NOTATIONS FOR FORM 410

This form is designed to obtain the federal gift tax annual exclusion for the settlor even though the property may remain in the trust after the beneficiary attains 21 years of age. In the right page main form, the annual exclusion under IRC §2503(c) is obtained by granting the beneficiary a right of withdrawal for three months after he or she reaches the age of 21 years (see Rev. Rul. 74–43). In a left page alternate provision, the annual exclusion is obtained by granting the beneficiary a Crummey withdrawal right over property contributed to his or her trust. Gifts to a grandchild’s trust qualify for the federal generation-skipping tax exclusion under IRC §2642(c)(2) for direct skips which are nontaxable gifts.

Settlor’s spouse should not make gifts of his or her own property to the trust if the spouse serves as trustee. The spouse may consent to gift splitting with the settlor under IRC §2513(a) and still serve as trustee.

For community property states:
At the end of second sentence, add the phrase “which is my separate property.”

This form is designed for a trust estate consisting of settlor’s separate property. If the trust estate is to consist of community property, use FORM 411: GIFT TRUST AGREEMENT–Community Property.

If a corporation is to serve as trustee, substitute NORTHERN TRUST for “MARY DOE” and substitute “its” for “her,” as appropriate, throughout the agreement. Use the full legal name of the applicable NORTHERN TRUST bank throughout the agreement.

If the trust has only one beneficiary, substitute for first paragraph of FIRST:

FIRST: The trust estate shall be held as a single trust for the benefit of my child, ____________________________, and shall be disposed of as follows:

If it is desired to obtain the federal gift tax annual exclusion for the settlor by giving each beneficiary a right to withdraw property contributed to his or her trust (see Crummey v. Commissioner, 397 F.2d 82 (9th Cir. 1968)), insert the following as SECTION 1, renumber the INCOME AND PRINCIPAL section as SECTION 2, and omit the RIGHT TO WITHDRAW AT AGE 21 section:

SECTION 1: I or any other donor may make contributions to a child’s trust at any time or times. For purposes of this agreement, the term “contribution” means any transfer of property to the trust for federal gift tax purposes, including property initially transferred to the trust or subsequently added thereto. The amount of a contribution shall be its value for federal gift tax purposes.

A child may withdraw the contributions which are made to his or her trust, except that the child may not withdraw, in the aggregate during any calendar year, more than the largest per donee amount that qualifies for the federal gift tax annual exclusion under Internal Revenue Code Section 2503(b) in effect from time to time and assuming that a split gift election will be made if the donor was married at the time of the contribution. By granting these withdrawal rights I intend that contributions to the trust shall qualify for the federal gift tax annual exclusion as gifts of present interests, and all powers and duties granted to the trustee shall be interpreted accordingly.

With respect to each contribution made to a child’s trust during a calendar year:
(i) The trustee shall notify the child of his or her withdrawal right with respect to the contribution. The trustee may give notice after each contribution, once annually for all contributions made during the calendar year, or otherwise as the trustee deems advisable, but in no event later than December 31 of the calendar year.
(ii) A child’s withdrawal right with respect to a contribution shall lapse 30 days after the trustee mails, delivers or otherwise gives notice to the child.

A child may exercise a withdrawal right only by written request delivered to the trustee. The trustee shall make payment pursuant to a written request in cash to the extent practicable, otherwise from other trust property selected by the trustee.

Any donor may place conditions on donor’s current and future contributions to a child’s trust, which may include (i) increasing or decreasing the amount subject to withdrawal (but any increase shall be limited to the amount of the contribution), and (ii) changing the period during which the withdrawal right can be exercised. The conditions shall remain in effect for future contributions until the donor prospectively amends or revokes them. Conditions may be imposed, amended or revoked only by instrument in writing delivered to the trustee.

The succeeding provisions of this agreement shall be subject to the terms of this section.
TRUST AGREEMENT

I, JOHN DOE, of __________, __________, as settlor, make this agreement with MARY DOE, __________, __________, as trustee, this _____ day of _________________, 20 ___.

I hereby transfer to the trustee the property listed in the attached schedule. That property and all investments and reinvestments thereof and additions thereto are herein collectively referred to as the “trust estate” and shall be held upon the following trusts:

FIRST: The trustee shall forthwith divide the trust estate into equal trusts to create one trust for each of my children _________________, _________________, and _______________. Each trust shall be held and disposed of as follows:

SECTION 1: The trustee may pay to or for the benefit of a child of mine so much or all of the income and principal of his or her trust as the trustee deems necessary or advisable from time to time for his or her health, maintenance in reasonable comfort, education (including postgraduate) and best interests, adding to principal any income not so paid, except that after the child has reached the age of 21 years, the trustee shall pay to or for the benefit of the child all the income from his or her trust in convenient installments, at least quarterly.

SECTION 2: For a period of 3 months after a child has reached the age of 21 years, the child may withdraw any part or all of his or her trust by written request delivered to the trustee. The trustee shall notify the child of his or her right of withdrawal at least 30 days before the withdrawal right lapses.

SECTION 3: After a child has reached the age of 30 years, the child may withdraw any part or all of his or her trust at any time or times by written request delivered to the trustee.

SECTION 4: If a child dies before receiving his or her trust in full, then upon the death of the child his or her trust shall be held in trust hereunder or distributed to or in trust for such appointee or appointees (including the estate of the child), with such powers and in such manner and proportions as the child may appoint by his or her will making specific reference to this power of appointment.
If grandchildren are to be the beneficiaries of the trust, (i) substitute “grandchild” for “child” and substitute “grandchildren” for “children” throughout FIRST and (ii) substitute for SECTION 5 of FIRST:

SECTION 5: Upon the death of a grandchild any part of his or her trust not effectively appointed shall be distributed per stirpes to his or her then living descendants, or if none, then in equal shares to such of my grandchildren as shall then be living, except that the then living descendants of a deceased grandchild of mine shall take per stirpes the share which the grandchild would have received if living, subject in each case to postponement of possession as provided below, and except further that each portion otherwise distributable to a beneficiary for whom a trust is then held hereunder shall be added to that trust. Any part of the grandchild’s trust not effectively disposed of by the foregoing shall be distributed to my heirs–at–law, the heirs–at–law and the proportions which they shall respectively take to be determined according to the present laws of descent of the state of my domicile as if I had died at that time and unmarried.

If a retained share is of sufficient size to warrant distribution in two stages, substitute for SECTION 6 of FIRST:

SECTION 6: Each share of the trust estate which is distributable to a beneficiary who has not reached the age of 30 years shall immediately vest in the beneficiary, but the trustee shall retain possession of the share as a separate trust, paying to or for the benefit of the beneficiary so much or all of the income and principal of the share as the trustee deems necessary or advisable from time to time for his or her health, maintenance in reasonable comfort, education (including postgraduate) and best interests, adding to principal any income not so paid (except that after the beneficiary has reached the age of 21 years, the trustee shall pay to him or her all the income from the share in convenient installments, at least quarterly), and distributing 1/2 in value of the principal of the share to the beneficiary if he or she has then reached or at such time thereafter as he or she reaches the age of 25 years and the balance to the beneficiary when he or she reaches the age of 30 years or to the estate of the beneficiary if he or she dies before receiving the share in full.
SECTION 5: Upon the death of a child any part of his or her trust not effectively appointed shall be distributed per stirpes to his or her then living descendants, or if none, then per stirpes to my then living descendants, subject to postponement of possession as provided below, except that each portion otherwise distributable to a descendant of mine for whom a trust is then held hereunder shall be added to that trust. Any part of the child’s trust not effectively disposed of by the foregoing shall be distributed to my heirs–at–law, the heirs–at–law and the proportions which they shall respectively take to be determined according to the present laws of descent of the state of my domicile as if I had died at that time and unmarried.

SECTION 6: Each share of the trust estate which is distributable to a beneficiary who has not reached the age of 21 years shall immediately vest in the beneficiary, but the trustee shall (a) establish with the share a custodianship for the beneficiary under a Uniform Transfers or Gifts to Minors Act, or (b) retain possession of the share as a separate trust, paying to or for the benefit of the beneficiary so much or all of the income and principal of the share as the trustee deems necessary or advisable from time to time for his or her health, maintenance in reasonable comfort, education (including postgraduate) and best interests, adding to principal any income not so paid, and distributing the share to the beneficiary when he or she reaches the age of 21 years or to the estate of the beneficiary if he or she dies before receiving the share in full.

SECOND: The following provisions shall apply to the trust estate and to each trust under this agreement:

SECTION 1: If income or discretionary amounts of principal become payable to a beneficiary under disability, then that income or principal shall be paid or expended only in such of the following ways as the trustee deems best: (a) directly to the beneficiary or his or her attorney in fact; (b) to the legally appointed guardian or conservator of the beneficiary; (c) to a custodian for the beneficiary under a Uniform Transfers or Gifts to Minors Act; (d) by the trustee directly for the benefit of the beneficiary; (e) to an adult relative or friend in reimbursement for amounts properly advanced for the benefit of the beneficiary.

SECTION 2: The interests of beneficiaries in principal or income shall not be subject to the claims of any creditor, any spouse for alimony or support, or others, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered. This provision shall not limit the exercise of any power of appointment.
SECTION 3: The allocation of receipts and disbursements between income and principal shall be determined as provided by this agreement and applicable state statute or in cases not covered by statute by the trustee, except that

(a) if the trust is beneficiary or owner of an individual account in any employee benefit plan or individual retirement plan, income earned after death in the account shall be income of the trust, and if the trustee is required to pay all trust income to a beneficiary, the trustee shall collect and pay the income of the account to the beneficiary at least quarterly (and to the extent that all income cannot be collected from the account, the deficiency shall be paid from the principal of the trust),

(b) reserves for depreciation shall be established out of income only to the extent that the trustee determines that readily marketable assets in the principal of the trust will be insufficient for any renovation, major repair, improvement or replacement of trust property which the trustee deems advisable, and

(c) income received after the last income payment date and undistributed at the termination of any estate or interest shall, together with any accrued income, be paid by the trustee as income to the persons entitled to the next successive interest in the proportions in which they take that interest.

SECTION 4: For convenience of administration or investment, the trustee may hold separate trusts as a common fund, dividing the income proportionately among them, assign undivided interests to the separate trusts, and make joint investments of the funds belonging to them. The trustee may consolidate any separate trust with any other trust with similar provisions for the same beneficiary or beneficiaries.

SECTION 5: The trustee shall render an account of trust receipts and disbursements and a statement of assets at least annually to each beneficiary then entitled to receive or receiving the income from the trust and, in addition, to any other beneficiaries who are entitled to receive accounts under applicable state law. An account is binding on each beneficiary who receives it and on all persons claiming by or through the beneficiary, and the trustee is released, as to all matters stated in the account or shown by it, unless the beneficiary commences a judicial proceeding to assert a claim within one year after the mailing or other delivery of the account.
Before distributing property to a beneficiary upon termination of a trust in whole or in part, the trustee shall have the right to require an approval of the trustee’s accounts, either by a written approval and release from the beneficiary or, if it cannot be obtained, by a judicial settlement of accounts. The expenses of the judicial proceeding (including attorneys fees) shall be paid from the beneficiary’s share of the trust. The trustee shall also have the right to require an indemnification from the beneficiary for any environmental law liability or expense which the trustee has incurred or may incur in the future with respect to the property distributed.

SECTION 6: The trustee shall be reimbursed for all reasonable expenses incurred in the management and protection of the trust, and any corporate trustee shall receive compensation for its services in accordance with its schedule of fees in effect from time to time. A trustee’s regular compensation, if any, shall be charged against income and principal as provided by applicable state law, except that the trustee shall have full discretion at any time or times to charge a larger portion or all against income.

SECTION 7: A corporate trustee in its discretion may terminate and distribute any trust hereunder if the corporate trustee determines that the costs of continuance thereof will substantially impair accomplishment of the purposes of the trust. The trustee shall terminate and forthwith distribute any trust created hereby, or by exercise of a power of appointment hereunder, which is still held at the end of the period allowed by the applicable rule against perpetuities, if any. Distribution under this section shall be made to the persons then entitled to receive or eligible to have the benefit of the income from the trust in the proportions in which they are entitled thereto, or if their interests are indefinite, to those persons per stirpes if they have a common ancestor, or if not, then in equal shares.

SECTION 8: Any trustee may resign at any time by written notice to each beneficiary then entitled to receive or eligible to have the benefit of the income from the trust. In case of the death, resignation, refusal or inability to act of the originally named trustee, my brother, RICHARD DOE, shall be successor trustee. If he or any other successor trustee fails to become or ceases to act, another successor trustee shall be appointed by the beneficiary or a majority in interest of the beneficiaries then entitled to receive or eligible to have the benefit of the income from the trust (or if their interests are indefinite, by a majority in number of the oldest generation of such beneficiaries), except that in no event shall a beneficiary or I be a successor trustee. Separate trusts under this agreement may have the same or different trustees.

Every successor trustee shall have all the powers given the originally named trustee. A successor trustee has no duty to inquire into the accounts or administration of any predecessor trustee and is not personally liable for any act or omission of any predecessor trustee. With the approval of the beneficiaries appointing a successor trustee, the successor trustee may accept the account rendered and the property received as a complete release and discharge to the predecessor trustee without incurring any liability for so doing.
If the settlor is not married, or if the spouse will not serve as a trustee, SECTION 12 of SECOND may be omitted.
No trustee wherever acting shall be required to give bond or surety or be appointed by or account for the administration of any trust to any court. The trustee need not register a trust with any court.

If another corporation succeeds to part or all of the trust business of a corporate trustee acting or appointed to act hereunder, that corporation shall be the successor corporate trustee, without the necessity of appointment, assignment or other action.

SECTION 9: If for any reason the trustee is unwilling or unable to act as to any property, such person or qualified corporation as the trustee shall from time to time designate in writing shall act as special trustee as to that property. Any person or corporation acting as special trustee may resign at any time by written notice to the trustee. Each special trustee shall have the powers granted to the trustee by this agreement, to be exercised only with the approval of the trustee, to which the net income and the proceeds from sale of any part or all of the property shall be remitted to be administered under this agreement.

SECTION 10: A beneficiary, trustee or other person shall be considered to be under disability or unable to act if the person is a minor, is adjudicated by a court to lack legal capacity, or is not so adjudicated but is, by reason of illness or mental or physical disability, unable to give prompt and intelligent consideration to financial matters. The determination as to inability may be made by a physician, and the trustee may rely upon written notice of that determination. The parent, spouse, adult child, attorney in fact, guardian or conservator of a beneficiary under disability shall receive notice and have authority to act for the beneficiary under this agreement, except that I shall not so act while my spouse is living and under no disability.

SECTION 11: In disposing of any trust property subject to a power to appoint by will, the trustee may rely upon an instrument admitted to probate in any jurisdiction as the will of the donee or may assume that the power was not exercised if, within 3 months after the death of the donee, the trustee has no actual notice of a will which exercises the power. The trustee may rely on any document or other evidence in making payment under this agreement and shall not be liable for any payment made in good faith before it receives actual notice of a changed situation. The trustee may consult with legal counsel and other agents at trust expense and shall not be liable for any action taken or omitted in good faith reliance upon the advice or recommendation of the legal counsel or other agent. The trustee shall not be personally liable for acts or omissions done in good faith.

SECTION 12: If my marriage to my spouse is terminated by court order, then after the date of that order my spouse shall be deemed to be deceased for all purposes of this agreement.
SECTION 13: To enable trusts to be either completely exempt or nonexempt from generation-skipping tax, or for any other reason, the trustee may divide a trust into two or more separate trusts and may hold an addition to a trust as a separate trust. A division shall be done on a fractional basis and may be defined by means of a formula. The rights of beneficiaries shall be determined as if the trusts were aggregated, but the trustee may pay principal to beneficiaries and taxing authorities disproportionately from the trusts. The trustee shall not be liable for deciding in her discretion to exercise or not exercise these powers.

Upon division or distribution of an exempt trust and a nonexempt trust held hereunder, the trustee in her discretion may allocate property from the exempt trust first to a share from which a generation-skipping transfer is more likely to occur.

If the trustee considers that any distribution from a trust hereunder other than pursuant to a power to withdraw or appoint is a taxable distribution subject to a generation-skipping tax payable by the distributee, the trustee shall augment the distribution by an amount which the trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates.

If the trustee considers that any termination of an interest in trust property hereunder is a taxable termination subject to a generation-skipping tax, the trustee shall pay the tax from the portion of the trust property to which the tax relates, without adjustment of the relative interests of the beneficiaries.

If a trust hereunder would incur generation-skipping tax by reason of the death of a beneficiary (assuming the non-exercise of all testamentary powers of appointment granted to the beneficiary hereunder), then the beneficiary shall have the power to appoint the trust property otherwise constituting a generation-skipping transfer to the creditors of his or her estate. This general testamentary power of appointment is granted to avoid generation-skipping tax. This power of appointment may be exercised only by a will making specific reference to this power, and it shall be in addition to any other testamentary power of appointment granted to the beneficiary under this agreement. Any such trust property not effectively appointed by the beneficiary shall be held and disposed of as provided in this agreement, except that unless the beneficiary directs otherwise by his or her will or revocable trust, the trustee shall first pay from the principal of such property, directly or to the personal representative of the beneficiary’s estate as the trustee deems advisable, the amount by which the estate and inheritance taxes assessed by reason of the death of the beneficiary shall be increased as a result of the inclusion of such property in the beneficiary’s estate for such tax purposes. The trustee’s selection of assets to be sold to pay that amount, and the tax effects thereof, shall not be subject to question by any beneficiary.
SECTION 14: In determining whether any person is a child or descendant for purposes of this agreement, children and descendants by both birth and adoption shall be included, except that

(a) a person adopted when over the age of 18 years shall be excluded,

(b) a person born out of wedlock shall be treated as the child of the mother, unless her parental rights are terminated by placement for adoption or otherwise, and

(c) a person born out of wedlock shall not be treated as a child of the father unless the father marries the mother, acknowledges paternity of the child by a writing delivered to the trustee during the father’s lifetime, or paternity is established by adjudication before or after the death of the father.

SECTION 15: Whenever trust property is to be distributed or allocated per stirpes to the then living descendants of a person, the trust property shall be first divided at the generational level of the person’s children, whether or not any child of the person is then living.

SECTION 16: In making discretionary distributions of trust property to beneficiaries, the trustee shall consider the following:

(a) Among current beneficiaries of the trust, the interests of an older-generation beneficiary shall have priority over younger-generation beneficiaries, if the younger-generation beneficiaries are descendants of the older-generation beneficiary.

(b) The interests of a current beneficiary shall have priority over the remaindermen of the trust, if the remaindermen are descendants of the current beneficiary.

The trustee may also consider tax effects in making discretionary distributions of trust property to beneficiaries.

SECTION 17: A trustee may not use trust property to discharge the trustee’s legal obligations, including any obligation to support a beneficiary. The benefits of this agreement are in addition to, and not in substitution for, any legal obligation of any person to a beneficiary.
If non-marketable assets (e.g., partnership interests, closely held stock, real estate, loans) or investment concentrations of marketable securities may be included in a trust, this should be discussed in advance with a corporate trustee. If these assets are to be retained, clients usually want to relieve the corporate trustee of investment responsibility for them. If this is desired, add to the end of SECOND:

5 SECTION ___: A trust under this agreement may hold some or all of the following assets, which shall be known as “special assets:”

___________________________________________________
___________________________________________________
___________________________________________________

Notwithstanding the general investment powers of the trustee, the following provisions shall apply to the special assets in the trust:

(a) I appoint the following individuals who are willing and able to act (singly, and in the order listed) to act as manager for the special assets in the trust:
   (i) The remaining individual cotrustees or cotrustee of the trust (if any)
   (ii) _____________________________________________________
   (iii) _____________________________________________________

(b) While a manager is acting, the manager shall have sole investment, voting and management responsibility (and the trustee shall have no such responsibility) for the special assets in the trust. The trustee shall sell the special assets, and deal with them, only upon the written direction of the manager. The trustee shall be under no obligation to review the special assets, make any investment recommendation with respect to them, solicit any direction from the manager, or value special assets which are non-marketable. The trustee need not review whether the manager is satisfying his or her responsibilities hereunder, and the trustee shall not be liable for any action or inaction of the manager.

(c) The powers of the manager shall be deemed to be and exercised as fiduciary powers. Special assets may include stock or other interests in a corporation, partnership, limited liability company or other entity (herein called a “company”). The manager’s fiduciary powers shall not preclude the manager from holding office in a company, accepting remuneration from it, voting any interest in favor of himself or herself as director, manager or officer, or purchasing or selling interests in the company. The trustee shall make tax elections with respect to a company only as the manager directs. If a firm succeeds to part or all of the business or assets of a company by merger, consolidation, reorganization or otherwise, the trust’s interest in that firm (whether or not publicly traded) shall continue to be a special asset of the trust.

(d) Special assets may include interests in real estate. The trustee shall have no responsibility, other than title-holding, for those interests and the tangible personal property associated with them. The manager shall have sole responsibility for managing, insuring, leasing and repairing the properties, collecting rents, and paying all taxes and expenses on the properties. The trustee shall deal with the properties only as and when directed to do so by the manager. If the manager asks the trustee to provide additional money for the expenses or improvement of a special asset, however, the trustee shall have responsibility for determining whether or not to provide funds. The manager may employ property managers at the expense of the trust or may manage the properties personally. The trustee need not review or inspect the properties, except that the trustee shall have the right (but not the duty) to exercise the trustee’s environmental powers under this agreement.

(e) A manager shall be entitled to reasonable compensation, unless waived, and to reimbursement for reasonable expenses, including travel costs.

(f) The statement of the trustee that it is acting according to this section shall fully protect all persons dealing with the trustee. The trustee shall have no responsibility for any loss that may result from acting in accordance with this section.
THIRD: The trustee of each trust under this agreement shall hold, manage, care for and protect the trust property and shall have the following powers and, except to the extent inconsistent herewith, those now or hereafter conferred by law:

(a) To retain any property (including stock of any corporate trustee hereunder or a parent or affiliate company) originally constituting the trust or subsequently added thereto, and to invest and reinvest the trust property in bonds, stocks, mortgages, notes, bank deposits, options, futures, partnership and limited liability company interests, shares of investment companies, real estate investment trusts and other investment funds (including ones that receive services from, and pay compensation to, a corporate trustee hereunder or a parent or affiliate company), or other property of any kind, real or personal, domestic or foreign; the trustee may retain or make any investment without liability, even though it is not of a type, quality, marketability or diversification considered proper for trust investments; I understand that investments are subject to risk, including possible loss of principal, and that the trustee is not liable for losses which do not result from a violation of the trustee’s duties;

(b) To cause any property, real or personal, belonging to the trust to be held or registered in the trustee’s name or in the name of a nominee or in such other form as the trustee deems best without disclosing the trust relationship;

(c) To vote in person or by general or limited proxy, or refrain from voting, any corporate securities for any purpose, except that any security as to which the trustee’s possession of voting discretion would subject the issuing company or the trustee to any law, rule or regulation adversely affecting either the company or the trustee’s ability to retain or vote company securities, shall be voted as directed by the beneficiaries then entitled to receive or eligible to have the benefit of the income from the trust; to exercise or sell any subscription or conversion rights; to consent to and join in or oppose any voting trusts, reorganizations, consolidations, mergers, foreclosures and liquidations and in connection therewith to deposit securities and accept and hold other property received therefor;

(d) To lease trust property for any period of time though commencing in the future or extending beyond the term of the trust;

(e) To borrow money from any lender, extend or renew any existing indebtedness and mortgage or pledge any property in the trust;

(f) To sell at public or private sale, contract to sell, convey, exchange, transfer and otherwise deal with the trust property and any reinvestments thereof, and to sell options, from time to time for such price and upon such terms as the trustee sees fit;
(g) To employ agents, attorneys and proxies, to delegate to them such duties and powers as the trustee considers desirable, and to pay them reasonable compensation from the trust estate; a corporate trustee hereunder may delegate to an affiliate company any of the corporate trustee’s duties and powers, discretionary or otherwise, and the delegating corporate trustee need not review the actions of the affiliate;

(h) To compromise, contest, prosecute or abandon claims in favor of or against the trust;

(i) To distribute income and principal in cash or in kind, or partly in each, and to allocate or distribute undivided interests or different assets or disproportionate interests in assets, and no adjustment shall be made to compensate for a disproportionate allocation of unrealized gain for federal income tax purposes; to value the trust property and to sell any part or all thereof in order to make allocation or distribution; no action taken by the trustee pursuant to this paragraph shall be subject to question by any beneficiary;

(j) To deal with, purchase assets from, or make loans to, the fiduciary of my estate or any other estate or trust in which any beneficiary under this agreement has an interest, though a trustee hereunder is the fiduciary, and to retain any assets or loans so acquired, although not of a type, quality, marketability or diversification considered proper for trust investments; to deal with any corporate trustee hereunder individually or a parent or affiliate company;

(k) To elect, pursuant to the terms of any employee benefit plan, individual retirement plan or insurance contract, the mode of distribution of the proceeds thereof, and no adjustment shall be made in the interests of the beneficiaries to compensate for the effect of the election;

(l) To retain or acquire any interests in oil, gas or other mineral resources received from any source without liability for any loss occasioned thereby; to execute any agreements, assignments, contracts, deeds, grants, leases for any term, and any other instruments or documents (even though their term may extend beyond the administration of any trust); to manage, control, operate, explore, mine, develop, or take any other action for the production, recovery, sale, treatment, storage, or transportation of any interest in oil, gas, or other mineral resources; to drill wells of any type; to conduct or participate in secondary recovery operations; to enter into agreements for pooling or unitization; to install, operate, or participate in the operation of any plant, mine, or other facility; and generally, with reference to oil, gas, and other mineral interests and operations, to enter into any other agreements and to take any other actions (whether or not presently recognized as common or proper practice by those engaged in the business of prospecting for, developing, producing, processing, transporting, or marketing oil, gas, or other minerals) as the trustee deems to be advisable;
(m) To inspect and monitor businesses and real property (whether held directly or through a partnership, corporation, trust or other entity) for environmental conditions or possible violations of environmental laws; to remediate environmentally-damaged property or to take steps to prevent environmental damage in the future, even if no action by public or private parties is currently pending or threatened; to abandon or refuse to accept property which may have environmental damage; the trustee may expend trust property to do the foregoing, and no action or failure to act by the trustee pursuant to this paragraph shall be subject to question by any beneficiary; and

(n) To perform other acts necessary or appropriate for the proper administration of the trust, execute and deliver necessary instruments and give full receipts and discharges.

The trustee shall not lend trust property to my spouse or me, directly or indirectly, without adequate interest and adequate security. The trustee shall not use the income or principal of the trust estate to pay premiums on policies of insurance on the life of my spouse or me.

FOURTH: I or any other person may transfer or devise to the trustee additional property acceptable to the trustee, to be held under this agreement, and may designate the trust to which the property shall be added.

FIFTH: This agreement shall not be subject to amendment or revocation.
SIXTH: The law of the State of ____________ shall govern the validity of each trust created under this agreement and the interpretation of its dispositive provisions. In all other respects (including investments, accountings and principal/income matters), the trust shall be governed by the law of the state in which the trust has its principal place of administration from time to time. The headings in this agreement are for convenience of reference only and shall not be considered in the interpretation of this agreement.

IN WITNESS WHEREOF I, JOHN DOE, and MARY DOE have signed this agreement the day and year first above written.

__________________________________________
JOHN DOE

__________________________________________
MARY DOE

[ Note to drafting attorney: 
As needed, modify or omit the following 
Attestation and Acknowledgment 
to satisfy the legal requirements and customary practice 
of the state in which the settlor resides. ]

We certify that the above instrument was on the date thereof signed and declared by JOHN DOE as his trust agreement in our presence and that we, at his request and in his
presence and in the presence of each other, have signed our names as witnesses thereto, believing JOHN DOE to be of sound mind and memory at the time of signing.

_______________________________  Residing at ____________________________

_______________________________

_______________________________  Residing at ____________________________

_______________________________

_______________________________  Residing at ____________________________

_______________________________

_______________________________  Residing at ____________________________

_______________________________

STATE OF __________________________
COUNTY OF ________________________

This instrument was acknowledged before me on this _____ day of ____________, 20____, by JOHN DOE, as settlor.

_______________________________
NOTARY PUBLIC

My commission expires __________