

TRUST AGREEMENT

BETWEEN

LEON D. BLACK

AS GRANTOR

AND

NORMAN BROWNSTEIN,

AS TRUSTEE

CREATING

THE LEON D. BLACK 1999

LIFE INSURANCE TRUST #2

Dated: As of September 13, 1999

Copy 3 of 3

RUBIN BAUM LEVIN CONSTANT & FRIEDMAN

30 ROCKEFELLER PLAZA • NEW YORK, N.Y. 10112

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Index to the Leon D. Black  
1999 Life Insurance Trust Agreement #2

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TRUST AGREEMENT dated as of September 13, 1999,  
between LEON D. BLACK (having an address at [REDACTED]  
[REDACTED]), as Grantor, and NORMAN BROWNSTEIN  
(having an address at [REDACTED]  
[REDACTED]), as Trustee.

The Grantor hereby transfers to the Trustee, and the Trustee hereby acknowledges receipt of, the sum of One Thousand Dollars (\$1,000.00), to be held, administered and disposed of in accordance with the provisions of Article FIRST hereof. Said sum and any other property that may be received by the Trustees pursuant to the provisions of Article FOURTH hereof, and all investments and reinvestments thereof, and all proceeds thereof which constitute principal, are hereinafter collectively called "principal."

Wherever used in this Trust Agreement the word "Trustees" and all references to the Trustees shall mean and refer to the Trustee and successor Trustee herein named, any successor or additional Trustee appointed pursuant to the provisions hereof, any substitute Trustee appointed by a court of competent jurisdiction, the survivors or survivor of them, and their and each of their successors or successor, as may be acting hereunder from time to time.

This Trust Agreement shall be known as the "Leon D. Black 1999 Life Insurance Trust Agreement #2" and the trust

created by Article FIRST hereof shall be known as the "Leon D. Black 1999 Life Insurance Trust #2."

FIRST: Disposition of Principal and Income During the Life of the Grantor and his Spouse.

A. The Trustees shall hold, manage, invest and reinvest the principal of the trust created by this Article, IN TRUST, and, so long as either the Grantor or his spouse, DEBRA R. BLACK, shall live, the Trustees shall receive the income thereof and shall accumulate the net income thereof, if any, and, at least annually, add it to the principal of such trust, subject, however, to the provisions of Sections B and C of this Article.

B. The Trustees are authorized and empowered to use or apply such part, parts or all, if any, of the income or principal of the trust created by this Article, in such amounts and proportions, and at such time or times, as they, in their discretion, shall determine to pay premiums on any one or more insurance policies on the life of the Grantor and/or of the Grantor's said spouse which may at any time be held as part of the principal of the trust created by this Article.

C. The Trustees are authorized and empowered to pay such part, parts or all, if any, of the income and principal of the trust created by this Article (including any or all insurance policies held in the trust) to, or apply such part, parts

or all, if any, of the income and principal of the trust created by this Article (including any or all insurance policies held in the trust) for the use or benefit of, such one or more of the descendants of the Grantor living from time to time, in such equal or unequal amounts and proportions, and at such time or times, as the Trustees, in their discretion, shall determine, without regard to the interest in such trust of any other person and without regard to the fact that any such payment or application may result in the termination of the trust.

D. Upon the death of the survivor of the Grantor and his said spouse, the Trustees shall pay the then principal of the trust, together with all net income thereof accrued but not yet collected, and collected but not yet disposed of, (hereinafter referred to in this Section D as "such property"), per stirpes, to such of the descendants of the Grantor as shall then be living, subject, however, to the provisions of Article SECOND hereof, or, if no descendant of the Grantor shall survive both the Grantor and the Grantor's said spouse, the Trustees shall pay such property in accordance with the provisions of Article THIRD hereof.

E. Notwithstanding anything herein to the contrary, if any descendant of the Grantor shall be a Trustee hereunder, he or she shall not, in his or her capacity as such a Trustee, have any voice or vote or otherwise participate in any decision

pertaining to the payment or application of the income or principal of the trust created by this Article to or for the use or benefit of him or her in his or her capacity as a beneficiary of the trust or to or for the use or benefit of any person whom he or she has an obligation to support, and, in each such event, the other Trustee or Trustees, if any, shall make all decisions relating to such trust that pertain to such matters.

SECOND: Continuing Trusts for  
Descendants of the Grantor.

A. If, under any provision of this Trust Agreement, any property is directed to be paid to a descendant of the Grantor subject to the provisions of this Article, such property shall not be distributed or paid to such descendant. Instead, the Trustees shall continue to hold such property, IN TRUST (in a separate trust for each such descendant which is referred to in this Article as "such descendant's trust"; provided, however, that if there shall be property so directed to be paid on more than one occasion to any such descendant, all such property shall be held in a single trust for such descendant), and, so long as such descendant shall live before attaining the age of twenty-one (21) years, the Trustees, other than such descendant if he or she shall be a Trustee hereunder, are authorized and empowered to pay to, or apply for the use or benefit of, such descendant, such part, parts or all, if any, of the net income of such descendant's trust, and at such time or times, as said

Trustees, in their discretion, shall determine, and the Trustees shall accumulate the balance of such net income, if any, and, at least annually, add it to the principal of such descendant's trust, and, so long as such descendant shall live after attaining the age of twenty-one (21) years, the Trustees shall pay to such descendant all of the net income of such descendant's trust in at least quarterly installments.

B. The Trustees, other than such descendant if he or she shall be a Trustee hereunder, are authorized and empowered to pay to, or apply for the use or benefit of, such descendant, such part, parts or all, if any, of the principal of such descendant's trust, and at such time or times, as said Trustees, in their discretion, shall determine, without regard to the interest in such trust of any other person and without regard to the fact that any such payment or application may result in the termination of such trust.

C. Upon the death of such descendant (hereinafter referred to in this Section as "such deceased descendant"), the Trustees shall pay the then principal of such deceased descendant's trust, together with all net income thereof accrued but not yet collected, and collected but not yet disposed of, in such equal or unequal amounts or proportions, to or for the use or benefit of such one or more persons, firms, corporations, associations or governmental bodies (specifically excluding,

however, such deceased descendant, the creditors of such deceased descendant, the estate of such deceased descendant, and the creditors of the estate of such deceased descendant), and upon such terms, conditions and trusts, if any, as such deceased descendant, by a provision in his or her Will expressly referring to this Article of this Will, shall validly direct and appoint. If, or to the extent that, such deceased descendant shall fail so expressly and so validly to direct and appoint such principal and income, the Trustees shall, at the death of such deceased descendant, pay the unappointed trust property, or, as the case may be, all thereof, per stirpes, to such of the descendants of such deceased descendant as shall survive such deceased descendant, subject, however, to the provisions of this Article, or, if no such descendant shall so survive, per stirpes, to such of the descendants as shall so survive of the ancestor of such deceased descendant closest in degree of relationship to such deceased descendant who (i) shall have descendants who shall so survive and (ii) shall have been a descendant of the Grantor or shall have been the Grantor, subject, however, to the provisions of this Article, or, if no such descendant shall so survive, in accordance with the provisions of Article THIRD hereof.

D. Notwithstanding anything herein to the contrary, each trust created by the terms of this Article shall terminate, if not sooner terminated, upon the expiration of twenty-one (21)

years after the death of the last survivor of (i) the Grantor, (ii) the Grantor's spouse, DEBRA R. BLACK, and (iii) each descendant of the Grantor who shall have been living on the date hereof; and the Trustees shall thereupon pay the then principal of any trust terminated in accordance with the provisions of this Section, together with all net income thereof accrued but not yet collected and collected but not yet disposed of, to the descendant of the Grantor with respect to whom such trust is being held.

THIRD: Disposition of Property if No Descendant of the Grantor is Living.

A. As used in this Article:

1. The words "such time" shall mean the time as of which any property is directed to be paid in accordance with the provisions of this Article.

2. The words "Qualified Charitable Organization" shall mean and refer to an organization which at such time is described in §170(c)(2), §2055(a) and §2522(a) of the Internal Revenue Code, and is then an organization exempt from taxation under §501(a) of said Code as an organization described in §501(c)(3) of said Code.

B. If, under any provision of this Trust Agreement, any property is directed to be paid in accordance with the provisions of this Article, the Trustees shall pay such property to the LEON BLACK FAMILY FOUNDATION, INC. (the "Foundation"), if it is a Qualified Charitable Organization. It is the Grantor's desire that the directors of the Foundation expend such property for the following purposes:

1. TWENTY-FIVE (25%) PERCENT thereof shall be used to promote medical research;

2. TWENTY-FIVE (25%) PERCENT thereof shall be used to promote Judaica;

3. TWENTY-FIVE (25%) PERCENT thereof shall be used to promote art and culture; and

4. TWENTY-FIVE (25%) PERCENT thereof shall be used to promote education.

If the Foundation is not a Qualified Charitable Organization, such property shall be paid to such one or more Qualified Charitable Organizations and in such amounts or proportions as the Trustees, in their sole discretion, shall determine, provided, however, that such property shall be used

for the purposes provided in paragraphs 1 through 4 inclusive of this Section B.

FOURTH: Additions to the Trusts.

Any person, including the Grantor, by a transfer to take effect during the life of such person or upon the death of such person, may, at any time or times, add to the principal of any trust hereunder any property of any kind or nature acceptable to the Trustees, including insurance policies on the life of the Grantor or of any other person, and any such additional property so received by the Trustees pursuant to the provisions of this Article shall thereafter be deemed to be part of the principal of such trust subject to all of the terms, provisions and conditions of this Trust Agreement.

FIFTH: Irrevocability.

This Trust Agreement and the trusts hereby created are irrevocable and not subject to amendment or change.

SIXTH: Governing Law.

This Trust Agreement and the trusts hereby created shall be governed by the laws of the State of Colorado.

SEVENTH: Trustees.

A. The initial Trustee acting hereunder shall be NORMAN BROWNSTEIN.

B. If NORMAN BROWNSTEIN shall cease to act as Trustee hereunder, the successor Trustee hereunder to act in his place and stead shall be JOHN HANNAN (now residing at 1133 Fifth Avenue, New York, New York 10128).

C. Each individual acting as a Trustee hereunder (whether such Trustee is initially a party to this Trust Agreement or a successor or additional Trustee named in Section B of this Article or appointed pursuant to the provisions of Section D of this Article or of this Section C) is authorized and empowered to appoint another individual (other than the Grantor or the Grantor's spouse, DEBRA R. BLACK) to act in his or her place and stead as a Trustee hereunder; provided, however, that no such appointment made by NORMAN BROWNSTEIN shall be effective if, in accordance with the provisions of Section B of this Article, he shall be succeeded as a Trustee hereunder by JOHN HANNAN.

D. 1. It is the Grantor's wish that, so long as any trust hereunder shall continue, there shall at all times be at least one Trustee (and there may be as many as three (3)

Trustees) acting hereunder. Therefore, at any time prior to the termination of any such trust:

(a) If there shall be a single Trustee acting hereunder, he or she is authorized and empowered (but he or she is not directed), to appoint another individual (other than the Grantor or the Grantor's spouse, DEBRA R. BLACK) to act as an additional Trustee hereunder.

(b) If there shall be two (2) Trustees acting hereunder, the then acting Trustees hereunder are authorized and empowered (but they are not directed), acting unanimously, to appoint another individual (other than the Grantor or the Grantor's spouse, DEBRA R. BLACK) to act with them as an additional Trustee hereunder.

2. At any time when there shall be fewer than three (3) Trustees acting hereunder, such fewer Trustees (or, as the case may be, such sole Trustee) shall have the right to exercise all rights and powers of the Trustees hereunder; provided, however, that no such Trustee shall thereby be permitted to exercise any authority or power which such Trustee shall be prohibited from exercising by an express provision of this Trust Agreement.

E. Each appointment of a successor or additional Trustee hereunder made pursuant to the provisions of Section C

or Section D of this Article shall be made by the execution of an instrument of appointment signed and acknowledged by the Trustee or Trustees who shall have made such appointment and by delivering such instrument or a copy thereof in person or by sending the same by registered or certified mail to each successor or additional Trustee therein named, and also delivering the same in accordance with the provisions of Section I of this Article; and any such appointment may be revoked in the same manner by the Trustee or Trustees who shall have made it at any time before the occurrence of the event or events as of which such appointment shall, by its provisions, become effective. Any appointment made in accordance with the provisions of Section C or Section D of this Article shall be valid only if the successor or additional Trustee so appointed shall, within forty-five (45) days after the later of (i) the date on which a copy of such instrument of appointment is delivered to him or her, and (ii) the occurrence of the event or events as of which such appointment shall, by its provisions, become effective, qualify as a successor or additional Trustee hereunder in accordance with the provisions of Section F of this Article.

F. Each successor or additional Trustee hereunder shall qualify as such by accepting the trusteeship by the execution of a signed and acknowledged instrument of acceptance and by delivering such instrument in accordance with the provisions of Section I of this Article.

G. Any individual Trustee hereunder may resign as such a Trustee by the execution of a signed and acknowledged instrument of resignation and by delivering such instrument in accordance with the provisions of Section I of this Article. Any such resignation shall become effective upon the receipt of such instrument of resignation by each individual to whom it is delivered or mailed as aforesaid or at such later date as may be specified therein.

H. If any individual while acting as a Trustee hereunder shall become incapable of discharging his or her responsibilities and duties as such a Trustee by reason of a physical, emotional or intellectual incapacity and such incapacity shall be confirmed by each of two medical doctors in written statements, copies of which shall be delivered or mailed as hereinafter provided, the individual who is so incapacitated shall be deemed for the purposes of construing and applying all of the provisions of this Trust Agreement to have effectively resigned as such Trustee in compliance with the provisions of Section G of this Article, such resignation to be deemed to be effective upon the delivery or mailing of the aforesaid statements as hereinafter provided. Each of the aforesaid statements shall be signed by the medical doctor making the same and copies of the same shall be delivered in accordance with Section I of this Article and, in addition, a copy thereof shall be delivered in person or sent by registered or certified mail

to each individual, if any, who will become a successor Trustee hereunder in the place and stead of the incapacitated Trustee to whom such statement pertains.

I. Each instrument or statement directed to be delivered in accordance with the provisions of this Section I shall be deemed to be so delivered if it or a copy of it is delivered in person or sent by registered or certified mail to each Trustee, if any, then acting hereunder (other than the Trustee, if any, who shall have executed such instrument or the incapacitated Trustee, if any, to whom such statement pertains), and also to any one or more of (i) the Grantor (or, if the Grantor shall then be incapacitated, to the guardian or other fiduciary, if any, appointed for the Grantor, or, if the Grantor shall not then be living, to the executors, administrators or personal representatives, if any, of the Grantor's estate), (ii) any adult individual to whom or for whose use or benefit the income of any trust hereunder may then be paid or applied, or (iii) either parent or the guardian or other fiduciary appointed for any minor or incapacitated individual to whom or for whose use or benefit the income of any trust hereunder may then be paid or applied.

J. 1. As used in this Section, the words "Trustee-Beneficiary" shall mean and refer to a Trustee of any trust hereunder who shall, individually, then be a person to whom or

for whose use or benefit the income and/or principal of such trust and/or any other trust hereunder may then be paid or applied in the discretion of the Trustees of such trust or trusts.

2. Notwithstanding anything herein to the contrary, if at any time there shall be more than one Trustee-Beneficiary, in every instance where the Trustees are authorized and empowered, in their discretion, to pay and/or apply the income and/or the principal of any trust hereunder to or for the use or benefit of the beneficiary or beneficiaries of such trust, then, so long as there shall continue to be more than one Trustee-Beneficiary, any Trustee of such trust who is a Trustee-Beneficiary shall (unless otherwise prohibited from doing so by an express provision of this Trust Agreement) be authorized and empowered to participate in the decision to pay and/or apply the income and/or the principal of such trust to or for the use or benefit of any other Trustee-Beneficiary who shall be a permissible beneficiary of such trust only if such payment or application shall be for the health, education, maintenance or support of such other Trustee-Beneficiary.

3. The limitation set forth in paragraph 2 of this Section with respect to the power and authority of any Trustee who shall be a Trustee-Beneficiary shall in no way serve as a limitation with respect to the power and authority of any

Trustee hereunder who shall not be a Trustee-Beneficiary, and if and so long as there shall at any time be more than one Trustee-Beneficiary, the Trustee or Trustees hereunder, if any, other than any Trustee who shall be a Trustee-Beneficiary shall alone be vested with the power and authority to participate in the exercise of discretion pertaining to the payment and application of income and/or principal in which, under the limitation set forth in said paragraph 2, any Trustee hereunder who is a Trustee-Beneficiary shall not be permitted to participate.

K. No bond or other security shall be given by or required in any jurisdiction (whether in the State of Colorado or elsewhere) of any Trustee at any time acting hereunder (whether such Trustee is named herein or appointed pursuant to the provisions hereof) for the faithful performance of such Trustee's fiduciary duties in any capacity hereunder regardless of whether such Trustee is or may become a non-resident of the State of Colorado or elsewhere.

EIGHTH: Compensation of Trustees.

A. So long as either the Grantor or his spouse, DEBRA R. BLACK, shall live, no Trustee hereunder, whether such Trustee is hereinabove named or appointed pursuant to the provisions hereof, shall be entitled to any compensation (other than reimbursement for out-of-pocket expenses) for services rendered as a Trustee hereunder; and each Trustee who is a party to this

Trust Agreement or who qualifies as a successor Trustee hereunder as provided herein shall be deemed to have agreed to serve as such Trustee during the life of the Grantor without receiving any such compensation.

B. From and after the death of both the Grantor and his said spouse, each Trustee hereunder, whether such Trustee is hereinabove named or appointed pursuant to the provisions hereof, shall be entitled to compensation equal to the Trustee's commissions payable from time to time at the rates set forth under the laws of the State of Colorado, unless such Trustee shall have agreed in writing to accept a lesser rate of compensation for serving as a Trustee hereunder, in which event such Trustee shall be compensated at the lesser rate so agreed upon.

NINTH: Authority with Respect to Life Insurance Policies.

A. In addition to and in amplification of all other authority and powers given to the Trustees by law and the other provisions of this Trust Agreement, the Trustees, but solely in their fiduciary capacities, are hereby authorized and empowered, in their discretion, to accept, apply for, and maintain as part of the principal of any trust held hereunder policies of life insurance under which the Grantor, his said spouse and/or any other person shall be the insured. All references in this

Article to the "insurance policies" shall mean and refer to any such policy that may at any time be held in any trust hereunder.

B. The Trustees shall be vested with all right, title and interest in and to the insurance policies, and all incidents of ownership thereof, and are authorized and empowered to exercise and enjoy, as though absolute owners of the insurance policies, all of the options, benefits, rights, and privileges thereunder as fully as any owner thereof might do, including (without limiting the foregoing) the right to change the beneficiary of any such policy in favor of themselves as Trustees or in favor of any person or persons to whom such policy may be paid, assigned or distributed pursuant to any provision hereof, surrender or cancel the same, convert any policy into another type of policy, borrow against the same, assign the same and revoke assignments, pledge the same for loans, obtain loans against the cash surrender value thereof, and to exercise settlement options. The insurance companies which have issued the insurance policies are hereby authorized and directed to recognize the Trustees as absolute owners of the insurance policies and as fully entitled to all options, rights, privileges and interests thereunder, and any receipts, releases and other instruments executed by the Trustees in connection with the insurance policies shall be binding and conclusive upon the insurance companies and upon all persons then or thereafter interested in any trust hereunder.

C. The Trustees shall be under no duty or obligation (i) to make inquiry as to the economic condition or solvency of the insurance companies which have issued the insurance policies, (ii) to pay the premiums, dues, assessments and other charges which may become due and payable on the insurance policies or any of them, (iii) to see that such payments are made by the insured thereunder or by any other person, (iv) to notify such insured or any other person that such payments are or will become due or (v) to forward premium notices to such insured or any other person. The Trustees shall not be liable or accountable to anyone in case such premiums, dues, assessments and other charges are not paid or for any result of the failure to make such payments. The Trustees are authorized and empowered, but not obligated, to borrow upon any of the insurance policies and to make premium payments from the funds so derived, to use or apply any of the principal and income of any trust hereunder to pay premiums upon any of the insurance policies held in said trust, to require that current dividends on any of the insurance policies (and interest on dividends, if any, accumulated prior to delivery of any of the insurance policies) shall be applied by the insurance company in the reduction of premiums thereafter payable on the same, and to require that any current dividends may be applied by the insurance company for the purchase of additional paid-up insurance on any of the insurance policies, payable to the Trustees, as owners thereof. The Trustees are

authorized and empowered to execute and deliver any instruments required in connection with the foregoing.

D. The Trustees may request (without being obligated to do so) of any insurance company provision that, in the event the premium on any of the insurance policies is not paid upon the due date or within any period of grace thereafter, such insurance company shall forthwith automatically loan the amount required to pay such premium or the unpaid balance thereof, and charge the same as an indebtedness against such policy, or if such policy shall not be sufficient security for such loan, to forthwith convert such policy into paid-up insurance, payable to the Trustees, as owners thereof. All cash dividends thereafter received on any such converted policy may in the discretion of the Trustees be applied by such insurance company for additional paid-up insurance, and any such policy shall be made payable to the Trustees, as owners thereof, or to the person or persons to whom such policy may be paid, assigned or distributed pursuant to any other provision hereof. The Trustees may execute and deliver any instruments required in connection with the foregoing. The Trustees shall be under no duty or obligation to exercise any benefit, option or privilege granted by any of the insurance policies and the Trustees shall not be liable or accountable to any one for the non-exercise by the Trustees of any benefit, option or privilege. The Trustees are authorized and empowered, but not obligated, to pay or cause to be paid any

interest upon any loan made by any insurance company which is charged as indebtedness against any of the insurance policies or to require that such interest may be added to the existing indebtedness charged against such policy.

E. All proceeds of any of the insurance policies received by the Trustees of any trust hereunder shall be deemed to be principal of such trust. As used herein, the term "proceeds" shall mean and include double or additional indemnity, if any, and cash surrender value, if any of the insurance policies are surrendered.

F. Notwithstanding anything herein to the contrary, if any Trustee hereunder shall be an insured under any of the insurance policies, such Trustee shall not have any voice or vote or otherwise be permitted to participate in any manner, directly or indirectly, with respect to any of the rights, powers, authority and discretion herein granted to the Trustees with respect to such policy, and, in such event, all such rights, powers, authorities, and discretion pertaining to such policy shall be exercised exclusively by the Trustee or Trustees hereunder other than the Trustee who shall be the insured under such policy.

TENTH: Settlement of Trustees' Accounts;  
Exoneration of Trustees.

A. To the fullest extent permitted by law, the Trustees shall not be required to file with or render to, and the Grantor waives and excuses the filing with or rendering to, any Court an account of their transactions or inventories, accounts, statements or reports of principal and/or income with respect to any trust created hereunder. Nevertheless, the Trustees may at any time have their accounts judicially settled with respect to any trust created hereunder, and in any such proceeding it shall not be necessary to serve any person who is under a disability if there is another party to the proceeding who is not under any disability and who has the same interest as the person who is under a disability, and, in such event, it shall not be necessary to appoint a guardian ad litem for any such party who is under a disability. The expenses of any such account shall be a proper administration expense of the trust to which such account relates.

B. If any Trustee shall resign as a Trustee hereunder, the continuing Trustee, if any, or, if there is no continuing Trustee, any successor Trustee who shall have qualified to act in accordance with the provisions of Section F of Article SEVENTH hereof, may deliver to the Trustee so resigning an instrument whereby such resigning Trustee shall be released and discharged, to the extent stated therein, of and from any and

all accountability, liability and responsibility for acts or omissions as Trustee. Any such release and discharge shall be binding upon all persons, whether or not then in being, then or thereafter interested in either the income or the principal of any trust hereunder and shall have the force and effect of a final decree, judgment or order of a court of competent jurisdiction rendered in an appropriate action or proceeding for the judicial settlement of the account of such Trustee in which jurisdiction was obtained of all necessary and proper parties. The foregoing provisions, however, shall not preclude any Trustee so resigning from having his or her account judicially settled, and in any such proceeding it shall not be necessary to serve any person who is under a disability if there is another party to the proceeding who is not under any disability and who has the same interest as the person who is under a disability, and, in such event, it shall not be necessary to appoint a guardian ad litem for any such party who is under a disability. The expenses of any such judicial account rendered shall be a proper administration expense of the trust to which such account relates.

C. In addition to the foregoing, the Trustees are hereby authorized, at any time and from time to time, with respect to any trust hereunder, to settle the account of the Trustees by agreement between the Trustees and the then adult individual or individuals to whom or for whose use or benefit

the income of such trust may then be paid or applied and the adult or adults who would be entitled to the principal in case such trust were to terminate at the time of such agreement, excluding any such individual who is under a disability if there is a party to the agreement who is not under any disability and who has the same interest as the individual who is under a disability, which agreement shall bind all persons, whether or not then in being, then or thereafter interested in either the income or the principal of such trust. Any such settlement shall have the same force and effect as a final decree, judgment or order of a court of competent jurisdiction rendered in an appropriate action or proceeding for the judicial settlement of such account in which jurisdiction was obtained of all necessary and proper parties. The expenses of any such account shall be a proper administration expense of such trust.

D. To the extent permitted by law, no Trustee shall be accountable, liable or responsible for any act, default, negligence, or omission of any other Trustee.

ELEVENTH: Definitions.

Wherever used in this Trust Agreement:

1. The words "IN TRUST" shall mean "in trust, nevertheless, to hold, manage, invest and reinvest, and, until

payment thereof as hereinafter directed, to receive the income thereof."

2. The word "pay" shall, where applicable, mean "convey, transfer and pay" and the word "payment" shall, where applicable, mean "conveyance, transfer and payment."

3. The words "descendant" and "descendants," when used with respect to any person, shall be deemed to include (i) every individual who is born to such person, (ii) every individual who is lawfully adopted by such person, and (iii) every individual who is otherwise descended from such person, whether by birth, or by lawful adoption, or by a combination thereof.

4. The words "Internal Revenue Code" shall mean and refer to the "United States Internal Revenue Code of 1986 (as amended from time to time)," and any reference to a specific section, chapter or other provision of the Internal Revenue Code shall mean and refer to said section, chapter or other provision and any successor statute thereto pertaining to the same subject matter as said section, chapter or other provision.

TWELFTH: Administrative Powers.

A. In addition to and in amplification of the powers given by law to trustees, the Trustees, but solely in their

fiduciary capacities, are hereby authorized and empowered, in their discretion:

1. To sell, exchange, make contracts with respect to, grant options on or otherwise dispose of, at public or private sale, at such prices, on such terms (including sales on credit with or without security) and at such time or times as the Trustees shall determine, any property, real or personal, which may at any time form part of any trust hereunder.

2. To lease, for such periods (whether or not any such period shall extend beyond the period prescribed by law or the probable term of any trust hereunder), on such terms and conditions and at such time or times as the Trustees shall determine, the whole or any portion or portions of any property, real or personal, which may at any time form part of any trust hereunder, whether the same be held in severalty or as tenant-in-common with others or in a partnership, syndicate or joint venture or otherwise, and release and convey any undivided interest in any such property for the purpose of effecting partition of the whole or any part thereof; and make, place, extend or renew mortgages, pledges, building loan agreements or building loan mortgages upon or affecting any and all such property; and make, execute and deliver such mortgages, pledges and agreements, together with proper bonds, notes or other instruments of indebtedness to accompany the same, and such extension or

renewal agreements, as to the Trustees shall seem necessary, advisable or proper; and also to repair, alter, reconstruct, build upon or improve any such property and on such terms and at such time or times as the Trustees shall determine, give and grant to others the right so to do, or agree in, or so modify any lease affecting any such property that the lessee may alter, repair, reconstruct, build upon, improve, mortgage and pledge any such property; and generally to make, alter and modify all agreements, leases, mortgages, pledges, building loans, sales, exchanges, transfers and conveyances of or affecting any such property which the Trustees shall determine to be necessary, advisable or proper for the preservation, improvement, enhancement in value of, or betterment of or addition to, such property.

3. To hold any part or all of the assets of any trust hereunder invested in the same form of property in which the same shall be invested when received by the Trustees, and invest and reinvest the assets of any such trust, or any portion thereof, in any form of investment which the Trustees may determine (including, without limitation, mutual funds, common trust funds, investment trusts, general partnerships, limited partnerships and so-called discretionary funds or accounts in which investment decisions with respect thereto are made in the discretion of the manager or managers of such accounts or funds), whether or not such investment is of the nature prescribed by

law as a legal investment for fiduciaries or is speculative in nature, and without regard to the percentage of the assets of such trust which such investment or similar investments may constitute.

4. To vote in person or by proxy all stocks and other securities held by any trust hereunder; grant, exercise, sell or otherwise turn to account rights to subscribe for stock and securities and options of any nature; amortize or refrain from amortizing premiums on bonds or other securities which the Trustees may purchase or receive; participate in reorganizations, mergers, liquidations or dissolutions, and contribute to the expenses of, and deposit securities with, protective committees in connection therewith; participate in voting trusts; and generally exercise, in respect of said stock and securities, all rights, powers or privileges which may be lawfully exercised by any person owning similar property in his or her own right.

5. To employ any investment counsel, corporate custodians, agents, accountants, brokers and attorneys which the Trustees may select and pay the charges thereof; and the Trustees, or a partnership, corporation or other entity in which any Trustee shall be interested, or by which any Trustee may be employed, may be retained in any such capacity, and, in such event, the charges which shall be payable to such Trustee, or to any such partnership, corporation or other entity, shall be in

addition to commissions or compensation otherwise allowable to such Trustee and may be paid without prior judicial approval.

6. In any case in which the Trustees are authorized or required to pay or distribute any share of any trust hereunder, to make such payment or distribution in kind or in cash or partly in each and, in connection therewith, to allocate equal or unequal interests in, or amounts of, specific property in satisfaction of such payment or distribution; provided, however, that any property distributed in kind shall be valued, for purposes of such distribution, at its fair market value on the date of distribution.

7. To settle, adjust, compromise or submit to arbitration any dispute, claim or controversy in which any trust hereunder may be in any way interested.

8. To borrow money from any person, partnership, corporation or other entity, who may be any Trustee or a partnership, corporation or other entity in which any Trustee may be interested, or by which any Trustee may be employed, for the purpose of meeting any and all charges against any trust hereunder or for any other purpose connected with the administration, preservation, improvement or enhancement in value of any such trust, and, in connection with any such borrowing, to pledge, hypothecate or mortgage any part or all of the assets of any such trust.

18. To exercise all authority, powers, privileges and discretion conferred in this Article after the termination of any trust created hereunder and until all of the assets of such trust are fully distributed.

B. No person or party dealing with the Trustees shall be bound to see to the application of any money or other consideration paid by him, her or it to the Trustees.

C. Except with respect to property, if any, over which (i) the Trustees, pursuant to the provisions of paragraph 1 of Section B of Article THIRTEENTH hereof, shall have created a power in a trust beneficiary to appoint the same to the creditors of his or her estate, and (ii) such trust beneficiary shall at his or her death expressly exercise such power in favor of such creditors in the manner specified in said paragraph 1, neither the principal nor the income of any trust hereunder, or any part thereof, shall or may at any time be liable or subject in any manner whatsoever to the debts or liabilities of any beneficiary entitled to receive any principal or income therefrom; nor shall the principal or income of any trust hereunder be liable to attachment by garnishment proceedings or other legal process issued by any creditor of any beneficiary of such trust for debts heretofore or hereafter contracted by such beneficiary; nor shall any assignment, conveyance, charge,

encumbrance or order, either of principal or income, given by any such beneficiary be valid.

D. Wherever in this Trust Agreement it is provided that an instrument is to be "acknowledged," such instrument shall be acknowledged in such manner as would be required if the same were a conveyance of real property entitled to be recorded in the State of Colorado.

E. 1. To the fullest extent permitted by law, no transaction or decision involving any trust hereunder shall be deemed invalidated in any way by reason of any personal, beneficial or other interest which any Trustee may have with respect to such transaction or decision, including, without limitation, any transaction or decision with respect to any corporation, company, partnership, association, estate, trust or other entity in which any Trustee may have an interest in a capacity other than as a Trustee hereunder, regardless of any conflict of interest as to any such transaction or decision, and any such transaction or decision shall be lawful and proper and shall not be questioned unless such Trustee is guilty of fraud with respect thereto. Without limiting the foregoing, no Trustee shall be disqualified or barred from acting as such or have any liability hereunder in exercising any power, authority or discretion conferred upon the Trustees by reason of the fact that such Trustee may be a stockholder, officer, director, partner,

executor, administrator, personal representative, trustee, beneficiary, or in any other way interested in the corporation, company, partnership, association, estate, trust or other entity whose securities or property are the subject matter of the exercise of such power, authority or discretion.

2. The Trustees hereunder shall be entitled to compensation as officers, directors, fiduciaries or other participants in any such entity notwithstanding the fact that they are Trustees hereunder and are also entitled to receive compensation as such Trustees.

F. The Trustees shall be under no duty or obligation and shall not be liable to any trust hereunder or to any person or persons interested in any trust hereunder or be surcharged for failure to buy, sell or engage in any transaction directly or indirectly involving securities issued or to be issued by any corporation or other business organization concerning which any of the Trustees, in a capacity other than as a Trustee hereunder, may have acquired any information which has not been disclosed to the public.

THIRTEENTH: Provisions Relating to the GST.

A. As used in this Article:

1. "GST" shall mean and refer to the "United States generation-skipping transfer tax imposed by Chapter 13 of the Internal Revenue Code."

2. The words "inclusion ratio" shall have the same meaning as those words are given in Section 2642 of the Internal Revenue Code.

3. The words "Net Death Taxes" shall mean and refer to the "aggregate death taxes (including, without limitation, United States, state, local and other estate taxes and inheritance taxes but not including any interest and penalties thereon), after taking into account all applicable credits."

B. 1. Notwithstanding any other provision in this Trust Agreement to the contrary, and in addition to any other power of appointment hereinabove given by the foregoing provisions of this Trust Agreement to any individual at whose death the inclusion ratio with respect to any trust under this Trust Agreement shall be more than zero (such individual being referred to in this Article as "such beneficiary"), the Trustees of such trust are authorized and empowered, by an acknowledged instrument in writing (with such instrument to be filed with the court, if any, then having jurisdiction over such trust, if such court shall accept such instrument for filing), (i) to create in such beneficiary a power (hereinafter referred to in this Section B as "such power"), to be exercised by a provision in

his or her Will expressly referring to this Article of this Trust Agreement, to appoint to the creditors of his or her estate any portion of the property held in such trust at the death of such beneficiary, and (ii) to limit such power, by formula or otherwise, to less than all of the property held in such trust at the death of such beneficiary; provided, however, that with respect to each such trust, the maximum amount of property over which such power may be created shall not, after taking into account the property, if any, over which any other such power is created in such beneficiary, exceed the amount, if any, above which any further addition to the amount subject to such power would increase the Net Death Taxes determined with respect to such beneficiary's estate by an amount equal to or greater than the net decrease in the aggregate of (x) the GST and (y) any state and/or local tax on generation-skipping transfers imposed as a result of the death of such beneficiary that would result from such further addition. Unless such beneficiary's Will otherwise provides by express reference to this Trust Agreement and such power, the increase in the Net Death Taxes on such beneficiary's estate resulting from such power shall be paid from that part of the principal of such trust over which such power is exercisable. If, or to the extent that, such beneficiary shall fail so expressly and so validly to exercise any power created in such beneficiary by the Trustees pursuant to the provisions of this paragraph, the unap-

pointed portion (or, as the case may be, all) of the property subject to such power shall pass pursuant to the provisions of this Trust Agreement otherwise applicable to such property.

2. The Trustees are further authorized and empowered, by an acknowledged instrument in writing (with such instrument to be filed with the court, if any, then having jurisdiction over the trust to which such power relates, if such court shall accept such instrument for filing), to revoke any power created by the Trustees pursuant to the provisions of paragraph 1 of this Section B at any time prior to the death of the beneficiary in whom such power was created, and to release, in the manner set forth in Article FOURTEENTH hereof, the right to create such a power. The Trustees shall not be liable for any exercise, release or failure to exercise the authority and power granted to them by the provisions of said paragraph 1 or for the revocation of any power created by them pursuant to the provisions of said paragraph 1, provided they utilize good faith in considering whether or not to exercise or release such authority and power or to cause such revocation, whether such consideration be at their own instance or at the request of an individual who is a beneficiary of a trust hereunder, the guardian or other fiduciary of such an individual, or a member of his or her family.

C. 1. Notwithstanding any other provision in this Trust Agreement to the contrary, if at any time any property is to be placed in a trust under the provisions of any Article of this Trust Agreement, the Trustees shall, if need be, and if it is possible to do so, divide such property and place the same in separate trusts to the end that one such trust shall have an inclusion ratio of zero, and if any property which is directed to be added to a trust hereunder shall have an inclusion ratio which is different than the inclusion ratio of such trust, the Trustees shall not make such addition but shall instead administer such property in a separate trust under this Trust Agreement; and, in each such instance, the property to be placed or held in such a separate trust shall be held, administered and disposed of by the Trustees pursuant to provisions identical to the provisions of the trust to which, but for the provisions of this paragraph 1, such property would have been placed or added.

2. If, pursuant to the provisions of paragraph 1 of this Section C, any property that would otherwise be held in a single trust hereunder is instead held in separate trusts hereunder, the Trustees of such trusts may, at any time or from time to time, (i) make different tax elections and allocations with respect to each such trust, (ii) expend principal and income and exercise any discretionary power differently with respect to each such trust, (iii) invest each such trust differently, and/or (iv) take all other actions consistent with such

trusts being separate entities. Furthermore, the donee of any power of appointment with respect to such trusts may exercise such power differently with respect to each such trust.

D. Notwithstanding the provisions of the foregoing Sections of this Article to the contrary, if any Trustee hereunder is a current beneficiary of the income of any trust hereunder, or may, in the discretion of the Trustees, be a current beneficiary of the income of any such trust, then, in such event, such Trustee shall not, in his or her capacity as a Trustee of such trust, have any voice or vote or otherwise participate in any decision pertaining to the matters relating to such trust that are addressed in the foregoing Sections of this Article, and, in each such event, the other Trustee or Trustees of such trust shall make all decisions relating to such trust that pertain to such matters.

FOURTEENTH: Release of Powers.

Any beneficiary and any Trustee hereunder may at any time or times release any discretionary power of appointment or discretionary power to distribute principal or income or any other discretionary power hereby given to such beneficiary or Trustee, either with or without consideration, with respect to the whole or any part of the property subject to such power and also in such manner as to reduce or limit the persons or objects or classes of persons or objects in whose favor such power would

otherwise be exercisable, by an instrument signed and acknowledged by the beneficiary or Trustee releasing such power and delivering the same in accordance with Section I of Article SEVENTH hereof. In the event of the release of any such power by any Trustee, the remaining Trustee or Trustees hereunder, if any, may thereafter exercise such power, other than any discretionary power which was not initially vested in such remaining Trustee or Trustees. The release of any power by any Trustee hereunder pursuant to the provisions of this Article shall not be binding upon any Trustee who may thereafter act as a Trustee hereunder unless such power shall have been released by all of the Trustees then in office who are vested with such power by their execution of a signed and acknowledged instrument specifically providing that such release is to be binding upon all successor Trustees hereunder.

FIFTEENTH:            Provisions With Respect To  
Closely Held Businesses.

Without limiting the powers and authority conferred upon the Trustees by Article TWELFTH hereof but in extension thereof, the Trustees are specifically authorized and empowered in their discretion, to retain in any trust hereunder for as long as they, in their discretion, shall deem advisable, any or all shares of stock in any closely held corporation, or any indebtedness owing by any such corporation, or any or all interests in any proprietorship, unincorporated business,

partnership, joint venture, realty or any other asset, whether owned individually, as tenant-in-common, partner or otherwise, regardless of whether such asset or assets shall be producing profits or losses through ownership or operation thereof, and regardless of the percentage of such trust which such assets or similar assets may constitute; and their decision to retain and hold any such asset or liability shall be binding and conclusive upon and shall not be subject to question by any person interested, or who may become interested, in any of the trusts hereunder, and the Trustees shall not incur any liability by reason thereof.

SIXTEENTH: Headings.

The Article headings contained herein are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope hereof or the intent of any provision hereof.

SEVENTEENTH: Counterparts and Severability.

A. This Trust Agreement may be executed in one or more counterparts, each of which together shall constitute one and the same instrument.

B. Should any part, clause, provision or condition hereof be held to be void or invalid, then such invalidity shall not affect any other part, clause, provision or condition

hereof, but the remainder hereof shall be effective as though such void part, clause, provision or condition had not been contained herein.

WITNESS the due execution hereof by the Grantor and Trustee as of the day and year first above written.

  
\_\_\_\_\_  
LEON D. BLACK,  
as Grantor

\_\_\_\_\_  
NORMAN BROWNSTEIN,  
as Trustee

hereof, but the remainder hereof shall be effective as though such void part, clause, provision or condition had not been contained herein.

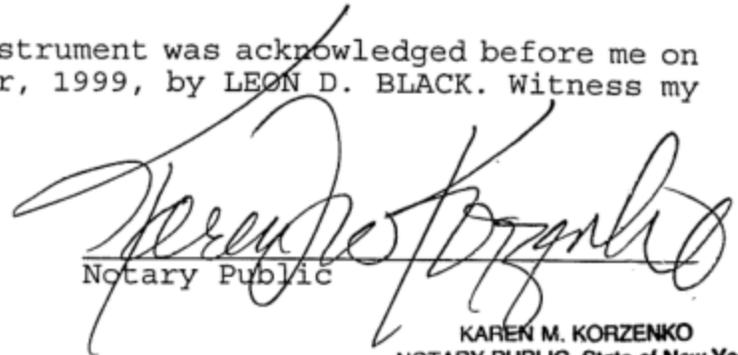
WITNESS the due execution hereof by the Grantor and Trustee as of the day and year first above written.

\_\_\_\_\_  
LEON D. BLACK,  
as Grantor

  
\_\_\_\_\_  
NORMAN BROWNSTEIN,  
as Trustee

STATE OF NEW YORK )  
COUNTY OF *New York* ) ss.:

The foregoing instrument was acknowledged before me on this *13<sup>th</sup>* day of September, 1999, by LEON D. BLACK. Witness my hand and official seal.

  
Notary Public

My commission expires \_\_\_\_\_  
KAREN M. KORZENKO  
NOTARY PUBLIC, State of New York  
No. 01KO5084073  
Qualified in Queens County  
Commission Expires 08.25.01

STATE OF COLORADO )  
COUNTY OF ) ss.:

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of September, 1999, by NORMAN BROWNSTEIN. Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of September, 1999, by LEON D. BLACK. Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

STATE OF COLORADO )  
 ) ss.:  
COUNTY OF *Denver* )

The foregoing instrument was acknowledged before me on this *13th* day of September, 1999, by NORMAN BROWNSTEIN. Witness my hand and official seal.

*Constance M. Butler*  
Notary Public

My commission expires ~~\_\_\_\_\_~~ **My Commission Expires Aug. 12, 2000**  
**410 17th Street 22nd Floor**  
**Denver, Colorado 80202**