

# Appendix 3

## SAMPLE IRREVOCABLE LIFE INSURANCE TRUST FOR AN UNMARRIED PERSON WITH DESCENDANTS

**Note:** This form is a sample irrevocable life insurance trust that is designed to hold policy on the life of an unmarried person with descendants. The trust is designed to be GST tax exempt, but because of the hanging *Crummey* withdrawal rights may **not** qualify as a GST Trust (to which the grantor's GST tax exemption will be automatically allocated). Therefore, the transferor will need to annually allocate his or her GST tax exemption to contributions or will need to make a one time election on IRS Form 709 to have the trust be treated as a GST Trust (see, "GST Trust Election Statement" in Appendix 4). The trust contains a hanging *Crummey* right of withdrawal, and permits a donor to make gift contributions to the beneficiaries up to the annual exclusion amount. Optional and alternate language is contained in brackets { }.

This form is designed to be an adjunct to (and not a substitution for) the grantor's base estate plan, such as a revocable living trust. This form should not be used as a pour-over from a person's probate estate, will, or other trust.

**Practice Note:** Michigan practitioners should note that the sample forms complies with Michigan's Estates and Protected Individuals Code, which went into effect April 1, 2000.

As this is a sample form, practitioners must be careful when using the form to adapt it to comply with new developments in federal and state estate, gift and generation-skipping transfer tax law and to modify it to comply with applicable state law and the particular requirements and needs of their client; accordingly, the author makes no representations or warranties as to the efficacy of the form.

### THE «SETTLORFULLNAME» IRREVOCABLE TRUST

#### ARTICLE 1 CREATION AND FUNDING THE TRUST

- 1.1 Creation of Trust
- 1.2 Transfer of Property to Trust
- 1.3 Restrictions on Donors
- 1.4 Construction of Agreement
- 1.5 Intent and Material Purpose of Trust

#### ARTICLE 2 IRREVOCABILITY

- 2.1 Irrevocable Trust

#### ARTICLE 3 WITHDRAWAL RIGHTS

- 3.1 Withdrawal Rights
- 3.2 Rules Concerning Withdrawal Rights

#### ARTICLE 4 DISTRIBUTION DURING LIFETIME

- 4.1 Distribution of Principal and Income During Lifetime
- 4.2 Limited Power of Appointment by Special Power Holder
- 4.3 Distribution In Satisfaction of Unlapsed Withdrawal Right

**ARTICLE 5  
DISTRIBUTION AFTER DEATH**

- 5.1 Purchase of Assets and Loans
- 5.2 Administration of the Balance of the Trust Property
- 5.3 Descendants' Trust
- 5.4 Absence of Beneficiaries

**ARTICLE 6  
TRUSTEES**

- 6.1 Initial and Successor Trustees
- 6.2 Resignation by Trustee
- 6.3 Resignation by Trustee
- 6.4 Trustee May Delegate to Co-Trustee
- 6.5 Trustee May Appoint a Co-Trustee
- 6.6 Trustee May Appoint a Substitute Trustee
- 6.7 Individual Trustee May Nominate Successor Trustee
- 6.8 Sole Beneficiary - Trustee Authorized
- 6.9 Action by One Trustee
- 6.10 Multiple Trustees
- 6.11 Trustee's Fees
- 6.12 Qualifying as Trustee
- 6.13 Title and Powers
- 6.14 Other Trustee's Acts and Accounts, and Delivery of Trust Records
- 6.15 Corporate Successor
- 6.16 Proceeds Application
- 6.17 Notice
- 6.18 Trustee Liability
- 6.19 Conflict of Interest
- 6.20 Initial Notice of Trustee Status
- 6.21 Removal of Trustee

**ARTICLE 7  
TRUSTEE POWERS AND TRUST ADMINISTRATION**

- 7.1 Trustee Powers
- 7.2 Beneficiary Under Disability
- 7.3 Spendthrift Provisions
- 7.4 Certificate of Trust Existence and Authority
- 7.5 Multiple Copies

- 7.6 Termination of Trust
- 7.7 Accrued Income
- 7.8 Right of Representation.
- 7.9 Accountings and Information to Beneficiaries
- 7.10 S Corporation Stock
- 7.11 Guidelines for Discretionary Distributions

**ARTICLE 8  
GENERAL PROVISIONS**

- 8.1 Rule Against Perpetuities
- 8.2 Power of Appointment Matters
- 8.3 Law, Definitions, Captions, and Severability
- 8.4 Disclaimer by Beneficiary
- 8.5 Actions by Incapacitated or Minor Beneficiaries
- 8.6 Virtual Representation
- 8.7 Arbitration

**ARTICLE 9  
SURVIVAL AND ANTI-LAPSE**

- 9.1 Survival of Beneficiary
- 9.2 Negation of Anti-Lapse Statute

**ARTICLE 10  
MY FAMILY**

- 10.1 Single Person
- 10.2 Children

[Revised thru 06182007]

**THE «SETTLORFULLNAME» IRREVOCABLE TRUST**

- Name of Trust:** The «SettlorFullName» Irrevocable Trust, dated «DateofExecution»
- Initial Trustee:** «InitialTrustee»
- Successor Trustees:** «AltTrustee1»  
«AltTrustee2»  
«AltTrustee3»  
«AltTrustee4»
- Date of Execution:** «DateofExecution»

I, «SettlorFullName», on «DateofExecution», sign this Trust Agreement (“Agreement”) with «InitialTrustee» as trustee (who, and any successor trustee, substitute trustee, or co-trustee, will be called “Trustee” in this Agreement and referred to in singular neuter pronouns), on the following terms and conditions. The original trust established hereunder by me is hereinafter sometimes referred to as the “initial trust.”

**ARTICLE 1**