thereof, shall be my Trust Estate.

Section 4. Acceptance of Trust Property

All property transferred to my Trust, and accepted by my Trustee, shall be held, administered and distributed according to the terms of my Trust Agreement.

Article Three - Trustees

Section 1. Definition

All uses of the word "Trustee" in my Trust Agreement shall be deemed a reference to the person or entity then serving as Trustee and shall include alternate Successor or Co-Trustees (if multiple Trustees are serving), unless the context requires otherwise.

Section 2. Trustee's Resignation

Any Trustee may resign at any time without court approval by giving written notice to me if I am living and competent. If I am not then living and competent, written notice shall be given to my next Successor Trustee; or if there is no next Successor Trustee, to the beneficiaries then entitled to receive income or principal distributions under my Trust Agreement or their respective Personal Representatives, or if any of such beneficiaries are then minors, to the persons having the care or custody of any such minor. Such resignation shall be effective upon the appointment of a Successor Trustee.

Section 3. Trustee's Removal

Any Trustee may be removed under my Trust Agreement as follows:

a. While Alive and Competent

While I am alive and competent, I shall have the right to add a Trustee, or to remove or replace any other Trustee appointed under my Trust Agreement at any time without cause.

b. Removal by Other than Trustor

After my death or incapacity, a majority in interest of the beneficiaries then entitled to receive income or principal distributions from a separate trust, or their respective Legal Representatives, shall have the discretion and power to remove any serving Trustee of such separate trust at any time for cause, as defined under Section 18 of Article Eleven. The serving Trustee who is being removed for cause may accept such removal, or may, within thirty days of receiving written notice of removal, petition a court of competent jurisdiction for a determination as to whether sufficient cause exists for such Trustee's removal and shall continue to serve until otherwise ordered by such court.

A majority in interest of the then living income beneficiaries of any trust hereunder (in the case of a minor beneficiary, the legal guardian or natural parent of the minor beneficiary) shall have the right to remove any corporate trustee of such trust by a written instrument duly acknowledged and delivered to such corporation. Concurrent with the exercise of this right, the income beneficiaries (in the case of a minor beneficiary, the legal guardian or natural parent of the

minor beneficiary) shall appoint a corporate Successor Trustee by a written instrument duly acknowledged and delivered to the corporation appointed Successor Trustee; provided, however that such corporation must be a trust company or bank possessing trust powers organized under the laws of the United States of America or one of the states thereof and it must have under its management a minimum of One Hundred Million Dollars in trust assets. Upon receipt by the removed corporation of the written notice of acceptance of appointment by the successor corporation, the removed corporation shall forthwith surrender and deliver to the corporate Successor Trustee all of the assets in the trust estate, and the trusteeship of the removed corporation shall terminate.

c. Notice to Removed Trustee

Unless a serving Trustee has petitioned, or will petition within thirty days, a court as provided in the paragraphs above, written notice of removal under my Trust Agreement shall be effective immediately when signed by the person or persons authorized to make the removal and delivered to my Trustee personally, or within three business days after mailing by certified mail, return receipt requested. The written notice removing a Trustee shall identify the Successor Trustee appointed pursuant to the other provisions of this Article.

d. Transfer of Trust Property

Unless petitioning the court as provided above, my Trustee so removed shall promptly transfer and deliver to the Successor Trustee all property of my Trust under the removed Trustee's possession and control.

Section 4. Appointment of Trustees

My Initial Co-Trustees shall be DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY. In the event that DINNY G. FRASIER is unwilling or unable to serve as Trustee, PREMIER TRUST INC., shall continue to serve alone, DINNY G. FRASIER is empowered to replace PREMIER TRUST, INC. or any other then serving Commercial Trustee without cause. If PREMIER TRUST, INC. is unwilling or unable to serve, DINNY G. FRASIER shall name another Commercial Trust Company to act as Co-Trustee with her to replace PREMIER TRUST, INC. In the event that neither of the initial Co-Trustees were willing or able to serve, my first Successor Trustee shall be AMY FRASIER WILSON. If for any reason AMY FRASIER WILSON were unwilling or unable to serve as Trustee, then WILLIAM WILSON shall serve as Trustee. If for any reason all of the above named Successor Trustees are unwilling or unable to serve, then a Successor Trustee shall be appointed as provided under Section 5 of this Article.

Section 5. No Designated and Qualified Successor Trustees

If at any time there is no Trustee acting under my Trust Agreement and there is no person or entity designated and qualified as a Successor Trustee, a majority in interest of the beneficiaries then eligible to receive distributions of income or principal under my Trust Agreement, or their Legal Representatives, shall appoint a Successor Trustee. If any trust existing under my Trust

Agreement lacks a Trustee and no successor is appointed pursuant to this Article, the vacancy shall be filled by a court of competent jurisdiction.

Section 6. Rights, Responsibilities and Duties of Successor Trustees

Other than amending or revoking my Trust, or appointing or removing a Trustee, a Successor Trustee shall have the same rights, powers, duties, discretion and immunities as if named as an Initial Trustee under my Trust Agreement. No Successor Trustee shall be personally liable for any act, or failure to act, of any predecessor Trustee or shall have any duty to examine the records of any predecessor Trustee. A Successor Trustee may accept the account rendered and the property delivered by, or on behalf of, a predecessor Trustee as a full and complete discharge of the duties of the predecessor Trustee without incurring any responsibility or liability for doing so.

Section 7. Co-Trustee's Responsibility for Acts of Other Co-Trustees

No Co-Trustee shall be responsible for the act, omission or default of any other Co-Trustee without actual knowledge thereof.

Section 8. Special Co-Trustee Provisions

The function of the Special Co-Trustee is to protect the financial resources controlled and governed by my Trust and the interests of the beneficiaries.

a. Appointment of Special Co-Trustees

The following Special Co-Trustees are appointed in order of priority:

H. BROOKS TRAVIS II
DAVID GIBBS

b. No Named Special Co-Trustee Willing or Able to Act

In the event there are no named Special Co-Trustees willing or able to act, then the last named individual to act as Special Co-Trustee shall have the right to designate by written instrument a Successor Special Co-Trustee who is qualified, as defined in Paragraph c hereunder. In the event the last named Special Co-Trustee to act fails to appoint a Successor Special Co-Trustee, the first Successor Trustee who is independent within the meaning set forth in Code Section 672(c) shall act as Special Co-Trustee, or if no such individual is available, a majority of the Successor Trustees designated under Section 4 of this Article shall have the right to designate by written instrument a Special Co-Trustee who is qualified, as defined in Paragraph c hereunder.

c. Qualifications of Special Co-Trustee

A candidate for service as Special Co-Trustee must be independent and may not be related to, or be subordinate to, any member of my family or the family of any

direct or indirect beneficiary. Any person or corporation who provides professional services to any one or more members of my family is not per se a prohibited person if compensation for services rendered constitutes, excluding compensation for service as Special Co-Trustee, two percent or less of his, her or its income during any calendar year.

d. Special Co-Trustee May Not Serve as Trustee

Except for the special fiduciary authority given to a Special Co-Trustee, a Special Co-Trustee, including any Successor Special Co-Trustee, may not serve as a Trustee. This is in keeping with my intent and purpose that the Special Co-Trustee's only interest will be to protect the financial resources governed by my Trust Agreement and the beneficiaries thereto. It is further provided and required that the Special Co-Trustee may never have any personal financial interest in any property of my Trust or in the outcome of any transaction or any business by or for my Trust other than the payment of a fair and reasonable compensation for his, her or its services as the Special Co-Trustee. The responsibilities of the Special Co-Trustee shall be limited to the exercise of the power, duty, or discretionary authority as provided throughout my Trust Agreement. Said Special Co-Trustee shall not be concerned with, nor shall have, any authority with respect to any other aspects of administration of my Trust Estate.

e. Special Fiduciary Authority of Special Co-Trustee

In addition to the authority specifically given to the Special Co-Trustee under various provisions throughout my Trust Agreement, the Special Co-Trustee will have the authority to perform any one or more of the following functions to the extent that the discretionary authority of my Trustee to perform a function might constitute an act of self-dealing or might jeopardize the tax status of my Trust.

1. Valuation

The value of certain property of my Trust may not be readily ascertainable, for example, real estate and securities held in a closely held corporation, partnership, limited liability company or other investment or business organization. Marketable securities shall be included in this category if and to the extent that market quotations are not readily available for trades of the security in an established securities market. Whenever my Trustee's right to determine the value of this kind of property may be self-serving or may produce a possible conflict of interest or adverse taxation issues, the Special Co-Trustee is to value the property of my Trust.

2. Voting Rights

Whenever my Trustee's right to vote an equity interest in a corporation, partnership, Limited Liability Company, investment trust or business trust or other entity may be interpreted as self-

serving or may produce a possible conflict of interest or adverse taxation issues, the Special Co-Trustee will have the right to vote the equity interest. Voting rights will include decision-making authority with regard to the sale, exchange, or liquidation of any equity interest in a closely held corporation, partnership, Limited Liability Company, investment trust or business trust or other entity.

3. Life Insurance Policies

Whenever my Trustee's rights as to the control and maintenance of a life insurance policy or any interest in a life insurance policy could result in the inclusion of the proceeds of the policy in the estate of the insured for tax purposes, decision making with regard to a life insurance policy or interest in a policy is to be made by the Special Co-Trustee.

4. Discretionary Distributions of Trust Income and Principal

To the extent my Trustee has the discretionary authority to make distributions of income or principal to or among beneficiaries or to retain all or any part of the income, and to the extent this discretionary authority may result in, or appear to be, a conflict of interest or an opportunity for self-dealing or may produce adverse tax consequences, the Special Co-Trustee is to make all decisions with regard to the discretionary distributions of income and principal and the retention of income.

5. Gifting Powers

To the extent my Trustee has the authority to make gifts of income or principal to such Trustee and to the extent this authority to gift may result in, or appear to be, a conflict of interest or an opportunity for self-dealing or may produce adverse tax consequences, the Special Co-Trustee is to make all decisions with regard to any gifts made to such Trustee.

6. Property Located In Another Jurisdiction

The Special Co-Trustee may appoint an Ancillary Trustee to control and administer property located in another jurisdiction.

7. Amendment Powers

A. Changes in Law or Beneficiary Circumstances

The Special Co-Trustee may, from time to time, amend my Trust Agreement, including any sub-trust created hereunder, to address changes in federal or state law, or other circumstances which may affect my Trust and its beneficiaries or to delete provisions rendered obsolete due to changes in law or beneficiary circumstances. In exercising such power, the Special Co-Trustee shall consider the overall best interest of the present and future beneficiaries and shall be guided by what the Special Co-Trustee believes, in his or her discretion, would have been my intent in light of such changed circumstances.

8. Repeal of Federal Death Taxes

In the event of the repeal of the federal estate tax and generation-skipping transfer tax (as currently set forth in Chapters 11 and 13 of the Code) after my death or disability, the Special Co-Trustee may terminate my Trust Agreement, or any sub-trust created hereunder, by distributing the trust principal to my living descendants in whatever proportion the Special Co-Trustee deems appropriate. In exercising such power, the Special Co-Trustee shall, in addition to the factors set forth in the preceding paragraph, consider the following:

- A. The enactment of any federal income, capital gains or other tax which would impact adversely on, or offset, the tax benefits of any proposed trust or sub-trust termination;
- B. The benefits afforded to the beneficiaries by the continuation of my Trust, such as protection against the claims of judgment creditors, divorcing spouses, and insulation from the reach of governmental agencies; and
- C. The likelihood of re-enactment of a federal estate, gift, or generation-skipping transfer tax or comparable tax which would subject

my Trust Estate to the imposition of such tax or taxes in the hands of, or upon lifetime or testamentary transfers by, the beneficiaries to whom my Trust Estate would have been distributed upon termination.

f. Consultation

My Trustee is authorized to consult with the Special Co-Trustee as to any matter relating to the investment of assets, discretionary distributions and the use of principal, tax matters, dealings with the beneficiaries, and any other matter relating to the administration of my Trust in keeping with the objectives and purpose of this Trust Agreement. My Trustee will not be liable for any act or omission to act if acting according to the written instructions of, or with the written consent of, the Special Co-Trustee.

g. Accounting and Transaction Reports

The Special Co-Trustee will have the authority to receive and review any and all accounting reports, records, tax returns, transaction reports and ownership records concerning my Trust. All records of my Trust must be open for inspection at all reasonable times by the Special Co-Trustee.

h. Resolution of Disputes

The Special Co-Trustee may unilaterally resolve any dispute, claim or conflict between beneficiaries, including those who have, or claim to have, a present or future interest in property, between a beneficiary and a trustee, or between trustees. Such resolution shall be binding on all parties to my Trust and shall not be subject to review.

No one may file or instigate a claim in a court of law without first submitting the claim to the Special Co-Trustee for resolution together with detailed supporting information and a detailed supporting memorandum of law. In the event the Special Co-Trustee finds the supporting information or memorandum of law insufficient, the Special Co-Trustee may request such additional information as the Special Co-Trustee reasonably feels necessary to resolve such claim. The Special Co-Trustee may employ, and may act upon the advice of, legal counsel in making a resolution of any issue of fact and law. The Special Co-Trustee may submit the claim or dispute for mediation and/or binding arbitration. Subsequent to his or her review, the Special Co-Trustee may give any claimant the authority to file and maintain an action in a court of law. The granting of such authority by the Special Co-Trustee shall in no way nullify the "No Contest" provision provided under the "Other Trust Provisions" of my Trust. Whenever a dispute, conflict, or claim involves an interpretation or construction of my Trust Agreement, the Special Co-Trustee may file an action in a court of competent

jurisdiction for the interpretation and construction of such Trust Agreement, or the Special Co-Trustee may instruct my Trustee to do so.

i. Business Judgment

The Special Co-Trustee is permitted and authorized to exercise "Business Judgment" in the course of service in the capacity of Special Co-Trustee. The Special Co-Trustee will not be liable for any act or omission to act unless it is conclusively established that the act or omission to act was motivated by an actual intent to harm my Trust or a beneficiary of my Trust or is an act of self-dealing for personal pecuniary benefit. My Trust will pay or reimburse the costs of defending and/or settling any claim made against the Special Co-Trustee unless it is conclusively established that the Special Co-Trustee's conduct was motivated by an actual intent to harm my Trust or a beneficiary of my Trust. All provisions of my Trust Agreement that limit the liability of my Trustee will likewise apply in limiting the liability of the Special Co-Trustee.

j. Authority of Successor Special Co-Trustee

A Successor Special Co-Trustee will have all of the authority and duties of the Special Co-Trustee by original appointment, but will not be responsible for the acts, or omissions to act, of his, her, or its predecessor.

k. Compensation

A Special Co-Trustee may receive reasonable compensation as an expense of administration. The Special Co-Trustee is entitled to reasonable reimbursement for expenses and costs incurred on behalf of my Trust. Payment of compensation shall be from the funds of my Trust.

l. Bond

Unless otherwise required in written articles of appointment, the Special Co-Trustee will serve without the requirement of bond or other security.

Article Four - Lifetime Rights of Trustor

Section 1. Income and Principal

a. Right to Trust Income and Principal

My Trustee shall pay to me, or apply for my benefit during my lifetime, all or such part of the income and principal of my Trust Estate as I may direct.

b. Trustee Liability

Upon any distribution of the income or principal of my Trust Estate authorized or directed by me, my Trustee shall incur no liability, and shall be under no obligation or responsibility for such distribution.

Section 2. Incapacity of Trustor

a. Intent to Return Home

Notwithstanding any other provision of my Trust Agreement, as a notification to any governmental benefits provider, if I become incapacitated it is conclusively presumed that I intend to return home.

b. Distribution of Income and Principal

During any period of my incapacity, my Trustee shall pay to my legal representative, or apply for my benefit, as much of the net income and principal of my Trust Estate as my Trustee, in my Trustee's discretion, shall deem necessary or advisable. Any undistributed net income shall be added to principal.

Section 3. Right to Amend or Revoke Trust

a. Power to Revoke and Amend

While I am alive, I may at any time or times amend any provision of my Trust Agreement or revoke my Trust in whole or in part.

b. Method to Revoke or Amendment

Any amendment or revocation of my Trust Agreement made during my life shall be by a written instrument signed by me and delivered to my Trustee.

c. Trustee Consent

Any exercise of a power of amendment substantially affecting the duties, rights and liabilities of my Trustee shall be effective upon my Trustee only if agreed to by my Trustee in writing.

d. Delivery of Property After Revocation

After any revocation with respect to my Trust, my Trustee shall promptly deliver my Trust Estate to me.

e. Trustee's Retention of Assets Upon Revocation

In the event of any revocation of all or part of my Trust, my Trustee shall be entitled to retain sufficient assets to reasonably secure the payment of liabilities my Trustee has lawfully incurred in administering my Trust unless I indemnify my Trustee against loss or expense.

Section 4. Exercise Trustor's Rights and Powers by Others

Any right or power, other than (i) an amendment by Will, or (ii) any right or power that would constitute a general power of appointment if held by my Attorney-in-Fact, may be exercised for and on my behalf by any Attorney-in-Fact who, at the time of the exercise, is duly appointed and acting for me under a valid and enforceable Power of Attorney executed by me. Only if no such Attorney-in-Fact is then available may a legal representative appointed by a court of competent jurisdiction exercise such right or power.

Other than as provided in this Section, my powers under my Trust Agreement are personal to me and may not be exercised by any other person or entity.

Section 5. Property Held as Nominee

For administrative convenience, it is contemplated that certain assets may be added to my Trust Estate, from time to time, with the possession and control thereof retained by or redelivered to me. Notwithstanding such control or redelivery, such assets shall be assets of my Trust Estate and held by me as the nominee of my Trustee. During the period such assets are in my possession, they shall be subject to the following terms and conditions:

- a. I may receive directly and devote to my own use and benefit any dividends, interest, income, or proceeds or distributions from or upon such assets and neither I nor my Trustee shall have any duty of accounting to the other or to any other person with regard thereto.
- b. Any sale, exchange or other transfer of such assets by me shall constitute a withdrawal of such assets from my Trust Estate and my Trustee shall have no further interest therein or duties with regard thereto. Though not a

condition precedent to any such withdrawal, I agree to notify my Trustee of all such withdrawals.

- c. I shall be responsible for reporting the income from such assets to the appropriate taxing authorities and my Trustee shall have no responsibility for including such income on any fiduciary returns prepared by my Trustee or for the preparation of any other government filing with respect thereto unless I duly notify my Trustee of such income items and a full and adequate accounting thereof is made and presented to my Trustee.
- d. I shall protect and indemnify my Trustee against all losses, liabilities and expenses that may result directly or indirectly from my use, possession, management or control of such assets.
- e. Upon my death or incapacity, my Trustee shall remain entitled to the possession thereof and shall continue to have all the rights, powers and duties with respect to such assets that are granted to my Trustee herein. My Trustee is not responsible for assets held by me as nominee. However, it is also understood that my Trustee shall use any reasonable and prudent means to secure possession of any trust assets of which my Trustee has knowledge. My Trustee shall have no duty, accountability or responsibility to me or to any other person with respect to any assets of which my Trustee has no knowledge or of which my Trustee is unable to obtain possession and control.

Section 6. Government Assistance and Medicaid Planning

If at any time during my lifetime I become incapacitated, my Trustee shall have the power to deal with governmental agencies and to make applications for, receive and administer benefits on my behalf, including, but not limited to, Social Security, Medicare, Medicaid, Supplemental Security Income, In-Home Support Services, and any other government resources and community support services available to the elderly or incapacitated. My Trustee shall also cooperate in government assistance and Medicaid planning initiated by my Attorney-in-Fact appointed under a Durable Power of Attorney; or, if none, with any legal representative that may be appointed by a court of competent jurisdiction. Such planning shall include, but is not necessarily limited to, the power and authority to:

- a. Transfer ownership of the assets of my Trust Estate from my Trust back to ownership in my name;
- b. Make home improvements and additions to my family residence;
- c. Pay off, partly or in full, the encumbrance, if any, on my family residence;
- d. Purchase a family residence, if I do not own one;

- e. Purchase a more expensive family residence;
- f. Purchase an annuity under the guidelines provided by HCFA Transmittal No. 64 or any successor guidelines issued by the Centers for Medicare and Medicaid Services or similar government agency;
- g. Make gifts as directed by my Attorney-in-Fact;
- h. Make payments under any care contract negotiated by my Attorney-in-Fact; and
- i. Make payments as generally suggested as part of a "spend-down" program by my Attorney-in-Fact.

In exercising the above powers, my Trustee shall take into consideration that my primary concern shall be for my welfare and all government assistance and Medicaid Planning shall be of secondary importance to my welfare.

Article Five - Trust Administration at Death of Trustor

Section 1. Trustor's Testamentary Power of Appointment

Subject to any payments required under Section 3 of this Article, upon my death, my Trustee shall distribute my Trust Estate to any person or entity, and upon any trust terms and conditions, as I shall appoint by my Will or codicil, or by any other written instrument filed with my Trustee prior to my death and specifically referring to and exercising this testamentary general power of appointment. This power of appointment shall be exercisable by me alone and in all events. My Trustee may rely upon any instrument that my Trustee, in good faith, believes to comply with the provisions above in carrying out the terms of this power of appointment and shall not be liable for any good faith act in reliance upon that Will, codicil, or other written instrument even if for any reason it is later determined to be invalid with respect to its purported exercise of this power of appointment. If my Trustee receives no notice, within six (6) months after my death, of the existence of any Will or codicil that exercises this power of appointment, my Trustee may distribute my Trust Estate as though this power of appointment had not been exercised and shall be conclusively presumed to have acted in good faith even if a valid Will or codicil exercising this power is thereafter discovered.

Section 2. Immediate Distribution of Specific Devises

As soon as practicable after my death, my Trustee shall make certain distributions from my Trust Estate in the manner and amounts and to the persons specified in Article Six of my Trust Agreement. The remainder of my Trust Estate, after all the foregoing distributions have been made, and including any lapsed gifts (unless otherwise stated in Article Six), shall be held, administered and distributed as set forth in Section 3 of this Article.

Section 3. Creation, Administration and Distribution of Administrative Trust Upon and After Death

Upon my death, my Trust Estate, including any additions thereto by reason of my death, shall thereafter be known as the "Administrative Trust." My Trustee shall:

- a. Pay all expenses, debts, claims and taxes from the Administrative Trust as provided in Section 4 of this Article;
- b. Distribute that portion of the Administrative Trust consisting of any property effectively appointed pursuant to the provisions of Section 1 of this Article (the "Appointed Property"); and
- c. Distribute the remainder of the Administrative Trust (the "Remainder Property") as provided under the Articles that follow.

My Trustee may distribute the Appointed Property and allocate the Remainder Property in a single distribution or allocation or in a series of partial distributions or allocations. If an allocation is to be made to one or more trusts, then until full allocation has been made to any

such trust, the Trustee of the Administrative Trust may pay to any beneficiary of such trust such amounts of income and/or principal as are consistent with the terms of such trust. Such payments shall be in lieu of, and thus credited toward, the income and/or principal remaining to be allocated to such trust. No payment shall be made to any beneficiary of any trust which exceeds the amount of income and/or principal then remaining to be allocated to such trust as provided herein, nor shall any payment of income and/or principal be made to any beneficiary of any trust which exceeds the amount which might properly be distributed to such beneficiary at that time under the terms of such trust.

Section 4. Payment of Expenses, Debts, Claims and Taxes

Unless other provisions for payment have been made, my Trustee shall pay the following expenses, debts, claims and taxes:

- a. Final medical expenses and all funeral costs;
- b. Legally enforceable claims against me;
- c. Reasonable expenses of the administration of my Trust, including those attributable to my Probate Estate or those attributable to the distribution of any bequest;
- d. Any allowances mandated by a court of competent jurisdiction to those dependent upon me;
- e. Any estate, inheritance, succession, generation-skipping transfer or similar taxes payable by reason of my death; and
- f. Any penalties or interest on any of the above expenses, claims, debts or taxes owed by my Probate Estate or me.

Section 5. Source of Payment of Death Taxes, Claims and Expenses

a. Payment Out of Trust Property

Except as specifically provided for elsewhere in my Trust Agreement, all Death Taxes, claims and expenses payable under the provisions of this Article may be paid by my Trustee out of the Administrative Trust. Such payments may be allocated, partly or wholly, in my Trustee's discretion, to income or principal, keeping in mind the provisions of Treasury Regulation Section 20.2056(b)-4(d)(1)(ii).

b. Exception for Trust Retirement Assets

The provisions of Paragraphs h. and i. of Section 1 of Article Eleven control the payment of all Death Taxes, claims and expenses attributable to Retirement Plan Death Benefits payable to my Trustee as the result of my death.

c. Exception for Property Passing Outside of Trust

All Death Taxes, claims and expenses attributable to assets passing outside of my Trust or my Probate Estate shall be assessed against those persons receiving such property. Notwithstanding the preceding sentence, my Trustee may, in my Trustee's discretion, pay all or part of that portion of the Death Taxes, claims and expenses attributable to assets passing outside of my Trust that would otherwise be chargeable against a beneficiary's interest in such outside property using funds provided by such beneficiary, funds from such beneficiary's share of the Trust Estate, or both.

Section 6. Apportionment of Expenses, Claims, Taxes and Liabilities

Unless specifically directed otherwise by another separate provision of my Trust Agreement, all expenses, claims, taxes and liabilities attributable to any specifically distributed property shall be apportioned to the beneficiaries of such specific distributions. Any distribution of specific trust property under my Trust Agreement shall pass subject to all liens, mortgages or encumbrances attributable thereto.

Section 7. Exceptions to Apportionment of Death Taxes

a. No Apportionment of Death Taxes to Property Qualifying for Marital or Charitable Deduction

Notwithstanding any provision in my Trust Agreement to the contrary, it is my intent that no Death Taxes shall be apportioned to, or against, any part of my Trust Estate, or any beneficiary thereof, which qualifies for the federal estate tax Marital Deduction or Charitable Deduction.

b. Apportionment to Exempt and Non-Exempt Trusts

Death Taxes chargeable among trusts hereunder that are substantially identical except that one trust is exempt and the other trust is non-exempt shall be charged first to the Non-Exempt Trust until exhausted and then to the Exempt Trust. The preceding sentence shall not apply to the extent that charging and paying such taxes as provided in such sentence increases the Inclusion Ratio of any Exempt Trust hereunder.

Section 8. Payment by Trustee or Personal Representative

My Trustee, in my Trustee's discretion, may make distributions authorized under this Article either directly to the person or entities to whom payment is owed or to the Personal Representative of my Probate Estate. Written statements by my Personal Representative that such sums are due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of my Trustee. My Trustee shall be under no duty to see to the application of any such payments made to my Personal Representative.

Section 9. Tax Elections

If no Personal Representative has been appointed, with regard to the payment of any income tax, gift tax, estate tax, inheritance tax, generation-skipping transfer tax or any other tax due because of my death, my Trustee shall have the right to make any available elections allowed under the law or to sign and file any tax return. If a Personal Representative has been appointed, the Personal Representative shall have such rights and duties.

Section 10. Allocation of Unused Generation-Skipping Transfer ("GST") Exemption

a. Administrative Trust Estate Less Than Remaining Unused GST Exemption

If the date of distribution value of the Administrative Trust Estate does not exceed the amount of my Unused GST Exemption, my Executor (or my Trustee, if no Executor has been appointed for my estate) is directed to allocate that amount of my Unused GST Exemption as would be required to cause the Administrative Trust to be an Exempt Trust.

b. Administrative Trust Estate Greater Than Trustor's Remaining Unused GST Exemption

If the date of distribution value of the Administrative Trust does exceed the amount of my Unused GST Exemption, my Trustee shall divide the Administrative Trust into two separate shares. The first share, known as the "Exempt Trust" shall have my Unused GST Exemption allocated to it. The second share, known as the "Non-Exempt Trust" shall consist of the balance of the Administrative Trust allocated to it.

c. Administration of Exempt and Non-Exempt Trust

My Trustee shall hold, administer and distribute both the Exempt Trust, and the Non-Exempt Trust as provided under Article Seven of my Trust.

Section 11. Termination of Administrative Trust

The Administrative Trust shall be deemed terminated when all of the assets of the Administrative Trust have been paid or distributed in accordance with the provisions of Section 3 of this Article, 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).

Article Six - Specific Distributions of Trust Estate

Section 1. Distributions Other Than as Provided Under Article Six

Except for the distributions directed in the following Sections of this Article Six, all distributions of my Trust Estate shall be made in accordance with the Articles that follow.

Section 2. Disposition of Tangible Personal Property by Separate Writing

If at my death, my Trust Estate, other than any specific devises provided for under this Article, is comprised of tangible articles of a personal nature of mine, such as jewelry, clothing, household furniture and furnishings, musical instruments, books, pictures, paintings, objects of art, silverware and silver pieces, rugs, linen, automobiles and the like, then such assets shall be distributed, to the extent permitted by state law, according to the provisions of a written instrument signed by me and delivered to my Trustee. To the extent that all such property is not effectively disposed of by such written instrument or in the event I fail to execute such written instrument directing the distribution of my tangible personal property, then my Trustee shall distribute such assets with the remainder of my Trust Estate as if it had been an original part thereof. With respect to any property to which a minor child shall become entitled under this Section, my Trustee may, in my Trustee's reasonable discretion deems such property unsuitable for such minor's use, sell such property and add the proceeds from such sale to such minor child's share of my Trust Estate. Any such property which my Trustee, in my Trustee's reasonable discretion, shall deem suitable for such minor's use shall be delivered either (i) without bond to the Guardian of the person of such child, or if there is no such Guardian, to any suitable person who has the care or control of such child, or (ii) directly to such child if, in my Trustee's judgment, such minor child is of maturity to properly administer such property. Notwithstanding any other provision of my Trust Agreement, property distributed under this Section shall not be subject to apportionment and/or the payment of any estate, inheritance or other death taxes.

Section 3. Specific Distribution Not Part of Trust Estate

If the property making up any specific distribution set forth in this Article is not a part of my Trust Estate at the time such specific distribution is directed to be made, and will not become a part thereof within a reasonable time, my Trustee shall disregard that specific distribution.

Section 4. Specific Gifts

My Trustee shall make no specific distributions of Trust Property.

Article Seven - Distributions to Beneficiaries

Section 1. Division of Trust Estate Into Shares

Upon my death, my Trustee shall divide the Remainder Property into separate shares (and for purposes of determining such division and subsequent distributions shall take into account the exclusion of any descendant as may be directed in Article One) as follows:

BENEFICIARY NAME

SHARE

AMY FRASIER WILSON

100%

In the event an individual beneficiary named immediately above should die while there are assets remaining in such individual beneficiary's trust share, my Trustee shall hold, administer, and distribute the share for such beneficiary as provided under the terms of such share. In the event a named individual beneficiary predeceases me leaving no descendants or the terms of such share lapse without further direction, then such lapsed share shall be reallocated among the remaining individual beneficiaries named in this Section (if any), in accordance with each such remaining individual beneficiary's respective percentage of the total interests of all such remaining individual beneficiaries. If there are no remaining individual beneficiaries, such share shall be reallocated among the other remaining beneficiaries in accordance with each remaining beneficiary's respective percentage of the total interests of all remaining beneficiaries. If any beneficiary named in this Section is a "class" of individuals or organizations, such class shall be treated as a single beneficiary for purposes of such reallocation. If there are no remaining beneficiaries under this Section, then such share shall be administered as provided in the Articles that follow.

In the event a charitable organization is named as a beneficiary and such organization is no longer in existence or no longer qualifies as a tax-exempt organization under Sections 170(c), 2055 and 2522 of the Code, my Trustee shall distribute the share for such charitable organization to such charitable organization or organizations as my Trustee, in my Trustee's discretion, determines most closely matches my charitable intent. If my Trustee fails to distribute this share due to the lack of a qualified tax-exempt beneficiary, this share shall lapse and be reallocated among the remaining beneficiaries as provided in the paragraph immediately above.

Each share shall constitute a separate and independent trust, and Exempt Trusts shall remain separate from Non-Exempt Trusts. The decisions of my Trustee as to the assets to constitute each such share or sub-share shall be conclusive, subject only to the requirement that said shares or sub-shares shall be of the respective values.

The shares shall be held, administered and distributed as follows:

a. Distribution and Administration of Trust for AMY FRASIER WILSON

1. Beneficiary Trustees for AMY FRASIER WILSON

The Trustees designated below shall act with regard to the trust created for AMY FRASIER WILSON.

(1) PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY

The beneficiary shall have the right to designate one or more Successor Trustees by written instrument delivered to such Successor Trustee(s). In the event the beneficiary fails to designate a Successor Trustee, then a Successor Trustee shall be appointed by the Special Co-Trustee appointed under my Trust.

2. Income Accumulated

The entire net income of the Family Sentry Trust shall be accumulated and added to principal on an annual basis if not distributed under the provisions of the paragraph immediately following.

3. Fully Discretionary Payments

My Trustee may, from time to time, pay to, or for the benefit of AMY FRASIER WILSON such portion or portions of the income and/or principal of AMY FRASIER WILSON's Family Sentry Trust, up to the whole thereof, as my Trustee, in my Trustee's sole discretion, deems appropriate.

4. Guidelines for Discretionary Distributions

In exercising discretion, my Trustee shall, at all times, give primary consideration to the needs of AMY FRASIER WILSON. No amount paid to or applied for the benefit of AMY FRASIER WILSON need thereafter be repaid to the Trustee or restored to her Family Sentry Trust. My Trustee shall give consideration to all other income and resources then known to be available to AMY FRASIER WILSON before making a discretionary distribution of principal. It is my intent that the income or principal of the Family Sentry Trust shall not be voluntarily or involuntarily anticipated, assigned, encumbered, or subjected to creditors' claims or legal process before its actual receipt by my beneficiary. My Trustee shall be entitled to rely upon the written certification of such beneficiary or Legal Representative of such beneficiary as to the nature and extent of such beneficiary's needs and the inadequacy of such

beneficiary's resources apart from the Trust Agreement. As to these matters, when relying upon such certification, my Trustee shall not be required to make further inquiry into the authenticity of the need or to the availability of other resources to satisfy the need. It is my desire that my Trustee consider the needs of the beneficiary in keeping with the standard of living that has been previously enjoyed by such beneficiary.

5. Death of AMY FRASIER WILSON Before Complete Distribution

In the event of the death of AMY FRASIER WILSON, subsequent to the creation of said child's trust and before the complete distribution of said child's trust, the trust set aside for her benefit shall terminate, and my Trustee shall distribute and deliver the remaining balance of said trust, subject to the provisions of Section 2, pursuant to said child's limited power of appointment or, if unexercised, to her husband WILLIAM WILSON. In order for WILLIAM WILSON to qualify to inherit under this section, he must be married to and not separated from AMY FRASIER WILSON at the time of her death. If WILLIAM WILSON is not then living or is not married to or is separated from AMY FRASIER WILSON at the time of her death, then my Trustee shall deliver the remaining balance of said trust in accordance with the provisions of Article Eight.

Section 2. Postponement of Distribution by Trustee

Subject to the provisions of Section 5 of Article Eleven, but notwithstanding any other provisions of this Article, if my Trustee determines that there is a compelling reason to postpone a distribution to a beneficiary, then my Trustee shall continue to hold and administer such beneficiary's trust as follows:

a. Income Accumulated

The entire net income of such beneficiary's trust shall be accumulated and added to principal on an annual basis if not distributed under the provisions of the paragraph immediately following.

b. Discretionary Payment of Principal

My Trustee shall pay to, or apply for the benefit of, such beneficiary only as much of the principal and accumulated income of such beneficiary's trust as my Trustee, in my Trustee's sole discretion, considers necessary for the proper health, education, maintenance and support of such beneficiary. Notwithstanding the preceding sentence, all discretionary distributions of principal and accumulated

income to a Special Needs Beneficiary shall be governed by the provisions of paragraph c. immediately following.

c. Discretionary Payment of Income and Principal for Special Needs Beneficiaries

My Trustee shall apply for the benefit of a Special Needs Beneficiary such amounts of principal and accumulated income of the Special Needs Beneficiary's share as provided for under Section 2 of Article Eleven.

d. Guidelines for Trustee's Discretion in Making Distributions

My Trustee shall take into consideration, to the extent my Trustee considers it advisable, any other income or resources of such beneficiary known to the Trustee. When, in my Trustee's discretion, the compelling reason for the postponement of a distribution ceases to exist, my Trustee shall make available for withdrawal by such beneficiary the postponed distribution(s), which such beneficiary shall request by written instrument filed with my Trustee. Notwithstanding the preceding sentence, the termination of the postponement of distributions to a Special Needs Beneficiary shall be governed by the provisions under Section 2 of Article Eleven.

e. Compelling Reason

A compelling reason includes, but is not limited to, the following:

1. The beneficiary has not attained the age of eighteen;
2. The beneficiary is a Special Needs Beneficiary as defined under Section 2 of Article Eleven;
3. The susceptibility of the beneficiary to undue influence or duress by an individual or a group;
4. Alcohol or substance abuse by the beneficiary;
5. A pending marital separation or dissolution of marriage or divorce of the beneficiary;
6. Potential financial difficulty or a proven inability of the beneficiary to manage money;
7. A serious tax disadvantage upon distribution to the beneficiary;

8. Minimization of income, gift, estate, generation-skipping, or other transfer taxes of a beneficiary, or beneficiaries, or the Trust Agreement; and
9. Substituting income, gift, estate, generation-skipping or other transfer taxes of the beneficiary for another.

f. Distributions Withheld

Any distribution may be postponed, including distributions of income or principal, whether in complete or partial termination of the beneficiary's trust, one or more of a series of payments, or otherwise.

g. Evidence of a Compelling Reason

In connection with the foregoing, and in furtherance thereof, my Trustee is authorized to require the beneficiary to submit to my Trustee for review appropriate evidence as to the existence or non-existence of the compelling reason for which the postponement of a distribution of income or principal has been made or is being considered. Upon the request of my Trustee, such evidence shall include the submission to blood tests or similar tests showing the absence of alcohol addiction or substance abuse, said tests to be conducted and administered by medical personnel approved by my Trustee.

h. Notice to Beneficiary; Request for Reconsideration

If my Trustee decides to postpone a beneficiary's distribution, then my Trustee shall provide written notification to such beneficiary of such postponement decision. Upon notification by my Trustee of the intent to postpone a distribution, such beneficiary may request reconsideration of such decision and submit to my Trustee such reports, information, or other evidence as such beneficiary deems appropriate. If a beneficiary seeks the advice, counsel, or representation of an attorney with regard to postponed distributions, then such beneficiary shall be entitled to reimbursement of the legal fees and costs incurred for such representation. Such reimbursement shall be limited to no more than one-half of one percent of the value of such beneficiary's trust at the beginning of the calendar year in which such reimbursement is requested. A request for such reimbursement of legal fees and costs shall be limited to once every two calendar years.

Section 3. General Power of Appointment Over Non-Exempt Assets

Should a beneficiary die prior to the creation of his or her separate trust of my Trust Agreement or die subsequent to the creation of such trust but before complete distribution of such trust, and as a result of said death a portion of my Trust Agreement would be subject to GST Tax but for

the provisions of this Section, the beneficiary may, pursuant to a General Power of Appointment exercised in his or her last Will (but not in a codicil) and specifically referring to this power of appointment, provide for such trust to pass to the creditors of such beneficiary's estate, in accordance with the terms set forth below. The asset value subject to such general power of appointment shall be the maximum amount, if any, which, when added to the beneficiary's net taxable estate (computed prior to said power), will cause the federal estate tax marginal rate to increase until it equals the GST Tax marginal rate; but in no case shall such general power of appointment exceed the asset value of such beneficiary's trust. To the extent the beneficiary does not effectively exercise the general power of appointment, the unappointed asset value shall be held, administered and distributed in accordance with the other provisions of my Trust Agreement.

Article Eight - Lack of Designated Beneficiaries

Section 1. Remainder by Intestate Succession

If at any time there is no beneficiary entitled to receive all or any part of my Trust Estate under the preceding Articles, all of the remaining portion of my Trust Estate shall then be distributed, outright and free of trust, to those persons who would be my heirs at law had I died intestate owning my Trust Estate.

Notwithstanding the preceding, any Retirement Plan Assets that come under the control of my Trustee shall not be distributed to any charitable beneficiary and shall only be distributed to Heirs at Law that are younger than the oldest beneficiary named under the provisions of Article Seven (and disregarding all testamentary powers of appointment contained therein).

Article Nine - Trustee Provisions

Section 1. Co-Trustee Voting Provisions

a. Co-Trustee May Not Act Independently

All Co-Trustees acting under my Trust Agreement must act in concert with other Co-Trustees as provided in the other provisions of this Section.

b. Unanimous Vote for Two Trustees

If only two Trustees are serving, they shall act unanimously in the exercise of all powers and discretion granted to them under my Trust Agreement.

c. Majority Vote for More Than Two Trustees

If more than two Trustees are serving under my Trust Agreement, they shall act by majority vote and any exercise of a power or discretion by a majority of the Trustees shall have the same effect as an exercise by all of them.

d. Special Co-Trustee Resolves Disputes

If the Trustees are not able to reach an agreement on any decision as set forth in this Section, they shall consult with the Special Co-Trustee as provided under Section 8 of Article Three of my Trust Agreement.

Section 2. Delegation of Trustee Powers and Discretions

Notwithstanding any other provision of my Trust Agreement, any one or more of the Co-Trustees serving under my Trust Agreement may, from time to time, delegate to another Co-Trustee or Co-Trustees any or all of such Co-Trustee's powers and discretion by an instrument in writing delivered to the other Co-Trustees and may revoke such designation at will in the same manner; provided, however, the foregoing shall not apply to a "Special Co-Trustee" appointed under Special Co-Trustee Provisions of Article Three. For example, a Co-Trustee may authorize withdrawals of trust funds from any savings and/or checking account upon the signature of one of the others serving as Co-Trustee. Also, a Co-Trustee may authorize the opening and maintaining of bank accounts or safe deposit boxes, in the name of the Co-Trustee, with any bank, trust company or savings and loan association authorized and doing business in any state of the United States of America, and may authorize such bank, trust company or savings and loan association to make distributions to or for the benefit of the beneficiaries hereunder. Additionally, if a corporation, bank or trust company and an individual serve as Co-Trustees, the individual Co-Trustee shall not be obligated (but may so act if he or she wishes) to sign or countersign checks for disbursements of trust funds held by the corporation, bank or trust company. The delegating Co-Trustee shall incur no liability to any beneficiary of any trust

created hereunder with respect to the administration of such trust during the period of any such delegation.

Section 3. No Trustee Bond Required

No Trustee specifically named under my Trust Agreement shall be required to post any bond for the faithful performance of such Trustee's responsibilities.

Section 4. Compensation of Trustee

Other than when I am serving as Trustee, my Trustee shall be entitled to reasonable compensation for services rendered. Such compensation is payable without the need of a court order. In calculating the amount of compensation, customary charges for similar services, in the same geographic area, for the same time period shall be used as guidelines. Any corporate fiduciary shall be entitled to receive compensation for its services in accordance with its published fee schedule in effect from time to time and any trustee who is normally compensated on an hourly basis shall be so compensated. My Trustee shall also be entitled to reimbursement for reasonable costs and expenses incurred during the exercise of my Trustee's duties under my Trust Agreement.

Section 5. Change in Corporate Trustee

Any corporate successor to the trust business of any corporate trustee named under my Trust Agreement, or acting hereunder, shall succeed to the capacity of its predecessor without re-conveyance or transfer of trust property.

Section 6. Notice to Trustee

Until my Trustee receives written notice of any death or other event which triggers the right to payments from any trust or trust shares created under my Trust Agreement, my Trustee shall incur no liability for distributions made in good faith to persons whose interests may have been affected by such event.

Section 7. Duty to Account

My Trustee shall render accounts, upon request, to the income beneficiaries under my Trust Agreement at least annually, at the termination of a trust created hereunder and upon a change in my Trustees in the manner required by law.

Section 8. No Court Supervision

No trust or trust share created under my Trust Agreement shall require the active supervision of any state or federal court.

Article Ten - Powers of My Trustee

Section 1. Powers

In addition to any power hereinafter specifically granted to my Trustee, it is my intention that my Trustee has all powers granted to a trustee under state law, as well as those powers respecting property in my Trust Estate that an absolute owner of such property would have. In accordance with such intention, any power my Trustee needs to administer my Trust Estate, which is not hereinafter listed, shall be considered as provided for herein. All powers shall be exercised only in a fiduciary capacity, and such powers may be exercised without the approval or supervision of any court. It is also my intention that the investment of Trust assets shall be governed by the Uniform Prudent Investor Act, as enacted under the statutes that govern my Trust. If the Uniform Prudent Investor Act has not been enacted by the state whose law governs this document, then the Uniform Prudent Investor Act itself shall apply.

a. Retention of Property

My Trustee shall have the power to retain any ownership interest, partial or complete, in real property, farming and other family business enterprises, as well as other illiquid investments, such as restricted securities transferred, devised or bequeathed to my Trustee, regardless of any lack of diversification, risk, or non-productivity and regardless of whether or not such property is of a character authorized by state law for the investment of trust funds. My Trustee shall have the power to continue the operation of any such property or business enterprises at the risk of my Trust Estate as long as my Trustee believes that the retention of such property is in furtherance of my goals in creating my Trust and is in the best interest of my beneficiaries.

b. Additions

My Trustee shall have the power to receive additions to the assets of the various trusts created under my Trust Agreement from any source.

c. Business Participation

My Trustee shall have, notwithstanding any overall effect on the fair market value of the property held in any trust or trust share, the power to form, terminate, continue or participate in the operation of any business enterprise including a corporation, a sole proprietorship, a general or limited partnership (as a general or limited partner) or a limited liability company (as a managing or non-managing member) and to effect any form of incorporation, dissolution, liquidation or reorganization, including, but not limited to, the recapitalization and reallocation of classes of shares or other changes in the form of the business enterprise or to lend money or make a capital contribution to any such business enterprise.

d. Banking Powers

My Trustee shall have the following additional powers regarding financial transactions:

1. Existing Accounts

My Trustee may continue, modify, and terminate an account or other prior banking arrangement.

2. New Accounts

My Trustee may establish any type of account (including, but not limited to, checking, savings, and certificates of deposit) or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, industrial loan company, brokerage firm, or other financial institution.

3. Establishing, Entering and Closing Safe Deposit Boxes

My Trustee may open a new safe deposit box or space in a bank vault, access an existing safe deposit box or vault space containing trust property and withdraw or add to its contents, or close a safe deposit box or space in a bank vault.

4. Contracting Services

My Trustee may contract to procure other services that my Trustee considers appropriate which are offered by banks or other financial institutions.

5. Checks, Drafts, and Negotiable Paper; Withdrawals

My Trustee may make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or non-negotiable paper of mine, or payable to me or to my order, and deposit or receive the cash or other proceeds of those transactions. Furthermore, my Trustee may withdraw by check, order, or otherwise my money or property deposited with or left in the custody of a financial institution.

6. Receiving Negotiable or Non-Negotiable Instruments

My Trustee may receive for me and act upon a sight draft, warehouse receipt, or other negotiable or non-negotiable instrument.

7. Letters of Credit, Credit Cards, and Travelers Checks

My Trustee may apply for and receive letters of credit, credit cards, and traveler's checks from a financial institution, and give an indemnity or other agreement in connection with letters of credit as my Trustee finds necessary for the proper maintenance of trust property and financial needs.

8. Extensions to Pay

My Trustee may consent to extend the time of payment, due to or from me, with respect to any financial transaction with a bank or other financial institution.

e. Make Investments

My Trustee shall have the power to invest in any type of investment that plays an appropriate role in achieving the investment goals as set forth in my Trust Agreement, which investment shall be considered as part of the total portfolio. No category or type of investment shall be prohibited. I specifically do not wish to limit the universe of trust investments in any way other than is dictated by my Trustee's exercise of reasonable care, skill and caution. In connection with my Trustee's investment and management decisions with respect to my Trust, my Trustee is specifically entitled to take into account general economic conditions, the possible effect of inflation or deflation, the expected tax consequences of investment decisions or strategies, the role that each investment or course of action may play within the overall trust portfolio that may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property; the expected total return from income and the appreciation of capital, and the asset's special relationship or special value, if any, to the purposes of my Trust or to one or more of the beneficiaries. My Trustee shall not be limited to any one investment strategy or theory, including modern portfolio theory, the efficient markets theory or otherwise, but should be free to consider any appropriate investment strategy or theory under all circumstances.

My Trustee may delegate investment and management functions that a prudent person of comparable skills would properly delegate under the circumstances. Should my Trustee delegate such function, my Trustee shall exercise reasonable care, skill and caution in selecting an Investment Advisor and shall establish, in writing, the scope and terms of the delegation consistent with the purposes and terms of my Trust. Such writing shall cover the terms of the Investment Advisor's duties and describe the Trust assets to be managed by the Investment Advisor.

Notwithstanding the general powers of my Trustee, the following provisions shall apply to each trust from time to time held hereunder which is being managed by an Investment Advisor (subject to any limitations or modifications contained in

the written agreement between my Trustee and such Investment Advisor or Advisors);

1. My Trustee shall follow the directions of the Investment Advisor with respect to the retention, purchase, sale or encumbrance of my Trust assets subject to management by such Investment Advisor and the investment and reinvestment of any funds derived from those assets, and shall have no duty to make or participate in making any decision regarding the same. The sole authority and discretion regarding the management of such assets shall belong to the Investment Advisor.
2. So long as my Trustee follows the direction or advice of the Investment Advisor, my Trustee shall be under no duty to review the assets subject to such Investment Advisor's management or to make any recommendations with respect to the investment or reinvestment thereof or to determine whether any direction or advice received from the Investment Advisor is proper.
3. My Trustee shall not be accountable for any loss or depreciation in value sustained by reason of any action: (i) taken with the direction or approval of the Investment Advisor, or (ii) not taken by reason of direction, disapproval or inaction by the Investment Advisor pursuant to the preceding provisions of this Section 1.e. In addition, my Trustee may issue proxies to vote all securities included among the assets subject to management by the Investment Advisor, and my Trustee shall not thereafter be liable for the manner in which those securities are voted, for any direct or indirect result of that voting, or for any failure to vote such securities.
4. Except as modified by the provisions of this Section 1.e., the powers and duties of my Trustee with respect to the assets of my Trust Estate managed by an Investment Advisor shall be the same as those with respect to all other assets of my Trust Estate.
5. An Investment Advisor, by written notice to my Trustee, may resign at any time, or may, from time to time, waive any or all such Investment Advisor's rights, powers and duties. By accepting the delegation of the trust asset management function and acting as Investment Advisor,

such Advisor submits to the jurisdiction of the courts of this state. An Investment Advisor shall be entitled to reasonable compensation, and such compensation shall be paid from the assets of my Trust and may be charged, in my Trustee's discretion, to income or principal, or partly to each. My Trustee shall incur no personal liability for the payment of such fees. The rights and powers herein conferred to an Investment Advisor shall be exercisable only in a fiduciary capacity.

f. Digital Assets

In addition to any other powers held, my Trustee shall have the power to open, continue, modify, terminate, access, view, make use of, and give instructions in regards to any financial, social media, or other account or other arrangement on the world wide web (also known as the internet) and/or on any other public or private network, and to access, view, and transfer any or all data owned by or concerning me or my Trust, in any format, including any electronic or digital data, no matter where it may be located, in this state, another state, or another country.

My Trustee may obtain password and/or login information and have complete access to any electronic account maintained by me or on my behalf, including, without limitation, electronic mail and on-line financial accounts.

g. Manage Securities

My Trustee shall have the power to buy, sell and trade in securities of any nature, including options, futures contracts, short sales, and for such purposes, may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by my Trustee with such brokers as security for loans and advances made to my Trustee. My Trustee shall have all the rights, powers and privileges of any owner with respect to securities held in trust, including, but not limited to, the power to vote and give proxies and pay assessments or other charges, participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations and, in connection therewith, to deposit securities with and transfer title to any protective or other committee under such terms as my Trustee may deem advisable, and do all other acts which persons of prudence, discretion and intelligence would do or take for their own account.

h. Allocation of Principal and Income

Except as otherwise specifically provided in my Trust Agreement, the determination of all matters with respect to what is principal and income of my Trust Estate and the apportionment and allocation of receipts and expenses between these accounts shall be governed by the provisions of the Principal and

Income Act as enacted from time to time under state law. Any such matter not provided for either in my Trust Agreement or under governing state statute shall be determined by my Trustee in my Trustee's discretion.

My Trustee's powers shall be subject to my Trustee's duty to treat income beneficiaries and remainder beneficiaries equitably, except as provided below:

1. A reasonable reserve for the depreciation of all income-producing, depreciable real and personal property, and capital improvements and extraordinary repairs on income-producing property, shall be charged to income from time to time;
2. A reasonable reserve for the depletion of all depletable natural resources, including, but not limited to, oil, gas and mineral, and timber property, shall be charged to income from time to time;
3. Distributions by mutual funds and similar entities of gains from the sale or other disposition of property shall be credited to principal;
4. A reasonable reserve for the amortization of all intangible property having a limited economic life including, but not limited to, patents and copyrights, shall be charged to income from time to time; and
5. All premiums paid and all discounts received in connection with the purchase of any bond or other obligation shall be amortized by making an appropriate charge or credit to income as the case may be; provided, however, my Trustee shall not set aside out of income a reserve for the depreciation, depletion, obsolescence, repair, replacement, improvement or amortization of capital assets (tangible or intangible) contributed to my Trust during my lifetimes or by Will upon my death. Further provided, if my Trust is a partner in a partnership, my Trustee shall be entitled to accept, with respect to such partnership interest, any accounting methods used by the partnership, regardless of whether such methods include depreciation reserves, regardless of the assumptions on which any such reserve may be based, and regardless of whether such accounting methods are inconsistent with those methods used by my Trustee with respect to other property of my Trust Estate.

The income and principal of Retirement Assets and Annuities shall be governed by the provisions under Section 1 of Article Eleven.

i. Sell, Exchange and Repair

My Trustee shall have the power to manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair Trust property.

j. Lease

My Trustee shall have the power to lease Trust property for terms within or beyond the terms of the Trust and for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

k. Permit Beneficiaries to Use or Reside Upon Trust Assets

Unless in conflict with the provisions of Section 2. e, of Article Eleven, my Trustee may permit any beneficiary to reside upon or occupy any real property in my Trust Estate or use any personal property in my Trust Estate, upon such terms, provisions and conditions as my Trustee determines.

l. Borrow

My Trustee shall have the power to borrow money for any trust purpose upon terms and conditions as my Trustee may deem proper and to obligate my Trust Estate for repayment; to encumber my 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 my Trustee may deem advisable (including securing or guaranteeing a loan to me in my individual capacity for a purpose not connected with my Trust). My Trustee shall have the power to borrow money on behalf of one trust from any other trust provided for under my Trust Agreement, and to obligate the borrowing trust to repay such borrowed money, provided that such loan shall be adequately secured and shall bear interest at current bank rates.

m. Guarantees

My Trustee shall have the power to unconditionally or conditionally guarantee the payment of any and all indebtedness, advances, obligations and liabilities currently in existence or hereafter made, incurred or created by me, individually or jointly with others, or incurred or created by any person or any partnership (general or limited), or other legal entity, provided my Trustee holds any interest in such corporation, partnership or entity, and such guarantee benefits directly or indirectly my Trust Estate or its beneficiaries. Guarantees may be made to secure

indebtedness, advances, obligations and liabilities to banks, savings and loans, real estate investment trusts, any and all institutional investors, persons, corporations, partnerships and other legal entities.

n. Make Loans

My Trustee shall have the power to lend Trust money to my Personal Representative or to any beneficiary under my Trust (including me) or to a trust for the benefit of any such beneficiary, as may be agreed upon between my Trustee and such parties, provided, however, that any such loan shall be adequately secured and shall bear a reasonable rate of interest. My Trustee shall also have the power to loan or advance my Trustee's own funds to my Trust for any Trust purpose, with interest at current rates, and to receive security for such loans in the form of a mortgage, pledge, deed of trust, or other encumbrance of any assets of my Trust.

o. Purchase Assets from Trustor's Estate

My Trustee may use Trust funds to purchase any securities or other property tendered to it by the Personal Representative or Executor of my Estate or any Trustee of any trust established by me, at any time and from time to time at the then market value of such property. If there is any question as to the market value of such property, such value shall be determined by the Special Co-Trustee, as provided for under Section 8 of Article Three of my Trust Agreement.

p. Deal With Other Trusts

My Trustee may advance cash or other assets to any other trust or estate of which my Trust is a beneficiary in an amount equal to all or any portion of any expense, debt and other charges, and estate, inheritance, succession, transfer and other death taxes which are attributable to my Trust's share of such other trust or estate.

q. Insure

My Trustee shall have the power to carry, at the expense of my Trust, insurance of such kinds and in such amounts as my Trustee deems advisable to protect my Trust Estate and my Trustee against any hazard.

r. Agents

My Trustee shall have the power to employ managers, agents, attorneys, accountants, auditors, depositories and proxies, with or without discretionary powers, and to rely on the advice given by such advisors.

s. Litigation

Subject to the provisions of Section 8 of Article Three, my Trustee shall have the power to commence or defend, at the expense of my Trust, such litigation with respect to my Trust or any property of my Trust as my Trustee may deem advisable, and to compromise or otherwise adjust any claims or litigation against or in favor of my Trust.

t. Accept Gifts

My Trustee shall be authorized to accept gifts from any individual who desires to contribute to the principal of the respective trusts created hereunder. Such acceptance of any additional gift shall be in the discretion of my Trustee.

u. Pay Gift Taxes

If at any time any gift tax becomes due from me, by reason of my Trust Estate or any interest therein being includible for such tax purposes, such gift tax, together with interest, penalties, costs, Trustee's compensation and attorney's fees, in the discretion of my Trustee, may be paid by my Trustee from my Trust Estate, unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of my Trust Estate or any interest therein so included for such tax purposes.

v. Payment of Expenses

My Trustee shall have the power to pay any taxes, assessments, reasonable compensation of my Trustee and other expenses incurred in the collection, management, care, protection and conservation of my Trust Estate.

w. Corporate Fiduciary

If any stock of a corporate entity that is my Trustee, or of any affiliate or successor of such Trustee, shall be included in the assets of my Trust, my Trustee shall have full authority, in my Trustee's discretion, and notwithstanding any regulation or rule of law to the contrary, to retain the stock and any increases resulting from stock dividends and stock splits and from the exercise of purchase rights and the purchase of fractional shares needed to round out fractional share holdings that may arise concerning the stock. My Trustee shall vote such stock either directly or by proxy. However, to the extent my Trustee is prohibited by law from voting such stock, my Trustee shall vote in accordance with the written instructions of the Special Co-Trustee appointed under Section 8 of Article Three.

x. Investment Transactions

With regard to record keeping for investment transactions, my Trustee need not provide copies of confirmations or similar notifications each time a trade or investment transaction occurs, but investment transactions shall be set forth in my Trustee's periodic accounting.

y. Farm or Ranch Property

With respect to farm or ranch property, my Trustee shall have all necessary powers to participate in and operate any farming (including tree farming) or ranch operation, personally or with hired labor, tenants or sharecroppers; to lease any farm for cash or a share of crops under a lease that permits or precludes the material participation of my Trustee to fertilize and improve the soil; to employ conservation practices; to participate in government programs; and to perform any other acts deemed by my Trustee as necessary or desirable to operate the property. In making a decision whether to materially participate in farming or ranch operations, my Trustee shall consider whether an election should be made or has been made under Sections 2032A of the Code to qualify for special farm-use valuation or the qualified family owned business interest deduction, or both.

z. Power to Divide or Combine Trusts

My Trustee shall have the power to divide a single trust or share thereof into separate divisions, each to be administered in accordance with the terms and conditions of the single trust from which they were created (or in accordance with such terms and conditions as they may be affected by my Trustee's power to comply with "S" Corporation requirements) when my Trustee, in my Trustee's discretion, determines that division is desirable or advisable in view of tax considerations, including considerations related to income tax, gift tax, inheritance tax or generation-skipping transfer tax or other objectives of the trusts and their beneficiaries.

My Trustee shall not be required to make a physical segregation or division of the various trust subdivisions created under my Trust Agreement except as segregation or division may be required by reason of the termination and distribution of any of the trust subdivisions, but my Trustee shall keep separate accounts and records for different undivided interests.

My Trustee, in my Trustee's discretion, shall have the further power to combine two or more trusts or trust subdivisions having substantially the same terms into a single trust for purposes of administration when tax or other factors indicate that such combination would be desirable or advisable. In deciding whether to combine trusts or trust subdivisions, my Trustee shall consider the generation-skipping "inclusion ratio" of the trusts or trust subdivisions to be combined. Trusts or trust subdivisions having the same inclusion ratios may be combined.

Trusts or trust subdivisions having different inclusion ratios should generally not be combined unless their inclusion ratios are maintained unchanged through substantially separate and independent shares of different beneficiaries within the meaning of Section 2654(b) of the Code and the applicable regulations thereunder. Specifically, unless there is a Personal Representative, my Trustee has the authority to allocate any portion of my exemptions under Section 2631(a) of the Code to property as to which I am the respective Transferor, including any property transferred by me during my lifetime as to which I did not make an allocation prior to my death. My Trustee also has the authority to make the special election under Section 2652(a)(3) of the Code. If Sections 2631(a) or 2652(a)(3) of the Code are not interpreted to allow a Trustee to exercise such election, then a Personal Representative shall be appointed and is authorized to allocate my exemption and to exercise the said special election.

aa. Termination of Small Trust

If at any time after my death the costs of administration of my Trust (or any share thereof) are of such an amount in relation to the then principal and undistributed income of my Trust (or any share thereof) that my Trustee, in my Trustee's discretion, determines that my purposes in establishing my Trust (or any share thereof) would no longer be served, and if my Trustee deems it advisable to distribute the then principal and undistributed income of my Trust (or any share thereof) to the then living beneficiary or beneficiaries and thereby cause the termination of such trust or share, my Trustee (other than my estate and any then current beneficiary of my Trust) may do so without responsibility on the part of my Trustee. If no such Trustee is then serving, the Special Co-Trustee appointed under Section 8 of Article Three shall serve for the purpose of determining the advisability of termination and administering the termination process.

bb. Power to Subject Trust Property to Probate

It is my intention to avoid probate through the use of my Trust. If, however, my Trustee and Personal Representative mutually determine that it shall be in the best interests of the beneficiaries of my Trust, and the beneficial interests of the beneficiaries are not thereby altered, my Trustee may subject any asset to probate to accomplish a result unavailable without probate. This power shall be strictly construed and shall only be used to secure any tax or other benefit otherwise unavailable to my Trust. Accordingly, other than a distribution that would cause a Charitable Deduction to fail, my Trustee, in my Trustee's discretion, may accomplish this objective by distributing such property to my estate.

cc. Power to Change Situs

My Trustee shall have the power, exercisable by written instrument signed and acknowledged by my Trustee, to change the situs of any trust or trust share held by my Trustee; and, in conjunction with any such change and without any need to

obtain the approval of any court, to elect that such trust or trust share shall be subject to the jurisdiction of the new situs. In addition, my Trustee may move the assets of such trust or trust share to the location of the new situs. In no event, however, may this power be exercised in a manner that would cause the denial of Marital Deduction qualification for any portion of my Trust Estate, or that would prevent a trust or trust share from qualifying as a permitted shareholder of "S" corporation stock for federal income tax purposes.

dd. Release of Trustee Powers

Each Trustee who determines it to be in the best interest of any beneficiary may, at any time, by instrument executed with all the formalities of a deed and delivered personally or sent by certified mail to another then acting Trustee, if any, or to some beneficiary of the affected trust or trusts, release and relinquish or disclaim upon any terms, either in whole or in part, temporarily or permanently, revocably or irrevocably, with or without binding successors, any one or more of the powers, rights, authorities, and discretions conferred upon such Trustee by any provision or provisions of my Trust Agreement or generally pursuant to law, which release and relinquishment or disclaimer shall be binding on all affected beneficiaries. If the release and relinquishment or disclaimer of a power, right, authority, or discretion is made by less than all of my Trustees upon whom it is conferred, such power, right, authority, or discretion shall continue to be exercisable in full by my Trustee or Trustees (other than any Successor Trustees on whom it is, by its terms, binding) who have not thus released and relinquished or disclaimed it.

ee. Pay Death and Generation-skipping Transfer Taxes of Beneficiaries

Upon the death of any beneficiary other than me, any estate, inheritance, succession, or other death taxes (including any generation-skipping transfer taxes), duties, charges, or assessments, together with interest, penalties, costs, Trustee's compensation and attorneys' fees, which shall become due by reason of my Trust Estate or any interest therein being includible for such tax purposes, may be paid by my Trustee from my Trust Estate (other than the Trustor's) unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of my Trust Estate or the separate trust so included. If my Trustee considers that any distribution from a trust hereunder, other than pursuant to a power to withdraw or appoint, is a taxable distribution subject to a generation-skipping transfer tax payable by the distributee, my Trustee shall augment the distribution by an amount which my Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates. If my Trustee considers that any termination of any interest in or power over trust property hereunder is a taxable termination subject to a generation-skipping transfer tax, my Trustee shall pay the tax from the trust property to which the tax relates, without any adjustment of the relative interests

of the beneficiaries. If the tax is imposed in part by reason of trust property hereunder and in part by reason of other property, my Trustee shall pay that portion thereof which the value of the trust property bears to the total property taxed, taking into consideration deductions, exemptions and other factors which my Trustee deems pertinent. My Trustee may make any such payments directly, or to a Legal Representative or other fiduciary, and my Trustee may rely upon a written statement of such fiduciary as to the amount and propriety of such taxes, interest, penalties and other costs, and shall be under no duty to see to the application of any funds so paid.

Section 2. Gifts by Trustee

a. General Gift Authority

My Trustee is authorized to make gifts, grants, or other transfers without consideration, either outright or in trust, for any legitimate estate planning purpose, to or for my benefit, my descendants, or charitable organizations (including, without limitation, any Private Charitable Foundation, Charitable Remainder Trust, or Charitable Lead Trust established by me, as well as any public charity). Such gifts may include the forgiveness of indebtedness, the completion of any charitable pledges I have made, and the direct payment of tuition and medical care for the benefit of any such persons pursuant to the provisions of Section 2503(e) of the Code. Such gifts may be made in cash, in kind, or partly in each on a pro rata or non-pro rata basis. If any gifts are made to any individuals, then such gifts shall be made equally to all descendants of the same generation. For example, if a gift is made to my child or grandchild, as the case may be, then a similar gift or gifts of the same amount must be made to each of my then living children or grandchildren, as the case may be.

b. Deathbed Gifts

1. Circumstances for Making and Amount of Deathbed Gifts

Without limiting my Trustee's authority to make gifts under paragraph a. immediately preceding, if my Trustee determines that (i) I am terminally ill and it is unlikely that I will live, and (ii) my estate is or may be subject to death taxes, then my Trustee, in my Trustee's sole discretion, may make gifts up to the full amount of the federal gift tax annual exclusion amount under Section 2503(b) of the Code or successor statute (hereinafter referred to as "deathbed gifts").

2. Permissible Donees

My Trustee is authorized to make deathbed gifts to the following individuals: (i) First, to my then living children; provided, however, that if sufficient funds or suitable assets are not available to make the full amount of such gifts to all of my said children, then the funds or assets that are available shall be apportioned equally among said children; (ii) Second, if there are sufficient funds or suitable assets remaining after making the foregoing gifts to my then living children, then out of the remaining funds or assets, gifts shall be made to the then living children of my children (i.e., my grandchildren), in equal shares, per capita and not by right of representation; provided, however, that if sufficient funds or suitable assets are not available to make the full amount of such gifts to all such grandchildren, then the funds or assets that are available shall be apportioned equally among said grandchildren.

3. Completion of Deathbed Gifts Prior to Trustor's Death

I request that my Trustee take all action reasonably necessary to insure that the deathbed gifts authorized hereunder are completed for federal gift tax purposes prior to my death, including making gifts by wire transfer, electronic funds transfer, or other method that is reasonably calculated to complete such gifts prior to my death. If I am in an irreversible coma or vegetative state and my life is being prolonged solely by artificial means under circumstances where the timing of my death may be subject to the control of my Health Care Agent, the Conservator of my person, or other legal representative, then I request that my Trustee hereunder confer with such Health Care Agent, Conservator, or legal representative concerning the timing of such gifts in relation to the timing of my death.

4. Effect on Testamentary Plan

It is my desire that my Trustee make such deathbed gifts in order to save Death Taxes even if doing so is inconsistent with my testamentary plan. For example, if my Will or my Trust Agreement provides for the distribution of my estate to my children in equal shares upon my death, it is nevertheless my desire that my Trustee include my grandchildren in such deathbed gifts if Death Taxes could thereby be reduced, even if the effect would be to reduce the amounts passing to my children at my death or shift the total amount passing to each line of descent.

c. Limitation on Gifts to Trustee

Notwithstanding the provisions of Section 2 a. and b. above, any gifts my Trustee is authorized to make to himself or herself, or for his or her benefit, either directly or indirectly, including the discharge of his or her legal obligations, shall be limited to the greater of (i) five thousand dollars (\$5,000), or (ii) five percent (5%) of my Trust Estate during any calendar year, which power shall be non-cumulative and shall lapse at the end of each calendar year; provided, however, that gifts to the Trustee may exceed such limitation if any one of the following conditions is met: (i) the Special Co-Trustee provided for under Article Three of my Trust Agreement consents in writing to the gift to such Trustee, (ii) my then living adult children (other than the Trustee) unanimously consent in writing to the gift to such Trustee, or (iii) court approval of the gift to the Trustee is obtained on petition by the Trustee or any other interested person pursuant to state law.

d. Income Tax Effects

In making gifts hereunder, my Trustee may, but shall not be required to, consider the income tax effects of making a gift of any asset, the income tax basis of which differs from the fair market value, including the possibility of a step-up in basis at my death pursuant to Section 1014 of the Code. In that regard, my Trustee shall have the sole discretion to determine whether the estate tax savings of making such gifts outweighs the income tax consequences.

e. Gifts are Discretionary

My Trustee shall have the sole discretion to determine whether and to what extent to make gifts hereunder; provided, however, that, except as otherwise provided above in Section 2. b., it is my desire that the donees of each generation be treated equally. Nothing stated herein shall be construed to require my Trustee to make any such gifts and my Trustee shall not be liable to any person for failing to make any gifts authorized hereunder, or for the manner in which such gifts are made, except for his or her bad faith, willful misconduct, or gross negligence, including, without limitation, the death tax or income tax consequences to my estate, beneficiaries, or heirs at law. My Trustee shall be held free and harmless from any such liability, loss, cost, or expense, including reasonable attorney's fees, arising from my Trustee's acts or omissions in connection with making any gifts under the provisions of my Trust Agreement.

f. Payments to or for Benefit of Minors

If a gift is made hereunder to any person who is under the age of twenty-one (21), and if no trust is established for such person, such person's gift may, in the discretion of my Trustee, be distributed to an adult member of such person's family (to be selected by the Trustee) as custodian until such age as my Trustee

determines (but not to exceed the age of 21), under the Uniform Transfers to Minors Act or the Uniform Gifts to Minors Act.

Section 3. Trustee Environmental Powers

a. Trustee Authorized to Inspect Property Prior to Acceptance

1. Actions at Expense of Trust Estate

Prior to acceptance of the position of Trustee 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 my Trust Estate:

A. Enter Property

To enter and inspect any existing or proposed asset of my Trust (or of any partnership, limited liability company, or corporation in which my Trust holds an interest) for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance; and

B. Review Records

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

C. Rights Equivalent to Partner, Member, or Shareholder

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

D. Right to Still Refuse Acceptance of Trusteeship

Acts performed by the proposed or designated Trustee under this provision shall not constitute acceptance of my Trust.

E. Right to Accept Trusteeship Over Other Assets Only

If an asset of my Trust is discovered, upon environmental audit by the acting Trustee or any proposed or designated Trustee, to be contaminated with hazardous waste or otherwise not in compliance with environmental law or regulation, my Trustee may decline to act as Trustee solely as to such asset, and accept the Trusteeship as to all other assets of my trust. My Trustee, in his or her discretion, may petition a court to appoint a receiver or Special Trustee to hold and manage the rejected asset, pending its final disposition.

F. Right to Reject Asset

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

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

1. Trustee's Powers over Hazardous Waste Property

If my Trust Estate holds one or more assets, the nature, condition, or operation of which is likely to give rise to liability under, or is an actual or threatened violation of, any federal, state, or local environmental law or regulation, my Trustee may take one or more of the following actions, if my Trustee, in my Trustee's discretion, determines that such action is in the best interest of my Trust and its beneficiaries:

A. Modify Trust

Modification of trust provisions, upon court approval, granting my Trustee such additional powers as are required to protect my Trust and its

beneficiaries from liability or damage relating to the actual or threatened violation of any federal, state, or local environmental law or regulations, with it being my desire that my Trustee keep in mind my dispositive wishes expressed elsewhere in my Trust and that my Trustee consider and weigh any potentially negative federal and state income, gift, estate, or inheritance tax consequences to my Trustee, my Trust and its beneficiaries;

B. Bifurcate Trust

Bifurcation of my Trust to separate said asset from other assets of my Trust Estate;

C. Appoint a Special Trustee

Appointment of a Special Trustee to administer said asset; and/or

D. Abandon Property

Abandonment of such asset.

2. Termination of Trust or Distribution of Other Assets

With court approval, my Trustee may terminate my Trust or partially or totally distribute my Trust Estate to my beneficiaries.

3. Broad Discretion

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

4. Trustee's Powers Relating to Environmental Laws

My Trustee shall have the power to take, on behalf of my Trust, any action necessary to prevent, abate, avoid, or otherwise remedy any actual or threatened violation of any federal, state, or local environmental law or regulation, or any condition which may reasonably give rise to liability under any federal, state, or local environmental law or regulation, including, but not limited to, investigations, audits, and actions falling within the definition of

"response" as defined in 42 U.S.C. § 9601(25), or any successor statute, relating to any asset that is or has been held by my Trustee as part of my Trust Estate.

c. Indemnification of Trustee from Trust Assets for Environmental Expenses

1. Indemnification and Reimbursement for Good Faith Actions

My Trustee shall be indemnified and reimbursed from my Trust Estate for any liabilities, losses, damages, penalties, costs, or expenses arising out of, or relating to, federal, state, or local environmental laws or regulations (hereinafter "environmental expenses"), except those resulting from my Trustee's intentional wrongdoing, bad faith, or reckless disregard of his or her fiduciary obligation.

A. Environmental Expenses Defined

Environmental expenses shall include, but are not limited to: (i) Costs of investigation, removal, remediation, response, or other clean-up costs of contamination by hazardous substances, as defined under any environmental law or regulation; (ii) Legal fees and costs arising from any judicial, investigative, or administrative proceeding relating to any environmental law or regulation; (iii) Civil or criminal fees, fines, or penalties incurred under any environmental law or regulation; and (iv) Fees and costs payable to environmental consultants, engineers, or other experts, including legal counsel, relating to any environmental law or regulation.

2. Properties and Businesses Covered

This right to indemnification or reimbursement shall extend to environmental expenses relating to: (i) Any real property or business enterprise, that is or has been at any time owned or operated by my Trustee as part of my Trust Estate; and (ii) Any real property or any business enterprise that is or has been at any time owned or operated by a corporation, limited liability company, or partnership, in which my Trustee holds or has held, at any time, an ownership or management interest as part of my Trust Estate.

3. Right to Pay Expenses Directly from Trust

My Trustee shall have the right to reimbursement for incurred environmental expenses without the prior requirement of expenditure of my Trustee's own funds in payment of such environmental expenses, and the right to pay environmental expenses directly from Trust assets.

4. Right to Lien Trust Assets

My Trustee shall have a primary lien against assets of my Trust for the reimbursement of environmental expenses, which are not paid directly from Trust assets.

5. Exoneration of Trustee for Good Faith Acts Relating to Environmental Law

My Trustee shall not be liable to any beneficiary of my Trust or to any other party for any good faith action or inaction relating to any environmental law or regulation, or for the payment of any environmental expense (as defined above); provided, however, that my Trustee shall be liable for any such action, inaction, or payment which is a breach of trust and is committed in bad faith or with reckless or intentional disregard of his or her fiduciary obligations.

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

My Trustee may, in my Trustee's discretion, allocate between the income and principal of my Trust Estate environmental expenses (as defined above) and reimbursements or other funds received from third parties relating to environmental expenses. In making such allocation, my Trustee shall consider the effect of such allocation upon income available for distribution, the value of Trust principal, and the income tax treatment of such expenses and receipts. My Trustee may, in my Trustee's discretion, create a reserve for the payment of anticipated environmental expenses.

Article Eleven - Other Trust Provisions

Section 1. Provisions Respecting Retirement Assets

a. Explanation of Section

It is my intent, and the sole purpose of the following provisions, to insure that the beneficiaries of my Trust who are subject to the Minimum Required Distribution Rules be identifiable individuals and that they be treated as Designated Beneficiaries under such rules, so that the life expectancies of such beneficiaries may be used to calculate the Minimum Required Distributions mandated by the Code. This Section shall be interpreted with this intent and purpose being paramount to any other direction in it.

b. Definitions

As used in my Trust Agreement, the following terms, whether or not capitalized, have the following meanings, unless the context very clearly indicates otherwise.

1. Retirement Plan and Retirement Plan Proceeds

The term "Retirement Plan" means an annuity, employee pension plan, a qualified or non-qualified plan of deferred compensation, an individual retirement account or individual retirement annuity ("IRA"), or similar arrangement. The term includes any plan or arrangement described in Sections 401(a), 403, or 408(a), (b) or (k) of the Code. The term "Retirement Plan Proceeds" means proceeds receivable by any beneficiary (including a fiduciary) under a Retirement Plan upon or following the death of the participant.

2. Eligible Retirement Plan

The term "Eligible Retirement Plan" has the meaning given under Section 402(c)(8)(B) of the Code and generally means any Retirement Plan that is eligible to receive a tax-free rollover.

3. Participant, Employee and Employee's Benefit

The term "Participant," as used in this Section, includes any individual who has contributed to, directly or indirectly (through contribution by an employer on the employee's behalf), any Retirement Plan as defined above, including the owner of an IRA or Roth IRA. The term "Employee" shall have the same meaning as the term "Participant" and the term "Employee's Benefit" shall

include benefits under any Retirement Plan, including an IRA or Roth IRA.

4. Required Beginning Date

The term "Required Beginning Date" ("RBD") will have the meaning given by Section 401(a)(9) of the Code and the Treasury Regulations hereunder. The RBD generally refers to April 1st following the calendar year in which the Participant attains age 70½, except that with regard to a qualified plan, if the participant is not a five percent (5%) owner (as defined in Section 416 of the Code) the RBD may be April 1st following the calendar year in which the Participant retires, if later.

5. Applicable Date

The term "Applicable Date," as used in this Section, means September 30th of the year after the Participant's death.

6. Minimum Required Distribution Rules

The "Minimum Required Distribution Rules" ("MRD Rules") are the rules described in Section 401(a)(9) and Sections 408(a)(6) or (b)(3) of the Code (or anywhere else Section 401(a)(9) of the Code is made applicable by cross-reference, as the case may be).

7. Designated Beneficiary

A "Designated Beneficiary" means an identifiable individual who is entitled to any portion of Retirement Plan Proceeds, contingent on the Participant's death or another specified event, but in any case is to be given the meaning used in the Treasury Regulations under Section 401(a)(9) of the Code, as then in effect. To the extent members of a class of beneficiaries capable of expansion or contraction can be treated as being identifiable under the Proposed Treasury Regulations because of the possibility at the Applicable Date of identifying the class member with the shortest life expectancy, such class of beneficiaries shall be treated as a Designated Beneficiary, even though members of the class may be unborn at that time.

8. Contingent Beneficiary

A "Contingent Beneficiary," for purposes of this Section only, is a Designated Beneficiary who is entitled to any portion of

Retirement Plan Proceeds, contingent on a specified event, other than the Participant's death (e.g., death of another beneficiary).

9. Retirement Account Trustee

The term "Retirement Account Trustee," as used in a beneficiary designation form or other document designating the beneficiary of Retirement Plan Proceeds, shall be interpreted to mean the then acting Trustee of my Trust Agreement.

c. Trustee May Be Named As Death Beneficiary of Retirement Plan

My Trustee may be named as a Designated Beneficiary of Retirement Plan Proceeds. If so, my Trustee will be treated as owning the right to receive distributions from the Retirement Plan as fully as any other person or individual who was named as a Designated Beneficiary, except that such ownership shall be in a fiduciary capacity. Such interest (i.e., the right to receive distributions from the Retirement Plan) will be treated as an asset of my Trust and will be subject, generally, to the same provisions applicable to other trust assets. The death of a beneficiary of my Trust will not terminate the interest that my Trust has in a Retirement Plan.

d. Agreement to Provide Copies of All Amendments to Trust

In the case where, prior to my death, I, as the Participant, am required under the Treasury Regulations for Section 401(a)(9) of the Code to provide a copy of my Trust Agreement to the plan administrator, plan trustee, or IRA sponsor, trustee, or custodian, as the case may be, I agree that if my Trust Agreement is amended at any time in the future (but before my death), I will, within a reasonable time, provide to such plan trustee, plan administrator, or IRA sponsor, custodian, or trustee, as the case may be, a copy of each such amendment.

e. Method of Distribution under Retirement Plans

To the extent my Trustee has an interest in a Retirement Plan, my Trustee shall have the power to determine the form and manner of distribution from such Retirement Plan.

f. Rollovers and Transfers

My Trustee will have the unrestricted power to transfer or rollover any interest in a Retirement Plan to any other Eligible Retirement Plan or Plans, in order to effectuate the requirements of this Section, or as my Trustee may otherwise determine to be in the best interest of the beneficiaries, provided that in such case my Trustee shall continue as the holder of the interest, to the same extent as before.

g. Coordination with Minimum Required Distribution Rules

If my Trustee is named as the beneficiary of Retirement Plan Proceeds that are subject to the MRD Rules, and if, under the circumstances existing on the Applicable Date, the Retirement Plan Proceeds or the right to receive the Retirement Plan Proceeds are or may be payable to my Trustee, then the beneficiaries of my Trust are intended to be Designated Beneficiaries under the MRD Rules, and the following provisions shall apply:

1. Use of Retirement Plan Proceeds

Except as otherwise specifically provided to the contrary in the paragraph immediately below, but notwithstanding anything else herein to the contrary, Retirement Plan Proceeds shall be used entirely and exclusively for the benefit of the Designated Beneficiaries who are living at the Applicable Date.

2. Unborn Beneficiaries

Notwithstanding the immediately preceding paragraph, in the event that all of the primary Designated Beneficiaries of a particular trust who were living at the Applicable Date have died, my Trustee shall make distributions to those beneficiaries who would otherwise benefit under such trust, but only in the manner and to the extent consistent with my intent and the purpose for this Section as set forth in Paragraph a. of this Section.

3. Trustee Required to Distribute During Life Expectancy of Beneficiary

Unless the law applicable to MRDs from qualified plans and IRAs, interpreted in accordance with my intent and the purpose for this Section as set forth in Subsection a. above, clearly allows for a less rapid distribution from my Trust, all Retirement Plan Proceeds received by my Trust must be distributed to one or more Designated Beneficiaries of my Trust before the expiration of the life expectancy of the youngest Designated Beneficiary of my Trust to which this rule is applied, unless such beneficiary dies prior to the expiration of such life expectancy, taking into account only those beneficiaries alive as of the Applicable Date.

h. Use of Retirement Plan Proceeds to Pay Debts or Expenses

Use of Retirement Plan Proceeds for the payment of debts and expenses directly attributable and proportionate to the estate tax value of such Retirement Plan Proceeds is limited to those payments that can actually be made prior to the

Applicable Date or would otherwise not cause my Trust to fail to be a qualified beneficiary. Notwithstanding the rules otherwise applicable to apportionment, abatement and the payment of debts and expenses, Retirement Plan Proceeds shall not be used to pay any of my debts or expenses still outstanding as of the Applicable Date and thereafter, or would otherwise cause my Trust not to be a qualified beneficiary.

i. Use of Retirement Plan Proceeds to Pay Death Taxes

Use of Retirement Plan Proceeds for the payment of Death Taxes directly attributable and proportionate to the estate tax value of such Retirement Plan Proceeds is limited to those payments that can actually be made prior to the Applicable Date, or would otherwise not cause my Trust to fail to be a qualified beneficiary. Notwithstanding the rules otherwise applicable to apportionment, abatement and the payment of Death Taxes, Retirement Plan Proceeds shall not be used to pay any Death Taxes still outstanding as of the Applicable Date and thereafter. However, in that case, the Death Taxes attributable and proportionate to such Retirement Plan Proceeds, to the extent otherwise apportionable under this instrument, shall, in my Trustee's discretion, be paid from funds provided by such beneficiary or charged against other property or trust distribution receivable by the beneficiary as a result of my death.

j. No Power of Appointment Over Retirement Plan Proceeds

Except as provided below in this Section, but notwithstanding anything else to the contrary, no one (other than me) will have any power of appointment over any Retirement Plan Proceeds held in trust. Any power of appointment that would otherwise have been applicable but for this paragraph will be treated as if it existed but was unexercised.

k. Separate Account and Special Distribution Requirements

My Trustee will separately account for all Retirement Plan Proceeds, using sub-trusts if necessary, and will see to it that those benefits are only distributed to Designated Beneficiaries (as defined above) who are identifiable on the Applicable Date, as long as any Designated Beneficiary of such trust (or sub-trust, as the case may be) is alive. Further, my Trustee will actually distribute those benefits to those beneficiaries within such time as is required under applicable tax law, or under Treasury Regulations (whether proposed, temporary, or final) in order to carry out the purpose of this Section as provided under Subsection a. above.

l. Application of Rules to Sub-trusts

I realize that a sub-trust may be the beneficiary of Retirement Plan Proceeds. In that case, the rules of this Section are to be applied within the particular sub-trust

involved, and are not meant to give the beneficiaries of other sub-trusts an interest they would not otherwise have had.

m. Incorporation by Reference of Terms of Beneficiary Designation

If the terms of any beneficiary designation signed by me would otherwise fail because such terms are not a part of my will and/or Trust, I incorporate such terms by reference, as a part of my Trust as if fully set out in this document.

n. Principal and Income Allocations of Payments from Retirement Plans

My Trustee shall allocate to income that portion of each "Payment" (up to the whole thereof) that equals (i) the amount of "Inside Income" that my Trustee reasonably determines has occurred since the right to receive Payments became subject to trust; reduced by (ii) the amount of prior Payments from the same contractual, custodial, or trust arrangement that was allocated to trust income. My Trustee shall allocate the balance of the Payment, if any, to principal.

The term "Payment" refers to an amount that is received or withdrawn pursuant to a contractual, custodial, or trust arrangement under a Retirement Plan.

The term "Inside Income" with respect to each contractual, custodial, or trust arrangement, refers to that portion of Payments that are characterized by the payor as interest, dividends, or a dividend equivalent. To the extent any portion of a Payment is not so characterized by the payor, Inside Income shall consist of any amounts that would be allocable to income under applicable state law governing the allocation of principal and income for trusts, if said statutes were applied to a trust holding the assets that fund all Payments to which my Trust is entitled under such arrangements. If my Trustee cannot identify the character, amount, or nature of said assets, the Trustee may reasonably estimate the character, amount and nature of such assets.

Section 2. Special Needs Provisions

a. Definition of "Special Needs Beneficiary"

For purposes of my Trust Agreement, the term "Special Needs Beneficiary" refers to a beneficiary who is entitled to receive any form of need-based government or private support or benefit, including, but not limited to, such programs as Medicaid, Supplemental Security Income ("SSI"), In-Home Supportive Services, Medicare, and Aid for Dependent Children.

b. Definition of "Special Needs"

For purposes of my Trust Agreement, the term "Special Needs" refers to supplemental, non-support expenditures from my Trust assets that, pursuant to the

other provisions of this Section, my Trustee is authorized to disburse, in my Trustee's sole and absolute discretion. Special Needs, subject to the general supplemental, non-support limitation, include, but are not limited to, medical, dental, diagnostic or therapeutic treatment, or nursing or home care services for which the Special Needs Beneficiary is not receiving government or private benefits, and is not eligible to receive such benefits. Special Needs also includes the differential between any treatment, service or care that the Special Needs Beneficiary is receiving from any government or private source and the level of treatment, service or care my Trustee deems appropriate for the beneficiary. Disbursements for education, travel (including travel by those my Trustee believes the companionship of which will benefit the Special Needs Beneficiary), entertainment devices or events and electronic devices are also to be considered Special Needs.

c. Overall Limitation on Distribution

It is my intention that distributions from my Trust Estate supplement, but not supplant, impair or diminish, any forms of government or private support or benefit which a beneficiary of my Trust is then receiving or becomes eligible to receive. For purposes of this Section, the term "support" refers to food, clothing or shelter. The terms of my Trust Agreement shall be read and interpreted to prevent any action by my Trustee which would supplant, impair, diminish or otherwise interfere with, limit or reduce the Special Needs Beneficiary's receipt of, or eligibility for, any form of government or private benefits. Any power of distribution (whether or not exercised), granted to my Trustee pursuant to the terms of my Trust Agreement that would result in the loss, diminishment or ineligibility for government or private benefits is hereby revoked; and, only such powers as will not result in ineligibility for such benefits, or loss, diminishment or impairment, thereof, shall remain exercisable by my Trustee.

d. Discretionary Distribution of Accumulated Income and Principal

My Trustee may pay for the benefit of a Special Needs Beneficiary such accumulated income and principal of such beneficiary's share, up to the whole thereof, as my Trustee, in his or her discretion, shall determine from time to time, for the Special Needs of the Special Needs Beneficiary. My Trustee, in exercising discretion under this paragraph, shall consider all income or resources available to the Special Needs Beneficiary. The Special Needs Beneficiary has no rights to any distributions under my Trust.

e. Treatment of Any Residence Held by Trust

Notwithstanding the provisions of Section 1. k. of Article Ten, my Trustee may charge the Special Needs Beneficiary rent on any residence owned, in whole or in part, by the Special Needs Beneficiary's share. My Trustee must charge rent if the failure to do so would cause ineligibility for any government or private benefits.

f. Rights of Creditors and Others

My Trust assets are not intended to be used for the support of the Special Needs Beneficiary, but are only intended to supplement resources, income or government or private assistance available to the Special Needs Beneficiary. No part of my Trust Estate, neither principal nor income, shall be subject to anticipation or assignment by the Special Needs Beneficiary, nor be subject to attachment by any creditor of the Special Needs Beneficiary, governmental agencies or any other individual or entity; including any who may have provided goods or services to the Special Needs Beneficiary.

g. Power to Terminate Beneficiary's Share of Trust

If my Trustee determines that the existence of my Trust renders the Special Needs Beneficiary ineligible for governmental or private benefits that, in the discretion of my Trustee, substantially outweigh the benefits my Trust can bestow upon such beneficiary, or my Trustee determines that, notwithstanding the spendthrift provisions of my Trust, a substantial portion or all of the principal and accumulated income of the Special Needs Beneficiary's share is subject to invasion, garnishment, attachment, execution or other similar action by a creditor or a government agency, my Trustee may terminate such share and distribute the principal and accrued income in accordance with the paragraph that follows. Furthermore, in the event a court of competent jurisdiction determines the provisions of this Section are contrary to law or public policy, then subject to any right of appeal, the Special Needs Beneficiary's share of my Trust shall be deemed unavailable for purposes of qualifying for or maintaining any public or private support benefits or services, regardless of whether the beneficiary is actually entitled to such benefits or services, and if this is not sufficient to cure any deficiency then the Special Needs Beneficiary's share shall be deemed to have failed and my Trustee shall distribute the principal and accrued income of such share in accordance with the paragraph that follows.

h. Payment and Distributions on Termination of Discretionary Trust

In the event a share for a Special Needs Beneficiary is terminated subject to the paragraph immediately above, my Trustee shall distribute the remaining principal and accrued income of such share to the Special Needs Beneficiary's siblings, per stirpes. If the Special Needs Beneficiary has no then living siblings but has living descendants who are of the age of majority, my Trustee shall distribute the remaining principal and accrued income of such share to such descendants of the Special Needs Beneficiary, per stirpes. If the Special Needs Beneficiary has no living descendants who are of the age of majority, my Trustee shall distribute the remaining principal and accrued income of such beneficiary's share to my then living descendants, per stirpes. If I have no then living descendants, my Trustee shall distribute the balance of the Special Needs Beneficiary's share of my Trust

as provided in the paragraph that follows. It is my hope, wish and desire that any beneficiary under this paragraph will use any distribution received hereunder to provide for the supplemental needs, as defined above, of the Special Needs Beneficiary.

i. Payment and Distributions on Death of Beneficiary

Unless terminated under the paragraphs immediately above, or by the exhaustion of the corpus, the Special Needs Beneficiary's share of my Trust shall terminate upon such beneficiary's death. My Trustee may pay the expenses of such beneficiary's last illness and funeral, and all administrative expenses relating to such beneficiary's share, including reasonable attorney's and accountant's fees, if, in my Trustee's discretion, other satisfactory provisions have not been made for the payment of such expenses. My Trustee shall divide and distribute, free of trust, the balance of the Special Needs Beneficiary's share into as many shares of equal value as there are then surviving children of the beneficiary, if any, plus one share for each deceased child of such beneficiary leaving descendants then surviving, each of said descendant's interests to be determined per stirpes. Should there be no children or descendants of the beneficiary then surviving, my Trustee shall divide and distribute, free of trust, the balance of the beneficiary's share into as many shares of equal value as I have then surviving children, if any, plus one share for each of my deceased children leaving descendants then surviving, each of said descendant's interests to be determined per stirpes. Should I have no children or descendants then surviving, the Special Needs Beneficiary's share shall terminate and my Trustee shall distribute the balance of the beneficiary's share according to the provisions of Article Eight of my Trust.

Section 3. Life Insurance

Notwithstanding anything to the contrary contained in my Trust Agreement, with respect to any policy of life insurance owned by me or being held in my Trust, I shall retain, during my lifetime, all incidents of ownership with respect to such policies (including, but not limited to, all rights and powers to sell, transfer, assign or hypothecate such policies or any of them, to change the beneficiary of any policy, to borrow any sum from the insurer or from any other person and to assign any policy to such lender, and to receive all payments, dividends, surrender values, benefits or privileges of any kind which may accrue on account of said policies). Any other person on whose life such policies are held ("Insured") shall have no incidents of ownership with respect to such policies only by reason of being an Insured with respect to such policies and shall not act as the Trustee of such policies.

My Trustee may pay any net amount of premium, assessment or other charge, after deducting any dividend or other credit against the charge, on any life insurance policy of which my Trust is the owner, that is required to keep it a binding insurance contract, such amounts to be charged against the income or principal of my Trust Estate. In the event that my Trustee intends not to pay any premium, assessment or other charge with respect to any policy held by my Trustee, or

otherwise intends to cancel, convert or substantially modify any such policy, my Trustee shall first give the insured, or the fiduciary of the person of an insured under disability, at least fifteen (15) days advance written notice of my Trustee's intention to take such action. Such policies shall be governed as follows:

a. Trust as Beneficiary

With respect to any policy of life insurance which designates my Trust as a primary or contingent beneficiary in any manner:

1. My Trustee shall have no responsibility, with respect to any policy, for the payment of premiums, notification of premiums due, or for any action required to keep any policy in force.
2. On receipt of proof of death of any Insured and on obtaining possession of an insurance policy, my Trustee shall use reasonable efforts to collect all sums payable under policy terms. All sums received shall be principal of my Trust Estate, except for interest paid by the insurer, which shall be income. Subject to any contrary provision in the beneficiary designation of any policy, all sums payable under any policy shall be allocated to the trusts created hereunder based on the ownership of the policy immediately before the Insured's death;
3. My Trustee shall have full power to compromise, arbitrate or otherwise adjust any claim, dispute or controversy arising under any policy, and shall have authority to initiate, defend, settle and compromise any legal proceeding necessary, in my Trustee's opinion, to collect the proceeds of any policy. My Trustee shall not be obligated to engage in litigation to enforce the payment of any policy unless my Trustee is indemnified to its satisfaction against any resulting expenses and liability; and
4. My Trustee's receipt of payment for policy proceeds to any insurer shall be considered to be full discharge, and the insurer shall not be under any duty to inquire concerning the application of policy proceeds by my Trustee.

b. Simultaneous Death

Notwithstanding anything in my Trust Agreement to the contrary:

1. Where the Insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died other than simultaneously, the proceeds of the policy shall be distributed as if the Insured had survived the beneficiary; and
2. Where the owner and the Insured in a policy of life or accident insurance have died and there is no sufficient evidence that they have died other than simultaneously, the policy shall be distributed as if the Insured had survived the owner.

c. Purchase of Additional Insurance

My Trustee may apply for and receive life insurance on the life of any beneficiary under my Trust.

Section 4. "S" Corporation Stock

Notwithstanding any other provisions of my Trust Agreement, my Trustee shall not allocate any Subchapter "S" Corporation Stock (as defined by Section 1361 et. seq. of the Code) held in my Trust Estate at my death, to the extent possible, to any trust or trust share created under my Trust Agreement which would have the effect of causing the "S" Corporation status to be terminated because the trust or the trust share was not a qualified Subchapter "S" shareholder, or was not a Qualified Subchapter "S" Corporation Trust ("QSST"), as defined at Section 1361 of the Code, as amended. In furtherance of the above, it is my intention that my Trustee shall have the right, in my Trustee's sole discretion (but keeping in mind my dispositive wishes as set forth elsewhere in my Trust Agreement), to bifurcate any and all trusts created hereunder, at any time or from time to time after my death, to create trusts which hold "S" Corporation stock and shall at all times be classified as QSSTs within the meaning of Section 1361 of the Code and the corresponding provisions of state law. The above provisions may be limited as set forth in Section 8 of Article Three of my Trust Agreement.

To that end, all such QSSTs shall be subject to the following rules:

- a. During the life of the current income beneficiary there shall be only one income beneficiary of a QSST;
- b. Any principal distributed during the life of the current income beneficiary may be distributed only to such beneficiary;
- c. The income interest of the current income beneficiary in the QSST shall terminate on the earlier of such beneficiary's death or the termination of the QSST;

- d. Upon termination of the QSST during the life of the current income beneficiary, the QSST shall distribute all of its assets to such beneficiary; and
- e. All of the income (within the meaning of Section 643 (b) of the Code) shall be distributed (or shall be required to be distributed) currently to one individual who is a citizen or resident of the United States of America.

My Trustee, in his or her discretion, may, in the alternative, attempt to exchange, sell, or convey such stock to such persons or entities who would not cause the "S" Corporation election to be revoked or terminated for any reason attributable to that person's or entity's ownership of such stock and the proceeds or property received from such exchange, sale, or conveyance shall then be applied in accordance with the provisions of my Trust Agreement. It is further provided that, notwithstanding this paragraph, my Trustee shall hold, administer, and dispose of any and all of my Trust Estate such that the continuation of the "S" Corporation election shall be of secondary consideration in deference to my primary intent that the total value of my Trust Estate distributed under the terms of my Trust Agreement be maximized to the extent possible, considering all income tax, estate tax, and any other taxes or expenses that could potentially diminish the value of such Trust Estate.

Section 5. The Rule Against Perpetuities

Notwithstanding any other provision of my Trust Agreement, unless sooner terminated or vested in accordance with other provisions of my Trust Agreement, all interests in the Trust Estate not otherwise vested, including, but not limited to, all trusts and powers of appointment created hereunder, shall terminate: (i) one day prior to twenty-one years after the death of the last survivor of the group composed of: 1) those beneficiaries described herein, 2) my descendants living on the date of my death (or such other date my Trust becomes irrevocable), and 3) me, or (ii) if longer, the maximum period or term as may be authorized under the laws of the state identified in the Governing State Law Section of this Article or such other jurisdiction whose laws are applicable to my Trust. At that time, distribution of all principal and all accrued, accumulated, and undistributed income shall be made to the persons (or their representatives as authorized herein) then entitled to distributions of income or principal and in the manner and proportions herein stated, irrespective of their then attained ages.

Section 6. Spendthrift Protection

To the fullest extent permissible by law, no interest in the principal or income of any trust created hereunder shall be anticipated, assigned, encumbered or subject to any creditor's claim or to legal process prior to its actual receipt by the beneficiary. Notwithstanding any provision herein to the contrary, this Section shall not apply to Qualified Disclaimers (as defined in Section 2518 of the Code) made by any beneficiary as to his or her interest in my Trust. Except as herein otherwise expressly provided, all income or principal to be paid to any beneficiary shall be paid by my Trustee directly and only to such beneficiary, to the Legal Representative of such beneficiary, or, where authorized, applied for the benefit of such beneficiary. If any creditor or

other claimant attempts, by any means, to subject to the satisfaction of the claim of such creditor or claimant the interest of any beneficiary to receive income or periodic payments from principal or income, or both, then notwithstanding any other provisions herein, and in the absolute discretion of my Trustee, my Trustee may suspend such beneficiary's payments from my Trust.

Section 7. Incapacity and Competency

A person shall be considered incapacitated in the event such person has been determined to be so by a court of competent jurisdiction; has been certified by two licensed physicians to be unable to properly handle his or her own affairs by reason of physical illness or mental illness; is unavailable for a period of not less than six months when his or her whereabouts are unknown and it is not known whether he or she is dead or alive; or, in the case of a trustee, such trustee is prevented by state law from exercising a power or powers granted to such trustee under my Trust Agreement. To the extent a trustee is prevented by state law from exercising a power or powers granted to such trustee under my Trust Agreement, the Successor Trustee shall have the power to exercise such power or powers, provided such power is not a general power of appointment if held by a Successor Trustee. If a Successor Trustee is prevented from exercising a power or powers because such power or powers would constitute a general power of appointment, the Special Co-Trustee appointed under the provisions of Section 8 of Article Three shall exercise such denied power or powers. A person shall be considered to have regained capacity, as applicable, upon such a determination by a court of competent jurisdiction; upon certification by two licensed physicians that the person is able to properly handle his or her own affairs; upon his or her renewed availability; or if any state law proscription as to the exercise of a power or powers is removed. The term "incapacity" is intended to be interchangeable with the terms "disability" and "incompetency." The term "competent" in my Trust Agreement refers to a person who is not incapacitated.

Section 8. Income and Principal Payments

Unless prohibited by state law or a court of competent jurisdiction and other than as directed in the Special Needs Provisions of this Article, all payments of income or principal shall be made in such of the following ways as my Fiduciary determines appropriate:

- a. To each respective beneficiary in person upon his or her personal receipt;
- b. Deposited in any bank to the credit of such beneficiary in any account carried in his or her name or jointly with another or others;
- c. To the parent or Legal Representative of the beneficiary;
- d. To a Custodian under a Uniform Transfers to Minors Act or Uniform Gifts to Minors Act selected by my Trustee for such period of time under applicable law as my Trustee determines appropriate;
- e. To some near relative, friend or institution having primary responsibility for the care and custody of the beneficiary;

- f. By my Trustee using such payment directly for the benefit of such beneficiary; or
- g. To the Trustee of any revocable trust of which the beneficiary is me.

Section 9. Limit on Trustee's Discretion

Notwithstanding any other provision in my Trust Agreement except for the general power of appointment specifically provided under the Section entitled "General Power of Appointment Over Non-Exempt Assets" in Article Seven, no individual Trustee, other than myself, who is also a beneficiary hereunder ("Trustee-beneficiary") shall have any right, power, duty or discretion concerning my Trust Estate if such right, power, duty or discretion conferred upon such Trustee-beneficiary under my Trust Agreement would constitute a general power of appointment under Code Sections 2041 or 2514 that would cause any assets of my Trust Estate to be included in the estate of such Trustee-beneficiary. Any such right, power, duty or discretion with such effect shall be null and void with respect to such Trustee-beneficiary. No Trustee who is under a legal obligation to any beneficiary of my Trust Agreement or other person shall under any circumstances partake in any decisions relating to any discretionary distributions of income or principal of my Trust Estate that can be used to discharge any such legal obligation of such Trustee.

If, however, such powers may be possessed without violating the restrictions imposed by my Trustee acting jointly with the Special Co-Trustee appointed under the provisions of Section 8 of Article Three, then my Trustee may possess those powers and authorities without violating this Section. Such Special Co-Trustee shall act jointly with my Trustee whenever the joint possession of a power or authority would not violate the restrictions imposed by this Section. Such Special Co-Trustee shall act alone whenever only sole possession of a power or authority would not violate the restrictions imposed by this Section.

Section 10. Disclaimer by Beneficiary

Any beneficiary under my Trust Agreement shall be entitled to disclaim all or any portion of such beneficiary's interest in my Trust.

Section 11. Captions

The captions of Articles, Sections and Paragraphs used in my Trust Agreement are for convenience of reference only and shall have no significance in the construction or interpretation of my Trust Agreement.

Section 12. Severability

Should any of the provisions of my Trust Agreement be, for any reason, declared invalid, such invalidity shall not affect any of the other provisions of my Trust Agreement, and all invalid provisions shall be wholly disregarded in interpreting my Trust Agreement.

Section 13. Statutory References

Unless the context clearly requires another construction, each statutory reference in my Trust Agreement shall be construed to refer to the statutory section mentioned, related successor sections, and corresponding provisions of any subsequent law, including all amendments.

Section 14. Survivorship

a. Simultaneous Deaths

For purposes of my Trust Agreement, if any beneficiary under my Trust Agreement and I die under circumstances in which the order of deaths cannot be established, I shall be deemed to have survived the beneficiary, and my Trust Agreement shall be construed accordingly.

b. Generation-Skipping Transfer Tax Matters

A person (the "Non-Skip Person") shall not be deemed to have been alive on the date of the death of any person upon whose death a transfer is deemed to occur for generation-skipping transfer tax purposes or the date of any distribution from, or any termination of, any interest in any trust or share under my Trust Agreement for which the date of the Non-Skip Person's death is relevant (the "Transfer Date") if: (i) the Non-Skip Person is actually alive on the Transfer Date; (ii) the Non-Skip Person is not actually alive on the date ninety (90) days following the Transfer Date; and (iii) the existence of such a condition of survivorship causes another person who would otherwise be assigned to a generation below that of the Non-Skip Person to be assigned to the generation of the Non-Skip Person for generation-skipping transfer tax purposes.

Section 15. Gender and Number

In my Trust Agreement, where appropriate, except where the context otherwise requires, the singular includes the plural and vice versa, and words of any gender shall not be limited to that gender.

Section 16. Governing State Law

My Trust Agreement and the trusts created under it shall be construed, regulated and governed by and in accordance with the laws of the State of California.

Section 17. Reliance on Affidavit or Certificate of Trust

Any person may act in reliance upon a properly issued Affidavit or Certificate of Trust reflecting the relevant terms of my Trust Agreement without risk or incurring any liability to me, my Trustees or the beneficiaries of my Trust.

Section 18. Definitions

The following terms as used in my Trust Agreement are defined as indicated:

a. Beneficiary Designation

The term "Beneficiary Designation" means any document executed by me that affects the manner of payment of amounts held in a plan (of whatever type) subject to the distribution rules of Section 401(a)(9) of the Code, any commercial annuity or any similar deferred payment arrangement, or life insurance contract.

b. Business Judgment

The term "Business Judgment" means that the fiduciary acted on an informed basis, in good faith, and with the honest belief that his or her actions are in the best interest of my Trust and its beneficiaries.

c. Child, Children and Descendants

The terms "child" or "children" mean lawful blood descendants in the first degree of the parent designated; and "descendants" means the lawful blood issue, in any degree, of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of such adopting parent or parents, and such adopted child and his or her issue shall be considered issue of the adopting parent or parents and of anyone who is, by blood or adoption, an ancestor of the adopting parent or either of the adopting parents. The terms "child," "children," "descendant" and "descendants" or those terms preceded by the terms "living" or "then living" shall include the lawful blood descendant, in the appropriate degree, of the ancestor designated even though such descendant is born after the death of a parent. Notwithstanding the preceding provisions of this Section, the terms of Article One may exclude certain descendants from being treated as such hereunder by restricting the availability of Trust benefits.

d. Code

The term "Code" means the Internal Revenue Code of 1986, as amended from time to time. The terms "Income in Respect of a Decedent," "Gross Estate," "Taxable Estate," "Exclusion," "Disclaimer" and any other terms that, from the context in which they are used, refer to the Code shall have the same meaning as such terms have for the purposes of applying the Code to my Trust Agreement.

e. Death Taxes

The term "Death Taxes" means all inheritance, estate, succession and other similar taxes that are payable by any person on account of that person's interest in

the estate of the decedent or by reason of the decedent's death, including penalties and interest, but excluding the following:

1. Any additional tax that may be assessed under Sections 2032A of the Code; and
2. Any federal or state tax imposed on a generation-skipping transfer, as that term is defined in the federal tax laws, unless that generation-skipping transfer tax is payable directly out of the assets of a trust created by my Trust Agreement.

f. Education

The term "education" shall be given broad interpretation and may include, but not be limited to:

1. High School

Education at public or private elementary, middle, junior high or high schools, including boarding schools;

2. College

Undergraduate and graduate study in any and all fields whatsoever, whether of a professional character in colleges or other institutions of higher learning;

3. Specialized Training

Specialized formal or informal training in music, the stage, handicrafts, the arts, or vocational or trade schools, whether by private instruction or otherwise; and

4. Other Educational Activities

Any other activity including foreign or domestic travel that shall tend to develop fully the talents and potentialities of each beneficiary regardless of age.

g. Family Access Trust

The term "Family Access Trust" shall mean a trust designed to give the beneficiary liberal access to the income and principal of the trust while preserving the separate property character of an inheritance of a beneficiary, thereby affording the beneficiary a degree of asset protection in the event the beneficiary becomes involved in a legal separation, marital dissolution or divorce proceeding.

h. Family Sentry Trust

The term "Family Sentry Trust" shall mean a third party fully discretionary spendthrift trust designed to provide maximum protection from the creditors of the trust beneficiary as well as from divorcing spouses. The trust is known as a Family Sentry Trust because of these asset protection features.

i. For Cause

The term "for cause" means and includes any material act or omission to act by a trustee or other fiduciary constituting ordinary negligence, gross negligence, self-dealing, or intentional fraud. The term "material" identifies a significant monetary damage to my Trust or to any beneficiary of my Trust as the result of the act or omission to act by a trustee or other fiduciary constituting ordinary negligence, gross negligence, self-dealing or intentional fraud. The term "material" does not include incidental or insignificant monetary damage to my Trust or a trust beneficiary; monetary damages realized by someone who is not a beneficiary of my Trust; nor an intangible loss or damage that cannot be valued under the fair market valuation standards of the tax laws of the United States of America.

j. Heirs at Law

References to "heirs at law" mean individuals who are living at the time when property is directed to be distributed to them. Those individuals' identities and the shares of the distributable property that they each receive shall be determined under the intestacy laws of the State of California which then govern the distribution of the personal property of a resident dying at such time, without creditors, and owning only the distributable assets.

k. Personal Representative

The term "Personal Representative" means executor, executrix, administrator, or administratrix. The term Legal Representative shall include Personal Representative, conservator, guardian, custodian or an agent under a power of attorney for property.

l. Per Stirpes

In every case in which a disposition of an interest is to be made to the descendants of a person "per stirpes," it is intended that such disposition shall be made in accordance with the principle of representation. This principle, in relation to my Trust Agreement, means that whenever property is to be distributed to the descendants of a person, such property shall be divided into as many shares as there are, at the time of disposition, then living descendants in the nearest degree of kinship to such person and then deceased descendants in the same degree who

left descendants who are then living; each then living descendant in the nearest degree receiving one share, and one share for each then deceased descendant in the same degree, being further subdivided among his or her descendants in the same manner,

m. Trust Estate

The term "Trust Estate" means all of the property, real and personal, intangible and tangible, which has been transferred to my Trustee, whether or not listed on any Schedules.

n. Trustee's Discretion

The term "discretion" with regard to a Trustee means such Trustee's sole but reasonable judgment. In exercising any discretionary power with respect to my Trust, my Trustee shall, at all times, act in accordance with fiduciary principles and shall act reasonably under the circumstances and not in bad faith or in disregard of the purposes of my Trust.

o. Trustor

The term "Trustor" shall be interchangeable with the terms "settlor," "grantor," "donor" or other similar terms.

p. Unused Generation-Skipping Transfer Tax Exemption Amount

The term "unused generation-skipping transfer tax exemption amount" means the generation-skipping transfer tax exemption provided in Section 2631 of the Code in effect at the time of death of a Trustor, reduced by the aggregate of (i) the amount, if any, of such exemption allocated by such Trustor or by operation of law to such Trustor's lifetime transfers and (ii) the amount, if any, such Trustor or such Trustor's Personal Representative or Trustee has specifically allocated to property, other than property to which such exemption is directed to be allocated by any applicable provision of my Trust Agreement.

For purposes of my Trust Agreement, if at the time of death of a Trustor such Trustor has made lifetime transfers of property to which an inclusion ratio of greater than zero would be applicable and for which the gift tax return due date has not expired (including extensions) and a return has not yet been filed, it shall be deemed that the generation-skipping transfer tax exemption has been allocated to such transfers to the extent necessary and possible to exempt such transfers from generation-skipping transfer tax.

Section 19. No Contest Clause

If any devisee, legatee or beneficiary under this Trust or any amendment to it, no matter how remote or contingent such beneficiary's interest appears, or any legal heir of the Trustors, or either of them, or any person claiming under any of them, does any of the following, then in that event the Trustors specifically disinherit each such person, and all such legacies, bequests, devises and interests given to that person under this Trust or any amendment to it or any other trust agreement created by the Trustors at such time shall be forfeited and shall be distributed as provided elsewhere herein as though such person had predeceased the Trustors without descendants; (a) without probable cause (as defined by California Probate Code § 21311(b)) files a direct contest (as defined by California Probate Code § 21310)) alleging the invalidity of this Trust or any one or more of its terms; (b) without probable cause files a direct contest alleging the invalidity of any other document, or any one or more of the terms of such other document, which is in existence on the date this Trust is executed, such as a Will, deed, beneficiary designation, contract, agreement or other document executed by the Trustors constituting part of an integrated estate plan or executed by another for the benefit of the Trustors; (c) files any creditor's claim or prosecutes any action against this Trust for any debt alleged to be owed by the Trustors; or (d) files any pleading (as defined by California Probate Code § 21310(d)) challenging any transfer of property on the grounds that it was not the Trustors' or other transferor's property at the time of the transfer.

Expenses to resist any above contest or other attack of any nature upon any provision of this Trust or any amendment to it shall be paid from the trusts created hereunder as expenses of administration. In the event that any provision of this Section is held to be invalid, void or illegal, the same shall be deemed severable from the remainder of the provisions in this Section and shall in no way affect, impair or invalidate any other provision in this Section. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law. The provisions of this Section shall not apply to any disclaimer by any person of any benefit under this Trust or amendment to it.

Execution

I have executed my Trust Agreement on the date set forth on the first page of my Trust Agreement.

I certify that I understand my Trust Agreement and that it correctly states the terms and conditions under which my Trust Estate is to be held, managed and disposed of by my Trustees. I approve this revocable living trust in all particulars and request my Trustees to execute it.

Trustor:

Dinny G. Frasier
DINNY G. FRASIER

Trustees:

Dinny G. Frasier Mark D. Dreschler
DINNY G. FRASIER MARK DRESCHLER
PRESIDENT
PREMIER TRUST INC., A
NEVADA CHARTER TRUST COMPANY

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

STATE OF CALIFORNIA

)
SS.

COUNTY OF ORANGE

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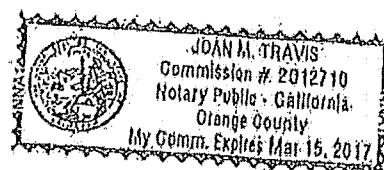
On May 29, 2015, before me, Joan M. Travis, a Notary Public, personally appeared DINNY G. FRASIER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Joan M. Travis (Seal)

11-21



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

STATE OF Nevada -)

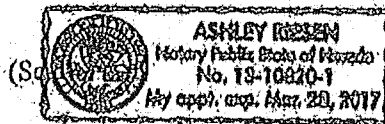
COUNTY OF Clark -)

On June 2nd, 2015, before me, Ashley Riessen, a Notary Public, personally appeared Mark Drechter - PREMIER TRUST INC., A NEVADA CHARTERED TRUST COMPANY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Ashley Riessen



Prepared by:
H. Brooks Travis
The Law Offices of H. Brooks Travis, PC.
28202 Cabot Road, 3rd Floor
Laguna Niguel, CA 92677
(949) 454-8706 FAX (949) 598-9613
www.HBTravis-Law.com

Exhibit 5

Exhibit 5

LEGACY WEALTH PLANNING AMENDMENT

Prepared Exclusively for

DINNY G. FRASIER

**The Law Offices of H. Brooks Travis, PC,
28202 Cabot Road, 3rd Floor
Laguna Niguel, CA 92677
(949) 454-8706 / (800) 353-1458 FAX (949) 598-9613
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Creation of Amendment

Section 1. Parties to My Trust Amendment

This Second Amendment dated June 24, 2016, of my Survivor's Trust is made between DINNY G. FRASIER, the Trustor, and the Initial Trustees appointed under Section 4 of Article Three.

Section 2. Trust Recitals

Trustor and Trustees entered into a Trust Agreement dated December 29, 1980 ("Trust Agreement"). The original Trust Agreement was first amended on December 31, 1984. That original Trust Agreement was amended for the second time on April 8, 1987. That original Trust Agreement was amended for a third time and completed restated on September 21, 1999. The restated Trust Agreement was amended for a fourth time on March 15, 2000. The restated Trust Agreement was amended for the 5th time on June 7, 2000. Trustor Jordan Dana Frasier died on October 22, 2014. Upon his death the 3rd Amendment and Restatement requires the split of assets between the Survivor's Trust and the Tax Exempt Trust. A new Trust Agreement was then created in order to amend and restate the Survivor's Trust created under that 3rd Amendment and Restatement of the Jordan Dana Frasier Family Trust dated December 29, 1980. By this Second Amendment I desire to amend the Survivor's Trust Agreement and Trustees agree to accept the changes set forth in this Second Amendment.

Section 3. Trust Name

My Trust may be referred to as the:

SECOND AMENDMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER
FAMILY TRUST DATED December 29, 1980.

The formal name of my Trust and the designation to be used for the transfer of title to the name of my Trust is:

DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST
COMPANY, Co-Trustees, or their successors in trust, under the SECOND
AMENDMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA
FRASIER FAMILY TRUST Dated December 29, 1980, and any amendments thereto..

Section 4. Amendment Provisions

I hereby amend my Trust Agreement in accordance with the provisions below.

a. I hereby delete Section 5.c. of Article One of my Trust Agreement in its entirety and replace it with the following:

c. Exclusion of Certain Descendants

I hereby acknowledge the existence of BRADLEY L. FRASIER and intentionally, with full knowledge, have chosen to exclude him and his descendants under the terms of my Survivor's Trust Agreement.

I hereby acknowledge the existence of NORI BETH CADY and intentionally, with full knowledge, have chosen to exclude her and her descendants under the terms of my Survivor's Trust Agreement.

EXECUTION

I have executed this Second Amendment to my Survivor's Trust Agreement on the date set forth on the first page of my Amended Trust Agreement. I hereby ratify and reaffirm all other provisions of my Trust Agreement.

I certify that I understand my Second Amendment to my Trust Agreement and that it correctly states the terms and conditions under which my Trust Estate is to be held, managed and disposed of by my Trustees. I approve this Second Amendment to my revocable living trust in all particulars and request my Trustees to execute it.

Trutor:

Dinny Frasier
DINNY G. FRASIER

Trustees:

Dinny Frasier
DINNY G. FRASIER

W. Shrive, Trust officer
PREMIER TRUST INC., A
NEVADA CHARTER TRUST
COMPANY

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

STATE OF CALIFORNIA

COUNTY OF ORANGE

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SS
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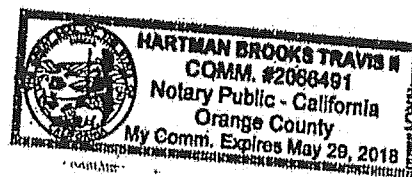
On June 24, 2016, before me, HARTMAN BROOKS TRAVIS II, a Notary Public, personally appeared DINNY G. FRASIER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that

he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Hart Brooks Travis (Seal)



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

STATE OF Nevada

COUNTY OF Washoe

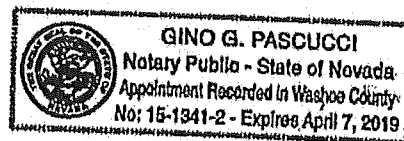
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On August 11 before me, Gino G Pascucci, a Notary Public, personally appeared Nicole Shum PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Gino G Pascucci (Seal)



Prepared by:
H. Brooks Travis
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Exhibit 6

Exhibit 6

THIRD AMENDMENT AND RESTATEMENT OF
THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER
FAMILY TRUST DATED DECEMBER 29, 1980

ORIGINAL

ARTICLE ONE. CREATION OF TRUST

1.1 Preamble

Dinny G. Frasier is one of the settlors and co-trustees of the Jordan Dana Frasier Family Trust dated December 29, 1980, as amended and restated on September 21, 1999, as amended on March 15, 2000, and as amended on June 7, 2000, by Jordan Dana Frasier and Dinny G. Frasier as settlors and as trustees. Jordan Dana Frasier died on October 22, 2014, and pursuant to the terms of the trust agreement, the trust was thereupon divided into the Tax Exemption Trust and the Survivor's Trust.

On May 29, 2015, Dinny G. Frasier exercised her power to amend and restate the Survivor's Trust created under the Jordan Dana Frasier Family Trust and executed the First Amendment and Restatement of the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980, as the surviving settlor and co-trustee. On June 24, 2016, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Second Amendment to the Jordan Dana Frasier Family Trust, as the surviving settlor and co-trustee.

In Section 3(a) of the Survivor's Trust, Dinny G. Frasier reserved the right to amend the Survivor's Trust, in the following language:

"a. Power to Revoke and Amend. While I am alive, I may at any time or times amend any provision of my Trust Agreement or revoke my Trust in whole or in part."

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

The surviving settlor now wishes to exercise her right of amendment and, to that end, does hereby amend the trust pertaining to the Survivor's Trust in the terms set forth in this amended and restated trust. The trustees hereby consent to the terms of this amended and restated agreement. The parties agree that upon execution of this instrument, that trust agreement shall be replaced in whole, and the terms of this amended and restated trust agreement shall supersede the terms of that trust agreement for all purposes. The settlor and the trustees confirm that all assets currently titled in the name of the trustees of the Survivor's Trust created under the Jordan Dana Frasier Family Trust shall continue to be held by the trustees as trust assets of the amended and restated trust.

1.2 Name of Trust

The name of the trust created by this instrument shall be the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980.

1.3 Effective Date

This agreement shall be effective immediately on execution by all the parties.

1.4 Marital Status

The settlor is not currently married.

1.5 Identification of Living Children

The settlor has three (3) living children, as follows:

<u>Name</u>	<u>Date of Birth</u>	<u>Child's Father</u>
Bradley Frasier		Jordan Dana Frasier
Amy Frasier Wilson		Jordan Dana Frasier
Nori Frasier Cady		Jordan Dana Frasier

1.6 No Deceased Children

The settlor has no deceased children.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

ARTICLE TWO. TRUST ESTATE

2.1 Definition of Trust Estate

All property subject to this instrument from time to time is referred to as the "trust estate" and shall be held, administered, and distributed as provided in this instrument. The trustee shall hold, administer, and distribute the property described in any schedules of property (which are attached hereto and made a part of this trust instrument), any other property that may be hereafter subject to this trust, and the income and proceeds attributable to all such property, in accordance with the provisions of this instrument.

2.2 Additions to Trust

From time to time, the trustee may accept additions to this trust from any source. All such additions shall become a part of the trust estate and shall be held, administered, and distributed in accordance with the terms of this instrument. That additional property shall become part of the trust estate upon written acceptance of it by the trustee. Any additions to the trust shall be made by designating in writing the property to be added. However, the titling of any account, deed, or similar asset in the name of the trustee, as trustee of this trust, or any alternate or successor trustee acting under this instrument, shall be deemed to be a transfer to this trust. Any designation by a third party, whether by will, deed, account title designation, or similar transfer, shall also be a transfer to the trust estate.

ARTICLE THREE. RIGHTS AND POWERS OF SETTLOR

3.1 Power of Revocation and Amendment

This trust may be amended, revoked, or terminated by the settlor, in whole or in part, at any time during her lifetime. After the settlor's death, this trust shall become irrevocable and shall not be subject to amendment after the death of the settlor.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

3.2 Method of Revocation or Amendment

Any amendment, revocation, or termination of this trust shall be made by written instrument signed by the settlor and delivered (in person or by certified mail) to the trustee. An exercise of the power of amendment substantially affecting the duties, rights, and liabilities of the trustee shall be effective only if agreed to by the trustee in writing. The method of amendment and revocation provided in this section is the exclusive method of such amendment or revocation.

3.3 Delivery of Property After Revocation

After any revocation or termination, the trustee shall promptly deliver the designated property to the settlor.

3.4 Trustee's Retention of Assets on Revocation

In the event of any revocation of all or part of the trust, the trustee shall be entitled to retain sufficient assets to reasonably secure the payment of liabilities the trustee has lawfully incurred in administering the trust and any fees that have been earned by the trustee, until such time as those liabilities have been discharged and fees paid, unless the settlor indemnifies the trustee against loss or expense.

3.5 Settlor's Power to Approve Trust Investments

Notwithstanding any other provision in this instrument, during the settlor's lifetime, the trustee shall not sell, exchange, or invest trust property without obtaining the settlor's prior written approval. After the settlor's death, the trustee need not obtain any person's prior approval of sales, exchanges, or investments of trust property.

3.6 Exercise of Rights and Powers of Settlor By Others

Any right or power that the settlor could exercise personally under the terms of this instrument, excluding any power to amend, revoke, or terminate this trust, may be exercised for

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and on behalf of the settlor by any attorney in fact who, at the time of the exercise, is duly appointed and acting for the settlor under a valid and enforceable durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act, or any successor statute, or, if there is no such attorney in fact, by a duly appointed and acting conservator of the settlor, after petition to the court in accordance with California Probate Code Section 2580, or any successor statute. The power to amend, revoke, or terminate this trust is personal to the settlor and may not be exercised by any other person or entity.

ARTICLE FOUR. DISTRIBUTIONS DURING SETTLOR'S LIFE

4.1 Payment of Income During Settlor's Life

So long as the settlor is living, the trustee shall pay to or apply for the benefit of the settlor all of the net income of the trust, in monthly or other convenient installments (but not less often than annually) as the settlor and the trustee may agree on from time to time.

4.2 Distributions of Principal During Settlor's Lifetime

From time to time during the settlor's lifetime, the trustee shall distribute to or apply for the benefit of the settlor as much of the principal of the trust as the trustee, in the trustee's discretion, deems proper for the settlor's comfort, welfare, and happiness. In exercising discretion, the trustee shall give the consideration that the trustee deems proper to all other income and resources then readily available to the settlor for use for these purposes and that are then known to the trustee. All decisions of the trustee regarding payments under this section, if any, are within the trustee's discretion.

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4.3 Distributions of Principal at Request of Settlor

During the settlor's lifetime, the trustee shall distribute to the settlor such amounts from the principal of the trust, up to the whole thereof, as the settlor may from time to time request of the trustee in writing.

4.4 Requests on Behalf of the Settlor Unable to Do So Personally

If, at any time, the settlor is unable personally to make a request of the trustee to withdraw principal of the trust, the settlor's right to make the request may be exercised for or in her behalf by an attorney in fact who, at the time of the exercise, is duly appointed and acting for the settlor under a valid and enforceable durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act, or any successor statute. If there is no such attorney in fact, then the trustee shall have the discretion to make any principal distribution to or for the benefit of the settlor that the settlor could have requested personally if she were able to do so. In making any principal distribution under this section (whether pursuant to a request by an attorney in fact or not), the trustee shall pay as much of the principal as the trustee, in the trustee's discretion, deems necessary for the settlor's health, education, support, and maintenance. The trustee shall have discretion to determine when the settlor is unable personally to request principal payments from the trustee for purposes of this section.

4.5 Trustee's Power to Make Gifts at Direction of Settlor

During the settlor's lifetime, the trustee shall distribute such sums of trust principal to such person or persons who are the natural objects of the settlor's bounty, as the settlor may direct in writing. In the event that the settlor is unable to direct the trustee in writing under this section due to incapacity, such direction may be made on the settlor's behalf by a duly authorized attorney in fact acting under a valid durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act (or successor statute); provided, however, that the

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amount of such gifts pursuant to the direction of an attorney in fact to any one person in any one year shall not exceed the amounts excluded from gift tax under Sections 2503(b) and (e) of the Internal Revenue Code (or successor statute).

ARTICLE FIVE. DISTRIBUTIONS AFTER SETTLOR'S DEATH

5.1 Payment of Death Taxes, Debts, and Expenses on Statement From Personal Representative

After the settlor's death, on receipt by the trustee of a written statement from the personal representative of the settlor's estate requesting that the trustee pay death taxes, debts, and expenses (as defined in Article Seven), with respect to any property in the settlor's estate, the trustee shall pay, either directly or to the personal representative, any amounts requested by the personal representative for those purposes, in the manner specified below. The trustee may rely on the personal representative's statement and shall not be liable for any act or omission by the personal representative in protesting or failing to protest the legality, propriety, or amount of the death taxes, debts, or expenses. If there is no personal representative, the trustee shall make the payments directly. Payments of debts and expenses shall be made by the trustee from the trust estate. All death taxes payable by reason of the settlor's death shall be prorated and apportioned among the persons interested in the settlor's estate as provided in the California Probate Code. The trustee shall not pay death taxes, debts, and expenses or other obligations of the settlor or the settlor's estate from proceeds of insurance policies on the settlor's life if making those payments would be the sole cause of the proceeds being includable in the settlor's gross estate for federal estate tax purposes.

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5.2 Trustee's Power to Defer Division or Distribution

Whenever the trustee is directed to divide any part of the trust estate or distribute trust assets on the death of the settlor, the trustee may, in the trustee's discretion, defer actual division or distribution for such reasonable period of time as is needed to effectively identify, take possession of, value, divide, and distribute the assets of the trust. During this time of deferral, the trustee may manage the trust assets through a single administrative trust. The ability of the trustee to delay division or distribution shall not affect the vesting of interests, which shall be as of the date of death.

5.3 Disposition of Trust Estate

On the death of the settlor, the remaining trust property (including all income then accrued but uncollected and all income then remaining in the hands of the trustee) shall be disposed of as follows:

(a) One-third (1/3) to the Irvine Community Alliance Fund – Designation: Animal Care Center (EIN: 33-0258368), for the city animal shelter located at 6443 Oak Canyon, Irvine, California 92618, to be used to facilitate the training of dogs by certified dog trainers, such as, for example and not by way of limitation, to establish a schedule of classes to certify dog trainers, in recognition of Dinny G. Frasier.

(b) One-third (1/3) to Chapman University (EIN: 95-1643992), located at 1 University Dr., Orange, California 92866, to be used to set up an endowment fund to provide scholarships to students and prospective students based on financial need and scholastic merit. The name of the endowment shall be the "Dinny G. Frasier Endowment for Deserving Students." The endowment fund and scholarship process shall be overseen by a committee to be comprised of the following individuals and/or entities:

- (i) Bruce Schwartz, or his designee;
- (ii) Then-current Dean of Students at Chapman University, or its designee; and
- (iii) Chris Lombardo or the then-current Executive Director of Business Services of the Orange County Department of Education, or his designee.

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(c) One-ninth (1/9) to the American Society for Prevention of Cruelty to Animals ("ASPCA") (EIN: 13-1623829), located at 424 East 92nd St., New York, New York 10128, to be used for its general funds, in recognition of Dinny G. Frasier.

(d) One-ninth (1/9) to Temple Beth Shalom of Orange County, Inc. (EIN: 95-2263896), located at 2625 N. Tustin Ave., Irvine, California 92705, to be used to fund maintenance and capital improvements, in recognition of Dinny G. Frasier.

(e) One-ninth (1/9) to the St. Jude Children's Research Hospital, Inc. (EIN: 62-0646012), located at 262 Danny Thomas Place, Memphis, Tennessee 38105, to be used for its general funds, in recognition of Dinny G. Frasier.

If any of the above entities is unable or unwilling to receive the gift for any reason, the share otherwise allocable to that entity shall instead be distributed to the remaining entities, in proportion to their respective interests.

If the remaining trust property is not completely disposed of by the preceding provision, the undisposed-of portion shall be distributed to those entity(ies) chosen by the trustee at its sole and absolute discretion.

ARTICLE SIX. TRUSTEE

6.1 Settlor's Power to Designate Successor Cotrustees

While Dinny G. Frasier is alive and competent, she shall have the right to add a trustee, or to remove and replace any other trustee at any time without cause. Written notice of removal shall be effective immediately when signed by the person or persons authorized to make the removal and delivered to the trustee being removed personally, or within three business days after mailing by certified mail, return receipt requested. The written notice removing a trustee shall identify the successor trustee appointed.

6.2 Successor Corporate Co-Trustee

Dinny G. Frasier appoints Farmers and Merchants Trust Company, Laguna Hills Branch, as corporate co-trustee.

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6.3 Definition of Trustee

Reference in this instrument to "the trustee" shall be deemed a reference to whoever is serving as trustee or cotrustees, and shall include alternate or successor trustees or cotrustees, unless the context requires otherwise.

6.4 Prohibited Trustee

Notwithstanding any other provision in this instrument, in no event shall the settlor's issue be appointed to serve as trustee.

6.5 Waiver of Bond

No bond or undertaking shall be required of any individual who serves as a trustee under this instrument.

6.6 Compensation of Individual Trustees

Each individual who is a trustee under this instrument shall be entitled to reasonable compensation for services rendered, payable without court order.

6.7 Compensation of Corporate Trustee

Any corporate trustee serving under this trust instrument shall be entitled to reasonable compensation for its services in accordance with its standard schedule of trust fees, as existing from time to time.

6.8 Procedure for Resignation

Any trustee may resign at any time, without giving a reason for the resignation, by giving written notice, at least thirty (30) days before the time the resignation is to take effect, to the settlor, if living, to any other trustee then acting, to any persons authorized to designate a successor trustee, to all trust beneficiaries known to the trustee (or, in the case of a minor beneficiary, to the parent or guardian of that beneficiary) and to the successor trustee. A resignation shall be effective on written acceptance of the trust by the successor trustee.

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6.9 General Powers of Trustee

To carry out the purposes of the trust created under this instrument, and subject to any limitations stated elsewhere in this instrument, the trustee shall have all of the following powers, in addition to all of the powers now or hereafter conferred on trustees by law:

- (a) With or without court authorization, sell (for cash or on deferred payments, and with or without security), convey, exchange, partition, and divide trust property; grant options for the sale or exchange of trust property for any purpose, whether the contract is to be performed or the option is to be exercised within or beyond the term of the trust; and lease trust property for any purpose, for terms within or extending beyond the expiration of the trust, regardless of whether the leased property is commercial or residential and regardless of the number of units leased.
- (b) Engage in any transactions with the personal representative of the estate of the settlor that are in the best interest of any trusts created in this instrument.
- (c) Manage, control, improve, and maintain all real and personal trust property.
- (d) Subdivide or develop land; make or obtain the vacation of plats and adjust boundaries, or adjust differences in valuation on exchange or partition by giving or receiving consideration; and dedicate land or easements to public use with or without consideration.
- (e) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing party walls or buildings, and erect new party walls or buildings, as the trustee deems advisable.
- (f) Employ and discharge agents and employees, including but not limited to attorneys, accountants, investment and other advisers, custodians of assets, property managers, real estate agents and brokers, and appraisers, to advise and assist the trustee in the management of any trusts created under this trust instrument, and compensate them from the trust property.
- (g) With respect to securities held in trust, exercise all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and pay assessments and other sums deemed by the trustee necessary for the protection of the trust property; participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and, in connection therewith, deposit securities with and transfer title to any protective or other committee under such terms as the trustee deems advisable; exercise or sell stock subscription or conversion rights; and accept and retain as investments of the trust any securities or other property received through the exercise of any of the foregoing powers.

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- (h) Hold securities or other trust property in the trustee's own name or in the name of a nominee, with or without disclosure of the trust, or in unregistered form, so that title may pass by delivery.
- (i) Deposit securities in a securities depository that is either licensed or exempt from licensing.
- (j) Borrow money for any trust purpose from any person or entity, including one acting as trustee hereunder, on such terms and conditions as the trustee deems advisable, and obligate the trust for repayment; encumber any trust property by mortgage, deed of trust, pledge, or otherwise, whether for terms within or extending beyond the term of the trust, as the trustee deems advisable, to secure repayment of any such loan; replace, renew, and extend any such loan or encumbrance; and pay loans or other obligations of the trust deemed advisable by the trustee.
- (k) Procure and carry, at the expense of the trust, insurance in such forms and in such amounts as the trustee deems advisable to protect the trust property against damage or loss, and to protect the trustee against liability with respect to third persons.
- (l) Enforce any obligation owing to the trust, including any obligation secured by a deed of trust, mortgage, or pledge held as trust property, and purchase any property subject to a security instrument held as trust property at any sale under the instrument.
- (m) Extend the time for payment of any note or other obligation held as an asset of, and owing to, the trust, including accrued or future interest, and extend the time for repayment beyond the term of the trust.
- (n) Pay or contest any claim against the trust; release or prosecute any claim in favor of the trust; or, in lieu of payment, contest, release, or prosecution, adjust, compromise, or settle any such claim, in whole or in part, and with or without consideration.
- (o) At trust expense, prosecute or defend actions, claims, or proceedings of whatever kind for the protection of the trust property and of the trustee in the performance of the trustee's duties, and employ and compensate attorneys, advisers, and other agents as the trustee deems advisable.

6.10 Power to Retain Trust Property

The trustee shall have the power to retain property received into the trust at its inception or later added to the trust, as long as the trustee considers that retention in the best interests of the trust or in furtherance of the goals of the settlor in creating the trust, as determined from this trust

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instrument, but subject to the standards of the prudent investor rule as set forth in the California Uniform Prudent Investor Act, as amended from time to time.

6.11 Trustee's Power to Invest Property

Subject to the standards of the prudent investor rule as stated in the California Uniform Prudent Investor Act, as amended from time to time, the trustee shall have the power to invest and manage the trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

6.12 Power Over Unproductive Property

The trustee shall have the power to retain or acquire unproductive or underproductive property.

6.13 Power to Operate Business

The trustee shall have the power to hold and operate any business or enterprise that is or becomes trust property, on such terms and for such a time as the trustee, in the trustee's discretion, deems advisable; to purchase, acquire, invest in, or otherwise participate in, any business or other enterprise on behalf of the trust; or to sell, dissolve, liquidate, or terminate any such business. The trustee shall also have the power to incorporate, reorganize, or otherwise change the form of a business or enterprise that is part of the trust, through merger or consolidation of two or more enterprises or otherwise, and to participate in that business or enterprise as a sole proprietor, as a general or limited partner, as a shareholder, or in any other capacity. Any operation, sale, purchase, acquisition, investment in, or dissolution or liquidation of a business interest, in good faith, shall be at the risk of the trust, and without liability on the part of the trustee for any resulting losses. The trustee shall also have the power to contribute capital or loan money to the business or enterprise on such terms and conditions as the trustee deems advisable.

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6.14 Power to Operate Farm or Ranch

The trustee shall have the power to continue to hold, operate, sell, purchase, acquire, invest in, or liquidate any farming or ranch property, or any interest in farming or ranching property, whether organized as a sole proprietorship, general or limited partnership, corporation, or otherwise, on such terms and for such time as the trustee, in the trustee's discretion, deems advisable. Any such operation, sale, purchase, acquisition, investment, or liquidation, in good faith, shall be at the risk of the trust and without liability on the part of the trustee for any resulting losses. The trustee shall have all powers necessary or appropriate to carry out the management of such farming and ranching property. The trustee shall also have the power to incorporate any farming or ranching property, or any interest therein, and to hold the stock as a trust asset; to borrow money for any purpose related to the operation, or the acquisition or disposition, of any such farming or ranching interests; and to employ agents in the management and operation of that property. The net profits and losses from the farming and ranching operations conducted by the trust shall be computed in accordance with recognized methods of accounting for comparable activities. The net profits from these activities shall become trust income. The net losses from these activities shall not reduce other trust income for the fiscal or calendar year during which they occur, but shall be carried into subsequent fiscal or calendar years and reduce the net profits of the business for those years.

6.15 Power to Self-Deal

The trustee, acting as an individual or as a trustee of another trust not created by this trust instrument, shall have the power to perform the following acts with respect to the property of any trust under this trust instrument: purchase property from or sell property to the trust at fair market value; exchange property for trust property of equal value; lease property from or to the trust at fair rental value; lend or advance funds to the trust, with interest at then-prevailing rates, and

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receive security for the loans in any commercially reasonable form; and receive from any business in which the trust has an interest a reasonable salary and reimbursement of expenses while performing duties as a trustee. The trustee, acting as trustee of another trust established by the settlor or another trust established for the benefit of any one or more of the beneficiaries of the trust, shall have the power to borrow funds from the trust with interest at then-prevailing rates, and give security for the loans in any commercially reasonable form.

6.16 Powers Regarding Subchapter S Stock

If at any time the trust estate includes shares of stock in any corporations that have elected to be governed by the provisions of Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code (IRC Section 1361 et seq., or any successor sections), then notwithstanding any other provision of this instrument, the trustee shall at all times manage those shares, and administer the trust estate, in a manner that will maintain the S corporation status. To satisfy this obligation, but without limiting the discretion of the trustee to take any action to protect the S corporation status, the trustee shall act as follows:

(a) Allocation or Distribution to Permitted Shareholders

The trustee shall allocate or distribute shares of S corporation stock only to those trusts or those beneficiaries that are permitted to be shareholders of an S corporation.

(b) Qualified Subchapter S Trust Provisions

If shares of S corporation stock are allocated to any trust created under this instrument and that trust does not otherwise qualify as a permitted shareholder under Internal Revenue Code Section 1361, or any successor section, then notwithstanding any other provision of this instrument, that trust (or any portion of that trust containing S corporation stock) shall be administered so as to ensure that it is a Qualified Subchapter S Trust (QSST), an Electing Small Business Trust (ESBT), or some other form of trust that qualifies as a permitted shareholder under Internal Revenue Code Section 1361, or any successor section. The S corporation stock in each such trust shall be held in separate share trusts (within the meaning of Internal Revenue Code Section 663(c), or any successor section) for each beneficiary; and all other property in each trust shall be held in a separate trust, which shall continue to be

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administered in accordance with the terms of this instrument. With respect to the separate share trusts holding S corporation stock, the trustee shall make distributions of income and principal, and otherwise administer the trusts, to ensure that those trusts do not become ineligible shareholders of an S corporation. To the extent that the terms of this instrument are inconsistent with those separate share trusts qualifying as permitted shareholders of an S corporation, those terms shall be disregarded.

(c) Other Trustee Administrative Powers

The trustee shall have the power (1) to enter into agreements with other shareholders or with the corporation relating to transfers of S corporation stock or the management of the S corporation; and (2) to allocate amounts received, and the tax on undistributed income, between income and principal. During the administration of a trust holding S corporation stock, the trustee may allocate tax deductions and credits arising from ownership of S corporation stock between income and principal. In making those allocations, the trustee shall consider that the beneficiary is to have the enjoyment of the property at least equal to that ordinarily associated with an income interest.

(d) Beneficiary Agreement

The trustee shall not distribute any S corporation stock to any beneficiary unless, prior to that distribution, the beneficiary enters into a written agreement with the S corporation stating the following: (1) that the beneficiary will consent to any election to qualify the corporation as an S corporation; (2) that the beneficiary will not interfere with the S corporation maintaining its S corporation status; (3) that the beneficiary will not transfer the S corporation stock to any transferee who does not agree to execute a similar consent; (4) that the beneficiary will not transfer the stock in a manner that will cause a termination of S corporation status under the then applicable federal and state tax law and regulations; and (5) that the beneficiary will join in any attempt to obtain a waiver from the Internal Revenue Service of a terminating event on the grounds of inadvertence if S corporation status is inadvertently terminated and the S corporation or any shareholder desires that S corporation status should continue.

(e) Certificate to Bear Legend

If the trustee receives any shares of S corporation stock whose stock certificates bear a legend stating that the transfer, pledge, assignment, hypothecation, or other disposition of the stock is subject to the terms set forth in the preceding subsection, then the stock certificates shall also bear that legend when the trustee distributes those shares of S corporation stock to a beneficiary.

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6.17 No Duty to Segregate

Each trust created under this instrument shall constitute a separate trust and be administered accordingly; however, the assets of all of the trusts may be combined for bookkeeping purposes and held for the trust beneficiaries without physical division into separate trusts until time of distribution.

6.18 Power to Divide or Combine Trusts

The trustee shall have the power to divide a single trust into separate shares, each to be administered in accordance with the terms and conditions of the single trust from which they were created, when the trustee, in the trustee's discretion, determines that division is desirable or advisable in view of tax considerations (including considerations related to the income tax, the gift tax, the estate tax, or the generation-skipping transfer tax) or other objectives of the trusts and their beneficiaries. The trustee shall not be required to make a physical segregation or division of the various trust shares created under this trust instrument, except as segregation or division may be required by reason of the termination and distribution of any of the trusts, but the trustee shall keep separate accounts and records for different undivided interests. The trustee, in the trustee's discretion, shall have the further power to combine two or more trusts having substantially the same terms into a single trust for purposes of administration, when tax or other factors indicate that such combination would be desirable or advisable.

6.19 Trustee's Power to Determine Income and Principal

Unless otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of any trust under this instrument and the apportionment and allocation of receipts, expenses, and other charges between principal and income shall be governed by the provisions of the California Uniform Principal and Income Act

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from time to time existing. The trustee in the trustee's discretion shall determine any matter not provided for either in this instrument or in the California Uniform Principal and Income Act.

6.20 Early Termination of Trusts

The trustee shall have the power, in the trustee's discretion, to terminate any trust created under this trust instrument whenever the fair market value of the trust falls below one hundred thousand dollars (\$100,000.00), or becomes so small in relation to the costs of administration as to make continuing administration uneconomical, or contrary to the purposes of the trust. Continuing administration shall be uneconomical if the trustee determines that, with reference to the trust fee schedules then in effect for corporate fiduciaries in the area in which the trust is being administered, the trust would be subject to the minimum trust administration fees of those fiduciaries, regardless of the value of the trust. On termination, the trustee shall distribute the principal and any accrued or undistributed net income to the income beneficiaries in proportion to their shares of the income. If no fixed amount of income is payable to specific beneficiaries, the trustee shall distribute the principal and any accrued or undistributed net income in equal shares to those beneficiaries who would then be entitled to income payments from the trust.

6.21 Division or Distribution in Cash or Kind

In order to satisfy a pecuniary gift or to distribute or divide trust assets into shares or partial shares, the trustee may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind. Property distributed to satisfy a pecuniary gift under this instrument shall be valued at its fair market value at the time of distribution.

6.22 Payments to Legally Incapacitated Persons

If at any time any trust beneficiary is a minor, or it appears to the trustee that any trust beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or

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make intelligent or responsible use of the payments, then the trustee, in lieu of making direct payments to the trust beneficiary, may make payments to the beneficiary's conservator or guardian; to the beneficiary's custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to the beneficiary's custodian under the California Uniform Transfers to Minors Act until the beneficiary reaches the age of twenty-five (25); to one or more suitable persons as the trustee deems proper, such as a relative of or a person residing with the beneficiary, to be used for the beneficiary's benefit; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary's assistance or benefit; or to accounts in the beneficiary's name with financial institutions. If there is no custodian then-serving or nominated to serve by the settlor for a beneficiary, the personal representative or trustee, as the case may be, shall designate the custodian. The receipt of payments by any of the foregoing shall constitute a sufficient acquittance of the trustee for all purposes.

6.23 Trustee's Liability

No trustee shall be liable to any interested party for acts or omissions of that trustee, except those resulting from that trustee's willful misconduct or gross negligence. This standard shall also apply regarding a trustee's liability for the acts or omissions of any cotrustee, predecessor trustee, or agent employed by the trustee.

6.24 Written Notice to Trustee

Until the trustee receives written notice of any death or other event on which the right to payments from any trust may depend, the trustee shall incur no liability for disbursements made in good faith to persons whose interests may have been affected by that event.

6.25 Duty to Account

The trustee shall render accounts at least annually, at the termination of a trust, and on a change of trustees to the persons and in the manner required by law. When a predecessor trustee

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has failed to render accounts as required under this provision, the successor trustee may, but need not, render accounts for such period with reasonable efforts without incurring any additional liability for acts of a predecessor trustee, other than as already provided under California law. This provision is intended to permit the successor trustee to render accounts for the predecessor without creating any additional duty to investigate or to account. Nonetheless, if in the course of rendering accounts left undone by the predecessor trustee, the successor trustee obtains knowledge of a situation that may constitute a breach of trust committed by the predecessor trustee; the successor trustee shall deal with such knowledge in accordance with the successor trustee's fiduciary duties and powers.

6.26 Time Period For Objecting to Account

Upon receipt of an account by the trustee, a beneficiary has 180 days to make any objection to such account or to make any claim against the trustee for matters adequately disclosed in such account. The existence of this time period for objecting to an account shall be stated in the accounts rendered by the trustee in a separate paragraph on the face of the account in not less than 12-point boldface type as follows:

NOTICE TO BENEFICIARIES

YOU HAVE ONE HUNDRED EIGHTY (180) DAYS FROM YOUR RECEIPT OF THIS ACCOUNT OR REPORT TO MAKE AN OBJECTION OR OBJECTIONS TO ANY ITEM SET FORTH IN THIS ACCOUNT OR REPORT. ANY OBJECTION YOU MAKE MUST BE IN WRITING; IT MUST BE DELIVERED TO THE TRUSTEE WITHIN THE PERIOD STATED ABOVE; AND IT MUST STATE YOUR OBJECTION. YOUR FAILURE TO DELIVER A WRITTEN OBJECTION TO THE TRUSTEE WITHIN THE TIME PERIOD STATED ABOVE WILL PERMANENTLY PREVENT YOU FROM LATER ASSERTING

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**THIS OBJECTION AGAINST THE TRUSTEE. IF YOU DO MAKE AN
OBJECTION TO THE TRUSTEE, THE THREE YEAR PERIOD PROVIDED IN
SECTION 16460 OF THE PROBATE CODE FOR COMMENCEMENT OF
LITIGATION WILL APPLY TO CLAIMS BASED ON YOUR OBJECTION AND
WILL BEGIN TO RUN ON THE DATE THAT YOU RECEIVE THIS ACCOUNT
OR REPORT.**

6.27 Cotrustee May Delegate Acts to Other Cotrustee

Any cotrustee may, from time to time, delegate to the other cotrustee routine acts of trust administration and may establish bank or other accounts for the trust that will honor the signature of one or of either cotrustee.

ARTICLE SEVEN. CONCLUDING PROVISIONS

7.1 Perpetuities Savings Clause

Notwithstanding any other provision of this instrument, every trust created by this instrument shall terminate no later than twenty-one (21) years after the death of the last survivor of all beneficiaries who are alive at the creation of the trust. For purposes of this perpetuities savings clause, a trust shall be deemed to have been created on the date the trust becomes irrevocable or the date of the death of the settlor, whichever occurs first. If a trust is terminated under this section, the trustee shall distribute all of the principal and undistributed income of the trust to the income beneficiaries of the trust in the proportion in which they are entitled (or eligible, in the case of discretionary payments) to receive income immediately before the termination. If that proportion is not fixed by the terms of the trust, the trustee shall distribute all of the trust property to the persons then entitled or eligible to receive income from the trust

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

outright in a manner that, in the trustee's opinion, will give effect to the intent of the settlor in creating the trust. The trustee's decision is to be final and incontestable by anyone.

7.2 Simultaneous Death

If any beneficiary under this instrument and the settlor die under circumstances in which the order of their deaths cannot be established by clear and convincing evidence, the settlor shall be deemed to have survived the beneficiary, and this instrument shall be construed accordingly.

7.3 Survivorship Requirement

For purposes of this instrument, a beneficiary shall be deemed not to have survived the settlor if that beneficiary dies within thirty (30) days after the death of the settlor.

7.4 No-Contest Clause

If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly does any of the following acts, then the right of that person to take any interest given to him or her by this instrument shall be void, and any gift or other interest in the trust property to which the beneficiary would otherwise have been entitled shall pass as if he or she had predeceased the settlor without issue.

(a) Without probable cause challenges the validity of this instrument on any of the following grounds:

- (i) Forgery;
- (ii) Lack of due execution;
- (iii) Lack of capacity;
- (iv) Menace, duress, fraud, or undue influence;
- (v) Revocation pursuant to the terms of this instrument or applicable law;
- (vi) Disqualification of a beneficiary who is a "disqualified person" as described in California Probate Code section 21350 or applicable successor statute.

(b) Without probable cause files a pleading to challenge the transfer of property on the grounds that it was not the transferor's property at the time of the transfer;

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

- (c) Without probable cause files a creditor's claim or prosecutes any action against the trust for any debt alleged to be owed to the beneficiary-claimant.

7.5 Definitions of Death Taxes, Debts, and Expenses

As used in this instrument, the following definitions apply:

- (a) The term "death taxes" shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person's interest in the estate of the settlor or by reason of the settlor's death, including penalties and interest, but excluding the following:

- (i) any additional tax that may be assessed under Internal Revenue Code Section 2032A; and

- (ii) any federal or state tax imposed on any generation-skipping transfer, as that term is defined in the federal tax laws, unless that generation-skipping transfer tax is payable directly out of the assets of a trust created by this instrument.

- (b) The term "debts and expenses" shall include the following:

- (i) all costs, expenses of litigation, counsel fees, or other charges that the trustee incurs in connection with the determination of the amount of the death taxes, interest, or penalties referred to in subsection (a) of this section; and

- (ii) legally enforceable debts, funeral expenses, expenses of last illness, and administration and property expenses.

7.6 Disinheritance of Settlor's Children

The settlor is intentionally not providing for the settlor's children or their issue in this instrument. The settlor intends that her children and their issue shall not take any part of the trust estate passing under this instrument, under any circumstances, such as pursuant to contingent beneficiary provisions or due to disclaimers by other beneficiaries. The settlor's children and their issue shall be deemed to have predeceased the settlor.

7.7 Definition of Incapacity

- (a) For purposes of this instrument, a person is deemed "incapacitated" or deemed to suffer from "incapacity" if any of the following circumstances apply:

- (i) The person is unable to provide properly for that person's own needs for physical health, food, clothing, or shelter; to manage substantially that person's own financial resources; or to resist fraud or undue influence.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
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- (ii) Either a medical doctor, board-certified neuropsychologist, or a board-certified psychiatrist, not related by blood or marriage to any trustee or beneficiary, examines such person and declares under penalty of perjury that such person is either temporarily or permanently incapacitated, according to generally accepted medical definitions.
 - (iii) The person is operating under a legal disability, such as a duly established conservatorship.
 - (iv) The court makes a finding that the person is either temporarily or permanently incapacitated under the criteria set forth in Prob. Code Section 810 et seq.
- (b) In case of temporary incapacity of a sole trustee, the successor trustee designated under this instrument shall serve during the period of temporary incapacity as though he or she were the only trustee. In case of temporary incapacity of a cotrustee, the other cotrustee shall make any and all decisions during the period of temporary incapacity as though that cotrustee were the only trustee.
- (c) Any trustee deemed to be temporarily incapacitated shall be deemed to be permanently incapacitated ninety (90) days after the determination of temporary incapacity unless a determination of capacity is made within that 90-day period. If a determination of capacity is made, the trustee may resume serving as trustee. If there is a subsequent determination of incapacity, the trustee has another 90-day period to obtain a determination of capacity.
- (d) Any successor trustee or cotrustee serving in place of a temporarily incapacitated trustee shall not be relieved of liability until that trustee's account has been settled or an account has been waived by a majority of all current beneficiaries of the trust.
- (e) If any trustee or any beneficiary whose capacity is in question disputes the determination of incapacity under any of the standards listed above, such person may petition the court for a finding regarding that person's capacity. The court's finding shall be conclusive. If the court determines that the trustee or other person whose capacity is in question has capacity, the trust property shall bear all expenses associated with the examination or court proceeding. If the court sustains the determination of incapacity, the individual challenging the determination of incapacity shall bear all expenses of the examination or court proceeding.
- (f) Each individual trustee agrees to cooperate in any examination reasonably necessary for the purpose of determining capacity, agrees to waive the doctor-patient privilege in respect to the results of such examination, and agrees to provide written authorization in compliance with the privacy regulations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d) and the provisions of California Civil Code Section 56.10 for the disclosure and use of that trustee's health information and medical records to the extent that such disclosure and

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

use are necessary to make a determination of the trustee's capacity. Refusal to submit to the examination, to provide the waiver, or to provide the written authorization when requested by the successor trustee shall be deemed a resignation by that trustee.

7.8 Definition of Education

As used in this instrument, the term "education" refers to the following:

- (a) Education at public or private elementary, junior high, middle, or high schools, including boarding schools;
- (b) Undergraduate, graduate, and postgraduate study in any field, whether or not of a professional character, in colleges, universities, or other institutions of higher learning;
- (c) Specialized formal or informal training in music, the stage, the handicrafts, or the arts, whether by private instruction or otherwise; and
- (d) Formal or informal vocational or technical training, whether through programs or institutions devoted solely to vocational or technical training, or otherwise.

7.9 Number and Gender

As used in this instrument, references in the masculine gender shall be deemed to include the feminine and neuter genders, and vice versa, and references to the singular shall be deemed to include the plural, and vice versa, wherever the context so permits.

7.10 Captions

The captions appearing in this instrument are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this instrument.

7.11 Severability Clause

If any provision of this instrument is invalid, that provision shall be disregarded, and the remainder of this instrument shall be construed as if the invalid provision had not been included.

7.12 California Law to Apply

All questions concerning the validity, interpretation, and administration of this instrument, including any trusts created under this instrument, shall be governed by the laws of the State of California, regardless of the domicile of any trustee or beneficiary.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

7.13 Gifts to Heirs

For any gift to "heirs" of the settlor that is made in this instrument, those heirs shall be determined as if the settlor had died intestate at the time for distribution prescribed in this instrument, and the identity and shares of those heirs shall be determined according to the California laws of succession that concern separate property not acquired from a previously deceased spouse and that are in effect at the time the settlor is deemed to have died.

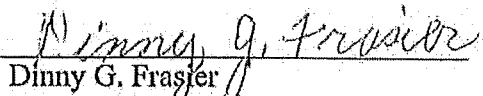
ARTICLE EIGHT. SIGNATURE AND EXECUTION

8.1 Execution

I certify that I have read the foregoing trust agreement and that it correctly states the terms and conditions under which the trust estate is to be held, administered, and distributed. As settlor of the trust created by this trust agreement, I approve this trust agreement in all particulars, and agree to be bound by its terms and conditions. The trustees approve and accept the trust provided for in this trust agreement.

Executed on April 27, 2017, at Newport Beach, California.

SETTLOR-TRUSTEE


Dinny G. Frasier

TRUSTEE


Farmers and Merchants Trust
Company of Long Beach

By:

Lydia Rojas,
Vice President and Trust Officer

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

READ & APPROVED BY:
VOGT, RESNICK & SHERAK, LLP
Attorneys at Law



Barnet Resnick
Attorneys for Settlor-Cotrustee

THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980

ACKNOWLEDGMENT

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

State of California)

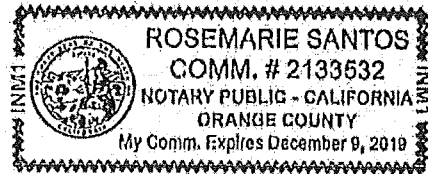
County of Orange)

On April 27, 2017, before me, Rosemarie Santos, a notary public, personally appeared Dinny G. Frasier, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Rosemarie Santos



(Seal)

Exhibit 7

Exhibit 7

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

1.1 Preamble

Dinny G. Frasier is the surviving settlor of the Jordan Dana Frasier Family Trust dated December 29, 1980, as amended and restated on September 21, 1999, as amended on March 15, 2000, and as amended on June 7, 2000, by Jordan Dana Frasier and Dinny G. Frasier as settlors and as trustees. Jordan Dana Frasier died on October 22, 2014, and pursuant to the terms of the trust agreement, the trust was thereupon divided into the Tax Exemption Trust and the Survivor's Trust.

On May 29, 2015, Dinny G. Frasier exercised her power to amend and restate the Survivor's Trust created under the Jordan Dana Frasier Family Trust and executed the First Amendment and Restatement of the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980, as the surviving settlor and co-trustee. On June 24, 2016, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Second Amendment to the Jordan Dana Frasier Family Trust, as the surviving settlor and co-trustee.

On or about January 27, 2017, a mediation ordered by the Second Judicial District Court of the State of Nevada, In and For the County of Washoe, Department 15[PR] ("Nevada Court"), Case No. PR16-00128 by Justice Jeffrey King (Ret.) as mediator, resulted in a settlement agreement by Barnett Resnick, attorney for Dinny Frasier; G. David Robertson, attorney for Premier Trust; Nicole Shrive, trust officer on behalf of Premier Trust; Kristen Caverly, attorney for Bradley Frasier, adult son of Dinny Frasier; Nori Frasier Cady, adult daughter of Dinny Frasier; and Amy Frasier Wilson, adult daughter of Dinny Frasier, as parties to the Settlement

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

Agreement. In Paragraph 8 of the Settlement Agreement, Dinny Frasier agreed to amend Trust A to equalize distributions to each of her children, Bradley Frasier, Nori Frasier Cady, and Amy Frasier Wilson, based on the appraised values of the three real properties located at 4372 Pacifica Way, Unit 3, Oceanside, California ("Pacifica Way Property") 10 Via Sonrisa, Mission Viejo, California ("Via Sonrisa Property"), and 3609 Vista Way, Oceanside, California ("Vista Way Property"), and bequeath an additional ten thousand dollars (\$10,000) to Nori Frasier Cady and Amy Frasier Wilson to be divided equally. An appraisal of the fair market value of the Pacifica Way Property provided that as of June 28, 2017 is four hundred ten thousand dollars (\$410,000). An appraisal of the fair market value of the Via Sonrisa Property as of July 31, 2017 is five hundred seventy six thousand dollars (\$576,000). An appraisal of the discounted value (taken as the average of the partition value and the discounted value for lack of control and marketability) of the trust's interest in the Vista Way Property as of January 27, 2017 is four hundred and sixty thousand dollars (\$460,000). Pursuant to the terms of Paragraph 8 of the Settlement Agreement and the foregoing values of the real properties, the settlor intends to provide for equalizing gifts to each of her children as set forth hereunder.

On April 27, 2017, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Third Amendment and Restatement of the Survivor's Trust Created Under the Jordan Dana Frasier Family Trust Dated December 29, 1980. In Section 3.1 of that trust agreement, the settlor reserved the right to amend the trust, in the following language:

"3.1. Power of Revocation and Amendment. This trust may be amended, revoked, or terminated by the settlor, in whole or in part, at any time during her lifetime.

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

After the settlor's death, this trust shall become irrevocable and shall not be subject to amendment after the death of the settlor."

The settlor now wishes to exercise her right of amendment and, to that end, does hereby amend that agreement in the terms stated below. The trustee hereby consents to the terms of this amendment.

1.2 Amendment of Article 5

Article 5 of that agreement is amended in its entirety to read as follows:

"ARTICLE FIVE. DISTRIBUTIONS AFTER SETTLOR'S DEATH

5.1 Payment of Death Taxes, Debts, and Expenses on Statement From Personal

Representative

After the settlor's death, on receipt by the trustee of a written statement from the personal representative of the settlor's estate requesting that the trustee pay death taxes, debts, and expenses (as defined in Article Seven), with respect to any property in the settlor's estate, the trustee shall pay, either directly or to the personal representative, any amounts requested by the personal representative for those purposes, in the manner specified below. The trustee may rely on the personal representative's statement and shall not be liable for any act or omission by the personal representative in protesting or failing to protest the legality, propriety, or amount of the death taxes, debts, or expenses. If there is no personal representative, the trustee shall make the payments directly. Payments of debts and expenses shall be made by the trustee from the trust estate. All death taxes payable by reason of the settlor's death shall be prorated and apportioned among the persons interested in the settlor's estate as provided in the California Probate Code. The trustee shall not pay death taxes, debts, and expenses or other obligations of the settlor or the

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

settlor's estate from proceeds of insurance policies on the settlor's life if making those payments would be the sole cause of the proceeds being includable in the settlor's gross estate for federal estate tax purposes.

5.2 Trustee's Power to Defer Division or Distribution

Whenever the trustee is directed to divide any part of the trust estate or distribute trust assets on the death of the settlor, the trustee may, in the trustee's discretion, defer actual division or distribution for such reasonable period of time as is needed to effectively identify, take possession of, value, divide, and distribute the assets of the trust. During this time of deferral, the trustee may manage the trust assets through a single administrative trust. The ability of the trustee to delay division or distribution shall not affect the vesting of interests, which shall be as of the date of death.

5.3 Equalizing Gifts Pursuant to Settlement Agreement On the death of the settlor, the trustee shall make the following pecuniary gifts to equalize the distributions to her children pursuant to the terms of the Settlement Agreement, as follows: (a) Twenty-two thousand dollars (\$22,000) to Bradley Frasier, outright, if he survives the settlor; (b) Seventy-seven thousand dollars (\$77,000) to Nori Frasier Cady, outright, if she survives the settlor, and (c) Five thousand dollars (\$5,000) to Amy Frasier Wilson, outright, if she survives the settlor. If any of the foregoing beneficiaries predeceases the settlor, the gift as to that predeceased beneficiary shall lapse.

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

5.4 Disposition of Remaining Trust Estate

On the death of the settlor, the remaining trust property (including all income then accrued but uncollected and all income then remaining in the hands of the trustee) shall be disposed of as follows:

- (a) One-third (1/3) to the Irvine Community Alliance Fund – Designation: Animal Care Center (EIN: 33-0258368), for the city animal shelter located at 6443 Oak Canyon, Irvine, California 92618, to be used to facilitate the training of dogs by certified dog trainers, such as, for example and not by way of limitation, to establish a schedule of classes to certify dog trainers, in recognition of Dinny G. Frasier.
- (b) One-third (1/3) to Chapman University (EIN: 95-1643992), located at 1 University Dr., Orange, California 92866, to be used to set up an endowment fund to provide scholarships to students and prospective students based on financial need and scholastic merit. The name of the endowment shall be the "Dinny G. Frasier Endowment for Deserving Students." The endowment fund and scholarship process shall be overseen by a committee to be comprised of the following individuals and/or entities:
 - (i) Bruce Schwartz, or his designee;
 - (ii) Then-current Dean of Students at Chapman University, or its designee;
and
 - (iii) Chris Lombardo or the then-current Executive Director of Business Services of the Orange County Department of Education, or his designee.
- (c) One-ninth (1/9) to the American Society for Prevention of Cruelty to Animals ("ASPCA") (EIN: 13-1623829), located at 424 East 92nd St., New York, New York 10128, to be used for its general funds, in recognition of Dinny G. Frasier.
- (d) One-ninth (1/9) to Temple Beth Sholom of Orange County, Inc. (EIN: 95-2263896), located at 2625 N. Tustin Ave., Irvine, California 92705, to be used to fund maintenance and capital improvements, in recognition of Dinny G. Frasier.
- (e) One-ninth (1/9) to the St. Jude Children's Research Hospital, Inc. (EIN: 62-0646012), located at 262 Danny Thomas Place, Memphis, Tennessee 38105, to be used for its general funds, in recognition of Dinny G. Frasier.

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

If any of the above entities is unable or unwilling to receive the gift for any reason, the share otherwise allocable to that entity shall instead be distributed to the remaining entities, in proportion to their respective interests.

If the remaining trust property is not completely disposed of by the preceding provision, the undisposed-of portion shall be distributed to those entity(ies) chosen by the trustee at its sole and absolute discretion.”

1.3 Amendment of Section 6.2

Section 6.2 of that agreement is amended in its entirety to read as follows:

“6.2. Successor Corporate Trustee

In accordance with the orders of the Nevada Court dated October 12, 2018, Dinny G. Frasier hereby appoints US Bank as successor corporate trustee, effective December 28, 2018, upon the resignation of the current corporate trustee, Premier Trust, Inc.”

1.4 Amendment of Section 7.6

Section 7.6 of that agreement is amended in its entirety to read as follows:

“7.6 Disinheritance of Settlor's Children. Other than the equalizing gifts as provided in Section 5.3, the settlor is intentionally not providing for the settlor's children or their issue in this instrument. The settlor intends that her children and their issue shall not take any part of the trust estate passing under this instrument, under any circumstances, such as pursuant to contingent beneficiary provisions or due to disclaimers by other beneficiaries, except as provided in Section 5.3. The settlor's children and their issue shall be deemed to have predeceased the settlor.

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

1.5 No-Contest Clause

If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly does any of the following acts, then the right of that person to take any interest given to him or her by this instrument shall be void, and any gift or other interest in the trust property to which the beneficiary would otherwise have been entitled shall pass as if he or she had predeceased the settlor without issue.

- (a) Without probable cause challenges the validity of this instrument on any of the following grounds:
 - (i) Forgery;
 - (ii) Lack of due execution;
 - (iii) Lack of capacity;
 - (iv) Menace, duress, fraud, or undue influence;
 - (v) Revocation pursuant to the terms of this instrument or applicable law;
 - (vi) Disqualification of a beneficiary who is a "disqualified person" as described in California Probate Code section 21350 or applicable successor statute.
- (b) Without probable cause files a pleading to challenge the transfer of property on the grounds that it was not the transferor's property at the time of the transfer;
- (c) Without probable cause files a creditor's claim or prosecutes any action against the trust for any debt alleged to be owed to the beneficiary-claimant.

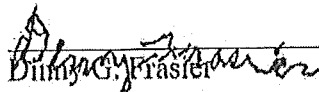
1.6 Ratification of Other Terms of Trust

In every other respect, the settlor incorporates by reference, confirms, and ratifies the terms of the trust as stated in that certain agreement dated December 29, 1980.

Executed on November 13, 2018, at Newport Beach, California.

**FOURTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST**

SETTLOR



Dana C. Frasier

TRUSTEE

PREMIER TRUST, INC.

By: _____
Authorized Trust Officer for Premier
Trust, Inc.

READ & APPROVED BY:
VOGT, RESNICK & SHERAK, LLP
Attorneys at Law


BARNET RESNICK, ESQ.
Attorneys for Settlor

ACKNOWLEDGMENT

APP560

Exhibit 8

Exhibit 8

ORIGINAL

**FIFTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER
THE JORDAN DANA FRASIER FAMILY TRUST**

1.1 Preamble

Dinny G. Frasier is the surviving settlor of the Jordan Dana Frasier Family Trust dated December 29, 1980, as amended and restated on September 21, 1999, as amended on March 15, 2000, and as amended on June 7, 2000, by Jordan Dana Frasier and Dinny G. Frasier as settlors and as trustees. Jordan Dana Frasier died on October 22, 2014, and pursuant to the terms of the trust agreement, the trust was thereupon divided into the Tax Exemption Trust and the Survivor's Trust.

On May 29, 2015, Dinny G. Frasier exercised her power to amend and restate the Survivor's Trust created under the Jordan Dana Frasier Family Trust and executed the First Amendment and Restatement of the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980, as the surviving settlor and co-trustee. On June 24, 2016, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Second Amendment to the Jordan Dana Frasier Family Trust, as the surviving settlor and co-trustee.

On or about January 27, 2017, a mediation ordered by the Second Judicial District Court of the State of Nevada, In and For the County of Washoe, Department 15[PR] ("Nevada Court"), Case No. PR16-00128 by Justice Jeffrey King (Ret.) as mediator, resulted in a settlement agreement by Barnet Resnick, attorney for Dinny G. Frasier; G. David Robertson, attorney for Premier Trust; Nicole Shrive, trust officer on behalf of Premier Trust; Kristen Caverly, attorney for Bradley Frasier, adult son of Dinny G. Frasier; Nori Frasier Cady, adult daughter of Dinny G. Frasier; and Amy Frasier Wilson, adult daughter of Dinny G. Frasier, as parties to the Settlement

**FIFTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER
THE JORDAN DANA FRASIER FAMILY TRUST**

Agreement. In Paragraph 8 of the Settlement Agreement, Dinny G. Frasier agreed to amend Trust A to equalize distributions to each of her children, Bradley Frasier, Nori Frasier Cady, and Amy Frasier Wilson, based on the appraised values of the three real properties located at 4372 Pacifica Way, Unit 3, Oceanside, California ("Pacifica Way Property") 10 Via Sonrisa, Mission Viejo, California ("Via Sonrisa Property"), and 3609 Vista Way, Oceanside, California ("Vista Way Property"), and bequeath an additional ten thousand dollars (\$10,000) to Nori Frasier Cady and Amy Frasier Wilson to be divided equally. An appraisal of the fair market value of the Pacifica Way Property provided that as of June 28, 2017 is four hundred ten thousand dollars (\$410,000). An appraisal of the fair market value of the Via Sonrisa Property as of July 31, 2017 is five hundred seventy six thousand dollars (\$576,000). An appraisal of the discounted value (taken as the average of the partition value and the discounted value for lack of control and marketability) of the trust's interest in the Vista Way Property as of January 27, 2017 is three hundred and eighty four thousand dollars (\$384,000). Pursuant to the terms of Paragraph 8 of the Settlement Agreement and the foregoing values of the real properties, the settlor intends to provide for equalizing gifts to each of her children as set forth hereunder.

On April 27, 2017, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Third Amendment and Restatement of the Survivor's Trust Created Under the Jordan Dana Frasier Family Trust Dated December 29, 1980. In Section 3.1 of that trust agreement, the settlor reserved the right to amend the trust, in the following language:

"3.1. Power of Revocation and Amendment. This trust may be amended, revoked, or terminated by the settlor, in whole or in part, at any time during her lifetime.

**FIFTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER
THE JORDAN DANA FRASIER FAMILY TRUST**

After the settlor's death, this trust shall become irrevocable and shall not be subject to amendment after the death of the settlor."

On November 13, 2018, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Fourth Amendment to the Survivor's Trust Created Under the Jordan Dana Frasier Family Trust Dated December 29, 1980.

The settlor now wishes to exercise her right of amendment and, to that end, does hereby amend that agreement in the terms stated below. The trustee hereby consents to the terms of this amendment.

1.2 Amendment of Section 5.3

Section 5.3 of that agreement is amended in its entirety to read as follows:

"5.3 Equalizing Gifts Pursuant to Settlement Agreement On the death of the settlor, the trustee shall make the following pecuniary gifts to equalize the distributions to her children pursuant to the terms of the Settlement Agreement, as follows: (a) One hundred ninety two thousand dollars (\$192,000) to Bradley Frasier, outright, if he survives the settlor; (b) One hundred seventy one thousand dollars (\$171,000) to Nori Frasier Cady, outright, if she survives the settlor, and (c) Five thousand dollars (\$5,000) to Amy Frasier Wilson, outright, if she survives the settlor. If any of the foregoing beneficiaries predeceases the settlor, the gift as to that predeceased beneficiary shall lapse."

1.3 No-Contest Clause

If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly does any of the following acts, then the right of that person to take any interest given to him or her by this instrument shall be void, and any gift or

**FIFTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER
THE JORDAN DANA FRASIER FAMILY TRUST**

other interest in the trust property to which the beneficiary would otherwise have been entitled shall pass as if he or she had predeceased the settlor without issue.

(a) Without probable cause challenges the validity of this instrument on any of the following grounds:

- (i) Forgery;
- (ii) Lack of due execution;
- (iii) Lack of capacity;
- (iv) Menace, duress, fraud, or undue influence;
- (v) Revocation pursuant to the terms of this instrument or applicable law;
- (vi) Disqualification of a beneficiary who is a "disqualified person" as described in California Probate Code section 21350 or applicable successor statute.

(b) Without probable cause files a pleading to challenge the transfer of property on the grounds that it was not the transferor's property at the time of the transfer;

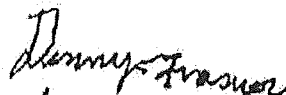
(c) Without probable cause files a creditor's claim or prosecutes any action against the trust for any debt alleged to be owed to the beneficiary-claimant.

1.4 Ratification of Other Terms of Trust

In every other respect, the settlor incorporates by reference, confirms, and ratifies the terms of the trust as stated in that certain agreement dated December 29, 1980.

Executed on December 4, 2018, at Newport Beach, California.

SETTLOR



Danny Frasier

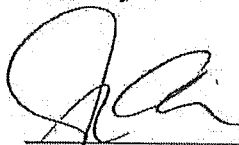
FIFTH AMENDMENT TO SURVIVOR'S TRUST CREATED UNDER
THE JORDAN DANA FRASIER FAMILY TRUST

TRUSTEE

PREMIER TRUST, INC.

By: _____
Authorized Trust Officer for Premier
Trust, Inc.

READ & APPROVED BY:
VOGT, RESNICK & SHERAK, LLP
Attorneys at Law



Gina H. Kim
Attorneys for Settlor

ACKNOWLEDGMENT

(Seal)

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Attorney for U.S. Bank Private Wealth Management, Trustee

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA IN AND FOR THE COUNTY OF WASHOE

In the Matter of Case No.: PR16-00128
JORDAN DANA FRASIER FAMILY TRUST Dept. No.: PR

**OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED
SETTLEMENT AGREEMENT THAT ARE DIRECTLY CONTRARY TO
CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND**

COMES NOW U.S. Bank Private Wealth Management (“U.S. Bank”), as successor trustee of the Jordan Dana Frasier Family Trust and the sub-trusts derived therefrom (also referred to as the “Trustee”), by and through counsel Patricia Halstead of Halstead Law Offices, and hereby objects to any outright distribution of any trust sums to Amy Frasier Wilson as contemplated by the *Joint Petition to Confirm Settlement Agreement, Approve Distribution of the Survivor’s Trust Pursuant to the Settlement Agreement, and Petition for Modification of the Tax-Exempt Trust to Enable Termination of Trust and All Sub-Trusts Created Thereunder*, filed on June 26, 2023 (the “Motion to Confirm”). This Objection is lodged because an outright distribution is expressly prohibited by the controlling Trust and sub-trust provisions by which the Trustee is bound and is contrary to applicable law. U.S. Bank further draws this Court’s attention to a controlling Trust provision that precludes Amy Frasier Wilson from being distributed “the contents of the Settlers’ primary residence.” This Objection is supported by the following Points and Authorities.

///

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POINTS AND AUTHORITIES

1. Introduction.

The Trustee incorporates herein by reference the necessary background and exhibits as set forth in the Amended Petition for Instructions, filed by the Trustee on January 20, 2023 (the “Petition”). The Petition provides a thorough background and includes the trust documentation underlying this Objection. Included with such documentation is the fifth and final version of the Jordan Dana Frasier Family Trust (the “Trust”), dated June 7, 2000, which is set forth as Exhibit 6 to the Petition, and which provides that upon Joe’s death the Trust split into two sub-trusts: 1) the Survivor’s Trust (the A Trust); and 2) the Tax Exempt Trust (the B Trust). At that point, the Tax Exempt Trust (the B Trust) became irrevocable, and the Survivor’s Trust (the A Trust) remained subject to amendment by the surviving Settlor, i.e. Dinny.

Per Dinny’s First Amendment and Restatement of the Survivor’s Trust (the A Trust) (Petition, Exhibit 7), and as applicable until Dinny’s Third Amendment and Restatement of the Survivor’s Trust (the version that distributes to the Charities in lieu of Amy Frasier Wilson and which Amy Frasier Wilson has challenged based upon capacity) (Petition, Exhibit 8), upon Dinny’s death, the balance of the Survivor’s Trust (the A Trust) is to be distributed to a *spendthrift trust* established for the benefit of Amy Frasier Wilson referenced as the “Family Sentry Trust.”¹ Accordingly, no distribution was to be made to Amy Frasier Wilson outright; rather, the trustee is to manage the funds on behalf of Amy Frasier Wilson and distribute to her “from time to time” such portions of the trust as deemed appropriate in the trustee’s sole discretion, taking into account all of Amy Frasier Wilson’s income from other sources before distributing principal. Petition, Exhibit 7, Article Seven, page 7-2.

Upon Amy Frasier Wilson’s passing, any remaining sums held in the Family Sentry Trust are to be distributed to Amy Frasier Wilson’s husband Bill if provided for in Amy Frasier Wilson’s estate plan (and if they were still married and not separated) or, if Bill predeceased Amy Frasier Wilson or Amy did not provide for Bill in her estate plan, any remaining funds

¹ Tellingly, the term “sentry” is a reference to a soldier station to keep guard or to control access. *See, e.g.*, the Oxford Languages Google Dictionary.

1 are to distribute to Dinny's heirs at law (generally meaning her nearest blood relatives).
2 Petition, Exhibit 7, Articles 7 and 8, pp. 7-3 and 8-1.

3 The reasoning for precluding an outright distribution of Family Sentry Trust sums, i.e.
4 sums from the Survivor's Trust (the A Trust), to Amy Frasier Wilson was established prior in
5 the initial Trust, which controls distribution of the Tax Exempt Trust (the B Trust), and which
6 likewise established a *spendthrift trust* for Amy Frasier Wilson as follows:

7 The trustee [defined as Jordan Dana Frasier and Dinny G. Frasier] desires that the
8 fund set aside for Amy Michelle Frasier Wilson shall last her lifetime so that the
9 trustee will not rapidly dissipate the corpus of this share by distributing the
10 principal and interest of the trust to her. It is the settlors' [i.e. Joe's and Dinny's]
11 desire that the trustee be mindful of the fact that Amy Michelle Frasier Wilson has
12 physical limitations that prevent her from obtaining gainful employment, and may
13 have certain spendthrift disabilities, although they do not amount to any legal
14 disability, or a sufficient disability at this time to qualify for public programs.

15 Petition, Exhibit 6, Article 2, Subsection C(7), p. 8.²

16 The Trust language then goes on to address administration of the Trust funds
17 designated for Amy Frasier Wilson's benefit by means of a *supplemental needs trust* in the
18 event Amy Frasier Wilson ever qualifies for public benefits. *Id.*, pp. 8-9. The Trust also
19 provides that Amy Frasier Wilson is *not* to receive "the contents of the Settlers' primary
20 residence (which are to be divided according to the settlors' known wishes)." *Id.*, pp. 9-10.³
21 The Trust further directs that, upon Amy Frasier Wilson's passing, remaining sums held in

22 ² Such language establishes what is commonly referred to as a "spendthrift trust," not to be confused with a
23 "supplemental needs trust" (aka a "special needs trust"). A "spendthrift trust" is designed to hold a beneficiary's
24 distribution in trust for his or her benefit to preclude such funds from being reached by creditors and to further
25 preclude a beneficiary from managing the funds themselves based upon spendthrift propensities, i.e. "someone who
26 spends lavishly and wastefully; a profligate" as defined by Black's Law Dictionary. A "supplemental needs trust" is
27 different in that a "supplemental needs trust" is a trust set up to hold what would otherwise be an outright
28 distribution to someone that is receiving public benefits. Rather than an outright distribution, such funds are held in
a "supplemental needs trust" so that such benefits will not be impacted by the distribution given that such benefits
are usually needs based. A "supplemental needs trust" allows a beneficiary who is on public benefits to have those
benefits supplemented by the funds held in the supplemental needs trust (thus the name). In other words, a
supplemental needs trust is a tool used to shelter a disabled person's assets to maintain eligibility for government
benefits. As is evident, a spendthrift is not necessarily disabled and vice-versa, any cross-over would be unique to a
person who just happens to be disabled and bad with money.

³ Reference is made in the Third Amendment to the Trust to an Exhibit B, which is to direct the disposition of
personal property. Petition, Exhibit 4, Article 2, Subsection C(3), p. 11. Unfortunately, a copy of this Exhibit has
not been located by the Trustee.

1 Trust for Amy Frasier Wilson are to be distributed to Joe and Dinny's grandchildren *per*
2 *stirpes*, which, as the Trustee understands, are Brad Frasier's and Nori Frasier's children given
3 that Amy Frasier Wilson is not believed to have had children (referred to in estate planning as
4 "issue").

5 Given the foregoing mandates, no sums from either the Survivor's Trust (the A Trust)
6 nor the Tax Exempt Trust (the B Trust) are to be distributed to Amy Frasier Wilson outright.
7 Rather, both Joe and Dinny, and then Dinny on her own thereafter, detailed spendthrift trusts
8 and, if necessary, based upon qualification for public benefits, a supplemental needs trust as
9 applicable to the Tax Exempt Trust (the B Trust), to be established for any distribution to Amy
10 Frasier Wilson.⁴

11 Springboarding from her challenge to Dinny's competence to undertake the April 27,
12 2017 amendment to the Survivor's Trust (the A Trust) that distributed to the Charities in lieu of
13 Amy Frasier Wilson, Amy Frasier Wilson leveraged the same to attempt to negotiate out of the
14 restraints to her distributions even though the Tax Exempt Trust (the B Trust) in particular had
15 already been settled and contemplated her distribution remaining in trust. *See* Petition, Exhibit
16 9, which is the January 27, 2017 Settlement Agreement whereby "[b]oth Brad and Nori decline
17 to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary," which
18 Dinny did.⁵

22 ⁴ Extensive case law provides that, because the restraint mandates are clear and unambiguous, the Court must
23 consider them as provided in "the four corners of the written instrument" and not look outside of the Trust and
24 subtrusts themselves. *See, e.g. Matter of Evan O. Koller Revocable Living Tr.*, 414 P.3d 1099, 1102 (Ut. 2018)
25 (applying the parol evidence rule to a trust agreement as the rule applies to written instruments generally); *see also,*
26 *Colbo v. Buyer*, 134 N.E.2d 45, 49 (Ind. 1956) (under the parol evidence rule, if the manifestation of intention of the
27 settlor is integrated in a writing, extrinsic evidence is not admissible to contradict or vary it); *In re Bush's Tr.*, 81
28 N.W.2d 615, 620 (Minn. 1957) (under the parol evidence rule extrinsic evidence may not be used to contradict or
vary the settlor's written declaration of intent); *O'Brien v. Holden*, 160 A. 192 (Vt. 1932) (parol evidence rule
applies to declarations of trust).

⁵ This settlement term continues to emphasize Dinny's commitment that Amy Frasier Wilson's distribution be
restrained. Petition, Exhibit 9, paragraph 14.

1 Despite the restraints, Amy Frasier Wilson and the Estate of Dinny Frasier as
2 represented by Stanley Brown, Esq. (the “Estate”)⁶ agreed to petition the Court for an outright
3 distribution of *all* trust sums, inclusive of those held in the Tax Exempt Trust (the B Trust).
4 Petition to Confirm, Exhibit 1, p. 6, subparagraph h and p. 7, paragraph 3. Such a request is
5 directly contrary to the terms that control distribution to Amy Frasier Wilson as applicable to
6 both the Survivor’s Trust (the A Trust) *and* the Tax Exempt Trust (the B Trust); undermines
7 Joe’s and Dinny’s undisputed and explicit intent that such sums remain in trust and not be
8 distributed outright; and, given the restraints established by Joe and Dinny, is contrary to
9 controlling California law (and Nevada law if it were to be wrongfully applied) as set forth
10 below.

11 2. Controlling Law Mandates that Amy Frasier Wilson’s Distributions
12 Remain in Trust.

13 *California Law Is Controlling*

14 Trust Article IV, Section G, “Controlling Law,” provides, “[t]he validity of this trust
15 and the construction of its provisions shall be governed by the laws of the State of California.”
16 While Nevada has exercised jurisdiction over the Trust, it remains that California law applies
17 to its construction and enforcement. *See* NRS 164.045, which provides that Nevada law
18 applies *only* if so designated in the trust instrument or allowed to be so designated either by the
19 terms of the trust or where no controlling law is identified. Here, given California law is
20 designated by the Trust and there is no Trust provision allowing the application of California
21 law to be modified, California law must be applied.

22 *The Trustee Is Bound By the Terms of the Trust, the Material Terms of Which Are Not Subject*
23 *to Modification by Agreement of the Beneficiaries*

24 The paramount rule of construction of will and trust dispositions is to lend credence to
25 the intent of the grantor, in this case Joe and Dinny. *See, e.g., Est. of Gilliland*, 44 Cal. App.
26 3d 32, 36-37, 118 Cal. Rptr. 447, 450 (Ct. App. 1974) (recognizing that the rules regarding

27 ⁶ Stanley Brown, Esq. was charged by the Nevada Supreme Court with representing Dinny’s Estate during the
28 pendency of Amy Frasier Wilson’s appeal of the District Court’s finding that Dinny was competent because
Dinny had passed away while the appeal was pending. *See* Nevada Supreme Court Order Substituting Personal
Representative, September 4, 2019, *In Re Frasier Family Trust*, Docket No. 77981.

allowable deviations from trust provisions are as equally and well established as for wills and mandate that the decedent's intent be given effect as much as possible). As such,

Trustees are bound by the terms of the trust and possess only that authority conferred upon them by the trust. . . . "The extent of the duties and of the powers of a trustee depends primarily upon the terms of the trust. Insofar as the trust instrument expressly or by implication imposes duties or confers powers upon the trustee, the terms of the trust determine the extent of his duties and powers, except so far as the performance of the duties or the exercise of the powers is or becomes impossible, or the provision is illegal, or there has been such a change of circumstances as to justify or require deviation from the terms of the trust."

See Crocker-Citizens Nat'l Bank v. Younger, 481 P.2d 222, 228 (Ca. 1971) (citations omitted).

Given the foregoing standard, Trustees are only permitted to deviate from trust terms in limited circumstances. Historically, deviation could only be exercised if mandated by "unusual or emergent circumstances." *Gilliland*, 44 Cal. App. 3d at 37, 118 Cal. Rptr. at 450. Even then, modifications could only be carried out to support the purpose of the trust as expressed in the trust instrument and not to defeat it. *See Moxley v. Title Ins. & Tr. Co.*, 165 P.2d 15, 21 (Ca. 1946). While more flexibility has been granted by the enactment of California Probate Code Sec. 15403, as addressed below, it nonetheless remains that

"the court should not permit a deviation simply because the beneficiaries request it where the main purpose of the trust is not threatened and no emergency exists or is threatened," for the power to modify a trust must be exercised "sparingly and only in the clearest of cases." Deviation is not justified merely because it would be more advantageous to the beneficiaries or would offer an expedient solution to problems of trust management.

Crocker-Citizens Nat'l Bank v. Younger, 481 P.2d at 228 (citations omitted) (emphasis added).

To grant some additional flexibility in addressing requested trust modifications, California enacted the current version of Probate Code Sec. 15403 in 2018, which provides in relevant part:

(a) Except as provided in subdivision (b), if all beneficiaries of an irrevocable trust consent, they may petition the court for modification or termination of the trust.

(b) If the continuance of the trust is necessary to carry out a material purpose of the trust, the trust cannot be modified or terminated unless the court, in its discretion, determines that the reason for doing so under the circumstances

1 outweighs the interest in accomplishing a material purpose of the trust. If the trust
2 is subject to a valid restraint on the transfer of a beneficiary's interest as provided
3 in Chapter 2 (commencing with Section 15300), the trust may not be terminated
unless the court determines there is good cause to do so.

4 (Amended by Stats. 2017, Ch. 61, Sec. 1. (SB 333) Effective January 1, 2018.)

5 See a true and correct copy of the West's Annotated Version provided herewith as **Exhibit 1**.

6 As the code annotation establishes,

7 This section is drawn from Section 337 of the Restatement (Second) of Trusts
8 (1957). Unlike the Restatement, however, subdivision (b) gives the court some
9 discretion in applying the material purposes doctrine **except in situations where**
10 **transfer of the beneficiary's interest is restrained**, such as by a spendthrift
11 provision. . . . Section 15403 is intended to provide some degree of flexibility in
applying the material purposes doctrine **in situations where transfer of the**
12 **beneficiary's interest is not restrained**. 20 Cal. Law Revision Com. Rep. (1990)
p. 1876. [Emphasis added.]

13 While the foregoing is addressed in commentary, California Law Revision Commission
14 comments are regarded as persuasive, if not conclusive, and evidence the legislative intent.
15 See California Youth Auth. v. State Pers. Bd., 104 Cal. App. 4th 575, 588, 128 Cal. Rptr. 2d
16 514, 523 (2002) ("Law Revision Commission comments are usually a reliable guide to
17 legislative intent"); see also Los Angeles Cnty. Metro. Transportation Auth. v. Yum Yum
18 Donut Shops, Inc., 32 Cal. App. 5th 662, 670, 244 Cal. Rptr. 3d 201, 207 (2019), as modified
19 on denial of reh'g (Mar. 26, 2019) ("We give the California Law Revision Commission
20 comments 'substantial weight' in construing statutes.") (citation omitted).

21 Here, Amy Frasier Wilson's distribution is restrained and not simply postponed as
22 addressed later in the commentary. As such, the code provision does not permit a
modification.

23 This result is recognized throughout the country by established case law. In In re
24 McGregor, 954 N.W.2d 612 (Neb. 2021), for example, beneficiaries of an irrevocable trust
25 petitioned the court for approval of a nonjudicial settlement agreement that contemplated
26 monies subject to being held in trust instead being distributed outright.⁷ In ruling on the

27
28 ⁷ As with McGregor, the Trust is irrevocable upon Joe's death and the Survivor's Trust (the A Trust) was
irrevocable upon Dinny's death, rendering both trusts irrevocable.

1 propriety of the nonjudicial settlement agreement that encompassed outright distribution, the
2 court recognized that allowing a distribution to be made outright when designated to be held in
3 trust would be violative of a material term of the trust and, therefore, an outright distribution
4 would not be confirmed. McGregor at 618 (“[w]e conclude that the spendthrift provisions of
5 the Family Trust establish a material purpose of the trust, which the settlement agreement
6 violates by transferring the trust assets [] outright rather than in trust. Because the agreement
7 violates a material purpose of the trust [] the agreement is invalid”).

8 In so ruling, the court recognized,

9
10 A spendthrift provision in the terms of the trust is presumed to constitute a
11 material purpose of the trust.” “Spendthrift provision” means “a term of a trust
12 which restrains both voluntary and involuntary transfer of a beneficiary's
13 interest.” “[T]he very nature or design of a trust suggests its protective nature or
14 some other material purpose.” The material purposes of a trust are subject to the
15 settlor's discretion, to the extent that its purposes are lawful, are not contrary to
16 public policy, are possible to achieve, and are for the benefit of its beneficiaries.

17 Id. at 617 (citations omitted).

18 In so holding, the court further relied upon the Restatement (Second) of Trusts § 337(2)
19 (1959) “material purpose” rule, which states: “[i]f the continuance of the trust is necessary to
20 carry out a material purpose of the trust, the beneficiaries cannot compel its termination.” Id.
21 In particular, the court relied upon the Restatement (Second) of Trusts § 337, comment 1,
22 which proscribes the termination of spendthrift trusts, stating: “[i]f by the terms of the trust ...
23 the interest of one or more of the beneficiaries is made inalienable ..., the trust will not be
24 terminated while such inalienable interest still exists, although all of the beneficiaries desire to
25 terminate it” Id.

26 Here, as in McGregor, the Trust as applicable to the Tax Exempt Trust (the B Trust)
27 and the Survivor’s Trust (the A Trust) make it “clear that the overriding intent and design of
28 the Family Trust is to hold the beneficiaries’ interests in trust and restrain the transfer of such
interests. The trust settlement agreement violates this fundamental and material purpose of the
trust, because the agreement distributes estate assets to the beneficiaries outright rather than in
trust.” Id.

1 Several other case law examples, as noted below, provide applicable analysis and reach
2 the same conclusion:

- 3
- 4 a. In re Est. of Bonardi, 871 A.2d 103, 108 (N.J. 2005) (“spendthrift trusts, trusts for
5 support of a beneficiary, and discretionary trusts cannot be terminated by consent of
6 the beneficiaries. Restatement (Second) of Trusts, supra, § 337 at comments l, m,
7 and n. This is because the material purpose of a spendthrift trust is to prevent
8 anticipation or control of future income or corpus by the protected income
9 beneficiary and, therefore, acceleration of the trust would directly contravene the
10 testator's intent. Heritage Bank–North, N.A. v. Hunterdon Medical Center, 164 N.J.
11 Super. 33, 36, 395 A.2d 552 (App.Div.1978). Moreover, “even if not of an express
12 spendthrift nature, a trust nevertheless created for the primary purpose of ensuring
13 the beneficiary's support and maintenance is not terminable by consent since such
14 termination would obviously also contravene testamentary intent.” Ibid. And, the
15 fact that a trustee has the power to invade the corpus for the beneficiary's benefit
16 does not negate a testator's intent to establish such a trust. Id. at 37, 395 A.2d 552.
17 In short, “[t]he question for determination is whether the settlor had any other
18 purpose in mind than to enable the beneficiaries to successively enjoy the trust
19 property.” Baer v. Fidelity Union Trust Co., 133 N.J. Eq. 264, 266, 31 A.2d 823 (E
20 & A 1943). Here, a material purpose of the trust not only still remains, but would be
21 soundly defeated by the daughters' renunciation of trust corpus in favor of their
22 mother, the income beneficiary whose right to principal was expressly limited under
23 the terms of the trust).
- 24 b. White v. Fleet Bank of Maine, 875 A.2d 680 (ME 2005) (“The controlling
25 document that created the Elizabeth S. Moore Trust includes a spendthrift clause.
26 We have held that a spendthrift clause, which prevents beneficiaries from
27 anticipating trust income, “[carries] out the intent of the settlor and represent[s] a
28 material purpose of the settlor.” Univ. of Me. Found., 2003 ME 20, ¶ 11, 817 A.2d
at 875 (emphasis added). Because the spendthrift clause in the Elizabeth S. Moore
Trust evinces a material purpose of granting a qualified estate, the court correctly
denied the petition to terminate the trust”).
- c. Heritage Bank-N., N.A. v. Hunterdon Med. Ctr., 395 A.2d 552, 554 (N.J. App. Div.
1978) (“There is no question that the trust did in fact contain a spendthrift provision
prohibiting the life tenant from transferring or assigning her interest therein. We
fully concur with the trial judge's legal conclusion that if this provision was in fact
expressive of testatrix' testamentary plan for her daughter, the trust would not be
subject to termination or acceleration. That conclusion accords with the well settled
principle that termination by consent of the beneficiaries cannot be compelled
where continuation of the trust is essential to carry out a material purpose thereof.
Obviously, since the material purpose of a spendthrift trust is to prevent anticipation
or control of future income or corpus by the protected income beneficiary,
acceleration of the trust would directly contravene testator's intent. It is also clear
that even if not of an express spendthrift nature, a trust nevertheless created for the

primary purpose of ensuring the beneficiary's support and maintenance is not terminable by consent since such termination would obviously also contravene testamentary intent. See Bd. of Directors, Ajax, etc. v. First Nat'l Bank of Princeton, 33 N.J. 456, 165 A.2d 513 (1960); Ampere Bank and Trust Co. v. Esterly, 139 N.J.Eq. 33, 49 A.2d 769 (Ch.Div.1946); Fidelity Union Trust Co. v. Margetts, 7 N.J. 556, 563, 82 A.2d 191 (1951). And see 2 Restatement, Trusts 2d, s 337, Comment m at 158 (1959); 6 N.J. Practice (Clapp, Wills and Administration) (3 ed. 1962), s 543 at 72).

- d. Kirkland v. Mercantile-Safe Deposit & Tr. Co. of Baltimore, 145 A.2d 230 (Md. 1958) (a spendthrift trust could not be terminated at instance of a beneficiary because premature termination of trust would defeat material purpose of settlor).
- e. Germann v. New York Life Ins. Co., 331 S.E.2d 385, 387 (S.C. Ct. App. 1985) (granting trustee summary judgment in action against trustee for failing to distribute a lump sum payment of insurance proceeds, finding that "trust creating an equitable interest in the trust estate for the life of the beneficiary and restricting him from anticipating or alienating, either voluntarily or involuntarily, his interest in the trust is a spendthrift trust. See McLean v. McLean, 273 S.C. 571, 257 S.E.2d 751 (1979); Albergotti v. Summers, 203 S.C. 137, 26 S.E.2d 395 (1943); Restatement (Second) of Trusts § 152(2) (1959); cf. In re Vought's Estate, 25 N.Y.2d 163, 250 N.E.2d 343, 303 N.Y.S.2d 61, *rehearing denied*, 25 N.Y.2d 959, 252 N.E.2d 864, 305 N.Y.S.2d 1027 (1969). As a general rule, a spendthrift trust cannot be terminated by mere agreement of the life beneficiary and the remainder beneficiaries, since to do so would defeat a material purpose of the trust. See Blackwell v. Virginia Trust Co., 177 Va. 299, 14 S.E.2d 301 (1941); In re Wentworth, 230 N.Y. 176, 129 N.E. 646 (1920); In re Knauss' Estate, 204 Misc. 207, 121 N.Y.S.2d 5 (N.Y.Surr.1953); Restatement (Second) of Trusts § 337 comment l (1959); 4 Scott on Trusts § 337.2 (3d ed.1967).

Even putting aside the "material purpose" mandates of California Probate Code Sec. 15403 and, for the sake of argument, presuming there was good cause to terminate the spendthrift trusts, which the Trustee does not concede, not all of the beneficiaries have consented as Brad Frasier and Nori Frasier, who are beneficiaries of the Tax Exempt Trust (the B Trust), were not parties to the settlement of the Survivor's Trust (the A Trust), which purported to also modify the terms of the Tax Exempt Trust (the B Trust). Moreover, even if Brad Frasier and Nori Frasier were to consent, which is possible given the litigation fatigue and financial drain on the Trust to date, the remainder beneficiaries to the spendthrift trust to whom the remainder spendthrift trust sums would pass upon Amy Frasier Wilson's death have not been made parties and have not agreed to forego their remainder interests. As to the Survivor's Trust (the A Trust) as contemplated by the Amendment prior to Amy Frasier Wilson's

1 exclusion, that would be Amy Frasier Wilson's husband Bill and Joe's and Dinny's heirs at
2 law; and, as to the Tax Exempt Trust (the B Trust), the remainder beneficiaries would be Joe
3 and Dinny's grandchildren *per stirpes*, which, again, are believed to be Brad Frasier's and Nori
4 Frasier's children given that Amy Frasier Wilson is not believed to have had children.

5 Regardless of any consent that could be mustered, it remains that Amy Frasier Wilson's
6 negotiated attempt to undermine her parents' restraint on her disposition is directly contrary to
7 the material purpose of the restraint directive and, therefore, impermissible. Beneficiaries
8 cannot, by law, agree to a restrained beneficiary taking funds outright (even assuming all the
9 beneficiaries, including the remainder beneficiaries were to so agree) merely to avoid
10 consequences of litigation created by the restrained beneficiary, particularly where, as here, the
11 litigation revolves around an entirely separate issue - that being Dinny's capacity to disinherit
12 Amy Frasier Wilson. A ruling to the contrary would completely undermine routine restraints
13 otherwise mandated by estate planning and recognized by statute (*see, e.g.* NRS Chapter 166),
14 rendering such planning an utter waste given such provisions could be undermined with even a
15 minor threat of litigation.

16 The Court is charged with enforcing the Settlor's intent and the Settlor's explicit intent,
17 which is a legally recognized material term of the Trust and sub-trusts, are for Amy Frasier
18 Wilson's distributions to be held in the designated spendthrift trusts, and any further litigation
19 brought on to undermine the same (again, keeping in mind that the prior litigation was
20 unrelated and merely leveraged to be able to petition the Court for an outright distribution)
21 must not be rewarded.

22 *Nevada Law Is Not Controlling But Would Nonetheless Render the Same Result*

23 Although California law controls as established above, should the Court look to Nevada
24 law, Nevada law stands for the same proposition as advocated by the Trustee. Specifically,
25 NRS 164.940 provides that a nonjudicial settlement agreement must be entered into by all
26 indispensable parties and that such an agreement "**is void to the extent it violates a material**
27 **purpose of the trust and to the extent it includes terms and conditions that could not be**
28

1 properly approved by the court, as defined in NRS 132.116, under the law governing the
2 trust instrument.”

3 It is generally understood that all beneficiaries with restraints on dispositions would
4 prefer such restraints not be imposed but “want” is an insufficient basis to decry explicit
5 restraints by which the Trustee is bound. See Crocker-Citizens Nat'l Bank v. Younger,
6 Crocker-Citizens Nat'l Bank v. Younger, 481 P.2d 222, 228 (Ca. 1971). Joe and Dinny were
7 particularly clear about the distributions to Amy Frasier Wilson being held in spendthrift trusts
8 and the stated restraint was material to Amy Frasier Wilson’s distribution from either sub-trust,
9 thus defeating modification under California Probate Code Sec. 15403, and there is no good
10 cause for modification that outweighs the material restraint. Rather, Amy Frasier Wilson
11 simply does not want to be bound by the restraint and utilized the leverage of a settlement to
12 attempt to negotiate it away with full knowledge from prior negotiations involving the Trustee
13 (by and through her prior counsel) that the Trustee would not agree to an outright distribution
14 because of its fiduciary obligations to administer the Trust as written and pursuant to Joe’s and
15 Dinny’s intent. The Trustee has been steadfast about its duty to honor the terms of the Trust,
16 which the law as cited herein mandates and which cannot be varied by any agreement to the
17 contrary.

18 *The Estate Is Not the Equivalent of Settlor for Purposes of Potential Consideration of*
19 *California Probate Code Section 15404*

20 Should the attempt be made to rely upon California Probate Code Section 15404 in lieu
21 of Section 15403, which allows a trust to be modified or terminated by the written consent of
22 the settlor and all beneficiaries without court approval of the modification or termination, the
23 Court must not conclude that the Estate is akin to a settlor as section California Probate Code
24 Section 15404 contemplates.

25 The Estate is merely standing in Dinny’s shoes for purposes of the litigation but it is a
26 separate entity from Dinny herself as a settlor. Dinny as a settlor (one of two, which is further
27 dispositive as addressed below) made her intentions clear by and through the trust documents
28 and, therefore, cannot be bound by the petition of a subsequent designee appointed solely for
purposes of litigation – a designee that is seeking to modify trust provisions that became

1 irrevocable upon Dinny's death and is taking a position directly opposite of Dinny's plainly
2 stated intent.

3 Even further, the Estate was not appointed in any respect to represent Joe's interests.
4 This in and of itself precludes the Estate from acting in conformance with Section 15404 given
5 that Dinny and Joe are the settlors of the Trust, not just Dinny. To that end, because both
6 settlors cannot be deemed to be represented, the mandates of California Probate Code
7 provision 15404 cannot be met.

8 Even if the Court were to disregard the mandate that both settlors be involved and
9 chose to recognize a distinction as between the two sub-trusts, permitting the Estate to concede
10 to an outright distribution of the Survivor's Trust (the A Trust) on Dinny's behalf and contrary
11 to Dinny's stated wishes, the Estate cannot act to consent to outright distribution of the Tax
12 Exempt Trust (the B Trust) because the Estate is unaffiliated with Joe.

13 In addition to the foregoing, even if the Estate could so act, which the Trustee does not
14 concede, it remains that the remainder beneficiaries still have not had notice nor have they
15 consented to the alienation of their interests.

16 *A Spendthrift Trust Was Established, Not to Be Conflated with a Supplemental Needs*
17 *Trust, Which Was Contingent*

18 Joe's and Dinny's stated reason for disallowing Amy Frasier Wilson an outright
19 distribution of her trust share, which is relatively large, was explained in the Trust and
20 articulated in terms of Amy Frasier Wilson's "spendthrift disabilities." Petition, Exhibit 6,
21 Article 2, Subsection C(7), p. 8. Spendthrift is defined by Black's Law Dictionary (11th ed.
22 2019) as "[s]omeone who spends lavishly and wastefully; a profligate." In light of that
23 concern, both of the sub-trusts mandate that Amy Frasier Wilson's distribution be held in a
24 spendthrift trust subject to specific parameters for disbursement.

25 The Estate attempts to avoid this consequence by conflating a "spendthrift trust" with a
26 "supplemental needs trust" and arguing that the restraint was placed on Amy Frasier Wilson
27 "to allow her to qualify for public assistance programs designated to support her physical
28 limitations." Motion to Confirm, p. 9, lines 11-13. Then further arguing that because Amy
Frasier Wilson is not on public assistance, the restraint placed on her distribution by her

1 parents “is no longer applicable, relevant, or purposeful.” *Id.*, lines 17-18. This argument is
2 directly belied by the Trust language itself, which provides:

3 The trustee desires that the fund set aside for Amy Michelle Frasier Wilson
4 shall last her lifetime so that the trustee will not rapidly dissipate the corpus of
5 this share by distributing the principal and interest of the trust to her. It is the
6 settlors' desire that the trustee be mindful of the fact that Amy Michelle Frasier
7 Wilson has physical limitations that prevent her from obtaining gainful
8 employment, and may have certain spendthrift disabilities, *although they do*
not amount to any legal disability, or a sufficient disability at this time to
qualify for public programs.

9 Petition, Ex. 6, Article 2, Section C(7), p. 8 (emphasis added).

10 This cited language unequivocally establishes a spendthrift trust and acknowledges that
11 Amy Frasier Wilson did not qualify for public benefits when the spendthrift trust was
12 mandated. As such, the *express* intent of requiring such was to preserve funds for Amy Frasier
13 Wilson’s lifetime in light of her recognized inability to prudently manage money *irrespective*
14 of whether she qualified for public funds sometime in the future as made clear by the language
15 following that provides “[i]n the event that she does qualify for public assistance.”

16 Nowhere is the restraint conditioned upon or stated to be made for the purpose of
17 allowing Amy Frasier Wilson to qualify for public benefits. To the contrary, regardless of
18 whether she is to qualify, it was her parents’ intent that the funds be restrained due to Amy
19 Frasier Wilson’s “spendthrift disabilities” whether or not they qualified her for public
20 assistance at a future date. If she were to qualify for public benefits then the spendthrift trust
21 sums would be managed in terms of a supplemental needs trust in support of the public
22 benefits but if she did not qualify the spendthrift trust was provided for and controlled.

23 *Allowing Modification In Addition to Being Impermissible Under Controlling Law*
24 *Would Set A Bad Precedent*

25 There is an old proverb that provides “there is no tree that would not fall if axed ten
26 times.” Having now proverbially axed the tree enough times by and through litigation that has
27 spanned over several years, in conjunction with the settlement of the Survivor’s Trust (the A
28 Trust), the Estate has acquiesced to co-petition the Court to allow Amy Frasier Wilson’s
distribution from both the Survivor’s Trust (the A Trust) *and* the Tax Exempt Trust (the B

1 Trust) to be made outright. That ultimate decision, however, rests with the Court, and the
2 Court is bound by the law, which does not support the request.

3 The Court must be cognizant that the Estate's agreement to co-petition the Court does
4 not guarantee an outright distribution but instead places the propriety of such at the foot of the
5 Court, which is bound to honor applicable law and applicable law precludes an outright
6 distribution. The Court must also be cognizant that, regardless of whether the Court denies an
7 outright distribution, the Trust litigation is positioned to be finally resolved as both the
8 Survivor's Trust (the A Trust) and the Tax Exempt Trust (the B Trust) are subject to valid and
9 binding settlement agreements. Motion to Confirm, p. 4, lines 2-4 ("Court-approval of the
10 Survivor's Trust resolution is not contingent upon modification of the Tax Exempt Trust");
11 *see* Motion to Confirm, Exhibit 1, para. 4, which provides:

12
13 **4. RESOLUTION OF THE SURVIVOR'S TRUST IS NOT CONTINGENT**
14 **ON MODIFICATION AND/OR TERMINATION OF THE TAX-EXEMPT**
15 **TRUST:** The validity, enforceability, and confirmation and approval by the Court of
16 the resolution to the Survivor's Trust described in Paragraphs 1 and 2 of this
17 Agreement are not contingent on the Court ordering a modification and/or
18 termination of the Tax-Exempt Trust as described in Paragraph 3. In other words,
19 the Court may confirm both resolutions to the Survivor's Trust and Tax-Exempt
20 Trust as stated herein, or the Court may deny modification and/or termination of the
Tax-Exempt Trust as stated in Paragraph 3 while still confirming the validity and
enforceability of the resolution of the Survivor's Trust in order to conclude the current
litigation before the Court.

21 Given the finality of settlement, there is no benefit to disregarding Joe's and Dinny's
22 intent for the purpose of purporting to conclude litigation even assuming that was a valid basis
23 to disregard the Settlers' directives, which it is not. With that, should Amy Frasier Wilson
24 choose to continue to litigate despite a Court order upholding the restraint, then that would
25 only serve to emphasize why her parents mandated the restraint to begin with.

26 The Court must also remain cognizant that the money at issue is not Amy Frasier
27 Wilson's, it was her parents', and her right to it is subject to their mandates, which were
28 dictated well before any dispute arose as to Dinny's capacity, and certainly Joe's capacity was

1 never challenged. Allowing Amy Frasier Wilson to undermine those mandates solely because
2 of an ongoing demand that is wholly independent of the basis for the continued litigation,
3 which was not a challenge to the restraint but rather a challenge to Dinny's capacity to
4 disinherit Amy Frasier Wilson and distribute to the charities, would set a bad precedent. The
5 very foundation of estate planning adjudication is to honor the intent of the settlors. Here, Joe
6 and Dinny could not have been more clear about their intent that Amy Frasier Wilson's
7 distributions be restrained.

8 *U.S. Bank Is An Interested Party for Purposes of Raising The Concerns Stated Herein*

9 California Probate Code Section 48 defines an "interested party" to include not only a
10 fiduciary but also recognizes that the term will vary "according to the particular purpose of,
11 and matter involved in, any proceeding." Nevada also recognizes that an "interested party"
12 includes a fiduciary in addition to a trustee on behalf of a trust. NRS 132.390. Both provisions
13 also recognize an interested party as a fiduciary representing an interested person where an
14 interested person is a beneficiary or any other person having a right against a trust estate or a
15 right that may be affected by a proceeding.

16 As the trustee who has a fiduciary obligation to *all of the beneficiaries* and who is
17 mandated to follow the terms of the Trust and abide by applicable law, the Trustee cannot be
18 forced into a position of supporting a nonjudicial settlement agreement based upon the
19 wrongful premise that the Trustee is not an "interested party" when the same is untrue by
20 virtue of applicable code and such an agreement plainly seeks to force the Trustee to act in
21 violation of the Trust, the sub trust, and applicable law, as well as to the detriment of remainder
22 beneficiaries who have not even been noticed. *See, e.g., Hearst v. Ganzl*, 145 Cal. App. 4th
23 1195, 1208, 52 Cal. Rptr. 3d 473, 481 (2006) ("Trustees owe a duty to all trust beneficiaries
24 [referencing remainder beneficiaries] and must treat all equally. Unless the trust instrument
25 itself provides otherwise, the trustee's duty to each beneficiary precludes it from favoring one
26 party over another. Thus, a trustee must act impartially with respect to all beneficiaries, doing
27 his or her best for the entire trust as a whole. A trustee who violates his or her duties to deal
28 impartially with all beneficiaries risks exposure to liability for breach of trust." (76 Am.Jur.2d

1 (2005) Trusts, § 359, fns. omitted, italics added.)); *see also* NRS 132.050 and California
2 Probate Code Section 24, both including in the definition of a trust beneficiary a person who
3 has a future, vested, or contingent interest.

4 Pursuant to the applicable trust documents, the Trustee is to prioritize Amy Frasier
5 Wilson over remainder beneficiaries only for distribution of spendthrift trust sums as outlined
6 by and through the applicable restraint language. The Trustee is not permitted to ignore the
7 rights of remainder beneficiaries altogether when their rights are compromised by an attempt to
8 undermine the restraint of funds to which they have an interest and with regard to which they
9 have not been noticed nor heard from.⁸

10 Again, U.S. Bank has been steadfast about the restraints placed upon Amy Frasier
11 Wilson's distribution and in prior instances has raised its concern about notice to the remainder
12 beneficiaries if their rights were to be impacted. It is that very reason that U.S. Bank was not
13 made a party to the settlement negotiations resulting in the requested confirmation and exactly
14 why the settlement of the Tax Exempt Trust (the B Trust) was not made contingent upon the
15 settlement of the Survivor's Trust (the A Trust). The Estate, which has been consistently
16 represented by the same counsel, was well aware of U.S. Bank's position and negotiated the
17 settlement in such a fashion knowing full well that the Trustee would object, thereby
18 preserving the settlement should the objection be upheld.

19 3. Controlling Trust Provisions Preclude Amy Frasier Wilson from Being Exclusively
20 Granted Primary Residence Contents

21 The final version of the initial Trust, which is the Fifth Amendment provided at
22 Petition, Exhibit 6, Article 2, Subsection C(7), p. 9-10, provides that Amy Frasier Wilson is *not*
23 to receive "the contents of the Settlor's primary residence (which are to be divided according
24 to the settlors' known wishes)." Notably, the Third Amendment to the Trust refers to an
25 Exhibit B, which is to direct the disposition of personal property, and which would be
26
27

28 ⁸ The Trustee presumes Bill, Amy Frasier Wilson's husband, is aware of and supports her endeavors but the same presumption cannot be made with respect to Brad Frasier's and Nori Frasier's children.

1 controlling; but, unfortunately, U.S. Bank has not been able to locate the referenced Exhibit B.
2 Petition, Exhibit 4, Article 2, Subsection C(3), p. 11.

3 Recently Dr. Frasier has provided to U.S. Bank a typewritten document dated
4 “5/18/2009” titled “JDFFT” (presumably standing for Jordan Dana Frasier Family Trust) in
5 addition to an envelope related thereto, which purports to be from Joe and Dinny and which
6 establishes that all personal property is to be “divided equally (to the penny) to Amy, Nori, and
7 Bradley.” A true and correct copy is provided herewith as **Exhibit 1**.

8 The settlement agreement the Court is asked to confirm provides that “[t]he charities
9 agree and consent to the Trustee distributing the beneficial interest for all personal property
10 and no-real property in the Survivor’s Trust as of March 6, 2023, excluding stock, equities,
11 cash, cash equivalents, and investment property disposed of by Paragraphs 1-4 of this
12 Agreement to Ms. Wilson.” Dr. Brad Frasier and Nori Frasier were not a party to such
13 agreement and have not consented to the same, both addressing with the Trustee personal
14 property that they wish to be awarded.

15 This Court should also be aware that the Trustee has asked for instruction with regard
16 to what sub trust the personal property should be allocated to or how it should be divided
17 between the two.⁹ See the Amended Petition for Instructions, filed on January 20, 2023, which
18 provides:

19 61. There also remains stored personal property, the appraised value of which
20 is \$32,381.00 as of May 3, 2019, but which U.S. Bank does not believe will be
21 realized if actually sold. Given the inability of interested parties to reach
22 consensus, U.S. Bank requests that such value be deemed attributed by the Court
23 to one of the subtrusts or as between the two or, alternatively, Nori has expressed
24 an interest in all of the personal property being transferred to her. Should all
interested parties agree (inclusive of the Charities), and pursuant to Nori’s
request, the appraised value can be attributed to the Tax Exempt Trust (the B

25 ⁹ Settlor owned several houses that were allocated between both trusts and only some of the Settlor’s personal
26 property is stored at the SJC House. In particular, what was already at the SJC House and the contents of the
27 Irvine House are believed to be at the SJC House but there is also the Palm Desert House, which likewise has
28 personal property. There are also specific items of personal property, such as Dinny’s wedding ring, which may
have been already taken prior to U.S. Bank’s involvement, and there are other items of family import that were set
aside and not inventoried and that remain at the SJC House.

1 Trust) and U.S. Bank will arrange to have the personal property delivered to a
2 location of Nori's choosing at her expense with both the appraised value and the
3 delivery costs being deducted from what will be Nori's share of the Tax Exempt
Trust (the B Trust).

4 and which seeks instruction by and through its prayer for relief as to "[h]ow the personal
5 property should be allocated and otherwise addressed."

6 Based upon the foregoing, the Trustee is not in a position to honor the personal
7 property held at the SJC House being distributed solely to Amy Frasier Wilson to the exclusion
8 of her siblings.

9 Because the Charities appear to have no interest in the personal property per the
10 settlement agreement sought to be confirmed, the Trustee respectfully requests that the Court
11 confirm that position with the Charities and then determine how the personal property should
12 be allocated as between Brad Frasier, Nori Frasier, and Amy Frasier Wilson.

13 As of this Objection, the requests that have been made to the Trustee in relation thereto
14 are as follows:

15 Amy Frasier Wilson: Any and all property stored at the SJC House to which she claims
16 a right based upon both the SJC House and the Irvine House having been held by the
17 Survivor's Trust (the A Trust) and the Survivor's Trust (the A Trust) having paid for
18 the personal property appraisal.

19 Brad Frasier: Per the appraisal provided as Exhibit 19 to the Petition: Box 48; Box 99;
20 Box 128; Box 143; Box 156; Box 173; Box 177; Box 185; Box 189; Box 192; Box
21 197; Box 198; Box 214; Box 216; Box 219; Box 231; Box 303; Box 305; Box 308; the
22 collection of Arthur Szyk paintings and an Arthur Szyk Haggadah; a letter written to
23 Brad, Amy, and Nori's grandfather by Harry Truman; and Dinny's wedding ring. Dr.
24 Frasier also writes: "The organs listed as 'property 34' from the Irvine home was
25 supposed to go to Sara and Elissa , Nori's daughters per Jordan Frasier's written
26 instructions."

27 Nori Frasier: All the personal property at the SJC House, with the acknowledgement
28 that personal property that had overlapping requests would be distributed as between

the parties requesting it in a fair manner, in addition to the Palm Desert House and its contents with particular emphasis on the following from the SJC House:

Kitchen			Bedroom		
	Table and 6 chairs			Beds	table in front and front hallway
	bird cage			headboard	lamps
Dining room				2 recliners	
	Table and 6 chairs			Old TV	Art work
	sewing machine			Dresser	Clothes
	china hutch			armoire	Kitchen appliances
Family room					china
	end table (2)		bedroom 1		silverware
	love seat			desk (2)	books
	couch			chairs (2)	Book of Ruth
	coffee table			couch	Mother diamond wedding ring
	TV stand ?			bookcase	car - after it has been checked out
	TVs			coffee table	Stuff she painted
organ room					Father tools and nuts/screws
	Organ		Bedroom 2		Molds
	Victorian couch			Daybed	Organ
	Victorian chair			drawing table	Statues
	Game table			large bookcase (2)	table on patio
	console		Garage		anything not in this list
entry				airplanes	The contents of Palm Springs home, with the house
	Stand (2)			Kiln	Stereo equipment

While the Trustee would normally handle the distribution of personal property, given the dynamics of this matter, the Trustee must defer to the Court and amongst other solutions, as to any property that is not deemed to belong to any one party over another, would be willing to facilitate each child drawing numbers and picking items/boxes of personal property in

1 alternative fashions so long as the Trustee could be accompanied by a third party of the
2 Trustee's choosing and paid for by one or both of the sub-trusts who would be present to
3 maintain order and ensure compliance with any procedure designated by the Court, and with
4 any resulting packaging and/or shipping to be borne as the Court may dictate.

5 WHEREFORE, U.S. Bank requests an order from the Court:

- 6 a. Directing that the distribution to Amy Frasier Wilson of any funds from
7 the Survivor's Trust (the A Trust) be subject to the mandates set forth in
8 Article Seven of the First Amendment and Restatement of the Survivor's
9 Trust Created Under the Jordan Dana Frasier Family Trust Dated
10 December 29, 1980, as entered into by Dinny G. Frasier on May 29,
11 2015;
- 12 b. Directing that the distribution to Amy Frasier Wilson of any funds from
13 the Tax Exempt Trust (the B Trust) be subject to the mandates set forth
14 in Article 2, Subsection C(7), pp. 8-10 of the Fifth Amendment of the
15 Jordan Dana Frasier Family Trust Dated December 29, 1980, as entered
16 into by Jordan D. Frasier and Dinny G. Frasier on June 7, 2000;
- 17 c. Directing the appointment of an alternative corporate trustee in lieu of
18 U.S. Bank to administer such sub-trusts for the benefit of Amy Frasier
19 Wilson as contemplated by the January 27, 2017 Settlement Agreement
20 and relieving U.S. Bank of any further obligation in relation thereto
21 upon distribution of Amy Frasier Wilson's beneficial share of the
22 Survivor's Trust (the A Trust) and the Tax Exempt Trust (the B Trust) to
23 the appointed alternative corporate trustee;

24 ///

26 ///

28 ///

- 1 d. Instructing U.S. Bank regarding the allocation and distribution of the
2 personal property; and
3 e. For such other relief as the Court may deem appropriate.
4

5 AFFIRMATION

6 This document does not contain the social security number of any person.

7 Respectfully submitted this 30th day of June 2023.

8 /s/ Patricia Halstead
9 Attorney for U.S. Bank Private Wealth Management,
10 Trustee
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee or otherwise affiliated with Halstead Law Offices and that on 30th day of June 2023, I caused a true and correct copy of the foregoing document titled OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECLTY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND to be served by depositing a copy of the document in the U.S. Mail, first class postage prepaid, to the following:

Stanley Brown, Esq.
c/o Patrick Millsap, Esq.
510 W. Plumb Lane, Ste. A
Reno, NV 89509

Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

Amy Frasier Wilson
c/o Mark Simons, Esq.
690 Sierra Rose Drive
Reno, NV 89511

Chapman University; Temple Beth
Shalom; Irvine Community Alliance
Fund; ASPCA; and St. Jude Children's
Research Hospital
c/o Ryan Earl, Esq.
548 W. Plumb Lane
Reno, NV 89509

/s/ Patricia Halstead

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