

have the same meaning in this instrument as they do in the Code and the said Regulations;

WHEREAS, provided that the settlement on the purchase of the Residence occurs on or before August 31, 2014, the respective contributions toward the purchase price of the Residence, based on the actuarial interests of the Parties, determined in accordance with the applicable actuarial tables promulgated by the Internal Revenue Service for use in valuing life estates and remainders, will be:

Life Tenant – 32.867%

Remainderman – 67.133%

WHEREAS, if settlement on the purchase of the Residence occurs after August 31, 2014, the allocation of the purchase price among the Parties shall be determined under the federal gift tax laws and appropriate Internal Revenue Service interpretations applicable for the month in which the settlement on the Residence occurs to reflect the Parties' respective actuarial interests; and

WHEREAS, the Parties agree to provide funds in the proportion of their respective actuarial interests as determined under the federal gift tax laws and appropriate Internal Revenue Service interpretations, for improvements to the Residence, subject to the limitations for a qualified personal residence trust under Treas. Reg. §25.2702-5(c).

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, specifically incorporated herein by reference, the Parties hereby enter into and agree to be bound by this Agreement setting forth their respective rights and duties.

FIRST: TERM INTEREST IN RESIDENCE

The Residence shall be held by the Parties pursuant to the provisions of this Clause FIRST until the death of the Life Tenant. The aforesaid period is hereinafter referred to as the "Life Estate Period."

(A) During the Life Estate Period, the Life Tenant shall be entitled to the use, occupancy, possession and enjoyment of the Residence, in accordance with Treas. Reg. § 25.2702-5(c). In addition, the Life Tenant is entitled to all of the income with respect to the Residence (including the Account, as defined in paragraph (C) of this Clause), which is to be paid to him at least annually, in accordance with Treas. Reg. § 25.2702-5(c). The Life Tenant shall not be required to post bond. The interest of the Life Tenant shall not be sold, commuted or prepaid by any person.

(B) During the Life Estate Period, property held under this Agreement, including any share thereof held under Clause SECOND hereof as a qualified annuity trust, shall not be distributed to any beneficiary other than the Life Tenant.

(C) During the Life Estate Period:

(1) The Life Tenant shall pay all expenses in connection with his term interest in the Residence, including but not limited to, all maintenance costs, mortgage payments, real estate taxes, utilities, repairs, care of the grounds and insurance, chargeable to a life tenant under the laws where the Residence is situated. In lieu of making direct payment of the aforesaid expenses, the Life Tenant may make additions of cash to an account (the "Maintenance Account") during the Life Estate Period for the payment of Residence expenses by the manager of the Maintenance Account (the "Maintenance Account Manager"), to the extent permitted by and subject to paragraph

(G) of this Clause and the requirements of Treas. Reg. § 25.2702-5(c)(5)(ii). The Maintenance Account Manager's responsibility for the maintenance of the Residence and for other costs associated with the Residence is limited to the extent of any income and additions of cash for that purpose received by the Maintenance Account Manager in accordance with this Clause. The Maintenance Account Manager shall be LEON D. BLACK, who may delegate to any other individual the full exercise of the powers of the Maintenance Account Manager. If LEON D. BLACK ceases to serve as Maintenance Account Manager, then such person as he shall designate, in writing, shall serve as Maintenance Account Manager. In the event of a vacancy in the office of Maintenance Account Manager, the Remainderman shall designate, in writing, the Maintenance Account Manager.

(2) The Parties shall provide funds in proportion to their respective actuarial interests in the Residence for improvements to the Residence, subject to the limitations for a qualified personal residence trust under Treas. Reg. § 25.2702-5(c). In lieu of making direct payment of the aforesaid improvements, the Parties may make additions of cash to an account (the "Capital Account") during the Life Estate Period for the payment of such improvements by the manager of the Capital Account (the "Capital Account Manager") to the extent permitted by and subject to paragraph (G) of this Clause and the requirements of Treas. Reg. § 25.2702-5(c)(5)(ii). The Capital Account Manager's responsibility for the payment of improvements to the Residence is limited to the extent of any income and additions of cash for that purpose received by the Capital Account Manager in accordance with this Clause. The Capital Account Manager shall be [JOHN HANNAN], who may delegate to any other individual the full exercise of

the powers of the Capital Account Manager. If [JOHN HANNAN] ceases to serve as Capital Account Manager, then such person as the Parties shall designate, in writing, shall serve as Capital Account Manager.

(D) Subject to the terms and requirements of paragraph (J) of this Clause and Treas. Reg. § 25.2702-5(c) which shall override: At any time during the Life Estate Period, subject to the provisions of paragraph (D) of Clause THIRD, the Residence may be sold by the Parties, by unanimous consent. If the Parties determine to sell the Residence, the proceeds of sale may be reinvested in another Residence or the construction of a replacement Residence to be used or held for use as a residence of the Life Tenant, within the meaning of Treas. Reg. § 25.2702-5(c)(7)(i), which shall be subject to all of the terms and requirements of this Agreement and Treas. Reg. § 25.2702-5(c). If the Parties determine not to reinvest the proceeds in another Residence, then the proceeds shall be subject to the terms and requirements of paragraph (J) of this Clause, Clause SECOND and Treas. Reg. § 25.2702-5(c).

(E) Upon the expiration of the Life Estate Period, all of the Life Tenant's right, title, and interest in the Residence (other than any cash distributable to the Life Tenant or such Life Tenant's estate pursuant to subparagraph (G)(4) of this Clause) shall cease, and the Remainderman shall be entitled to take absolute and complete title to the Residence, without restriction or claim by the Life Tenant's heirs, legatees, devisees, executors, personal representatives, or other successor and assigns.

(F) Except as otherwise provided in this Agreement and permitted by and subject to the requirements of Treas. Reg. § 25.2702-5(c)(5)(ii) and (c)(8), the Parties shall be prohibited from holding under this Agreement, during the entire Life Estate

Period, any asset other than one Residence to be used or held for use as a personal residence of the Life Tenant, within the meaning of Treas. Reg. § 25.2702-5(c)(7)(i).

(G) The Maintenance Account Manager and the Capital Account Manager, during the Life Estate Period, may accept additions of cash from the Parties, and shall hold such additions of cash in the Maintenance Account or the Capital Account, as applicable, in an amount which, when added to the cash already held in the Account for such purposes, does not exceed the amount required:

(1) For payment of expenses of the Residence (including mortgage payments, if any) already incurred or reasonably expected to be paid by the Maintenance Account Manager within six (6) months from the date the addition is made.

(2) For improvements to the Residence to be paid by the Capital Account Manager within six (6) months from the date the addition is made.

(3) For the purchase of a Residence to replace another Residence, within three (3) months of the date the addition is made to the Capital Account, provided, however, that no addition shall be made for such purpose and the Capital Account Manager shall not hold such addition, unless, prior to the date of such addition, a contract to purchase such replacement Residence has been entered into.

(4) The Maintenance Account Manager shall determine, not less frequently than quarter-annually, the amounts held by the Maintenance Account for payment of expenses in excess of the amounts, if any, permitted by the preceding provisions of subparagraph (G)(1) of Clause FIRST and Treas. Reg. § 25.2702-5(c)(5)(ii)(A)(1) and shall pay immediately thereafter such excess cash to the Life Tenant if the Life Tenant is then living, or if the Life Tenant is then deceased, such excess cash

shall be distributed to the Life Tenant's estate. In addition, upon expiration of the Life Estate Period, any amounts held by the Maintenance Account Manager for the purposes permitted by the preceding provisions of this paragraph (G) of Clause FIRST that are not used to pay such expenses due and payable on the date of termination (including expenses directly related to termination) shall be distributed outright to the Life Tenant's estate, within thirty (30) days of such termination.

(H) The Parties may accept, and shall be permitted to hold as part of the Residence, improvements to the Residence, provided that the Residence, as improved, meets the requirements of a personal residence, within the meaning of Treas. Reg. § 25.2702-5(c)(2).

(I) The Parties may hold one or more policies of insurance on the Residence. In addition, the Capital Account Manager may hold (i) proceeds of sale of the Residence (along with any income accrued thereon); (ii) proceeds of insurance payable to as a result of damage to or destruction of the Residence; and/or (iii) proceeds (and any interest thereon) received as a result of the involuntary conversion (within the meaning of Section 1033 of the Code) of the Residence; provided, however, that any such proceeds shall be held in a separate account.

(J) (1) The respective interests of the Parties during the Life Estate Period shall cease to be in conformity with the requirements of a qualified personal residence trust under Treas. Reg. § 25.2702-5(c) on the occurrence of any of the following events (each such event a "Cessation Date"):

(a) The date on which the Residence ceases to be used or held for use as a personal residence of the Life Tenant, within the meaning of Treas.

Reg. § 25.2702-5(c)(7)(i).

(b) If the Residence is sold, with respect to the proceeds of such sale, on the earliest to occur of (i) the date that is two (2) years after the date of sale; (ii) the death of the Life Tenant; or (iii) the date on which a replacement Residence is acquired pursuant to this Agreement, provided that if the first to occur is the acquisition of a replacement Residence, then the replacement Residence shall continue to be held pursuant to the terms of this Agreement, and the respective interests of the Parties shall cease to be in conformity with the requirements of a qualified personal residence trust under Treas. Reg. § 25.2702-5(c) only to the extent of any sale proceeds then held by the Parties and not used for the purchase of the replacement Residence.

(c) If damage or destruction renders the Residence unusable as a personal residence, on the earlier to occur of (i) the date that is two (2) years after the date of such damage or destruction, unless, prior to such date, replacement of or repairs to the Residence are completed or a replacement Residence is acquired by the Parties; or (ii) the death of the Life Tenant.

(d) If proceeds of insurance are received as a result of damage or destruction to the Residence, with respect to such proceeds, on the earliest to occur of (i) the date that is two (2) years after the date of such damage or destruction; (ii) the death of the Life Tenant; or (iii) the date on which a replacement Residence is acquired by the Parties, provided that if the first to occur is the purchase of a replacement Residence, then the replacement Residence shall continue to be held pursuant to the terms of this Agreement, and the respective interests of the Parties shall cease to be in conformity with the requirements of a qualified personal residence trust under Treas.

Reg. § 25.2702-5(c) only to the extent of any insurance proceeds then held by the Parties and not used for the replacement or repair of the Residence.

(2) Within thirty (30) days after a Cessation Date, with respect to the Residence, or as the case may be, with respect to the proceeds of sale or proceeds of insurance with respect to the Residence, such assets shall be held IN TRUST (and the respective interests of the Parties therein shall be converted to term interests in such trust) for the balance of the Life Estate Period in accordance with all of the requirements of a qualified annuity interest as set forth in Section 2702(b) of the Code and Treas. Reg. § 25.2702-3, in accordance with the provisions of Clause SECOND of this Agreement (the date on which such assets are converted to a qualified annuity interest, the "Conversion Date").

SECOND: BACK-UP ANNUITY TRUST

Any assets directed to be held in trust in accordance with the provisions of this Clause SECOND shall be administered and disposed of in accordance with the following provisions:

(A) In each taxable year of the trust, the Trustees shall pay to the Life Tenant the annuity amount set forth in the succeeding paragraph (D) of this Clause SECOND. The annuity amount shall be paid in equal quarterly installments, on the last day of each quarter of the taxable year. Payments shall be made out of income of the trust and to the extent that income is not sufficient, then from principal. Any income for a taxable year in excess of the annuity amount shall be accumulated and added to the principal of the trust, except as otherwise required by applicable Regulations.

(B) The trust shall terminate upon the expiration of the Life Estate Period (as defined in Clause FIRST of this Agreement). Upon the termination of the trust, the Trustees shall distribute all of the remaining principal and, except as otherwise required by applicable Regulations, all income of the trust accrued or on hand (other than any amount due to the Life Tenant under the provisions of paragraph (E) of this Clause SECOND) to the Remainderman.

(C) The obligation to pay the annuity amount shall commence on the Cessation Date or such other date that may be required under Treasury Regulations which govern qualified personal residence trusts. Notwithstanding the preceding sentence, the Trustees may defer payment of the annuity amount until the date that is thirty (30) days after the Conversion Date; provided, however, that any deferred payment shall bear interest from the Cessation Date at a rate not less than the rate in effect under Section 7520 of the Code on the Cessation Date, and the aggregate deferred annuity payments shall be reduced by the amount of income actually distributed to the Life Tenant during the deferral period.

(D) The annuity amount shall be the amount determined under Treas. Reg. § 25.2702-5(c)(8)(ii)(C), as follows:

(1) If, on the Conversion Date, the assets subject to the Life Tenant's interest under this Agreement do not include a Residence used or held for use as a personal residence, within the meaning of Treas. Reg. § 25.2702-5(c)(7)(i), the annuity amount shall be determined by dividing the lesser of the value of the interests held by the Life Tenant under this Agreement (as of the date of the original acquisition and the date(s) of any additional contributions made pursuant to subparagraphs (G)(2) and (G)(3)

of Clause FIRST) or the value of the trust assets (as of the Conversion Date) by an annuity factor determined:

(a) For the Life Estate Period, as determined in accordance with Treas. Reg. § 25.2702-5(c); and

(b) At the rate used in valuing the retained interest at the time of the original acquisition or, if greater and to the extent required by the Code and Regulations to prevent there being a taxable gift by the Life Tenant when the trust is created under this Clause SECOND, the value of the trust assets as of the Conversion Date multiplied by the interest rate determined under Section 7520 of the Code as of the Conversion Date.

(2) If, on the Conversion Date, the assets subject to the Life Tenant's interest under this Agreement include a Residence used or held for use as a personal residence, within the meaning of Treas. Reg. § 25.2702-5(c)(7)(i), the annuity amount shall be the amount determined under the preceding subparagraph (D)(1) multiplied by a fraction, the numerator of which is the excess of the fair market value of the assets subject to the Life Tenant's interest on the Conversion Date over the fair market value of the assets as to which the Residence continues to be subject to the limitations for a qualified personal residence trust under § 25.2702-5(c)(7)(i), and the denominator of which is the fair market value of the trust assets on the Conversion Date.

(E) In determining the annuity amount payable to the Life Tenant, the Trustees shall prorate the same, on a daily basis, for a short taxable year and for the year in which such Life Tenant's interest terminates.

(F) If the fair market value of the assets subject to this Agreement is incorrectly determined, then within a reasonable period after the value is finally determined for Federal gift tax purposes, the Trustees in the case of an undervaluation shall pay to the Life Tenant, or in the case of an overvaluation receive from the Life Tenant, an amount equal to the difference between the annuity amount properly payable and the annuity amount actually paid.

(G) The interest of the Life Tenant under this Clause SECOND shall not be commuted.

(H) No additional contributions shall be made to the trust created by this Clause SECOND.

(I) During the Life Estate Period, the Trustees shall be prohibited from distributing any assets from the trust held under this Clause SECOND to any persons, other than the distribution to the Life Tenant of the annuity amount in accordance with the preceding provisions of this Clause SECOND.

(J) The Trustees are prohibited from issuing a note, other debt instrument, option or other similar financial arrangement in satisfaction of the annuity obligation.

(K) It is confirmed that, in accordance with paragraph (H) of this Clause SECOND, no additions may be made to the trust created under this Clause SECOND. Nevertheless, if, and only if, assets are directed to be held in trust in accordance with the provisions of this Clause SECOND on more than one occasion, the Trustees are directed to create a separate trust to hold such assets, subject to the terms and conditions set forth in this Clause SECOND.

THIRD: TAX PROVISIONS

(A) It is the Parties' intention that (i) their respective purchases of an interest in the Residence from a third-party seller and their respective ownership interests come within the exception set forth in Section 2702(a)(3)(A)(ii) of the Code; (ii) that this Agreement create their respective interests in conformity with the requirements for a qualified personal residence trust; (iii) the interest of the Life Tenant in any trust which may be held by the Trustees under Clause SECOND of this Agreement qualify as a "qualified interest" and a "qualified annuity trust" within the meaning of Section 2702(b) of the Code and the Regulations promulgated thereunder; and (iv) the provisions of this Agreement shall at all times be construed and administered in such manner to be consistent with these intentions and in accordance with the provisions of Section 2702(a)(3)(A)(ii) and 2702(b)(1) of the Code, Treas. Reg. § 25.2702-5 and Treas. Reg. § 25.2702-3. No provision of this Agreement shall be of any force or effect if such provision would result in (a) the failure of the respective rights of the Parties to come within the exception provided in Section 2702(a)(3)(A)(ii) of the Code or (b) the disqualification of the trust under Clause SECOND as a qualified annuity trust, and any provisions of any Regulations required for the respective rights of the Parties to come within the exception provided in Section 2702(a)(3)(A)(ii) of the Code or such qualification of the trust created under Clause SECOND as a qualified annuity trust are hereby incorporated by reference.

(B) In furtherance of the Parties' intentions, (i) the Parties (acting unanimously), prior to the Cessation Date (as defined in paragraph (C) of Clause SECOND), and (ii) after the Cessation Date, the Trustee or Trustees (other than the Life

Tenant, any descendant of the Life Tenant, other individuals consisting of adverse parties within the meaning of Section 672(a) of the Code, those individuals deemed to be related or subordinate to the Life Tenant within the meaning of Section 672(c) of the Code and any beneficiary with a present or future beneficial interest in the principal of the trust) who may be serving under Clause SECOND from time to time (referred to as the “Independent Trustee” or “Independent Trustees”), by majority action, may amend this Agreement at any time and from time to time by written instrument to comply with all of the requirements of Section 2702(a)(3)(A)(ii) and/or Section 2702(b)(1) of the Code and the requirements of a qualified personal residence trust and/or a qualified annuity trust as set forth in the Treas. Reg. § 25.2702-5 and Treas. Reg. § 25.2702-3 and any other applicable Treasury Regulations. The Parties confirm that the aforesaid authority to amend this Agreement shall be limited to the purposes stated in this paragraph.

Notwithstanding the foregoing provisions of this paragraph (B): Each person authorized to act under this paragraph may at any time and from time to time release the right to exercise the powers granted by this paragraph (B). Such release may be executed by a Party at any time prior to the Cessation Date and by an Independent Trustee at the time of qualification of the Independent Trustee or at any time thereafter and may be effective for a limited period or under stated conditions or indefinitely. Each such release may be made by instrument in writing maintained in the records of the Parties (if made prior to the Cessation Date) or the Trustees. If any Party or Independent Trustee releases his or her right to exercise the powers granted by this paragraph (B), such Party or Independent Trustee shall not be counted as one of the Parties or Independent Trustees in determining the number of Parties or Independent Trustees required to act under this paragraph (B).

(C) The Parties hereby confirm that all references throughout this Agreement to the “Regulations” are to the Regulations issued under the Code by the U.S. Treasury Department, as the Regulations may be amended from time to time and any successors thereto.

(D) (1) Subject to the provisions of paragraph (A) of this Clause THIRD and subparagraph (2) of this paragraph (D), the Life Tenant, in an individual and nonfiduciary capacity, without the approval or consent of any person in a fiduciary capacity, shall have the power to reacquire property of any trust created under Clause SECOND equal to his then actuarial interest in such trust, other than shares of voting stock of a controlled corporation (within the meaning of Section 2036(b) of the Code) by substituting other property of an equivalent value; provided that the Independent Trustees are satisfied that the substituted property is of equivalent value. If no Independent Trustee is then serving with respect to such trust, upon the exercise of this power by the Life Tenant, the Trustees of such trust shall appoint an Independent Trustee in accordance with subparagraph (A)(2) of Clause FOURTH. Notwithstanding the foregoing, the Life Tenant may not exercise his power under this paragraph in such a manner that may shift benefits among the trust beneficiaries within the meaning of Revenue Ruling 2008-22 and Revenue Ruling 2011-28. The Life Tenant may at any time and from time to time release, in whole or in part, the powers retained by him under this subparagraph (1). Such release may be for a limited period or under stated conditions or indefinitely. Such release shall be made by an instrument in writing delivered to the Trustees.

(2) Notwithstanding anything herein to the contrary, in

accordance with Treas. Reg. § 25.2702-5(c)(9), the Parties are prohibited from selling or transferring, directly or indirectly, any residence held under this Agreement to the Life Tenant, any spouse of the Life Tenant, or any entity controlled by the Life Tenant or by any spouse of the Life Tenant, during the Life Estate Period. For purposes of the preceding sentence, a sale or transfer to another Life Tenant Trust is considered a sale or transfer to the Life Tenant or a spouse of the Life Tenant; however, a distribution (for no consideration) upon or after the expiration of the Life Estate Period will not be considered a sale or transfer to the Life Tenant or a Life Tenant Trust in light of the fact that this paragraph (D) shall apply only during the Life Estate Period. For purposes of this Agreement, the term “Life Tenant Trust” shall mean a trust treated as owned in whole or in part by the Life Tenant or a spouse of the Life Tenant pursuant to sections 671 through 678 of the Internal Revenue Code. For purposes of this paragraph, the word “controlled” shall have the meaning as set forth in Treas. Reg. § 25.2701-2(b)(5)(ii) and (iii).

FOURTH: TRUSTEES OF BACK-UP ANNUITY TRUST

(A) (1) LEON D. BLACK and an individual then acting as a manager of the Remainderman who shall be designated by the Remainderman, for so long as he or she is so acting (the “Manager Trustee”), shall serve as Trustees of the trust created under Clause SECOND.

(2) Each individual serving from time to time as a Trustee (including each individual who may be appointed pursuant to this paragraph) may appoint any person or bank or trust company to serve as his or her successor as Trustee. The Remainderman may appoint any person or bank or trust company to serve as the

successor Manager Trustee. In addition, the individual or individuals serving at any time as Trustee or Trustees and the Manager Trustee, acting unanimously if more than one is serving, may appoint any person or bank or trust company to serve as an additional Trustee or Trustees. Appointments shall be by instrument filed with the Trustees then in office. Any such appointment of a successor may be revoked by instrument in writing so filed by the person who made the appointment at any time before the successor qualifies and any revoked appointment may be superseded by a new appointment.

Notwithstanding the foregoing, no appointment of a bank or trust company shall be effective if a corporate fiduciary is already serving.

(3) If a vacancy in the office of Trustee occurs, and no successor is appointed in accordance with the preceding subparagraphs of this paragraph (A) or in accordance with following paragraph (B) of this Clause, such individual, or bank, or trust company as shall be designated by the Life Tenant, or, if he is Incapacitated (as hereinafter defined), by the Remainderman, shall serve as Trustee. Any such designation shall be made by signed, acknowledged written instrument signed by the designators, and may be conditioned on such terms as to compensation (subject to paragraph (P) of this Clause) and otherwise as the designators, in their discretion deem suitable.

(4) For purposes of this Agreement, the word "Incapacitated" with respect to any person shall mean a person with respect to whom the Trustees have received a certificate signed by two (2) qualified physicians, including, if any, the physician then primarily responsible for such person's medical care, stating that such

person is unable to act prudently with respect to financial matters because of accident, physical or mental illness, deterioration, injury or otherwise.

(B) The Parties, acting unanimously, shall have the power to remove a Trustee, with or without cause, by delivering notice to the Trustee and appointing a successor Trustee; provided, however, that such authority to remove a Trustee shall be effective if, and only if, the Parties (i) appoint a successor Trustee who is not related or subordinate to the Life Tenant within the meaning of Section 672(c) of the Code, and (ii) such designated successor so qualifies as Trustee. Notwithstanding the foregoing provisions of this paragraph, the Parties may not exercise the power to remove a Trustee because of such Trustee's exercise or failure to exercise a power which, if held by either the Life Tenant or the Remainderman, by itself would result in any portion of the trust being included in the Life Tenant's gross estate for Federal estate tax purposes. The Parties, at any time, may release the powers granted under this paragraph (B).

(C) No bond or other security shall at any time be required of any Trustee, including any Trustee who is appointed under the provisions of this Clause, regardless of the State of residence of such Trustee.

(D) Any Trustee may at any time resign by written instrument delivered to the co-Trustees then in office, or if no co-Trustee is then in office, then to the Trustee who may succeed such resigning Trustee, pursuant to the foregoing provisions of this Agreement.

(E) The account of a resigning Trustee and the account of a deceased Trustee may be settled by the other Trustees then in office, or if no co-Trustee is then in

office, by the successor Trustee who takes office pursuant to the foregoing provisions of this Agreement.

(F) All management and investment powers shall remain exercisable until distribution of the trust has been completed.

(G) No one dealing with the Trustees need inquire concerning the validity of anything done by them or upon their order.

(H) Parties dealing with the Trustees may rely upon a copy of this Agreement which is certified by a Notary Public to be a true copy.

(I) Any Trustee serving at any time may sign checks or instruments of transfer, give instructions for the purchase or sale of securities, engage in routine banking transactions or perform other ministerial acts on behalf of the trust hereunder. In addition, the Trustees may from time to time grant authority (by written instrument) to anyone chosen by unanimous agreement of the Trustees to perform all or any of the acts described in this paragraph once the Trustees have reached a decision.

(J) Any Trustee may, by revocable power of attorney, delegate to the co-Trustees then in office, the full exercise of all or any powers granted by any provision of this Agreement to the Trustees, provided, however that no discretionary power may be delegated to a Trustee who is specifically precluded by law or by the provisions of this Agreement from participating in the exercise of such power.

(K) In any proceeding relating to the trust created under this Agreement, to the extent permitted by applicable law, where a party to such a proceeding has the same interest as a person under a disability, it shall not be necessary to serve with process the person who is under a disability.

(L) The Trustees may maintain an office where they see fit as long as they deem it advisable and charge the expenses thereof as an administration expense of the trust.

(M) No Trustee shall be required to render in court annual or periodic accounts.

(N) Except as specifically provided otherwise in this Agreement, the determination of a majority of the Trustees who are serving and who have the authority to act with respect to a matter shall be controlling, with no liability on a dissenting Trustee for anything done or omitted in accordance with the majority's decision.

(O) The Trustees hereunder may enter into transactions with the Executor of an estate or the Trustees of another trust and purchase or in any other manner acquire property from such estate or such other trust, even though a Trustee hereunder may also be acting as the Executor of such estate or Trustee of such other trust, provided that any such purchase is for full fair market value in money or money's worth.

(P) (1) No Trustee may receive compensation for his, her or its services as Trustee hereunder (but shall nevertheless be entitled to reimbursement for reasonable expenses incurred in connection with the administration of any trust created hereunder).

(2) The qualification of any individual as Trustee shall be deemed an acceptance of the foregoing provisions.

FIFTH: FIDUCIARY POWERS FOR BACK-UP ANNUITY TRUST

In addition to the powers granted by law, the Parties grant to the Trustees full power to do everything in administering the trust created under Clause SECOND that

the Trustees may deem advisable, to the full extent that an individual owning property would have and without prior court authority, but all subject to the limitations set forth in this Agreement and any contrary provisions and requirements set forth in Sections 2702(a)(3)(A)(ii) and 2702(b)(1) of the Code, Treas. Reg. § 25.2702-5 and Treas. Reg. § 25.2702-3, which provisions shall supersede and override any of the following provisions. The Parties wish to record their intention that the Trustees exercise their authority hereunder cautiously and prudently and with the objective of preserving and enhancing the value of the trust created under Clause SECOND. With these overriding objectives in mind, subject to the foregoing limitations, the Trustees shall have the following powers with respect to the trust created under Clause SECOND:

(A) To retain so long as the Trustees deem advisable the property transferred to the Trustees and to acquire by purchase or in any other manner, any kind of real property and personal property, or undivided interests therein, whether or not income producing, including (without limitation) common and preferred stocks (or stocks of any other class or type), secured and unsecured obligations, subordinated interests of any kind, interests in investment companies, mutual funds, private equity funds, investment trusts, discretionary common trust funds and hedge funds, unimproved real estate, residential property, oil, gas and mineral royalties and other interests, warrants, puts and calls (and other derivatives), futures, commodities, assets subject to restrictions, and other kinds of financial instruments, foreign or domestic, including instruments issued in the currencies of foreign countries, without liability to the Trustees because of fluctuations in exchange rates, and property which is outside the Parties' domicile or the situs of the trust — all without any diversification as to kind or amount,

and without being limited to investments authorized by law for the investment of trust funds; and to so invest as a partner (whether general or limited), a member of a limited liability company (whether or not as a manager) or co-venturer; with power to retain and make different investments for any separate trust hereunder and with further power to retain funds of any separate trust uninvested from time to time, for such period as the Trustees may deem advisable.

(B) To sell for cash or on credit (at public or private sale), exchange, mortgage, lease for any period (either as landlord or tenant and including renewals of the term) and modify, extend or cancel leases, grant options (and other derivatives), or otherwise dispose of or deal with any real or personal property, all regardless of statutory restrictions or the probable duration of any trust, in such manner and upon such terms and conditions as they deem advisable and without first obtaining a court order; to erect, renovate or alter buildings or otherwise improve and manage buildings and property; demolish buildings; make ordinary and extraordinary repairs; grant easements and make party wall contracts; dedicate roads; subdivide; adjust boundary lines and partition; and to do everything with respect to interests in any property that any individual owner may do.

(C) To distribute in kind or in money, or partly in each, even if distributed shares be composed differently, and for such purposes their allocations and determinations shall be given effect if reasonably made.

(D) To engage accountants, appraisers and other experts and legal counsel; to employ agents, custodians of the assets, bookkeepers, clerks and other assistants; to engage and rely upon investment counsel, and in the discretion of the

Trustees, to grant discretionary investment authority to investment counsel; and to remunerate any or all of such persons and pay their expenses.

(E) To renew, assign, modify, extend, compromise, abandon or release, with or without consideration, or submit to arbitration, obligations or claims held by or asserted against the Trustees or which affect trust assets, all as the Trustees may deem advisable.

(F) To hold property in the name of nominees, or so that it will pass by delivery, or in the name of a corporate fiduciary without disclosing any fiduciary capacity; and to leave property in the custody of a firm of stockbrokers and have such property registered in the name of the nominee of such stockbrokers; and to leave property in the custody of partnerships, limited liability companies, joint ventures or other entities and have such property registered in the name of such partnership, limited liability company, joint venture or other entity as nominee.

(G) Except as provided in paragraph (J) of Clause SECOND, to borrow money to pay taxes or expenses or to satisfy encumbrances against property, or to make investments in any real or personal property, or for any other purpose which in the opinion of the Trustees will benefit the beneficiaries or facilitate the administration of any trust hereunder, and pledge or mortgage property as security for such loans; to subordinate the Trustees' interest in any property to the interest of a lender; to guarantee trust obligations and those of entities in which a trust hereunder has an interest; and to pay interest on borrowed funds. The Trustees are specifically empowered to purchase securities and other assets on margin, and to do everything necessary to make such purchases.

(H) To invest, maintain and continue an interest or investment in any business or venture or entity for such period as the Trustees may deem advisable, in the most advantageous form, as the Trustees may determine from time to time.

Without limiting the scope of their authority and only by way of illustration, the Parties direct that: The Trustees are authorized to invest additional trust assets in, and lend trust assets to, and to guarantee the obligations of, and to pledge trust assets to secure the obligations of, any such business or venture or entity, upon such terms as the Trustees deem advisable. The Trustees are authorized to incorporate any business or venture, to reorganize and recapitalize any incorporated business and issue new shares of stock, upon such terms and conditions as the Trustees deem advisable; to liquidate any such corporation in whole or in part; to organize subsidiaries and parent holding companies of any such corporation; and to merge or consolidate any such corporation with any other corporation. The Trustees are authorized to conduct any such business or venture in partnership form (as general or limited partners) or as a limited liability company (as managers or members), upon such terms and conditions as they may deem advisable. The Trustees are authorized to serve as officers, directors, employees or agents of any such business or venture or entity and to receive compensation for their services. The Trustees are authorized to engage others to serve as officers, directors, employees and agents of any such business, venture or entity upon such terms as the Trustees may deem advisable. In general the Trustees are authorized to do everything in respect of the conduct of any such business or venture or entity that any individual could do. If any such Trustee is personally interested in the business or venture or entity, such Trustee shall not be bound or responsible under the usual rules concerning divided loyalty and

self-dealing. In their accounting the Trustees need not show in detail the transactions of any such business or venture or entity but may merely show the investment which any trust has in any such business or venture or entity at relevant times and dates.

(I) To sell any securities held by the Trustees, to register the same under the Securities Act of 1933 or any other United States Federal securities law or to register or qualify any such securities for sale under any state securities law, and to do all acts which they may deem advisable for that purpose, including (without limitation) to enter into any agreements with underwriters, and with the corporation securities of which are being sold, which they shall deem advisable, to make such representations and warranties, assume such obligations and engage in such undertakings of indemnity as they may deem proper (or to make such other arrangements concerning the same, including without limitation the purchase of an insurance policy or policies, charging the cost thereof to the principal of the trust holding such securities), to create escrows, to enter into custody agreements, and in any case in which it becomes advisable for them to enter into any agreement containing representations or undertakings which, but for qualifying terms of the agreement, would render them personally liable therefor, at their option, to enter into and execute any such agreement in their official capacities only and not individually, in which case, if the terms of the applicable agreement so provide, the representations and undertakings shall be binding upon the trust, but shall not be binding upon them personally.

(J) To remove, transfer or deposit any of the personal property forming part of the trust to any place in the world as the Trustees may deem advisable for safekeeping thereof, for the investment thereof, or for any other reason that the Trustees

may deem advisable, without bond and without prior court approval, including the power to shift the situs of any trust to another state or country (or a sub-division thereof) in accordance with the provisions of Clause EIGHTH of this Agreement, if, in the judgment of the Trustees, such shift in situs would benefit the beneficiaries.

(K) To acquire and exercise any options, privileges or rights of any nature which may be granted to or exercisable by the holders of any property which forms a part of the trust or sell any subscription or other rights or allow any such rights to expire or lapse.

(L) To enter into voting trusts and use and rely on proxies and committees in respect of corporate matters; to assent to or participate in any reorganization, readjustment, consolidation, merger, dissolution, sale or purchase of assets, or similar proceedings, by any corporation whose securities or obligations or rights shall be held hereunder; to consent to any contract, mortgage or other action by any corporation; to deposit securities or evidences of rights or interests or obligations under any agreement or plan for the protection of holders of securities and become a party to any such agreement or plan; and to participate in the reorganization of any corporation and pay any assessment or other expenses.

(M) To receive a substantial number of shares of one or more corporations or a substantial interest in one or more limited liability companies or partnerships or other unincorporated enterprises from the Parties or any other source. The Parties intend that the Trustees may retain such stock or interest for such period as they deem advisable — all in their sole and absolute discretion and without regard to rules concerning diversification of investments or theories or principles of investment for

fiduciaries. In exercising their discretion, the Trustees shall be free to act without regard to any personal holdings they may have in said corporation, limited liability company, partnership or enterprise or the affiliation or association of any nature which they may have to said corporation, limited liability company, partnership or enterprise. It is the Parties' intention that the Trustees shall be free to exercise their judgment without regard to the usual rules concerning divided loyalty or self-dealing.

(N) Subject to the provisions of paragraph (A) of Clause THIRD, the Parties hereby confirm that if the trust owns an interest in a limited liability company, partnership, corporation or other business arrangement, the Trustees shall be bound by the provisions of any operating agreement, transfer restriction agreement, partnership agreement, shareholders agreement or other agreement governing or otherwise affecting the interests in such limited liability company, partnership, corporation or other business arrangement held by the trust.

SIXTH: ACCOUNTING

The Trustees may, at any time and from time to time, render an accounting to the Life Tenant and the Remainderman. Such accounting (but only if accompanied by notice of the provisions of this Clause SIXTH) shall be deemed a final accounting unless within ninety (90) days from the service of such notice a person shall have mailed by registered mail to the Trustees a written statement specifying objections to such accounting. If the Trustees shall comply with the provisions of this Clause SIXTH, such accounting shall be binding and conclusive upon all persons who may be interested in the trust for the period covered by the accounting, without the necessity of any proceedings in any court which might have jurisdiction over the trust. No person may, by proceeding

hereunder, enlarge or shift any beneficial interest.

SEVENTH: IRREVOCABILITY

The Parties declare that this Agreement is irrevocable and neither this Agreement nor the trust created under Clause SECOND may be amended, except as provided in Clause THIRD.

EIGHTH: SITUS/GOVERNING LAW

(A) The validity and construction of this Agreement and the trust created under Clause SECOND shall be governed by the law of New York.

Notwithstanding the foregoing, the Trustees of the trust created under Clause SECOND are prohibited from exercising any power or discretion granted under said laws that would be inconsistent with the Parties' intention that the interest of the Life Tenant under Clause SECOND qualify as a qualified annuity interest in conformity with Treas. Reg. §25.2702-5(c)(8) and 25.2702-3.

(B) Notwithstanding the foregoing paragraph (A), in furtherance of the Parties' intentions, (i) the Parties (acting unanimously), prior to the Cessation Date (as defined in paragraph (C) of Clause SECOND), and (ii) after the Cessation Date, a majority of the Trustees, may at any time and from time to time, by written instrument, declare that the trust under Clause SECOND shall from the date of such declaration, or from a date stated in such declaration, take effect in accordance with the law of such other jurisdiction as they, in their sole and absolute discretion, determine, and thereafter the law of such other jurisdiction shall govern the validity and construction of the trust; provided, however, that if the Trustees exercise the discretionary power under this paragraph (B) of Clause EIGHTH to change the situs and governing jurisdiction of the

trust under Clause SECOND, they may initiate such judicial proceedings (if any) as they deem necessary or desirable to accomplish such change, whether or not such proceeding is required by the law of the new governing jurisdiction. However, nothing in this paragraph shall be construed as allowing a Trustee to exercise this power in a manner that will result in the interest of the Life Tenant under Clause SECOND failing to qualify as a qualified annuity interest in conformity with Treas. Reg. §25.2702-5(c)(8) and 25.2702-3; and the application of the law of any state shall be subject to the provisions of this Agreement and of Section 2702 of the Code and the Regulations thereunder which shall override.

IN WITNESS WHEREOF, the parties have hereunto signed and sealed
this instrument as of the date first above written in this Agreement.

LEON D. BLACK, Life Tenant

NY 70TH STREET LLC, Remainderman

By: _____
John J. Hannan, Manager

SCHEDULE A

The property located at 19 East 70th Street, New York, New York.

LEON D. BLACK, Life Tenant

NY 70TH STREET LLC, Remainderman

By: _____
John J. Hannan, Manager