
**AMENDMENT AND RESTATEMENT OF
THE BLACK FAMILY 1997 TRUST AGREEMENT**

Dated: _____

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
I : TRUST FUND	4
II : THE BLACK FAMILY 1997 TRUST	4
III : SEPARATE PORTION A TRUSTS FOR ISSUE.....	5
IV : SEPARATE PORTION B TRUSTS FOR ISSUE.....	8
V : SPECIAL DISTRIBUTION RULES	15
VI : ADDITIONS.....	19
VII : TRUSTEES' INVESTMENT AND ADMINISTRATIVE POWERS	20
VIII : RESTRICTIONS ON POWERS.....	39
IX : IRREVOCABILITY; MODIFICATION	42
X : ACCOUNTING BY TRUSTEES	46
XI : TRUSTEE DESIGNATIONS, RESIGNATIONS, AND REMOVALS.....	48
XII : ACTION BY TRUSTEES	56
XIII : LIABILITY AND INDEMNITY OF TRUSTEES	57
XIV : ORIGINAL DEFINITIONS	59
XV : 2012 DEFINITIONS AND RULES OF CONSTRUCTION	62

WHEREAS, by trust agreement dated July 30, 1997 by and among LEON D. BLACK, as settlor (the "Settlor"), and DEBRA R. BLACK ("DEBRA"), BARRY J. COHEN ("BARRY"), JOHN J. HANNAN ("JOHN") and RICHARD RESSLER ("RICHARD"), as trustees (the "Original Trust Agreement"), the BLACK FAMILY 1997 TRUST (the "Family Trust") was created; and

WHEREAS, by an instrument dated December 28, 2009, the trustees of the Family Trust (1) divided the Family Trust into two separate trusts, one which continues to be known as the BLACK FAMILY 1997 TRUST (the "Non-GST Exempt Trust") and one of which is known as the LEON D. BLACK 2007 GST EXEMPT FAMILY TRUST (the "GST Exempt Trust"), and (2) allocated to (a) the GST Exempt Trust a fraction of the assets held in the Family Trust on the date of this Instrument of Division the numerator of which is TWO MILLION NINE HUNDRED FIFTY-TWO THOUSAND EIGHTY-FIVE (2,952,085) and the denominator of which is the fair market value of the assets held in the Family Trust as of the date of this Instrument of Division and (b) the Non-GST Exempt Trust the balance of the assets of the Family Trust.

WHEREAS, DEBRA, BARRY, JOHN and RICHARD are currently the trustees under the Original Trust Agreement, and BARRY, JOHN and RICHARD are currently the Independent Trustees (as defined in the Original Trust Agreement) under the Original Trust Agreement; and

WHEREAS, pursuant to article III of the Original Trust Agreement, the Independent Trustees (as defined in the Original Trust Agreement) may amend the Original Trust Agreement at any time while either the Settlor or DEBRA is alive and not under a disability, subject to certain prohibitions set forth in section (B) of article III of the Original Trust Agreement, by written instrument signed by all of the Independent Trustees then serving, which

amendment shall be effective not earlier than thirty (30) days after the date a copy of the instrument is delivered to the Settlor; and

WHEREAS, pursuant to article VII(B) of the Original Trust Agreement, the Trustees may change the situs of administration and governing law of any trust held under the Original Trust Agreement from one jurisdiction to another; and

WHEREAS, pursuant to article XII(A) of the Original Trust Agreement, at any time or from time to time the Settlor may designate additional and/or successor trustees under the Original Trust Agreement; and

WHEREAS, pursuant to article XII(H) of the Original Trust Agreement, before taking office each person other than an original trustee shall accept the terms of the Original Trust Agreement and shall agree to act as trustee under the Original Trust Agreement by signing a written instrument to that effect; and

WHEREAS, the Settlor and DEBRA are alive and not under a disability; and

WHEREAS, the Trustees would like to change the situs of administration of the law governing all trusts under the Original Trust Agreement other than the GST Exempt Trust from New York to Delaware; and

WHEREAS, the Independent Trustees now would like to amend the Original Trust Agreement in certain respects as it pertains to the Non-GST Exempt Trust and restate in this one instrument the Original Trust Agreement as it pertains to the Non-GST Exempt Trust; and

WHEREAS, the desired amendments to the Original Trust Agreement are not prohibited by section (B) of article III of the Original Trust Agreement.

WHEREAS, the Settlor would like to designate U.S. TRUST COMPANY OF DELAWARE (“U.S. TRUST”) as directed trustee (hereinafter referred to as “Administrative Trustee”) of all trusts under the Original Trust Agreement other than the GST Exempt Trust; and

WHEREAS, U.S. TRUST, as Administrative Trustee, would like to accept the terms of the Original Trust Agreement and agrees to act as trustee.

NOW, THEREFORE,

(1) First, the Trustees hereby change the situs of administration of the law governing all trusts under the Original Trust Agreement other than the GST Exempt Trust from New York to Delaware.

(2) Second, the Independent Trustees hereby amend and restate the Original Trust Agreement in its entirety as it pertains to the Non-GST Exempt Trust, such amendment and restatement to be effective on the date that occurs thirty (30) days after a copy of this instrument has been delivered to the Settlor. The Amendment and Restatement as set forth in this instrument, and as it may be amended in the future, shall be relied upon by the persons dealing with the trustees and the trusts held hereunder as the sole governing instrument of the BLACK FAMILY 1997 TRUST.

(3) Third, the Settlor hereby designates U.S. TRUST COMPANY OF DELAWARE as Administrative Trustee of all trusts under the Original Trust Agreement other than the GST Exempt Trust.

(4) Fourth, U.S. TRUST COMPANY OF DELAWARE, as Administrative Trustee, hereby accepts the terms of the Original Trust Agreement and agrees to act as trustee of all trusts under the Original Trust Agreement other than the GST Exempt Trust.

(5) Fifth, the Original Trust Agreement shall continue to govern the GST Exempt Trust and DEBRA, BARRY, JOHN and RICHARD shall continue to serve as Trustee of such trust and U.S. TRUST COMPANY OF DELAWARE shall not serve as Administrative Trustee of such trust.

I: TRUST FUND

The Trustees of the Non-GST Exempt Trust agree to continue to hold the Trust Fund of the Non-GST Exempt Trust in trust and to manage and dispose of such assets in accordance with the provisions of this Trust Agreement. This Trust shall be identified as the "BLACK FAMILY 1997 TRUST," the dispositive provisions of which are set forth in Article II. The Beneficiaries under this Trust Agreement at any particular time are those of the Settlor's spouse and the Settlor's issue who are then living. This Trust Agreement shall be identified as the "BLACK FAMILY 1997 TRUST AGREEMENT." The definitions of the other terms used in this Trust Agreement are set forth in Article XIV or in Article XV or where they first appear.

II: THE BLACK FAMILY 1997 TRUST

Following are the dispositive provisions of the "BLACK FAMILY 1997 TRUST":

(A) ***Distributions.*** (1) The Trustees shall pay or apply as much of the Trust Fund as the Independent Trustees, in their sole discretion, shall determine, to or for the benefit of such one or more of the Beneficiaries (to the exclusion of any one or more of them) and in such amounts or proportions as the Independent Trustees, in their sole discretion, shall determine. Payments or applications pursuant to this subsection may be made at any time or from time to time, for any reason or purpose whatsoever. In exercising the discretion granted in this subsection, the Independent Trustees need not, but may, consider such of the financial resources apart from the Trust as they deem appropriate of the Beneficiaries, or any one or more of them.

(2) At the end of each year, the Trustees shall add to principal any net income not paid or applied pursuant to the previous provisions of this section. The Settlor confirms that the entire Trust Fund may be distributed at any time to or for the benefit of any one or more of

the Beneficiaries pursuant to this section, even though such distribution terminates the Trust, without regard to the interest of any remainderman of the Trust.

(B) ***Trust Termination.*** (1) Unless sooner terminated by the distribution of the entire Trust Fund, the Trust shall terminate upon the death of the Settlor, or, if the Settlor is survived by the Settlor's spouse, upon the earlier to occur of the death of the Settlor's spouse and the Perpetuities Date. The date on which the Trust is to terminate is referred to as the "Termination Date." Upon such termination, the Trustees shall pay seventy-five (75%) percent of the Trust Fund ("Portion A") to the Settlor's issue living on the Termination Date, subject to the provisions of Article III. The Trustees shall pay the remaining twenty-five (25%) percent of the Trust Fund ("Portion B") to the Settlor's issue living on the Termination Date, subject to the provisions of Article IV.

(2) Notwithstanding subsection (1), at any time or from time to time within one year following the Termination Date, and before actual distribution of the Trust Fund in accordance with subsection (1), the Trustees shall have the power to make loans to and to purchase assets from any estate or any trust, as described in Article VII, and to delay the actual distribution of the Trust Fund for that purpose. The authority granted by the preceding sentence shall not affect the vesting of the Trust Fund, which shall be determined as of the date of the Trust's termination as described in the first sentence of subsection (1).

III: SEPARATE PORTION A TRUSTS FOR ISSUE

If at the termination of the Trust under Article II any share of Portion A of such Trust is payable to an issue of the Settlor subject to the provisions of this Article or if at the termination of any held Trust under this Article any share of such Trust is payable to an issue of the Settlor subject to the provisions of this Article each such share shall not be paid outright to

such issue (referred to in this Article as the “Primary Beneficiary”), but shall instead be held in as many separate Trusts for the benefit of the Primary Beneficiary upon the terms set forth in this Article as the Trustees of such terminated Trust, in their sole discretion, shall direct.

(A) ***Distributions.*** (1) The Trustees shall pay to the Primary Beneficiary, or apply for his or her benefit, as much of the Trust Fund as the Trustees, in their sole discretion, shall determine is necessary for the Primary Beneficiary’s health, education, support and maintenance, taking into consideration the Primary Beneficiary’s financial resources apart from the Trust.

(2) The Trustees shall pay to the Primary Beneficiary or apply for his or her benefit, as much of the Trust Fund as the Independent Trustees, in their sole discretion, shall determine. Payments or applications pursuant to this subsection may be made at any time or from time to time, for any reason or purpose whatsoever. In exercising the discretion granted in this subsection, the Independent Trustees need not, but may, consider such of the Primary Beneficiary’s financial resources apart from the Trust as they deem appropriate.

(3) Without limiting the scope of the Independent’s power to direct payments to or applications for the benefit of the Primary Beneficiary, it is suggested that the Independent Trustees direct distributions from the Trust to finance the Primary Beneficiary’s education, to cover any of the Primary Beneficiary’s medical expenditures, or to help the Primary Beneficiary purchase or finance a home, pay for a wedding or start a business, provided, however, that such business has a solid business plan that has been approved by the Trustees.

(4) At the end of each year, the Trustees shall add to principal any net income not so paid or applied. The Settlor confirms that the entire Trust Fund may be distributed at any

time to or for the benefit of the Primary Beneficiary pursuant to this section, even though such distribution terminates the Trust, without regard to the interest of any remainderman of the Trust.

(5) Notwithstanding anything contained in this Trust Agreement to the contrary, no distributions shall be made to the Primary Beneficiary in accordance with the provisions of this section without the consent of the Corporate Trustee.

(B) ***Power of Appointment.*** (1) The Independent Trustees, at any time, may grant to the Primary Beneficiary a general power of appointment (as defined in § 2041 of the Code) or a limited power of appointment, either of which may be subject to such restrictions as the Independent Trustees set forth in the instrument by which the power is granted. The grant of this power shall be effected by written instrument signed by a majority of the Independent Trustees and delivered to the Primary Beneficiary, and may be revoked at any time during the Primary Beneficiary's lifetime by written instrument of revocation signed by a majority of the Independent Trustees and delivered to the Primary Beneficiary. If revoked, a new power of appointment may be granted as provided in the preceding provisions of this subsection. Notwithstanding anything contained in this section to the contrary, the Trustees shall not grant to the Primary Beneficiary a power of appointment without the consent of the Corporate Trustee.

(2) In considering whether to grant a general power of appointment to the Primary Beneficiary, the Settlor requests that the Independent Trustees give particular consideration to the likelihood that generation-skipping transfer taxes imposed on the Trust at the Primary Beneficiary's death would exceed the estate taxes otherwise payable with respect to the Trust if the Trust Fund were included in the Primary Beneficiary's gross estate for estate tax purposes. For this purpose, the Independent Trustees may rely without further investigation on a

statement provided by or on behalf of the Primary Beneficiary as to the potential value of the Primary Beneficiary's gross estate.

(C) ***Trust Termination.*** Unless sooner terminated by the distribution of the entire Trust Fund, the Trust shall terminate on the date of the Primary Beneficiary's death. Upon such termination, the Trustees shall pay the Trust Fund, if and to the extent not effectively appointed pursuant to a power granted under this Article, to the Primary Beneficiary's issue who survive the Primary Beneficiary, or, if no issue of the Primary Beneficiary survives the Primary Beneficiary, to the issue who survive the Primary Beneficiary of the Primary Beneficiary's nearest ancestor who was an issue of the Settlor and who has issue who survive the Primary Beneficiary, or, if there is no such ancestor or issue, to the Settlor's issue who survive the Primary Beneficiary, subject, in each case, to the provisions of this Article.

(D) ***Termination on Perpetuities Date.*** Notwithstanding any other provision of this Trust Agreement, the Trust shall terminate, unless it terminates sooner, on the Perpetuities Date. If the Trust terminates pursuant to this section, the Trustees shall pay the Trust Fund to the Primary Beneficiary, outright and not in trust.

IV: SEPARATE PORTION B TRUSTS FOR ISSUE

If at the termination of the Trust under Article II any share of Portion B of such Trust is payable to an issue of the Settlor subject to the provisions of this Article or if at the termination of any held Trust under this Article any share of such Trust is payable to an issue of the Settlor subject to the provisions of this Article each such share shall not be paid outright to such issue (referred to in this Article as the "Primary Beneficiary"), but shall instead be held in as many separate Trusts for the benefit of the Primary Beneficiary upon the terms set forth in this Article as the Trustees of such terminated Trust, in their sole discretion, shall direct.

(A) **Distributions.** (1) The Trustees shall pay to the Primary Beneficiary, or apply for his or her benefit, as much of the Trust Fund as the Trustees, in their sole discretion, shall determine is necessary for the Primary Beneficiary's health, education, support and maintenance, taking into consideration the Primary Beneficiary's financial resources apart from the Trust.

(2) The Trustees shall pay to the Primary Beneficiary or apply for his or her benefit, as much of the Trust Fund as the Independent Trustees, in their sole discretion, shall determine. Payments or applications pursuant to this subsection may be made at any time or from time to time, for any reason or purpose whatsoever. In exercising the discretion granted in this subsection, the Independent Trustees need not, but may, consider such of the Primary Beneficiary's financial resources apart from the Trust as they deem appropriate.

(3) Without limiting the scope of the Independent's power to direct payments to or applications for the benefit of the Primary Beneficiary, it is suggested that the Independent Trustees direct distributions from the Trust to finance the Primary Beneficiary's education, to cover any of the Primary Beneficiary's medical expenditures, or to help the Primary Beneficiary purchase or finance a home, pay for a wedding or start a business, provided, however, that such business has a solid business plan that has been approved by the Trustees.

(4) At the end of each year, the Trustees shall add to principal any net income not so paid or applied. The Settlor confirms that the entire Trust Fund may be distributed at any time to or for the benefit of the Primary Beneficiary pursuant to this section, even though such distribution terminates the Trust, without regard to the interest of any remainderman of the Trust.

(B) **Primary Beneficiary's Right to Direct Payment.** (1) In each calendar year prior to the year of the Primary Beneficiary's death, if the Primary Beneficiary is competent

and at least thirty-five (35) years of age at the beginning of such year, the Primary Beneficiary shall have the absolute right, from time to time, to direct the Trustees to pay to the Primary Beneficiary out of the Trust Fund an aggregate amount not exceeding the amount (the "Annual Amount"), if any, by which (i) an amount equal to the lesser of (a) FIVE MILLION DOLLARS (\$5,000,000), adjusted as provided in subsection (5) (as so adjusted, the "Limitation Amount"), and (b) three percent (3%) of the Trust Fund valued on the Withdrawal Valuation Date as hereinafter defined of the calendar year in which the Primary Beneficiary submits such direction exceeds (ii) the sum of all amounts paid or applied pursuant to section (A) to or for the benefit of the Primary Beneficiary during the calendar year, provided that such Primary Beneficiary's right to direct such payment has not been postponed, suspended or terminated pursuant to Article V(F). For purposes of this section, the term "calendar year" shall include the portion of the calendar year following the Trust Commencement Date, but shall not include the portion of the calendar year of the Primary Beneficiary's death that precedes the Primary Beneficiary's death. The right to direct payment shall be noncumulative and shall be exercised by a written instrument signed by the Primary Beneficiary alone (and not by any guardian, conservator, committee, attorney-in-fact or other legal representative purporting to act on the Primary Beneficiary's behalf) and delivered to the Trustees prior to the close of such year.

(2) In any particular calendar year, the Trustees are authorized to make payments to the Primary Beneficiary on account of the Annual Amount based upon the lesser of (a) the value of the Trust Fund at the time of such direction and (b) the value of the Trust Fund on the first day of such calendar year, notwithstanding that (i) the Annual Amount cannot be precisely determined until the end of such year and (ii) the Primary Beneficiary may not be living at the end of such year. At the end of such year, in determining the Annual Amount, any

such payment shall be treated as an asset, in the form of a loan from the Trust, valued at the amount distributed, until the moment immediately following the time of determination of the Annual Amount. If it is determined, after the end of such year, that there has been an overpayment, then the Primary Beneficiary (or the Primary Beneficiary's Personal Representatives, if the Primary Beneficiary is not then living) shall repay to the Trustees the amount by which the aggregate payments made in such year on account of the Annual Amount exceed the Annual Amount. The Primary Beneficiary's Personal Representatives shall repay to the Trustees an amount equal to the aggregate payments, if any, made to the Primary Beneficiary during the year of the Primary Beneficiary's death on account of the Annual Amount.

(3) For purposes of this section, the "Withdrawal Valuation Date" for any particular calendar year shall be the first day of such calendar year, unless the value of the Trust Fund on the last day of such calendar year is less than the value of the Trust Fund on the first day of such calendar year, in which case the "Withdrawal Valuation Date" for such calendar year shall be the last day of such calendar year.

(4) If more than one Trust is held under this Article for the benefit of the Primary Beneficiary, the Primary Beneficiary shall be permitted to exercise the right to direct payment described in this section with respect to any such Trust only to the extent the amount paid to the Primary Beneficiary in any particular year does not exceed the amount by which (i) an amount equal to the lesser of (a) the Limitation Amount, and (b) three percent (3%) of the Trust Fund of all such Trusts valued on the Withdrawal Valuation Date of the calendar year in which the Primary Beneficiary submits such direction exceeds (ii) the sum of all amounts paid or applied pursuant to section (A) from all such Trusts to or for the benefit of the Primary Beneficiary during the calendar year. If one or more trusts held under other trust instruments is

held for the primary benefit of the Primary Beneficiary and provides the Primary Beneficiary with a withdrawal power that is substantially similar to the withdrawal power in this Trust Agreement (a "Similar Trust"), and that power is also subject to a limitation based on the Limitation Amount, the Primary Beneficiary's withdrawal power from all Trusts and all Similar Trusts shall be limited to the Limitation Amount in any particular year. If the Primary Beneficiary in any particular year exercises his or her withdrawal right with respect to one or more Trusts and one or more Similar Trusts, the Independent Trustees shall confer with the trustees of all other Similar Trusts with respect to which the Primary Beneficiary has attempted to exercise his withdrawal rights in such year and shall agree as to which trusts shall satisfy his or her exercise of the withdrawal right.

(5) Whenever in this Article an amount is required to be adjusted as provided in this subsection, the Trustees shall multiply such amount by a fraction, the numerator of which shall be the Consumer Price Index for January of the calendar year in which such amount is to be paid and the denominator of which shall be the Consumer Price Index for December 2006, and if the resulting amount is greater than the original amount, then such prorated amount shall be substituted for the original amount and shall be paid to the designated recipient in lieu thereof.

(C) ***Powers of Appointment.*** (1) At any time or from time to time, the Primary Beneficiary, if he or she is at least thirty-five (35) years of age, shall have the power to appoint any part or all of the Trust Fund to or for the benefit of such one or more of the Settlor's issue (other than the Primary Beneficiary and other than those whose deaths preceded the time the appointment is effective) in such amounts and proportions, either outright or in further trust, upon such terms and conditions (including the granting to the appointee of a further and general or limited power of appointment), and to the exclusion of any one or more of them, as the

Primary Beneficiary shall determine, provided that such Primary Beneficiary's power of appointment has not been postponed, suspended or terminated pursuant to Article V(F). The Primary Beneficiary may exercise this power of appointment either (a) by a written instrument that is signed and acknowledged by the Primary Beneficiary and delivered to the Trustees, all at a time when the Primary Beneficiary is competent, and that makes specific reference to this section or (b) by a provision in his or her Will that makes specific reference to this section. Any appointment made by such exercise shall be effective on the date of the Primary Beneficiary's death.

(2) (a) The Independent Trustees, at any time, may grant to the Primary Beneficiary a general power of appointment (as defined in § 2041 of the Code) or a limited power of appointment, either of which may be subject to such restrictions as the Independent Trustees set forth in the instrument by which the power is granted. The grant of this power shall be effected by written instrument signed by a majority of the Independent Trustees and delivered to the Primary Beneficiary, and may be revoked at any time during the Primary Beneficiary's lifetime by written instrument of revocation signed by a majority of the Independent Trustees and delivered to the Primary Beneficiary. If revoked, a new power of appointment may be granted as provided in the preceding provisions of this subsection.

(b) In considering whether to grant a general power of appointment to the Primary Beneficiary, the Settlor requests that the Independent Trustees give particular consideration to the likelihood that generation-skipping transfer taxes imposed on the Trust at the Primary Beneficiary's death would exceed the estate taxes otherwise payable with respect to the Trust if the Trust Fund were included in the Primary Beneficiary's gross estate for estate tax purposes. For this purpose, the Independent Trustees may rely without further investigation on a

statement provided by or on behalf of the Primary Beneficiary as to the potential value of the Primary Beneficiary's gross estate.

(D) ***Trust Termination.*** Unless sooner terminated by the distribution of the entire Trust Fund, the Trust shall terminate on the date of the Primary Beneficiary's death. Upon such termination, the Trustees shall pay the Trust Fund, if and to the extent not effectively appointed pursuant to a power granted under this Article, to the Primary Beneficiary's issue who survive the Primary Beneficiary, or, if no issue of the Primary Beneficiary survives the Primary Beneficiary, to the issue who survive the Primary Beneficiary of the Primary Beneficiary's nearest ancestor who was an issue of the Settlor and who has issue who survive the Primary Beneficiary, or, if there is no such ancestor or issue, to the Settlor's issue who survive the Primary Beneficiary, subject, in each case, to the provisions of this Article.

(E) ***Recharacterization of Trust Assets.*** If a Primary Beneficiary of the Settlor who is a Child of the Settlor gets married without entering into a prenuptial or postnuptial agreement with his or her spouse that in the judgment of the Independent Trustees adequately protects the Primary Beneficiary's assets, the Trust's assets shall cease to be treated as if they were derived from Portion B and instead shall be treated as if they were derived from Portion A. The provisions of Article III, and not the provisions of this Article, shall apply to the Trust, and for all purposes of this Trust Agreement the Primary Beneficiary shall have only those powers with respect to the Trust granted to him or her under Article III or under any other provision of the Trust Agreement.

(F) ***Termination on Perpetuities Date.*** Notwithstanding any other provision of this Trust Agreement, the Trust shall terminate, unless it shall have sooner terminated, on the

Perpetuities Date. Upon such termination, the Trustees shall pay the Trust Fund to the Primary Beneficiary, outright and not in trust.

V: SPECIAL DISTRIBUTION RULES

(A) ***Per Stirpital Distributions.*** Except when otherwise provided, mandatory distributions or payments of property to the issue of a particular individual (including distributions subject to the provisions of Article III or Article IV) shall be distributed or paid on a per stirpes basis. The preceding sentence shall not apply to discretionary distributions or payments, or to payments made pursuant to the exercise of a power of appointment granted under this Trust Agreement. A per stirpital distribution or payment shall require an initial division into the number of shares required to provide one share for each then living child of such individual, if any, and one share for each then deceased child of such individual who has issue then living. Each then living child shall be allotted one share and the share of each deceased child shall be divided in the same manner among such deceased child's then living issue.

(B) ***Beneficiaries Under a Legal Disability or Under 21.*** (1) Distribution of any money or other property from any Trust to an individual who is under a legal disability may, in the sole discretion of the Trustees, be made directly to that individual, or to any Person (including a Trustee) who is that individual's parent or that individual's guardian, conservator or similar fiduciary in whatever jurisdiction appointed and however denominated.

(2) In addition, distribution of any money or other property from any Trust to an individual who is younger than twenty-one (21) years of age (whether or not he or she is an "infant" or "minor" under local law and whether or not he or she is under any other legal disability), may be made to a Person selected by the Trustees (including a Trustee) as custodian

for such individual's benefit under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any jurisdiction.

(3) Any receipt or release furnished by a Person who receives a distribution pursuant to this section on behalf of a beneficiary shall fully release and discharge the Trustees with respect to such distribution, even though the Person furnishing such receipt or release is a Trustee.

(4) Notwithstanding the preceding provisions of this section, no distribution of property pursuant to this section or pursuant to law may be made to the Settlor in any capacity.

(C) **Survivorship.** Any beneficiary whose entitlement to property (whether income or principal and whether outright or in trust) under this Trust Agreement depends upon his or her surviving the occurrence of some event who dies under such circumstances that it is difficult or impossible to determine whether or not he or she was alive upon the occurrence of such event shall be deemed for all purposes of this Trust Agreement to have died prior to the occurrence of such event.

(D) **Undisposed of Property.** If upon the occurrence of any event any share of a terminated Trust shall not be completely disposed of by the other provisions of this Trust Agreement, then such undisposed of share shall be paid to those individuals who would have inherited it from the Settlor, and in the same proportions in which they would have shared it, had the Settlor then died intestate, unmarried, the owner of it, and a resident of the State of New York.

(E) **Assignment of Trust Interests.** No disposition, charge, or encumbrance of the income or principal of any Trust, or any part thereof, by way of anticipation, alienation, or

otherwise shall be valid or in any way binding upon the Trustees. No beneficiary of any Trust may assign, transfer, encumber or otherwise dispose of the income or principal of such Trust, or any part thereof, until it shall be paid to such beneficiary by the Trustees. The preceding provisions of this section shall not apply in the case of an exercise of a power of appointment. No income or principal of any Trust, or any part thereof, shall be liable to any claim of any creditor.

(F) ***Power to Postpone.*** (1) This Trust Agreement gives each Primary Beneficiary of a Trust under Article III or Article IV certain powers beginning on the date on which he or she attains the age of thirty-five (35) years or beginning with the first calendar year following the calendar year in which the Primary Beneficiary attained the age of thirty-five (35) years.

(a) The Independent Trustees of a Trust under Article III or Article IV may postpone the age or ages at or after which the Primary Beneficiary of such Trust may acquire such powers, taking into account any prior postponements pursuant to this section. A postponement pursuant to this paragraph shall be effected by a written instrument signed by the Independent Trustees of such Trust and delivered to the Primary Beneficiary at any time prior to the Primary Beneficiary's acquisition of such power.

(b) The Independent Trustees of a terminating Trust under Article II, III or IV may, prior to funding a Trust under Article III or Article IV, as the case may be, postpone the age or ages at or after which the Primary Beneficiary of such Trust would acquire such powers. A postponement pursuant to this paragraph shall be effected by a written instrument signed by the Independent Trustees of the terminating Trust and delivered to such Primary Beneficiary no later

than thirty (30) days after the occurrence of the event upon which the terminating Trust terminates.

(c) The Independent Trustees of a Trust under Article III or Article IV may suspend or terminate the Primary Beneficiary's right to direct payment (in the case of a Trust held under Article IV) and/or the Primary Beneficiary's power of appointment under such Article, notwithstanding that either or both powers may have been previously exercised by the Primary Beneficiary. A suspension or termination pursuant to this paragraph shall be effected by a written instrument signed by the Independent Trustees of such Trust and delivered to the Primary Beneficiary prior to the Trust's termination.

(2) A postponement, suspension or termination pursuant to this section may be made by the Independent Trustees only if they determine that there is a compelling reason therefor, such as a serious illness or disability of such Primary Beneficiary, a pending divorce, potential or pending creditor claims, potential tax disadvantage to such Primary Beneficiary or his or her family, or similar substantial cause.

(G) *Exercise of Powers of Appointment.* With regard to any power of appointment granted under this Trust Agreement that may be exercised by the Will of the holder of the power, the Trustees may rely on any instrument purporting to be a certified copy of the Will of the holder of the power. Commencing six (6) months after the death of the holder of the power, the Trustees (if they have no actual notice of the existence of a purported will of the holder that exercises such power) shall incur no personal liability for administering the Trust as though the holder had not exercised the power. If the Will that exercises the power is subsequently discovered, any disposition of the Trust property by the Trustees shall be without prejudice to the rights of any appointee to recover the property from any Person to whom the

Trustees have paid assets of the Trust or from the Trustees (in their capacities as Trustees) to the extent of any remaining Trust property.

VI: ADDITIONS

(A) ***General Provisions Regarding Additions.*** The Settlor or any other Person may add property to any Trust (i) by lifetime transfers of additional property; (ii) by Will; (iii) by naming the Trustees as beneficiaries of one or more life insurance policies; or (iv) by any other means; provided that, except as otherwise provided in section (B), the Trustees, in their sole discretion, may decline to accept all or any portion of the additions, and may, in their sole discretion, accept conditional transfers or additions. If the Trustees agree to accept any additions, they need not retain any property in the form received. The Trustees shall add any property that they accept to the Trust designated by the donor, or failing such designation, this property shall be allocated ratably to all Trusts then held under this Trust Agreement.

(B) ***Pour-Over Additions From Related Trusts.*** (1) Notwithstanding the provisions of section (A), the Trustees of a Trust shall accept any property that is directed to be paid to such Trust under the provisions of the Settlor's Will or any Related Trust (a "Pour-Over").

(2) If a Pour-Over is directed to be made to a Trust under a particular Article of this Trust Agreement to or for the benefit of an issue of the Settlor and more than one such Trust is then in existence, and the instrument or instructions governing the Pour-Over do not otherwise specify, such Pour-Over shall be allocated among such Trusts in such amounts or proportions, and to the exclusion of any one or more of them, as the Independent Trustees, in their sole discretion, shall direct.

(3) For purposes of this section, a Pour-Over to a trust for the primary benefit of an issue of the Settlor under this Trust Agreement shall be given effect even though such Trust has yet to be created under this Trust Agreement or has previously terminated. In that event, the Trustees shall accept such Pour-Over and administer it under the terms of this Trust Agreement as though such Trust had previously been created or had never previously terminated, as the case may be.

(4) As used in this section, the term "Related Trust" means (i) a trust held under a trust agreement created by the Settlor during the Settlor's lifetime or under the Settlor's Will, or (ii) a trust held under any successor instrument amending or restating one or more trusts described in clause (i).

VII: TRUSTEES' INVESTMENT AND

ADMINISTRATIVE POWERS

(A) ***Overriding Limitation on Powers.*** The provisions of this Article are expressly subordinate to the overriding provisions of Article VIII.

(B) ***General Powers.*** The Trustees shall have all powers and discretion conferred generally upon fiduciaries by the laws of the State of Delaware and by other provisions of law. Without limiting the foregoing, the Trustees shall also have the following powers and discretion as to all property of whatever kind at any time held by them, including income held by them, until final distribution, which they may exercise as they deem advisable:

(1) To sell, purchase, exchange, invest and reinvest in bonds, preferred or common stocks, mortgages, mutual funds or money market funds, interests in any kind of investment trust, partnership or limited liability company, or other evidences of rights, interests or obligations, secured or unsecured, foreign or domestic, or any other property, real or personal and whether or not in the nature of a wasting asset, without any duty to diversify investments, and fully free of any

and all restrictions imposed by law upon the investment of funds held by a fiduciary; and to retain the same for any period of time without liability therefor;

(2) To employ such one or more agents, accountants, custodians, experts and counsel, legal or investment (including any firm with which any of the Trustees may be affiliated), as the Trustees shall determine, to delegate discretionary powers to them, to rely upon information or advice furnished by them, and to compensate them out of the Trust Fund of the Trust or Trusts on behalf of which the engagement was made (and not out of the Trustees' commissions);

(3) To improve, lease for any term (whether or not such term is beyond the term of the administration of the Trust which is the lessor or the term fixed by any law) to any Person including the Settlor, partition or otherwise deal with or dispose of any real or personal property or any interest therein; to demolish or to make alterations in and extraordinary improvements to any building now or hereafter located on any such property; to construct new buildings; and to enter into contracts or grant options (for any period) as to any of the foregoing;

(4) To consent to the modification, renewal or extension of any note, whether or not secured, or any bond or mortgage, or any term or provision thereof, or any guarantee thereof, or to the release of such guarantee; to release obligors on bonds secured by mortgages or to refrain from instituting suits or actions against such obligors for deficiencies; to use property held under this Trust Agreement for the protection of any investment in real property or in any mortgage on real property;

(5) To abandon any property, real or personal, that they deem to be worthless or not of enough value to warrant keeping or protecting; to abstain from the repairs, maintenance and upkeep of such property, and from the payment of taxes, water rents, and assessments regarding such property; to permit such property to be lost by tax sale or other proceeding, or to convey it for nominal or no consideration;

(6) To exercise or dispose of any or all options, privileges or rights of any nature appurtenant or incident to the ownership of any property, including but not limited to rights to vote, assent, subscribe or convert; to become a party to, or deposit securities or other property under, or accept securities issued under, any voting trust agreement;

(7) To assent to or participate in any reorganization, readjustment, recapitalization, liquidation, partial liquidation, consolidation, merger, dissolution, sale or purchase of assets, lease, mortgage, contract or other action or proceeding by any corporation and, in that connection, to subscribe to new securities, to exchange any property for any other property, and to pay any assessments or other

expenses; to delegate discretionary powers to any reorganization, protective or similar committee;

(8) To borrow money from any party, including the Settlor or any of the Trustees, for any purpose whatsoever, and to give or not to give security for the loan;

(9) To consent, or to decline to consent, to the election (including any that is now in effect) by any corporation to be taxed under subchapter S of the Code or any comparable provision under state law;

(10) To make any loans, either secured or unsecured, in such amounts, and upon such terms as to interest and repayment, and to such Persons (including, but not limited to, the Personal Representatives of any estate and the trustees of any trust), as they determine in their discretion, and, in the case of a loan to any estate or trust, irrespective of whether any beneficiary, Personal Representative or trustee of any such estate or trust is a beneficiary or Trustee under this Trust Agreement; provided that all loans, other than loans from a Trust to a beneficiary of that Trust to whom current distributions of income may be made, shall be made at a reasonable rate of interest, and provided further that only the Independent Trustees may participate in any decision to lend property at less than a reasonable rate of interest;

(11) To purchase assets at their fair market value from any estate or trust, upon such terms and conditions as they shall determine, and irrespective of whether any beneficiary, Personal Representative or trustee of such estate or trust is a beneficiary or Trustee hereunder;

(12) To sell, liquidate, incorporate or carry on (for any period) any business which is or was conducted by the Settlor or in which the Settlor is or was interested as shareholder, partner or otherwise;

(13) To hold property in the name of a nominee or unregistered or in such form as will pass by delivery;

(14) To remove all or part of the assets or change the situs of administration of any Trust from one jurisdiction to another jurisdiction, and to elect, by an instrument signed by the Trustees of such Trust and filed with the records of such Trust, that the law of any other jurisdiction shall thereafter govern any one or more of the administration of any Trust, the construction of the terms of any Trust and the validity of any Trust to such extent as the Trustees may deem necessary and appropriate, at any time or from time to time (and any number of times) as they deem advisable;

(15) To satisfy any disposition (other than a specific disposition) or effect any distribution of income or principal with any property not otherwise

specifically disposed of, including an undivided interest in property, in kind or in cash or partly in each to any one or more beneficiaries, whether or not the same kind of property is distributed to other beneficiaries having comparable interests;

(16) To credit receipts (including, but not limited to, gains from the sale or exchange of property) and to charge expenditures and other disbursements to or between income and principal in such amounts and proportions as the Trustees deem advisable, without regard to any prior allocation made at any time and notwithstanding any contrary provision of law;

(17) To open and maintain bank accounts and brokerage accounts, including margin accounts;

(18) To do any and all acts, to exercise any and all rights, to enter into any and all proceedings, contracts (including contracts containing guarantees, warranties, representations and indemnifications of any kind or nature), and other instruments (whether or not specified above and including but not limited to the preparation and filing of any and all registration statements and papers, documents and instruments of whatever kind and nature with the Securities and Exchange Commission and the payment of any and all expenses in that connection) necessary or proper in their opinion in the administration of any Trust as fully as if they were the absolute owners of such property;

(19) To mortgage or pledge any or all of the assets of any Trust (herein, the "Pledging Trust") as security for any loan to, or otherwise in connection with any transaction involving, (i) the Pledging Trust or any other trust the Beneficiaries of which are the same as the Beneficiaries of the Pledging Trust, (ii) a Beneficiary, or (iii) any Entity in which the Pledging Trust, any trust described in clause (i), above, or a Beneficiary has an interest; to guarantee the debt or any other obligation or liability of the Pledging Trust, any trust described in clause (i), above, a Beneficiary or any Entity in which the Pledging Trust, any trust described in clause (i), above, or a Beneficiary has an interest; to indemnify any lender or other party against any claim, loss, obligation, liability or expense of any nature in connection with any loan to, or other transaction a participant in which is (w) the Pledging Trust, (x) any trust described in clause (i), above, (y) a Beneficiary or (z) any Entity in which the Pledging Trust, any trust described in clause (i), above, or a Beneficiary has an interest; and to pledge any or all of the assets held in the Pledging Trust as security for any such indemnity, provided that only the Independent Trustees may participate in the exercise of this power and that, for purposes of this provision, a Person shall be deemed to be a Beneficiary of a trust only if the trustee of such trust may make current distributions to him or her; and

(20) To engage on behalf of any Trust in any type of security, commodity or currency transaction, including, by way of illustration, but not limitation: any security as defined by the Securities Act of 1933 or other

applicable law, any contract of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act, shares or interests in any private investment fund, private equity or venture capital fund, hedge fund, common trust fund, joint venture, general or limited partnership, limited liability company, statutory or common law business trust, statutory trust, real estate investment trust or an open-end (including any mutual fund) or closed-end management type investment company or unit investment trust, whether registered under the Investment Company Act of 1940 or unregistered, any money market instrument, bank deposit account (including but not limited to savings, time, certificate of deposit and transaction accounts), precious metal, foreign exchange, structured product, insurance contract, options, options on futures and variable forward contracts, swaps, caps, collars and other derivative instruments of a financial nature, notwithstanding the fact that a Trustee, investment manager or custodian, its respective parent or any affiliate, is an issuer of such investment or provides services (whether as manager, underwriter, distributor, custodian, advisor, agent, servicer, trustee or otherwise) with respect to any such investment and further notwithstanding that the trustee, investment manager, custodian or its respective parent or any affiliate may receive compensation with respect to any such investment (in addition to Trustee's commissions), so long as the total compensation received is reasonable. To the extent permitted by applicable law, this subsection (20) is intended to override any contrary provision of law prohibiting such additional fees or otherwise requiring either a reduction in Trustee's commissions or an election between such additional fees and such commissions. Any diversification requirement that would otherwise apply, including one imposed by a Prudent Investor Act or similar applicable law, is negated.

(C) ***Reliance on Statement of Financial Resources.*** If the Trustees and/or Independent Trustees of a Trust consider the financial resources of a beneficiary in exercising their power to determine that distributions should be made from such Trust to or for the benefit of such individual, then they may, without further investigation, rely upon any written statement made by such individual, or on such individual's behalf, as to the nature and extent of such individual's financial resources.

(D) ***Exoneration of Third Parties.*** (1) No Person dealing with the Trustees shall be bound to see to the application or disposition of cash or other property transferred to them or to inquire into the authority for or propriety of any action by the Trustees.

(2) Every Person contracting or otherwise dealing with the Trustees of a Trust shall look only to the funds and property of such Trust for payment under such contract or payment of any money that may become due or payable under any obligation arising under this Trust Agreement, in whole or in part, and the Trustees shall not be individually liable therefor even though the Trustees did not exempt themselves from individual liability when entering into any contract, obligation or transaction in connection with or growing out of such Trust.

(E) **Consolidation of Trust Property.** The Trustees shall not be required to segregate physically the property of multiple Trusts, but may, in their discretion, maintain any part or all of the trust property of any two or more Trusts in one or more consolidated funds, in which event the division of each such consolidated fund into the various shares or parts comprising it need be made only on the Trustees' books of account.

(F) **Combination and Division of Trusts.** (1) The Trustees may combine any two or more Trusts having identical terms and identical beneficiaries and administer the combined Trusts as a single Trust.

(2) The Trustees may divide any Trust into two or more separate Trusts of equal or unequal size, each having terms identical to the terms of the original Trust.

(3) If, pursuant to any authority granted in this Trust Agreement, the Trustees direct that (a) any Trust shall be divided into two or more separate Trusts or (b) any share of any Trust shall be held in more than one Trust, then the Trustees shall determine which property then allocated to or held in such Trust or share shall be allocated to each such separate Trust.

(G) **Powers Relating to Closely Held Business and Investment Interests.** (1) As to each and any Entity, public or private, in which the Trustees, as such, hold or acquire, directly or indirectly, an equity interest, if the fair market value of such interest of the Trustees

when aggregated with the fair market value of the equity interests in such Entity of (i) the Settlor, (ii) DEBRA and (iii) the trustees of all other trusts of which the Settlor or DEBRA is the settlor, exceeds one percent (1%) of the fair market value of such Entity, such Entity being hereinafter referred to as “the Closely Held Entity,” the Trustees are hereby authorized to retain the shares thereof or interest therein for as long as they deem to be in the best interests of any Trust, regardless of the fact that such shares or interest might produce no income, regardless of any duty to diversify investments, and notwithstanding any other fiduciary obligation which might require them to dispose of such shares or interest.

(2) With respect to each and every Closely Held Entity, the Trustees of any Trust are authorized, to the extent permitted by law, to exercise their rights and powers as holders of the shares or other interests in such Closely Held Entity to effect its continued operation, or the sale or other disposition of its assets or business, or, in their sole discretion, to sell, exchange, offer for redemption, or otherwise dispose of the shares of or other interests in the Closely Held Entity owned by any Trust, or to effect the liquidation or dissolution of the Closely Held Entity, at such time or times and upon such terms and conditions as the Trustees, in their sole discretion, shall determine.

(3) The Trustees may participate in the management of any Closely Held Entity to the extent that their interest therein permits. They are expressly authorized (without limiting the generality of the foregoing), in their sole discretion, to select, vote for and remove directors of the Closely Held Entity (if the Closely Held Entity is a corporation); to name or change officers, managing personnel and/or operating personnel; to reduce, expand, limit or otherwise change the Closely Held Entity’s trade or business, or any property or investment that it holds; to require surety bonds of employees and/or officers and specify the amount of such

bonds and the bonding company; to employ accountants or engineers to appraise or evaluate the Closely Held Entity's business or assets; to employ investment or legal counsel, including any firm with which a Trustee may be affiliated; to charge the costs of such services against the interest in the Closely Held Entity owned by any Trust, or to require the Closely Held Entity to pay such costs; to contribute additional working capital or to subscribe to additional stock as they may see fit; and to take all steps and perform all acts which they shall deem necessary or advisable in connection therewith.

(4) Notwithstanding the provisions of the preceding subsection, the Trustees shall not be bound or required to take part in the management of any Closely Held Entity. They may delegate their managerial authority (including any authority to determine the payment or non-payment of dividends or other distributions) to others, whether by means of employment agreements or other arrangements, and they may enter into voting trusts and grant irrevocable proxies, as they deem advisable. In the event of such delegation, the Trustees shall not be liable for any act or omission by the directors or other Persons charged with such management, unless they know or have reason to know of any act of dishonesty, misappropriation or misapplication of moneys or other property on the part of such directors or other Persons. No Person having an interest hereunder shall be entitled in any way to compel, control or forbid the exercise in any particular manner of any voting or other right with regard to the Closely Held Entity which may at any time be vested in the Trustees.

(5) Any one or more of the Trustees may act as officer, partner, director, manager or senior employee of the Closely Held Entity (each such capacity being hereinafter referred to as a "Management Position"), and the Trustees are specifically authorized to participate in the election or appointment of any Person or Persons, including themselves

(whether individually and/or as Trustees), to any Management Position. Any Trustee who serves in a Management Position shall be entitled to receive compensation for such services notwithstanding that the Trustees may themselves (whether individually and/or as Trustees) be in a position to determine, or control the determination of, the amount of such compensation, and no such Person shall be required to furnish any bond in connection with any such service in a Management Position.

(6) The Settlor is aware that conflicts of interest may arise by reason of a Trustee's serving as such while simultaneously serving in a Management Position, or by reason of a Trustee's owning or purchasing an interest in the Closely Held Entity in his, her or its own right, and the Settlor intends that the Trustees shall, in all respects, be free to exercise the powers and discretion herein conferred as fully and unrestrictedly as if there were no conflicting interests. Consequently, the Trustees are hereby expressly exempted from the adverse operation of any rule of law which might otherwise apply to them in the performance of their fiduciary duties solely by reason of self-dealing or other conflict of interest ("conflict of interest rules").

In particular, the Trustees are authorized to enter into any transaction with any Closely Held Entity that any Trust could enter into with any unrelated third Person, without regard to any conflict of interest rule. The transactions described in the preceding sentence shall include, without limitation, (i) the purchase of property from, sale of property to or exchange of property with any Closely Held Entity and (ii) the borrowing of money or other property from or lending of money or other property to any Closely Held Entity. The Trustees may employ, on behalf of any Trust, agents, accountants, custodians, experts and legal or investment counsel who may also perform comparable services for the Closely Held Entity or for any one or more of the Trustees individually. In addition, any Trustee may purchase, sell, exchange or otherwise deal in

or dispose of shares of or interests in the Closely Held Entity for his, her or its own account without regard to any conflict of interest rule, or any other rule that might otherwise require such Trustee to first offer the opportunity to enter into that transaction to any Trust of which he, she or it is a Trustee.

(7) To the greatest extent permitted by law, no Trustee holding a Management Position in a Closely Held Entity shall be required to account for the acts and proceedings of such Closely Held Entity to any Person at any time interested in any Trust, regardless of whether the interest of such Trust in such Closely Held Entity, alone or in conjunction with other trusts of which such Trustee is a trustee, is a controlling interest.

(8) For purposes of this section, (i) the Trustees will be deemed to hold an interest in an Entity if they hold, as such, a direct or an indirect interest in such Entity, and (ii) the Trustees will be deemed to hold an indirect interest in an Entity if they hold, as such, a direct interest in another Entity that owns a direct or indirect interest in such Entity. The extent of such indirect interest shall be measured by the multiplication of percentage interests through a chain of Entities. For example, if the Trustees hold a direct interest in an Entity (“Entity A”) the fair market value of which constitutes fifty percent (50%) of the fair market value of Entity A and Entity A owns a direct interest in another Entity (“Entity B”) the fair market value of which constitutes thirty percent (30%) of the fair market value of Entity B, such Trustees would be deemed to hold an indirect interest in Entity B the fair market value of which constitutes fifteen percent (15%) of the fair market value of Entity B.

(H) ***Special Investments and Risk.*** The Trustees are authorized (but not directed) to acquire and retain investments not regarded as traditional for trusts, including investments that would be forbidden or would be regarded as imprudent, improper or unlawful

by the “prudent person” rule, “prudent investor” rule, § 3302 of Title 12 of the Delaware Code or any other rule or law which restricts a fiduciary’s capacity to invest. The Trustees, in the exercise of their sole and absolute discretion, may invest in any type of property, wherever located, including any type of security or option, improved or unimproved real property, and tangible personal property (including, without limitation, works of art) or intangible personal property, and in any manner, including direct purchase, joint ventures, partnerships, limited partnerships, limited liability companies, corporations, mutual funds, venture capital or other private equity, leveraged, hedge, or speculative funds, business trusts or any other form of participation or ownership whatsoever. In making investments, the Trustees may disregard any or all of the following factors:

(1) Whether a particular investment, or the Trust investments collectively, will produce a reasonable rate of return or result in the preservation of capital.

(2) Whether the acquisition or retention of a particular investment or the Trust investments collectively are consistent with any duty of impartiality as to the different beneficiaries. The Settlor intends that no such duty shall exist.

(3) Whether the Trust is diversified. The Settlor intends that no duty to diversify shall exist.

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

The Settlor’s purpose in granting the foregoing authority is to modify the “prudent person” rule, “prudent investor” rule, the application of § 3302 of Title 12 of the Delaware Code

or any other rule or law which restricts a fiduciary's ability to invest insofar as any such rule or law would prohibit an investment or investments because of one or more factors listed above, or any other factor relating to the nature of the investment itself. The Settlor does this because the Settlor believes it is in the best interests of the Beneficiaries to give the Trustees broad discretion in managing Trust assets.

Any investment may (notwithstanding any law or rule of law making trustees' powers non-delegable or any other law) take the form of the securities of a corporation, a general or limited partnership interest, membership in a limited liability company, an interest in a joint venture, a future interest in property, shares of beneficial interest in a business trust, or any other form of investment, direct or indirect, even though there may be a limited market, or, in practice, no effective market, for the disposition of such investment. To this end, the Settlor authorizes the Trustees of any Trust to enter into any such investments with the trustees of any other trust, whether or not created under this Trust Agreement.

(I) ***Term and Remainder Interests.*** The Trustees may make investments in the form of term interests in property (the right to possess or to receive income from property for a designated number of years or for the life of a designated individual) or in the form of remainder interests in property (the right to receive property after the expiration of a preceding interest in such property).

(J) ***Advisors; Delegation.*** (1) The Trustees are specifically authorized to rely on the advice of investment counsel or other appropriate advisors (including any firm with which any Trustee may be affiliated). They may, pursuant to a contract or contracts with an investment counsel or other appropriate advisor, delegate all or a portion of their investment powers to such investment counsel or other appropriate advisor (notwithstanding any law or rule of law making

trustees' powers non-delegable or any other law), and, if they do so, they shall not be liable for losses incurred by reason of such delegation or incurred in acting or refraining from acting in reliance on the advice of such investment counsel or other appropriate advisor except for their own failure to exercise care, skill and caution in (i) selecting and periodically reviewing such investment counsel or other appropriate advisor, (ii) establishing the scope and terms of the delegation and (iii) controlling the overall cost by reason of the delegation.

(2) In addition, the Trustees are authorized to employ such agents, advisors and other counsel, including but not limited to entities affiliated with any Trustee, and to pay out of Trust Fund of any Trust the reasonable charges and fees of such agents, advisors and counsel, as the Trustees shall in their sole discretion determine, including the power to select brokers and dealers affiliated with any Trustee for the sale or purchase of any securities or other investment property in any Trust. This authorization may include, but shall not be limited to, an affiliated broker acting in a principal or agency capacity for equity and fixed income securities, routing orders for over-the-counter (OTC) stocks to a market maker affiliated with any Trustee or investment advisor, routing listed stocks to specialists affiliated with any Trustee or investment advisor, routing listed options through a proprietary trading operation affiliated with any Trustee, or routing after-hours orders to a proprietary trading operation in which any Trustee owns an equity interest. In such case the Trustees may receive both monetary and non-monetary "payment for order flow," including, without limitation, an inter-company transfer of funds in connection with orders routed to an affiliated market maker; monetary compensation (including fee sharing) from, and participation in the profits of, certain affiliated and independent exchange specialists who execute orders; other compensation as part of reciprocal order routing arrangements with various exchange specialists and dealer firms; and rebates and credits against

fees paid by various exchanges to member firms. Except as required by law, a Trustee's compensation shall not be reduced by any additional compensation received by such Trustee, its parent, or any affiliate thereof, or any agent, principal, advisor, counsel, broker, dealer, market maker or specialist (including exchange specialist) affiliated with such Trustee, its parent or any affiliate thereof, for providing any of the services authorized herein.

(K) ***Residential Property and Tangible Personal Property.*** (1) The powers conferred by this section are in addition to, and not in limitation of, the powers set forth in the preceding provisions of this Article.

(2) The Trustees of any Trust may retain or purchase any residential property, including residential property that is occupied or intended for occupancy by any one or more of the beneficiaries of such Trust, and may develop or make improvements in or repairs to any residential property owned by such Trust including residential property that is occupied or intended for occupancy by any one or more of the beneficiaries of such Trust. In addition, the Trustees of such Trust shall permit any one or more of the beneficiaries of such Trust to occupy any residential property owned by the Trust upon such terms and conditions (as to the payment of rent, repairs or otherwise) as the Independent Trustees of such Trust deem appropriate.

(3) The Trustees of any Trust may retain or purchase any item of tangible personal property, including tangible personal property for the use of any one or more of the beneficiaries of such Trust, and shall permit any one or more of such beneficiaries to use any such item of tangible personal property upon such terms and conditions (including any relating to insurance and preservation) as the Independent Trustees of such Trust deem appropriate.

(4) For purposes of this section, the beneficiaries of a Trust at any particular time shall include only those Persons to whom current distributions from such Trust may be

made, and the term “residential property” shall include real property (together with buildings, fixtures, and improvements thereon), interests in condominium units (including common areas), and cooperative apartments (together with proprietary leases and shares of stock relating thereto).

(L) ***Settlor’s Power to Reacquire Trust Assets.*** The Settlor at any time or from time to time may acquire or reacquire any portion of the Trust Fund of the Trust under Article II by substituting therefor other property of an equivalent value, valued on the date of substitution. Notwithstanding any other provision of this Trust Agreement, the Settlor may exercise this power without the consent of the Trustees. Although this power is exercisable by the Settlor in a non-fiduciary capacity without the consent of any of the Trustees, the Settlor must certify in writing that the property substituted is of equivalent value to the property acquired or reacquired. The Trustees have a fiduciary duty to confirm that the assets proposed to be substituted are of equivalent value. If they believe that the property the Settlor seeks to substitute for trust property is not in fact property of equivalent value, the Trustees shall seek a determination by a court of competent jurisdiction to assure that the equivalent value requirement of this section is satisfied. The Settlor, at any time, may release this power. Any release under this section shall be irrevocable and shall be made by instrument in writing signed by the Settlor and delivered to each Trustee.

(M) ***Settlor’s Power to Borrow.*** The Settlor at any time or from time to time may borrow any portion of the Trust Fund of the Trust under Article II. If the Settlor borrows the Trust Fund, or any portion thereof, the Independent Trustees shall determine the rate of interest to be charged, which rate shall not be less than a reasonable market rate of interest at the time the loan is made, and shall determine whether or not the loan should be secured. The

Settlor, at any time, may release this power to borrow. Any release under this section shall be irrevocable and shall be made by instrument in writing signed by the Settlor and delivered to each Trustee.

(N) ***Self-Dealing.*** The Settlor authorizes financial transactions, both direct and indirect, between the Trust held under Article II and any Trustee of such Trust with the consent of DEBRA if DEBRA is then competent, and between a Trust held under Article III or Article IV and any Trustee of such Trust with the consent of the Primary Beneficiary of such Trust but only if the Primary Beneficiary is competent and is at least thirty-five (35) years of age (including, without limitation, purchases, sales and leases of property, loans, agreements, and employment and compensation for services), notwithstanding any rule of law relating to self-dealing, provided only that the interested Trustee act in good faith and that the consideration paid by the Trust or by the Trustee be reasonable.

(O) ***Powers of Administrative Trustee and Non-Administrative Trustees.*** Notwithstanding any provision of this Trust Agreement to the contrary, it is the Settlor's intention that the Trusts shall at all times have situs and be administered in the State of Delaware, unless the Non-Administrative Trustees have affirmatively elected, in accordance with the provisions of Article VI(B)(14), to move the situs to a jurisdiction other than Delaware. All powers granted herein shall be subject to and exercised in a manner consistent with these intentions. At any time there is an Administrative Trustee, the following provisions shall apply to the Non-Administrative Trustees and the Administrative Trustee:

(1) The Non-Administrative Trustees of each Trust shall have exclusive authority and responsibility for the investment and evaluation of the assets of such Trust, including the power to purchase, sell and retain all of the Trust's assets, and the power to

exercise voting, subscription, conversion, option and similar rights with respect to such property and the power to participate in or consent to any voting trust, reorganization, merger, dissolution or other action affecting such property. The Non-Administrative Trustees of each Trust shall direct the Administrative Trustee of such Trust in the exercise of all powers with respect to the investment and evaluation of the assets of such Trust, and the Administrative Trustee shall follow the directions of the Non-Administrative Trustees with respect to all matters relating to the management, investment and evaluation of Trust assets.

(2) Until the death or disability of both the Settlor and DEBRA, each Trust shall constitute an entirely directed trust for all purposes except those specifically enumerated in subsection (5). The Settlor hereby directs that any power granted to the Trustees under this Trust Agreement, other than the powers specifically enumerated in subsection (5), shall be exercised solely by the Non-Administrative Trustees. In this regard, the Administrative Trustee shall not be liable for any act or failure to act by the Non-Administrative Trustees, or for acting or ceasing to act at the direction of the Non-Administrative Trustees or with respect to the Administrative Trustee's implementation of any direction by the Non-Administrative Trustees, and the Administrative Trustee shall not be liable for any loss resulting from any action taken or not taken by the Administrative Trustee in accordance with the direction of the Non-Administrative Trustees. The Administrative Trustee shall have no responsibility to monitor the investment performance of the Non-Administrative Trustees. The Administrative Trustee shall have no obligation to investigate or confirm the authenticity of investment directions it receives or the authority of the Person or Persons conveying them. Each of Administrative Trustee and the Non-Administrative Trustees shall be deemed to have acted within the scope of its authority, to have exercised reasonable care, diligence and prudence, and to have acted impartially as to all

persons interested unless the contrary be proved by affirmative evidence, and in the absence of such proof shall not be liable for loss arising from depreciation or shrinkage in value of any property authorized to be held or acquired. The Administrative Trustee shall not be liable for the acts or defaults of the Non-Administrative Trustees, and the Non-Administrative Trustees shall not be liable for the acts or defaults of the Administrative Trustee.

(3) All directions of the Non-Administrative Trustees to the Administrative Trustee shall be communicated to the Administrative Trustee in writing, which may be delivered by mail, courier, facsimile, electronic mail, or such other methods as the Administrative Trustee may specify from time to time in writing to the Non-Administrative Trustees, and the Administrative Trustee shall be entitled to rely conclusively on each such writing as a direction of the Non-Administrative Trustees without further inquiry, shall have no liability therefor and shall be indemnified by the Trust for any action taken or not taken in accordance with any such writing.

(4) The Administrative Trustee shall be protected to the fullest extent permitted by law, as specifically permitted by §§ 3313 and 3303 of Title 12 of the Delaware Code, and shall only be liable for its willful misconduct. In accordance with §§ 3302(e) and 3586 of Title 12 of the Delaware Code, the Administrative Trustee shall have no liability under this Trust Agreement to any beneficiary of any Trust or any other person whose interest arises under this Trust Agreement for the Administrative Trustee's good faith reliance on the provisions of this section or any other provision of this Trust Agreement concerning the investment of assets of such Trust.

(5) With respect to each Trust of which it is a Trustee, the Administrative Trustee shall have the following exclusive duties which shall all be carried out in the State of

Delaware to the extent required to preserve the situs of each of the Trusts in Delaware or such other jurisdiction as shall be selected as the situs of any such Trust in accordance with the provisions of Article VI(B)(14).

(a) To maintain bank accounts, brokerage accounts and other custody accounts which receive Trust income and contributions and from which Trust expenditures and distributions are disbursed;

(b) To maintain storage of tangible personal property and evidence of intangible Trust property to the extent practicable;

(c) To maintain Trust records;

(d) To maintain an office for Trustee meetings and other Trust business;

(e) To originate, facilitate and review Trust accountings, reports and other communications with co-Trustees of such Trust, beneficiaries of such Trust and unrelated third parties;

(f) To respond to inquiries concerning the Trust from any co-Trustees of such Trust, beneficiaries of such Trust and unrelated third parties;

(g) To execute documents and authorize Trust account transactions subject as appropriate to the direction of the Non-Administrative Trustees of such Trust;

(h) To retain accountants, attorneys, investment counsel, agents and other advisers in connection with its duties under this subsection; and

(i) To prepare and file all state and federal income tax returns on behalf of the Trust.

(P) ***Disclosure of Information.*** Other than as may be required by applicable federal, state or local rules, prior to the death or disability of both of the Settlor and DEBRA, the

Trustees may, but shall not be required to, inform any Person of the existence of any Trust hereunder, make or give any accounting, financial or other reports, or make any disclosure of any kind relating to any Trust to any Person other than the Settlor or DEBRA.

VIII: RESTRICTIONS ON POWERS

Notwithstanding any contrary provision of this Trust Agreement:

(A) ***Limitation on Settlor's Powers.*** No power granted to the Settlor under any provision of this Trust Agreement shall be exercisable by the Settlor if the possession of such power would result in the treatment of the Settlor's transfer of any property to the Trustees as incomplete in whole or in part for gift tax purposes or would cause any property so transferred to be included in the Settlor's gross estate for federal estate tax purposes.

(B) ***Satisfaction of Legal Obligations.*** As to any Trust, neither the principal nor the income of such Trust may be used to satisfy an enforceable legal obligation of any individual other than an individual to whom, or for whose benefit, current distributions of the Trust Fund of such Trust may be made.

(C) ***Distributions to or for the Benefit of Trustees.*** (1) No Trustee shall participate in a decision to distribute property for his or her benefit or to himself or herself in any capacity whatsoever (other than (i) distributions that are mandatory under this Trust Agreement and (ii) distributions for his or her health, education, support and maintenance), including, but not limited to, the capacity as a custodian for the benefit of his or her child under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any jurisdiction. Notwithstanding clause (ii) of this subsection, no Trustee shall participate in a decision to distribute property from a Trust for his or her health, education, support or maintenance if such power would result in any portion of the Trust Fund being subject to the claims of such Trustee's creditors.

(2) No Trustee shall participate in a decision to use the property of any Trust in such a manner as to discharge any obligation of such Trustee, including, without limitation, any obligation of support.

(D) **Modifications.** No Trustee shall participate in a decision to modify the terms of any Trust in such manner as would increase or decrease his or her powers over or interests in such Trust. No Trustee shall participate in a decision to modify the terms of any Trust in such manner as would or might increase his, her or its compensation from such Trust.

(E) **Change of Law.** No Trustee shall participate in a decision to remove all or part of the assets or change the situs of administration of any Trust from one jurisdiction to another jurisdiction, or to elect that the law of any other jurisdiction shall govern any one or more of the administration of a Trust, the construction of any terms of a Trust or the validity of any Trust if such removal, change of situs or election (each a “Jurisdictional Change”) would have the effect of altering any beneficial interest under this Trust Agreement. For purposes of this provision, the laws of a jurisdiction that permit trustees to appoint property in further trust (“Decanting Laws”) shall not be taken into account, except to the extent that the Decanting Laws of such jurisdiction would not permit the terms of any Trust or trust to which property of a Trust is appointed to violate the rule against perpetuities applicable to such Trust or trust at the time of such Jurisdictional Change. Only the Independent Trustees may participate in a Jurisdictional Change decision if the Jurisdictional Change will result in any Trust or trust being subject to Decanting Laws that are more broad than the Decanting Laws applicable to such Trust or trust prior to the Jurisdictional Change decision.

(F) **Powers of Appointment.** (1) No holder of any power of appointment (other than a power expressly exercisable in favor of the holder, the holder’s estate, the holder’s

creditors or the creditors of the holder's estate) shall exercise such power (i) in favor of himself or herself, his or her estate, his or her creditors, or the creditors of his or her estate, (ii) in such manner as to discharge any obligation of such Person, including, without limitation, any obligation of support or (iii) in exchange for any consideration in money or money's worth, including, but not limited to, an agreement by another Person to exercise a power of appointment in the holder's favor. Notwithstanding the previous sentence, the holder of a power of appointment over the property in a Trust may exercise that power in favor of another trust if (a) the holder's interest in such trust is no greater than his or her interest in such Trust and (b) the holder's powers over such trust are no greater than his or her powers over such Trust. No holder of any power of appointment shall exercise such power to create a trust or to appoint property to a trust if the duration of such trust could, by its terms, extend beyond the Perpetuities Date.

(2) Notwithstanding any contrary provision of this Trust Agreement, no holder of any power of appointment (other than a power expressly exercisable in favor of the holder, the holder's estate, the holder's creditors or the creditors of the holder's estate) shall exercise such power (i) in favor of himself or herself, his or her estate, his or her creditors, or the creditors of his or her estate, (ii) in such manner as to discharge any obligation of such Person, including, without limitation, any obligation of support or (iii) in exchange for any consideration in money or money's worth, including, but not limited to, an agreement by another Person to exercise a power of appointment in the holder's favor. Notwithstanding the previous sentence, the holder of a power of appointment over the property in a Trust may exercise that power in favor of another trust if (a) the holder's interest in such trust is no greater than his or her interest in such Trust and (b) the holder's powers over such trust are no greater than his or her powers over such Trust. No holder of any power of appointment shall exercise such power to create a

trust or to appoint property to a trust if the duration of such trust could, by its terms, extend beyond the Perpetuities Date.

(G) ***Power to Remove Trustees.*** No Person shall exercise his or her power to remove a Trustee of any Trust because of such Trustee's exercise or failure to exercise a power which, if held by the Person exercising the removal power, would result in any portion of the Trust Fund of such Trust being included in such Person's gross estate for federal estate tax purposes.

IX: IRREVOCABILITY; MODIFICATION

(A) ***Irrevocable by Settlor.*** This Trust Agreement and the Trusts may not be altered, amended, revoked or terminated by the Settlor, in whole or in part.

(B) ***Independent Trustees' Power to Amend.*** At any time or from time to time during the "Amendment Period" (as defined below), the Independent Trustees shall have such power to amend the terms of this Trust Agreement as (1) will not cause any portion of the Trust Fund of any Trust to be included in the gross estate (for federal estate tax purposes) of any individual and (2) is permitted by section (C). For purposes of this Article, the term "Amendment Period" shall mean the period beginning upon the date of this Trust Agreement and ending on the first date when each of the Settlor and DEBRA is either not living or under a disability.

(C) ***Scope of Amendment Power.*** At any time or from time to time during the Amendment Period, the Independent Trustees, by unanimous consent of all of the Independent Trustees, to the extent permitted by section (B), may amend the terms of this Trust Agreement and any of the Trusts in the manner provided in section (D), provided, however, that no amendment power may be exercisable by the Independent Trustees if, or to the extent that, the

possession of such power would result in the treatment of any of the Settlor's transfers to the Trustees as incomplete for federal gift tax purposes or would cause any property so transferred to be included in the Settlor's gross estate for federal estate tax purposes, and provided further that no amendment shall be valid if, as a result thereof:

(1) any part of the Trust Fund of any Trust:

(a) may inure to the benefit of any individual other than a Beneficiary at any time when any Beneficiary is living, provided, however that the terms of this Trust Agreement may be amended in a manner consistent with the provisions of subsection (3),

(b) may be paid to a trust created by the Settlor after the execution of the Original Trust Agreement, or

(c) may be paid to any other trust, if the terms of this section (C) would not permit the adoption of the terms of such trust as the terms of the Trust.

(2) the Settlor may ever be appointed as Trustee, or hold any power, fiduciary or otherwise, over any property held in any Trust;

(3) the Settlor or the Settlor's estate may ever be the recipient of any portion of the Trust Fund of any Trust, individually or as guardian, conservator, committee, receiver, trustee, custodian under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any jurisdiction, or in any other capacity on behalf of any person; provided that the Settlor may be the recipient of the Trust Fund of any Trust to the extent that the same is paid to the Settlor as reimbursement for any income taxes paid by the Settlor as a result of any income of such Trust being taxable to the Settlor under § 671 of the Code provided that such reimbursement must be made within one (1) year of such payment, and provided further that no such amendment may be made if the existence of the power to make this amendment or if the

making of this amendment would cause any portion of the Trust Fund of any Trust to be subject to the claims of the Settlor's creditors;

(4) the Settlor or DEBRA may ever be authorized to participate in the appointment of an additional and/or successor Trustee who is a Related Person as to him, in the case of an appointment by the Settlor, or him or her, in the case of an appointment by DEBRA;

(5) the Settlor or DEBRA may ever be authorized to remove a Trustee except as provided in Article XI;

(6) any Beneficiary may ever be authorized to remove a Trustee except as provided in Article XI;

(7) the date upon which any Trust is to terminate is later than the Perpetuities Date;

(8) the definitions set forth in Article XIV are changed;

(9) the provisions of section (A) or (B) are changed;

(10) the provisions of this section (C) are changed, except to further restrict the modification powers conferred upon the Independent Trustees;

(11) the provisions of section (E) of Article VIII are changed to remove the restriction on the Trustee's power to change the situs of administration of any Trust or to elect that the law of any other jurisdiction shall govern any one or more of the administration of a Trust, the construction of any terms of a Trust or the validity of any Trust; or

(12) the provisions of Article VI are changed, except to further restrict the powers of the Trustees.

(D) ***Exercise of Amendment Power.*** Any modification authorized by this Article (i) shall be in writing, (ii) shall be signed and acknowledged by all of the Independent

Trustees, (iii) shall state the date upon which it is to become effective, which date shall not be earlier than thirty (30) days after the date a copy of such writing has been delivered to the Settlor or to DEBRA if the Settlor is not living or is under a disability, and (iv) shall be filed with the trust records maintained by the Trustees. Any modification may be revoked by unanimous consent of all of the Independent Trustees at any time prior to its effective date but only during the Amendment Period, and, unless such modification specifically provides that it is to be irrevocable, at any time after its effective date during the Amendment Period. Revocation of a modification (i) shall be in writing, (ii) shall be signed and acknowledged by all of the Independent Trustees then serving (whether or not they are the ones who made the modification), (iii) shall state the date upon which it is to become effective, which date shall not be earlier than the date a copy of such writing has been delivered to the Settlor or to DEBRA if the Settlor is not living or is under a disability, and (iv) shall be filed with the trust records maintained by the Trustees. A copy of each modification and revocation of modification shall be delivered to each Trustee who is not an Independent Trustee.

(E) ***Release or Suspension of Amendment Power.*** Even though the Independent Trustees' power of modification under this Article is a fiduciary power, the Independent Trustees may, at any time, completely (or partially) release the power or they may suspend it for a specific period of time. Any such release or suspension (i) shall be effected in the same manner as a revocation of a modification, as provided in section (D), (ii) shall be irrevocable, and (iii) shall bind all Trustees serving at any time.

(F) ***Administrative and Technical Modifications.*** Notwithstanding any other provisions of this Article, the Trustees of any Trust (other than the Settlor) may modify the administrative and technical provisions of such Trust at any time or from time to time as the

Trustees deem appropriate for the proper administration of such Trust, and the Independent Trustees of any Trust may modify the provisions of Article V(E) as it applies to the Trust at any time or from time to time as the Independent Trustees deem appropriate taking into account the best interests of the beneficiaries of such Trust or any one or more of them. The authority to modify pursuant to this section may not be exercised in any manner that would alter any beneficial interest in any Trust (except that a modification of Article V(E) that might be deemed to be an alteration of a beneficial interest may nevertheless be made) or that would disqualify any Trust for an income or transfer tax deduction or exclusion for which it would otherwise qualify. Any modification authorized by this section: (i) shall be in writing signed and acknowledged by all of the Trustees (other than the Settlor) or Independent Trustees, as the case may be, of the Trust to which such modification relates, (ii) shall state the time at which or the event upon which the modification is to be effective and (iii) shall be filed with the trust records maintained by the Trustees.

X: ACCOUNTING BY TRUSTEES

(A) *Settlement of Accounts by Agreement.* (1) The Trustees of any Trust may from time to time settle their accounts with respect to such Trust by agreement with each Interested Party who is legally competent and with the legally appointed guardian, conservator, or similar fiduciary, however denominated in the jurisdiction appointed (in each case other than the Settlor), of each Interested Party who is under a legal disability, or, in the case of an Interested Party who is a minor, a parent of such minor who is not (i) the Settlor, (ii) a Trustee whose accounts are being settled or (iii) a Person who is otherwise an Interested Party. For purposes of the preceding sentence, the term “Interested Party” means, as to the accounts of the

Trustees for any period, a Person who would be a necessary party in a judicial proceeding for the settlement of such accounts.

(2) Such agreement shall bind all Persons, whether or not then living or under a legal disability, then or thereafter entitled to any property of the Trust accounted for, whether principal or income, and shall completely release and discharge the Trustees for the acts and proceedings so accounted for.

(B) ***Judicial Settlement of Accounts.*** The Trustees shall not be required to render annual or periodic accounts to any court, whether or not required by statute. Nothing contained in this Article shall preclude the Trustees from seeking a judicial settlement of their accounts.

(C) ***Cost of Accounting.*** If a Trustee obtains a judicial or non-judicial settlement of such Trustee's accounts with respect to a particular Trust, such Trustee shall pay the costs and expenses of any such action, including, but not limited to, the compensation and expenses of attorneys and guardians, from principal or income, or both, of the Trust as it in its sole discretion determines.

(D) ***Change of Beneficial Interest Prohibited.*** Notwithstanding any contrary provision of this Article, no settlement of the Trustees' accounts by agreement shall release and discharge the Trustees if an effect of such agreement is to enlarge the beneficial interest of any Person under this Trust Agreement or to shift any beneficial interest under this Trust Agreement as between Persons who hold such beneficial interests.

(E) ***Service Upon Persons Under Disability.*** In any proceeding relating to any Trust, service upon any person under disability shall not be necessary when another Person

who is a party to the proceeding has the same interest, whether concurrent or successive, as the person under disability.

**XI: TRUSTEE DESIGNATIONS,
RESIGNATIONS, AND REMOVALS**

(A) *Designation of Additional and/or Successor Trustees.* (1) The Settlor may, at any time or from time to time, designate one or more Persons other than himself or any person who is a Related Person as to the Settlor to serve as additional and/or successor trustees of the Trust.

(2) At any time or from time to time when the Settlor is not living or is under a disability or has temporarily or permanently relinquished the power to designate trustees, DEBRA, if then competent, may designate one or more Persons other than any Person who is a Related Person as to the Settlor or DEBRA to serve as additional and/or successor trustees of the Trust.

(3) At any time or from time to time when each of the Settlor and DEBRA is either deceased or under a disability or has temporarily or permanently relinquished the power to designate trustees, the Trustees of any Trust may designate additional and/or successor trustees of such Trust unless the Trust is held under Article III or Article IV and the Primary Beneficiary of that Trust has the power to designate trustees of such Trust.

(4) At any time when the Primary Beneficiary of a Trust held under Article III or Article IV is competent and is at least thirty-five (35) years of age, he or she may designate additional and/or successor trustees of such Trust, including himself or herself, provided that such power to designate trustees has not been postponed pursuant to Article V(F).

(5) If at any time a Trust shall have no Trustee then serving and there shall be no designated successor who agrees to act as trustee by signing the written instrument required by section (I) within a reasonable period following the date such vacancy arose, any one or more of the Settlor's Children may designate himself or herself as a trustee of such Trust.

(6) If at any time the Trust held under Article II has no Independent Trustee then serving, any Beneficiary may designate a Person to serve as trustee of such Trust who would be an Independent Trustee if such Person were a Trustee.

(7) The Persons authorized to designate trustees under this section shall exercise this power to ensure that a Corporate Trustee is serving as Trustee of each Trust other than a Trust held under Article IV at all times when neither the Settlor nor DEBRA is living and competent. With respect to a Trust held under Article IV, if a Trust has no Corporate Trustee because the Primary Beneficiary of such Trust has removed the Corporate Trustee pursuant to section (F) of this Article, section (B) of this Article shall apply and the Trust shall resume being an entirely directed trust.

(8) For purposes of this Article, the term "Corporate Trustee" shall mean a bank or trust company that is not an Administrative Trustee and that satisfies the following requirements:

(a) The bank or trust company so designated (together with its parents/affiliates) at the time of designation has (i) a shareholders' equity or equivalent capital of no less than Ten Billion Dollars (\$10,000,000,000) and (ii) third party assets under management of no less than One Hundred Billion Dollars (\$100,000,000,000), both of which figures are expressly subject to the adjustment provided in paragraph (d) below or

(b) The bank or trust company so designated is any one of the following banks or trust companies that maintains, at the time of designation, a Standard & Poor's rating of at least "A-", a Moody's rating of at least "A3" and/or a Fitch's rating of at least "A-1": U.S. Trust Company of Delaware, UBS Fiduciary Trust Company, JP Morgan Chase & Co., the Goldman Sachs Trust Company, Northern Trust Company, Wilmington Trust Company and Bessemer Trust Company. If any of said rating companies goes out of the business of issuing ratings or, as the case may be, the rating system of any such company is discontinued or replaced, then clause (iii) of the preceding sentence may be implemented by substituting a comparable rating company and/or, as the case may be, a comparable rating from any substitute rating company or any replacement rating system.

(c) The bank or trust company, if serving as Trustee, would be an Independent Trustee within the meaning of Article XIV.

(d) Whenever in paragraph (a) an amount is required to be adjusted as provided in this paragraph, the Trustees shall multiply such amount by a fraction, the numerator of which shall be the Consumer Price Index for the December before the year in which the adjustment is to be made and the denominator of which shall be the Consumer Price Index for August 2012, and if the resulting amount is greater than the original amount then such adjusted amount shall be substituted for the original amount.

(B) ***Designation of Administrative Trustee.*** (1) It is intended that each Trust held under this Trust Agreement shall be a Delaware trust with its situs and administration located in Delaware. U.S. TRUST has been designated as the Administrative Trustee of the Trust held under Article II. Unless the Trustees have determined to change the situs of any Trust from the State of Delaware in accordance with Article VII(B)(14), U.S. TRUST shall at all times

be domiciled in the State of Delaware. If U.S. TRUST, for any reason, ceases to be domiciled in the State of Delaware, U.S. TRUST shall be ineligible to serve as the Administrative Trustee of any Trust and shall be deemed to have resigned.

(2) If U.S. TRUST, for any reason, shall fail to qualify or cease to act as Administrative Trustee, the Individual Trustees shall designate a successor Administrative Trustee. Unless the Trustees have determined to change the situs of any Trust from the State of Delaware in accordance with Article VII(B)(14), any successor Administrative Trustee designated hereunder must be a Person domiciled in Delaware. If any successor Administrative Trustee, for any reason, ceases to be domiciled in the State of Delaware, it shall be ineligible to serve as Administrative Trustee of any Trust, and, if already in office, shall be deemed to have resigned.

(C) ***Designation of Corporate Trustee.*** U.S. TRUST is designated to serve as the Corporate Trustee of all Trusts to commence serving at such time as neither the Settlor nor DEBRA is living and competent. At any time there is a Corporate Trustee, there shall be no Administrative Trustee, and the Trusts hereunder shall cease to be entirely directed Trusts. Any Corporate Trustee shall have all the powers granted under this Trust Agreement to an Independent Trustee.

(D) ***Procedure for Designating Trustees.*** (1) Any designation authorized by section (A): (i) shall be in writing signed by those making such designation; (ii) shall state the time at which or the event upon which it is to be effective; (iii) shall state whether the designee is to serve as a co-trustee or as a successor trustee, and if more than one Person is designated as a successor trustee, the order of succession; and (iv) shall specify the commissions payable to the Persons designated if other than the commissions prescribed by law.

(2) Except as provided in subsections (3) and (4), if inconsistent instruments of designation exist, the instrument that bears the most recent date and that makes an unrevoked designation shall govern.

(3) Any instrument of designation made by the Settlor or DEBRA, as the case may be, pursuant to subsection (1) or (2) of section (A) may provide whether, and the extent to which, it may be superseded by a designation made by any other Person. Notwithstanding any other provision of this Article, (i) no instrument of designation made by the Settlor may be revoked or superseded by any Person other than the Settlor or DEBRA (if then competent) except to the extent authorized by the Settlor pursuant to this subsection and (ii) no instrument of designation made by DEBRA may be revoked or superseded by any Person other than the Settlor or DEBRA (if then competent) except to the extent authorized by DEBRA pursuant to this subsection, except that the Primary Beneficiary of a Trust under Article III or Article IV may revoke or supersede any designation of trustee of such Trust made by any Person (including the Settlor and DEBRA) at any time when such Primary Beneficiary has the power to remove Trustees of such Trust pursuant to section (F).

(4) Except as provided in subsection (3), any instrument of designation made by a Primary Beneficiary of a Trust held under Article III or Article IV may provide whether, and the extent to which, it may be superseded by a designation made by any other Person. Notwithstanding any other provision in this Article, no instrument of designation made by such Primary Beneficiary may be revoked or superseded by any other Person except to the extent authorized by such Primary Beneficiary pursuant to this subsection.

(5) Except as otherwise provided in subsections (3) and (4), any instrument of designation may be revoked at any time, as to any designee who has not taken office (but not as

to any designee who has), by the Person or Persons then entitled to make a designation. In addition, the Settlor may revoke the designation of U.S. TRUST as Corporate Trustee in section (C). Each such revocation shall be in writing. In case of such revocation a new designation may be made as specified above.

(E) **Resignation of Trustees.** Any Trustee of any Trust may resign as Trustee at any time by delivering a written notice of resignation to: (i) each Trustee of such Trust, or if there is none, to the next successor trustee of such Trust; (ii) the Settlor, if then competent; (iii) DEBRA, if then competent; and (iv) the Primary Beneficiary, if any, of such Trust if he or she is then competent. The resignation shall take effect upon the date stated in the notice, whereupon all duties of the resigning Trustee shall cease, other than the duties to account and to transfer and deliver all property then held in the Trust to each remaining Trustee and/or successor trustee.

(F) **Removal of Trustees.** (1) The Settlor may, at any time or from time to time, remove any Trustee of any Trust provided that immediately following such removal there is at least one Trustee of such Trust who is an Independent Trustee and is not a Related Person as to the Settlor.

(2) At any time when the Settlor is not living or is under a disability or has temporarily or permanently relinquished the power to remove Trustees, DEBRA, if then living and not under a disability, may remove any Trustee of any Trust, provided that immediately following such removal there is at least one Trustee of such Trust who is an Independent Trustee and is not a Related Person as to DEBRA or the Settlor.

(3) The Primary Beneficiary of a Trust held under Article III or Article IV may, at any time or from time to time when he or she is competent and is at least thirty-five (35) years of age, remove any Trustee of such Trust, provided that such Primary Beneficiary's power

to remove has not been postponed pursuant to Article V(F) and provided, further, that each Trust held under Article III shall have a Corporate Trustee then serving and that immediately following such removal there is at least one Trustee of such Trust who is an Independent Trustee and is not a Related Person as to the Primary Beneficiary.

(4) The Individual Trustees of any Trust may, at any time or from time to time, remove the Corporate Trustee of such Trust, provided that each Trust other than a Trust held under Article IV shall at all times have a Corporate Trustee after the death or disability of both the Settlor and DEBRA.

(5) The power to remove a Trustee pursuant to this section shall be exercisable by written notice of removal delivered to the Trustees and shall take effect upon the date stated in the notice, whereupon all duties of the removed trustee shall cease, other than the duties to account and to transfer and deliver all property then held in the Trust to each remaining and/or successor Trustee. If the Trustee who has been removed was an Independent Trustee, the removal will not be effective unless the individual exercising the removal power concurrently designates a Person to serve as trustee of such Trust, such designee concurrently agrees to act as trustee of such Trust by signing the written instrument required by section (I), and such Person is then an Independent Trustee.

(G) ***Mandatory Ineligibility.*** For all purposes of this Trust Agreement, (i) an individual who is under a disability shall be ineligible to serve as trustee of any Trust, and if already in office, shall be deemed to have resigned, and (ii) an individual who was the Settlor's spouse or the spouse of an issue of the Settlor and who ceases to be such spouse, shall be ineligible to serve as trustee of any Trust, and if already in office, shall be deemed to have resigned.

(H) ***Powers of Successor Trustees.*** All powers, authority and discretion herein granted to the Trustees shall pass to and be exercisable by each successor trustee (whether or not designated by instrument) when he, she or it becomes a Trustee. No Trustee shall be obliged to examine the accounts, records, and acts of any previous Trustee under the Trust Agreement or any allocations of receipts or disbursements as between principal and income made by any previous Trustee under the Trust Agreement.

(I) ***Acceptance of Trusteeship.*** (1) Before taking office as Trustee, each Person other than the original Trustees shall accept the terms of this Trust Agreement and shall agree to act as trustee under this Trust Agreement by signing a written instrument to that effect. A Person shall be deemed to have taken office as a Trustee when he, she or it signs that instrument (but not before his, her or its designation is to take effect by its terms).

(2) Upon the termination of the Trust held under Article II, if U.S. TRUST is then designated as the Corporate Trustee of any Trust under Article III or IV and agrees to act as such Corporate Trustee it shall signify its agreement to so act by signing a written instrument to that effect. U.S. TRUST shall be deemed to have taken office as Corporate Trustee when it signs the instrument (but not before its designation is to take effect by its terms).

(J) ***Records of Trustees.*** Each instrument that designates a trustee under this Trust Agreement, that revokes or amends such a designation, that signifies a Person's acceptance of the office of trustee under this Trust Agreement, that removes a Trustee or that signifies a Trustee's resignation shall be filed with the trust records maintained by the Trustees and a copy of it shall be delivered to each co-Trustee, if any.

(K) **No Bond.** No bond (including any bond with respect to advance payment of commissions) or other security shall be required of any Trustee, any provision of law to the contrary notwithstanding.

(L) **Compensation of Trustees.** (1) U.S. TRUST shall be entitled to receive compensation for its service as a Trustee in accordance with its schedule of rates, published from time to time and in effect at the time the compensation is paid, including minimum fees, and additional compensation for special investments, closely-held business interests and certain other services. The Settlor intends this Article to be a provision for specific rates or amounts of commissions within the meaning of any applicable state statute requiring such a provision. The Settlor recognizes that such compensation may exceed the compensation for such services in effect from time to time under applicable law.

(2) All other Trustees shall be entitled to such reasonable compensation for his, her or its services as shall have been specified in an agreement between such Trustee and the Settlor or, if the Settlor is not living or is under a disability, between such Trustee and DEBRA, or, if DEBRA is not living and competent, as shall have been specified in the instrument designating such Person as trustee. If no compensation has been specified for a Trustee as provided in the preceding sentence, such trustee shall not be entitled to compensation.

(3) In addition to the compensation, if any, provided in this section, each Trustee shall be entitled to reimbursement for the reasonable, actual out-of-pocket expenses incurred by him, her or it in connection with the administration of any Trust, including, but not limited to, the cost of accountants, custodians, and legal and investment counsel.

(4) No Trustee shall be entitled to any commissions or other compensation other than that prescribed in this section. Each Trustee shall be required to accept the

compensation prescribed in this section as a condition of his, her or its service as a Trustee, and his, her or its qualifying to act as such shall be deemed to be a waiver of the right to receive any additional commissions or other compensation.

XII: ACTION BY TRUSTEES

(A) ***Declining to Participate.*** Any Trustee, at any time or from time to time, may decline to participate in any one or more decisions to be made by the Trustees. Any such refusal shall be set forth in a written instrument signed by such Trustee or on his, her or its behalf and delivered to each other Trustee.

(B) ***Release or Suspension of Powers.*** Any Trustee, at any time or from time to time, may release or suspend for a specified period of time any power conferred on such Trustee under this Trust Agreement. Except as otherwise provided in Article IX(E), such release or suspension shall be irrevocable if the document by which the release or suspension is effected states that it shall be irrevocable and shall bind all of such Trustee's successors if such document states that it is intended to bind such successors. Any such release or suspension shall be effected by written instrument signed by the Trustee making the release or suspension and delivered to each other Trustee.

(C) ***Majority Decisions.*** Except as otherwise provided, all decisions as to any Trust authorized or required to be made hereunder by the Trustees or by the Independent Trustees shall be made by a majority of the Trustees or Independent Trustees, as the case may be, of such Trust, who are not precluded by law or this Trust Agreement from making the decision and who have not declined to participate in the decision, but their ministerial duties (such as signing of checks, execution of brokerage transactions relating to securities or

commodities, and execution of applications for life insurance) may be executed by any one Trustee.

XIII: LIABILITY AND INDEMNITY OF TRUSTEES

(A) ***Limitation of Liability.*** Notwithstanding any contrary provision of law, no Trustee, individually or as Trustee, nor his or her heirs, executors, administrators, successors and assigns shall be liable, to any Person having an interest in any Trust, to any third party, or to such Trust for any act taken or omitted in his or her capacity as Trustee unless such act or omission was made in bad faith and with full knowledge that such act or omission constituted a breach of his or her fiduciary obligations under this Trust Agreement. In particular, without limiting the foregoing, no Trustee shall be liable to any Person having an interest in any Trust, to any third party or to such Trust for any loss which may result from any investment of a character authorized hereunder, or its retention, unless it can be affirmatively shown that in making or retaining such investment such Trustee acted fraudulently in fact (as distinguished from any imputed, constructive or assumed fraud) or in deliberate, willful and intentional disregard of the interests of the beneficiaries of such Trust.

(B) ***Indemnification.*** Each Trust shall indemnify each Trustee of such Trust, individually and as Trustee, and his or her heirs, executors, administrators, successors and assigns and hold each of them harmless from and against any loss, damage or expense (including fees and disbursements for legal services) which they may suffer, sustain, incur or be called upon to pay as a result of any action, proceeding, claim or demand being made or brought against them by reason of or relating to any act or omission, investment, collection or disbursement by the Trustees (other than an act or omission that is not protected from liability under section (A)) in connection with the administration, investment, or distribution of such Trust, and shall

discharge the obligations of such indemnity immediately as incurred by them, and shall pay to them on demand the expenses incurred by them in connection with any such action, proceeding, claim or demand in advance of their final disposition.

(C) ***Retention of Counsel.*** If any action, proceeding, claim or demand (“Claim”) is asserted or brought by any Person against any Trustee of any Trust, such Trustee may retain separate counsel (including any firm with which any Trustee is affiliated in any capacity) or other professional advisers to defend against such Claim and may pay for such services out of the income or principal of such Trust, but only until a court of competent jurisdiction has determined that such Trustee is liable for an act or omission that is not protected from liability under section (A) in connection with such Claim. If a court of competent jurisdiction determines that such Trustee is liable for an act or omission that is not protected from liability under section (A) in connection with such Claim, such Trustee shall repay the Trust for all fees previously paid to such Trustee’s separate counsel or other professional advisers to defend against the Claim.

XIV: ORIGINAL DEFINITIONS

For purposes of this Trust Agreement, the following words and expressions shall have the following meanings and usages:

- (1) “Article”: an Article of this Trust Agreement.
- (2) “Beneficiaries”: the Settlor’s spouse and the Settlor’s issue living from time to time.
- (3) “Beneficiary”: a particular one of the Beneficiaries.
- (4) “Code”: the Internal Revenue Code of 1986.

(5) “disability”: except as otherwise provided, an individual shall be deemed under a disability or to have suffered a disability if and for so long as such individual lacks sufficient understanding or capacity to make and communicate decisions about his or her property, his or her business affairs or matters concerning a Trust in or over which he or she holds an interest or power. The existence of a disability shall be established (i) by the written opinion of two licensed physicians or psychiatrists appointed by the Trustees (other than such individual) that a disability (as defined in the preceding sentence) exists, or (ii) by the determination of a court of competent jurisdiction that such individual is under a legal disability.

(6) “generation” and “inclusion ratio”: the meanings ascribed to those terms in chapter 13 of the Code.

(7) “Independent Trustees”: the Trustees other than a Beneficiary, and other than any individual (i) whose possession of any of the powers and discretion conferred under this Trust Agreement upon Independent Trustees would result in any portion of the Trust Fund of any Trust in existence on the date of the Settlor’s death being included in the Settlor’s gross estate for federal estate tax purposes, or would result in any portion of the Trust Fund of any Trust in existence at such individual’s death being included in his or her gross estate for federal estate tax purposes, or would result in any portion of the Trust Fund of any Trust in existence at the death of a Beneficiary being included in his or her gross estate for federal estate tax purposes, or (ii) whose possession of, exercise of, or failure to exercise any of said powers and discretion would result in any portion of the Trust Fund of any Trust over which such Trustee is Trustee being included as a taxable gift of such Trustee for federal gift tax purposes at any time.

(8) “issue”: except as otherwise provided, all descendants of the designated ancestor who are descended from such ancestor by blood or adoption, provided that an individual

adopted after his or her eighteenth (18th) birthday and his or her descendants shall be deemed not to be issue of the adopted individual's adoptive parent or parents.

(9) "legal disability": an individual shall be deemed under a legal disability if he or she (i) is a minor, (ii) has been legally declared incompetent, or (iii) is an individual for whom a guardian, committee or similar fiduciary (however denominated in the relevant jurisdiction) has been appointed.

(10) "Perpetuities Date": the date occurring twenty-one (21) years after the death of the last survivor of such of the issue of the Settlor's mother as were living at the date of execution of the Original Trust Agreement.

(11) "personal representatives": as to a given individual, the person or persons, whether denominated as executors, administrators, personal representatives or otherwise, duly authorized to administer that individual's estate pursuant to that individual's Will in the jurisdiction in which such Will is admitted to original probate, or pursuant to the laws governing the administration of that individual's estate, if he or she died without a will.

(12) "Related Person": as to an individual, a person who is related or subordinate to such individual within the meaning of § 672(c) of the Code (determined as though such individual were the grantor, as that term is used in § 672(c) of the Code).

(13) "Settlor": LEON D. BLACK.

(14) "Settlor's Children": the Settlor's children, BENJAMIN ELI BLACK, JOSHUA MAX BLACK, ALEXANDER SAMUEL BLACK, VICTORIA RACHEL BLACK, and any children born to or adopted by the Settlor after the execution of the Original Trust Agreement.

(15) “Settlor’s issue”: the Settlor’s Children and all issue (as defined in this section) of the Settlor’s Children living from time to time.

(16) “spouse”: the person to whom an individual is married and with whom he or she is living, or, if such individual is not living, the person to whom he or she was married and with whom he or she was living at the time of his or her death, whether or not that person has remarried. For purposes of this subsection, temporary separation for reasons other than marital discord shall be ignored. The Independent Trustees shall determine whether a person is the spouse of a particular individual and any such determination shall be binding and conclusive on all persons who in any way may be affected thereby. At the time of execution of this Trust Agreement, the Settlor’s spouse is DEBRA.

(17) “Trust”: each Trust held under Article II.

(18) “Trust Fund”: as to each Trust, all property (principal plus accrued, accumulated and undistributed income) that, at any particular time, belongs to such Trust.

(19) “Trustees”: each Trustee and all Trustees serving under this Trust Agreement at any given time.

(20) “Will”: the Last Will and Testament of an individual, whenever executed, that is duly admitted to probate.

XV: 2012 DEFINITIONS AND RULES OF CONSTRUCTION

(A) ***2012 Definitions.*** For purposes of this Trust Agreement, the following terms shall have the following meanings:

(1) “Administrative Trustee”: at any particular time, the Trustee who has been designated as the Administrative Trustee and who has not ceased to act as Administrative Trustee.

(2) “competent”: an individual shall be deemed competent if he or she is living and not under a disability.

(3) “Entity”: any Person other than an individual.

(4) “GST exemption”: the same meaning as that ascribed to the term “GST exemption” in chapter 13 of the Code.

(5) “health, education, support and maintenance”: the aggregate of the meanings ascribed to the terms “health,” “education,” “support” and “maintenance” in §§ 2041 and 2514 of the Code.

(6) “Individual Trustees”: at any particular time, the Trustees who are natural persons.

(7) “LEON D. BLACK 2007 GST EXEMPT FAMILY TRUST AGREEMENT”: the trust agreement dated as of the date hereof governing the trust created pursuant to an instrument dividing the Original Trust Agreement dated as of the date hereof and an Amendment and Restatement of the Original Trust Agreement executed on the date hereof by BARRY J. COHEN, JOHN J. HANNAN and RICHARD RESSLER, as independent trustees under the Original Trust Agreement.

(8) “Non-Administrative Trustees”: at any particular time, all of the Individual Trustees.

(9) “Original Trust Agreement”: a trust agreement executed on July 30, 1997, by and among the Settlor, as settlor, and the Settlor, DEBRA, BARRY J. COHEN, JOHN J. HANNAN and RICHARD RESSLER, as trustees, known as the BLACK FAMILY 1997 TRUST AGREEMENT.

(10) “Person”: any individual, corporation, partnership, joint venture, joint-stock company, trust, limited liability company, unincorporated organization, government or political subdivision thereof or other entity.

(11) “issue of the Settlor”: the Settlor’s issue, as defined in Article XIV(15).

(12) “Treasury Regulations”: the regulations promulgated by the United States Treasury Department as authorized by § 7805 of the Code.

(13) “Trust Agreement”: this trust agreement, as it may be amended from time to time pursuant to Article IX.

(B) ***Rules of Construction.*** For purposes of this Trust Agreement, the following rules of construction apply:

(1) All references to a body of laws (such as the Code), to a body of regulations (such as the Treasury Regulations), or to any provision thereof, shall be deemed to refer to such body of laws, regulations or provision thereof, as the same may be amended from time to time, and shall be deemed to refer as well to any subsequent body of laws, regulations or provisions thereof enacted in its place.

(2) Unless otherwise specifically provided, all references to Articles refer to Articles of this Trust Agreement, all references to sections refer to sections of the Article within which the reference occurs, and all references to subsections refer to subsections of the section within which the reference occurs.

(3) Except where the context otherwise requires, (i) words importing the masculine or feminine gender include the other and the neuter, if appropriate, and (ii) words importing the singular number include the plural number and vice versa.

(4) A document shall be deemed to have been delivered to a Person at such time as it is actually received by such Person.

(5) The titles of Articles and headings of sections contained in this Trust Agreement are included solely for purposes of identification, and shall not be used to construe any provision contained in this Trust Agreement or for any other reason.

(6) The words “will” and “shall” are used interchangeably in this Trust Agreement. Unless the context clearly indicates otherwise, when this Trust Agreement provides that Trustees will or shall take a particular action, the Trustees must take that action. When the Trust Agreement provides that the Trustees may take a particular action, the Trustees have the discretionary authority to take the action, but are not required to do so.

(C) ***Governing Law and Selection of Forum.*** Except as otherwise validly elected pursuant to Article VII(B)(14), all questions pertaining to the validity, construction and administration of this Trust Agreement and the Trusts shall be determined in accordance with the laws of the State of Delaware in effect from time to time. Any action or proceeding relating to the Trusts or any Trust shall be brought and enforced in any state or federal court of competent jurisdiction in the State of Delaware.

(D) ***Partial Invalidity.*** If any provision or condition of this Trust Agreement is determined to be void or invalid, then such invalidity shall not affect any other provision or condition hereof, but the remainder of this Trust Agreement shall be effective as though such void provision or condition had not been contained herein.

(E) ***Counterparts.*** This Trust Agreement may be executed in any number of counterparts and all of such counterparts, when taken together, shall constitute the whole.

IN WITNESS WHEREOF, the Independent Trustees have signed this Amendment and Restatement on _____, 2012. This Amendment and Restatement shall be effective thirty (30) days after the Settlor has received a copy thereof. The Settlor has signed this Amendment and Restatement on _____, 2012 to signify his designation of US TRUST COMPANY OF DELAWARE as Administrative Trustee.

BARRY J. COHEN, Independent Trustee

JOHN J. HANNAN, Independent Trustee

RICHARD RESSLER, Independent Trustee

LEON D. BLACK, Settlor

RECEIPT ACKNOWLEDGED:

LEON D. BLACK

Dated: _____, 2012

U.S. TRUST COMPANY OF DELAWARE hereby accepts its designation as Administrative Trustee, effective on the effective date of this Amendment and Restatement.

[], VICE PRESIDENT, US
TRUST COMPANY OF DELAWARE
Dated: _____, 2012

STATE OF)
) ss.:
COUNTY OF)

On the day of , 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared BARRY J. COHEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF)
) ss.:
COUNTY OF)

On the day of , 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN J. HANNAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF)
) ss.:
COUNTY OF)

On the day of , 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD RESSLER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF)
) ss.:
COUNTY OF)

On the day of , 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared LEON D. BLACK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public