NOTATIONS FOR FORM 404

This form is based upon the sample charitable remainder annuity trust form issued by the Internal Revenue Service. For more alternate provisions, annotations and additional forms, see:

- Rev. Proc. 2003-57 (testamentary CRAT providing for annuity payments for one measuring life)
- Rev. Proc. 2003-58 (testamentary CRAT providing for annuity payments for a term of years)
- Rev. Proc. 2003-59 (testamentary CRAT providing for annuity payments payable consecutively for two measuring lives)
- Rev. Proc. 2003-60 (testamentary CRAT providing for annuity payments payable concurrently and consecutively for two measuring lives)
If the settlor or testator desires to create a charitable remainder annuity trust as of his or her death, use the following form in conjunction with one of the REVOCABLE TRUST AGREEMENT or WILL forms. However, in the ADMINISTRATIVE PROVISIONS article, (i) insert “or [an] annuity” after “income” in the first and second lines of the FACILITY OF PAYMENT section, (ii) add the introductory phrase “Except as otherwise provided with respect to the charitable remainder trust,” to the PRINCIPAL AND INCOME section, the TRUSTEE POWERS article, the GOVERNING LAW article and any investment restriction provision, (iii) delete any NO CONTEST section, and (iv) insert “(other than any charitable remainder trust)” after “any trust hereunder” in the SMALL TRUST TERMINATION AND PERPETUITIES SAVINGS section.

ARTICLE _______: I give, devise, and bequeath [describe the property bequeathed]______ to my Trustee in trust to be administered under this provision. I intend this bequest to establish a charitable remainder annuity trust, within the meaning of Rev. Proc. 2003-57 and §664(d)(1) of the Internal Revenue Code (hereinafter “the Code”). The trust shall be known as the ______________________________ Charitable Remainder Annuity Trust and I hereby designate NORTHERN TRUST [insert full legal name of applicable NORTHERN TRUST bank throughout the instrument], of __________, __________, as the initial trustee (hereinafter “the Trustee”).

SECTION 1: In each taxable year of the trust during the annuity period, the Trustee shall pay to my sister, S, (hereinafter “the Recipient”) an annuity amount equal to ________ [a number no less than 5 and no more than 50] percent of the initial net fair market value of all property passing to this trust as finally determined for federal estate tax purposes. The first day of the annuity period shall be the date of my death and the last day of the annuity period shall be the date of the Recipient’s death. The annuity amount shall be paid in equal quarterly installments at the end of each calendar quarter from income, and to the extent income is not sufficient, from principal. Any income of the trust for a taxable year in excess of the annuity amount shall be added to principal. If the initial net fair market value of the trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for federal estate tax purposes, the Trustee shall pay to the Recipient (in the case of an undervaluation) or receive from the Recipient (in the case of an overvaluation) an amount equal to the difference between the annuity amount(s) properly payable and the annuity amount(s) actually paid.
SECTION 2: The obligation to pay the annuity amount shall commence with the date
of my death, but payment of the annuity amount may be deferred from this date until the end
of the taxable year in which the trust is completely funded. Within a reasonable time after the
end of the taxable year in which the trust is completely funded, the Trustee must pay to the
Recipient (in the case of an underpayment) or receive from the Recipient (in the case of an
overpayment) the difference between any annuity amounts actually paid, plus interest, and
the annuity amounts payable, plus interest. The interest shall be computed for any period at
the rate of interest, compounded annually, that the federal income tax regulations under §664
of the Code prescribe for this computation.

SECTION 3: The Trustee shall prorate the annuity amount on a daily basis for any
short taxable year. In the taxable year of the trust during which the annuity period ends, the
obligation of the Trustee to pay the annuity amount shall terminate with the regular quarterly
installment next preceding the death of the Recipient.

SECTION 4: At the termination of the annuity period, the Trustee shall distribute all
of the then principal and income of the trust (other than any amount due the Recipient or the
Recipient’s estate under the provisions above) to H COLLEGE (hereinafter “the Charitable
Organization”). If the Charitable Organization is not an organization described in §§170(c)
and 2055(a) of the Code at the time when any principal or income of the trust is to be
distributed to it, then the Trustee shall distribute the then principal and income to one or
more organizations described in §§170(c) and 2055(a) of the Code as the Trustee shall
select, and in the proportions as the Trustee shall decide, in the Trustee’s sole discretion.

SECTION 5: No additional contributions shall be made to the trust after the initial
contribution. The initial contribution, however, shall be deemed to consist of all property
passing to the trust by reason of my death.

SECTION 6: The Trustee shall not engage in any act of self-dealing within the
meaning of §4941(d) of the Code, as modified by §4947(a)(2)(A) of the Code, and shall not
make any taxable expenditures within the meaning of §4945(d) of the Code, as modified by
§4947(a)(2)(A) of the Code.

SECTION 7: The taxable year of the trust shall be the calendar year.

SECTION 8: The operation of the trust shall be governed by the laws of the State of
_________________. However, the Trustee is prohibited from exercising any power or
discretion granted under said laws that would be inconsistent with the qualification of the
trust as a charitable remainder annuity trust under §664(d)(1) of the Code and the corre-
spending regulations.
SECTION 9: This trust is irrevocable. However, the Trustee shall have the power, acting alone, to amend the trust from time to time in any manner required for the sole purpose of ensuring that the trust qualifies and continues to qualify as a charitable remainder annuity trust within the meaning of §664(d)(1) of the Code.

SECTION 10: Nothing in this trust instrument shall be construed to restrict the Trustee from investing the trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

SECTION 11: If the contribution of property to the trust would, but for the operation of this section, fail to qualify for the estate tax charitable deduction because of either

(a) the probability that the trust corpus will be exhausted before the termination of the annuity period exceeds 5 percent (Rev. Rul. 77-374), or

(b) the value of the remainder interest in such contributed property does not satisfy the requirements of §664(d)(1)(D) of the Code,

the terms of the trust shall be modified by the Trustee to the extent necessary, in the Trustee’s sole discretion, to qualify the trust under §664(d)(1) of the Code and the corresponding regulations, including (but not limited to) reduction of the annuity amount and, if necessary, reduction of the term of the annuity period.

SECTION 12: The provisions specifically applicable to this charitable remainder annuity trust shall prevail over any other provision in this trust instrument inconsistent herewith.