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# **ESTATE AND FINANCIAL PLANNING**

## **ESTATE AND FINANCIAL PLANNING**

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## Chapter 1 – Common Mistakes Made by Clients in Estate Planning

### A. Generally

1. When engaged to perform an estate plan for a client, the professional should understand that many clients have misconceptions regarding estate planning. Clients seem to share many false assumptions when it comes to planning, and these false assumptions can be disastrous in the clients' overall estate plan.

2. The following is a list of the major mistakes made by clients with regard to their estate plans. The planner should know ahead of time what these mistaken beliefs are so that proper advice can be given to correct these problems.

### B. Common Mistakes

#### 1. Not Taking Estate Planning Seriously

(a) The average client has not taken the necessary steps to prepare an adequate estate plan. The reasons for this are as follows:

- (i) Procrastination;
- (ii) Fear of death;
- (iii) Belief that death is not imminent;
- (iv) Uncertainty as to how to deal with children and/or spouses of a prior marriage;
- (v) Uncertainty as to how to deal with children or other heirs with special needs;
- (vi) Inexperience in this area;
- (vii) Instability of the family home; and
- (viii) Uncertainty as to who they should seek advice from.

(b) The planner has the unique ability to spot various issues and needs of a client's estate plan and then communicate these issues to the client. The added benefit of this for the planner is that the planner will be recognized as the expert in the area and will be able to better serve the client's needs. This, of course, will translate into additional billable hours for the planner.

## **2. Estate Planning is only for the “Wealthy”**

**(a)** Many clients have the mistaken belief that Estate Planning is simply the process of reducing or eliminating taxes and other costs at the time of death. Although tax planning is an important part of Estate Planning, this is only a small part of the process. There are many important parts of the Estate Planning process that have little to do with the amount of wealth of a client.

**(b)** It is imperative that the planner stress to the client that in addition to tax planning, Estate planning consists of proper distribution planning to heirs, proper understanding of the limitations of the abilities of heirs to handle wealth due to both age and health issues.

## **3. “Dying without a Will isn’t so Bad”**

**(a)** There are times when you, the practitioner become frustrated with a client when you hear them say “I do not need a Will because the law will distribute my assets in the same manner as a Will would”. It is at this point that you need to explain the concept of “intestacy” to the client.

**(b)** An individual who dies without a valid will is said to have died intestate. In such situations, state law determines how an estate will be distributed. If an individual dies intestate, the distribution of his or her assets may be delayed until the probate court appoints an Administrator. During what is usually a difficult and trying emotional time, these delays can put added pressure on your client’s family and loved ones. Even for those with smaller estates, obtaining court approval for the distribution of assets can be costly and time-consuming.

## **4. Failure to Prepare, Review, and Update a Will**

**(a)** Birth, adoption, divorce, death, and other factors may change the beneficiary in a client’s Will or the assets the client plans them. In addition, major changes in family structure and significant changes in assets or tax legislation all present instances where a client may wish to review and update his or her Will.

**(b)** It is never easy for a practitioner to broach the subject of Wills. Because of the difficulties involved, it may be helpful to take a business-like approach to the matter, laying out the details as clearly and distinctly as possible (for example, funeral arrangements and appointing guardians for minors). In this manner, your client’s intentions will not be subject to debate after their death.

**(c)** Both your client and their spouse should participate in the discussion. Bringing professional assistance to the table (such as the CPA, EA, attorney, and/or financial planner) can ease some of the difficulties associated with the topic and ensure that all important details are covered in the Will. This is usually referred to as the “team approach” to Estate planning.

## **5. Failure to Consider/Implement Tax Planning Strategies**

**(a)** It is very rare to find a client who will make the following statement: “Upon my death, it is my desire to leave as much of my estate as possible to both the Federal and the State governments”. Unfortunately, this is exactly what your client is saying when he or she fails to consider sophisticated tax planning strategies with regard to their specific situation.

**(b)** A failure to plan for taxes could leave a client’s assets vulnerable to the federal estate tax, which will be levied at varying rates as high as 55% in the next two years. Most states also impose some form of death tax. Internal Revenue Code §2031 and Internal Revenue Code §§2033 – 2044 state that all assets owned and controlled by a decedent are subject to the Federal Estate Tax.

## **6. Inability to Choose Fiduciaries**

**(a)** One of the most important decisions that a client needs to make in a Will is choosing an Executor (Personal Representative). The executor is responsible for managing and distributing Estate assets based on the instructions in the Will.

**(b)** The duties of an executor are many, and include:

- (i)** Carrying out instructions regarding funeral and burial;
- (ii)** Locating the Will;
- (iii)** Locating the beneficiaries and paying any bequests;
- (iv)** Locating and paying any creditors of the deceased;
- (v)** Determining the value of the estate on death;
- (vi)** Settling the estate's debts;
- (vii)** Distributing assets; and
- (viii)** Filing final tax returns and obtaining a clearance certificate from all appropriate agencies.

**(c)** This represents a partial list of the duties of an executor which can be far ranging, and may require some financial expertise. In addition, it may take several months, or even years, for the affairs of an estate to be resolved. An Executor must have the time needed to complete the tasks. In addition, it is preferable that the Executor be located geographically near the courts that have jurisdiction over the Estate.

**(d)** Because the Executor plays such an important role, many clients prefer to choose someone that they know and trust (such as a close friend or family member). However, a client should consider not just the willingness of the person, but their appropriateness to the task. It is best for a client to discuss the matter thoroughly with their chosen Executor. The client should make sure that he or she is clear on every aspect of your client’s estate and how

your client wants it to be settled. (It should be noted that when Executors were asked if they would consent to being named an Executor again, many said no because of the time commitment and difficulties they had encountered).

## **7. Failure to Provide Information Regarding Assets and Documents**

(a) Failure to documents in order is useless if the client's family and fiduciaries can find them.

(b) The practitioner should suggest to the client that the client should select an individual or entity that they trust to maintain information as to the whereabouts of assets and important documents. Also, Letters of Instruction for these purposes should be prepared by the client and updated accordingly as a part of the continuing Estate Plan.

## **8. Leaving Everything to a Surviving Spouse**

(a) The "Unlimited Marital Deduction" (Internal Revenue Code §2056) is a seductive deduction but can result in an Estate Tax marriage penalty without proper planning.

(b) Without proper planning, the unlimited marital deduction can place marital assets in the surviving spouse's marginal estate tax bracket, which in 2011, could be as high as 55%.

(c) Sophisticated planning techniques should be considered in this area.

## **9. Failure to Properly Plan for Children**

(a) While clients typically plan to deal with the distribution and the protection of their wealth and their assets, many times they fail to implement planning strategies for their children.

(b) Such planning strategies would include the following:

(i) Guardianship of minor children;

(ii) The proper use of Trusts (including "Special Needs Trusts") for children of all ages;

(iii) Proper funding of Trusts created (or to be created) for children of all ages; and

(iv) Generational planning issues for grandchildren.

## **10. Not Accounting for Assets Passing Outside of the Probate Process**

(a) The Last Will and Testament is not the only legal document or legal mechanism that can be used to transfer assets following death.

(b) At the time of death, the Decedent's assets may pass to a beneficiary of beneficiaries in primarily three additional ways:

(i) Direct transfer (a transfer resulting from a "transfer on death account", a "payable on death account", or a pursuant to a properly completed designated beneficiary form used in conjunction with certain types of assets including the Decedent's pension plan, IRA, annuity, and/or insurance policy);

(ii) Joint Tenancy with the Right of Survivorship (an asset whose ownership is titled in more than one name and which requires that the asset pass to the surviving joint tenant[s] upon the death of a joint tenant); and

(iii) Trusts.

(c) The client must understand that if a Will Substitute applies to the transfer of an asset, then that asset will not be subject to the terms of the Decedent's Last Will and Testament.

## **11. Failure to Properly Title Life Insurance Policies**

(a) Life insurance owned in the name of the "insured" may result in the unnecessary payment of Federal Estate taxes. This tax payment effectively diminishes the value of the life insurance policy.

(b) Chapter 6 of this manual describes in full the subject matter of insurance and planning.

## **12. Failure to Properly Implement Gifting Strategies**

(a) Many clients do not fully understand the proper use of the "annual exclusion" (currently \$13,000 per year per donee) and the lifetime exclusion (currently \$1,000,000 per donor) as allowed under the Internal Revenue Code.

(b) In addition, most clients do not understand sophisticated gifting techniques allowed under Internal Revenue Code §2503(e) (direct transfer to educational institutions and/or medical entities).

(c) Clients should be made aware of proper gifting techniques for both tax and non-tax purposes as a part of an overall estate, financial, and asset protection planning strategy.



## **Chapter 2 – The Uncertainty of Estate and Gift Tax Planning**

### **A. Introduction**

1. The practitioner faces a significant dilemma when giving advice in the areas of estate and gift tax planning due to the significant changes brought about by EGTRRA (The 2001 Tax Act).

2. Most significant of these problems is the possibility that EGTRRA will not be made permanent. There is no way to predict whether or not a future congress will “revote” the law. The “Sunset Provisions” of EGTRRA force either the “revote” of the law making EGTRRA (or any specific portion of EGTRRA) permanent or the reversion to the laws made effective by the 1997 tax act.

3. Practitioners must understand what the current law is in the areas of estate and gift taxation, what the law will progress towards as we approach the year 2010, what the consequences of total repeal of the law means, and what the prospects are for the reversion of the law to the prior tax act (1997).

4. Although this creates potential pitfalls for planners, it also creates opportunities for the practitioner in the area of business development. Opportunity now abounds for practitioners to review all aspects of estate plans on an annual basis with their clients and provides an opportunity to meet with and provide services for clients who have delayed preparing or implementing their estate plans.

5. It has become apparent that most practitioners have not developed a strategy for dealing with these issues with their clients. This is possibly due to the fear that a practitioner has regarding their lack of knowledge or experience in this area.

6. This chapter will serve to provide the following:

- (a) Summarize the Estate and Gift Tax provisions of EGTRRA;
- (b) Discuss various issues raised by EGTRRA; and
- (c) Discuss planning opportunities available to your client.

### **B. EGTRRA – Estate Taxation Provisions**

1. The Federal estate tax rate and unified credit exclusions under EGTRRA are as follows:

<b><u>Year</u></b>	<b><u>Estate Tax Exclusion</u></b>	<b><u>Rate above "Highest Amount"</u></b>
2001	\$ 675,000	55% (60%) (a)
2002	\$1,000,000	50%
2003	\$1,000,000	49%
2004	\$1,500,000	48%
2005	\$1,500,000	47%
2006	\$2,000,000	46%
2007	\$2,000,000	45%
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010 (b)	<b>Repeal of</b>	<b>Federal estate tax</b>
2011 (c)	\$1,000,000	55% (60%) (a)

(a) 5% extra (i.e. 60%) on \$10,000,000 to the average of 55% rate

(b) Repeal of federal estate tax & onset of carryover basis

(c) Sunset Provision Title IX of the Act

2. Effective for decedents dying after 2009 (i.e. for 2010), the Federal Estate Tax is repealed.<sup>1</sup>

3. EGTRRA does not apply to estates of decedents dying after 2010. The Code will thereafter be applied and administered as if the provisions and amendments had never been enacted.<sup>2</sup>

4. Effective for decedents dying after 2001, the state death tax credit was phased out<sup>3</sup> over 4 years:

2002	-	75%
2003	-	50%
2004	-	25%
2005	-	0% (Eliminated)

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<sup>1</sup> IRC Section 2210

<sup>2</sup> Section 901, Economic Growth and Tax Relief Reconciliation Act

<sup>3</sup> IRC Section 2011

5. The state death tax credit pops up again effective for estates of decedents dying after 2010.<sup>4</sup>

6. Effective for decedents dying after 2004, the state death tax became a deduction.<sup>5</sup>

### **C. Issues – Estate Taxation**

1. The Sunset provision effective for deaths after 2010 restores prior law "as if the provisions... had never been enacted." Thus the unified credit equivalent amount would then be \$1,000,000 (scheduled amount under current law) and not \$675,000 (actual current amount in effect on date of enactment).

2. The state death tax credit phase out is really a disguised Federal revenue producer. Since the states receive the benefit of 16% (top state credit bracket) out of 55% (top current Federal bracket), the impact, before 2010, of reducing the Federal top estate tax rate to 45% coupled with reduction and elimination of the state death tax credit, is a revenue gainer. The Federal government's net take actually increases from 39% to 45%, before taking into account the impact of the state death tax deduction (which is currently not predictable because of the variety of state death tax not yet enacted).

3. Commencing in 2006, the Federal estate tax became a flat tax (no progression). This is because the unified credit equivalent, or estate tax exclusion, wiped out the hypothetical tax on the lower brackets.

4. Commencing in 2006, there has been no limit on the amount of the deduction (contrast the credit) for payment of state death taxes.

5. The Federal estate tax credit for gift tax paid continues to apply, modified for deaths after 2004 to eliminate the reference to the state death tax credit.<sup>6</sup>

6. No adjustment for inflation is provided for the Federal estate tax exclusion.

### **D. Planning Opportunities – Estate Taxation**

1. **The Overfunded Credit Shelter Trust** - Consider techniques for flexibility to avoid an over-funded credit shelter trust. Example: In 2009 Mr. Smith dies with a \$3,500,000 estate leaving a formula credit shelter trust that is for the benefit of his children (to zero out) and the balance to his widow. The formula credit shelter trust results in the children receiving his entire estate. Alternatives:

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<sup>4</sup> Section 901, Economic Growth and Tax Relief Reconciliation Act

<sup>5</sup> IRC Section 2058

<sup>6</sup> IRC Section 2012

- (a) Cap the credit shelter trust amount;
- (b) Provide a minimum marital bequest;
- (c) Utilize three trusts: the usual QTIP (or outright bequest), and the usual credit shelter amount subdivided into two trusts: Part one for the surviving spouse (but NO QTIP election) and Part two for the family or children;
- (d) A bequest to the surviving spouse and a disclaimer trust so the surviving spouse can adjust down the marital bequest;
- (e) Alternative trusts with authority in the executor to select amounts.

As an example of clauses and/or drafting language relating to these concepts (including a sample formula clause), please see Supplement 2 of this manual.

2. **State Death Deductions** - After 2004, do not allocate state death taxes to the credit shelter (under-funds the credit shelter trust), and review formula clause reference to state death tax credit.

3. **Intentional Payment of Tax in Estate of First to Die** - Previously it could have been beneficial to pay tax on a taxable estate of up to \$3,000,000 in the estate of the first-to-die. The present value of the "prepayment" in general was neutral after the death of the survivor, and it utilized the lower rates a second time. Since the new rate generates a flat tax after 2006, this will no longer be viable planning. However, this technique should be reconsidered after 2010 in the event that Sunset of the law occurs.

4. **Funding the "Poor" Spouse to Utilize Multiple Exclusions** - In 2009, combined estates of \$7,000,000 escape estate tax if the first spouse dies leaving \$3,500,000 to a credit shelter trust. The usual issue of turning over assets to the "poor" spouse (to protect against a premature death) is more significant given the higher exclusion amount. For spouses hesitant to enrich the other, consider utilization of an inter vivos QTIP trust.

5. **Domicile** - Many persons have changed their domicile principally for avoiding inheritance tax. For example, the State of Florida currently only has a "pick-up" tax, and may estate planners encourage their clients to change their domicile to Florida (or a state with Florida's characteristics). Is the change of domicile appropriate in light of the elimination (and reduction) of the state death? The answer may still be "Yes", depending on the size of the estate and what, if any, new state inheritance tax laws are enacted. For example, an inheritance tax deducting \$100,000 is of no value in 2009 for an estate of \$3,500,000 or under, covered fully by the estate tax exclusion.

6. **Life Insurance** - Does life insurance funding of an irrevocable life insurance trust have value after 2001? Consider the use of such a technique:

- (a) In business succession planning;

- business;
  - (b) In planning for liquidity for children not inheriting the family
- (c) To fund taxes due in sizable estates of the second-to-die;
- Sunset;
  - (d) With the unpredictability of the new estate tax provisions after
- 2004;
  - (e) To fund estate inheritance tax in otherwise nontaxable estates after
  - (f) To fund income tax in 2010 when carryover basis applies; and
  - (g) With declining term to fund declining taxes.

7. **Tax Saving Techniques** - Consider whether there is still value to each of the following tax saving techniques:

- (a) Qualified Personal Residence Trusts (QPRTs) and Grantor Retained Trusts (GRTs).
- (b) Charitable Remainder Trusts (CRTs) and Charitable Lead Trusts (CLTs) and other charitable planning strategies.

#### E. **EGTRRA – Gift Taxation Provisions**

1. EGTRRA reduced the top marginal gift tax bracket to 50% for gifts made after December 31, 2001. Thereafter, the top marginal rate was reduced as follows:

2003	49%
2004	48%
2005	47%
2006	46%
2007, 2008, 2009	45%

2. After 2009, when the estate tax is repealed, the top marginal gift tax rate becomes equal to the top marginal income tax rate (in the new law, 35%).

3. For gifts, the unified credit equivalent is \$1,000,000.

4. The law also treats all transfers to trusts, except trusts that are treated as wholly owned by the grantor or the grantor's spouse for income tax purposes (i.e., a "grantor trust" as to the grantor or the grantor's spouse) as taxable gifts.<sup>7</sup>

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<sup>7</sup> IRC Section 2053

## **F. Issues – Gift Taxation**

1. EGTRRA ended the unified estate and gift tax system. Whereas the gift tax used to be a "backstop" for the estate tax, the gift tax is now a backstop to the income tax and is used to prevent income-shifting transfers.

2. More difficult to interpret is EGTRRA's provision that treats all transfers to trusts (other than trusts which are treated as being wholly owned by the grantor or the grantor's spouse for income tax purposes) as taxable gifts under section 2503. At first glance, this provision would seem to do away with "Crummey" Powers<sup>8</sup> and its progeny, that withdrawal rights are present interests in property and qualify for the annual exclusion. Nevertheless, some of Treasury's principal drafters of the law have stated that this provision was not intended to eliminate the so-called "Crummey" Power. According to one Treasury Department official, even though the transfer to a trust is deemed to be a taxable gift, the donor can nevertheless apply all of donor's available exclusions and credits to the transfer. This argument seems to fly in the face of long standing definitions found in other sections of the Code. For example, to have a taxable gift there must first be a gift.<sup>9</sup> "Crummey" withdrawal rights that qualify for the annual exclusion under Code section 2503 (b) are not included in the donor's gifts for the year. Nevertheless, until there is a technical correction or some form of qualification from Treasury, taxpayers are forced to rely on the informal (non-binding) public statements of Treasury staffers.

## **G. Planning Opportunities – Gift Taxation**

1. The planner must seriously consider whether the client should pay gift tax today to save an estate tax that might not exist when the client dies.

2. Planners should consider the use of "zeroed out" freezing techniques such as Grantor Retained Annuity Trusts ("GRTs") or Intentionally Defective Grantor Trusts ("IDGTs").

3. Clients should consider purchasing life insurance to provide for estate liquidity before the estate tax is repealed or to hedge against the possibility that the estate tax will not be completely repealed.

4. When drafting trusts, particularly testamentary trusts, the draftsman should consider using discretionary trusts that benefit both the spouse and descendants. Such a trust would allow the trustee to distribute trust income (and even principal) among the spouse and descendants. This would allow the trustee to make distributions directly to the creator's descendants without having to distribute trust property first to the spouse who would then have to make a gift to the descendant to be benefited. This mechanism would save the spouse's annual exclusions and gift tax credit for the spouse's own property. Furthermore, after 2009, creation of this type of discretionary trust under a Will will not incur an estate tax. To plan for the new

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<sup>8</sup> Crummey v. Commissioner, 397 F.2d 82 (9<sup>th</sup> Cir. 1968)

<sup>4</sup> In the case of gifts of present interests in property to a person by the donor, "the first [\$11,000] of such gifts to such person shall not, for purposes of subsection [2503](a), be included in the amount of gifts made during such year. Code section 2503 (b).

modified carry over basis rules, careful record keeping with respect to the basis of gifted property will be required.

5. Clients should be encouraged to make annual exclusion gifts. Because the estate tax may not ultimately be repealed, clients should consider making gifts up to the \$1,000,000 gift tax exclusion to remove those assets and the appreciation thereon from their estates.

6. Although life insurance planning will become more complicated, to hedge against the estate tax not being repealed, life insurance policies held in irrevocable trusts should continue to be considered, although careful planning with respect to premiums must be done to ensure that an unnecessary transfer tax is not paid.

7. Estate-freezing techniques (possibly coupled with vehicles that allow for valuation discounting) should be considered as a way to remove appreciation from the client's estate at virtually no gift tax cost.

## Supplement 1 – Sample Marital Deduction / Bypass Trust

TRUST AGREEMENT, made this 18th day of April, 2002, between WILLIAM P. SMITH, now of Merion, Montgomery County, Pennsylvania (hereinafter called the "Settlor"), and WILLIAM P. SMITH (hereinafter called the "Trustee").

**1. Trust Property.** The Settlor hereby delivers to the Trustee the sum of \$1.00, and other assets which may be set forth in Schedule "A" attached hereto; and hereby agrees to name the Trustee as the primary or contingent beneficiary of the policies listed in Schedule "A" attached hereto. The term "policies" may include any life-insurance policies, annuity contracts, accident policies and any retirement plan or contract under which death benefits can be made payable to the Trustees. The proceeds of such policies and any other assets shall be held in trust, and distributed as hereinafter set forth.

**2. Additional Property.** So long as this Agreement remains unrevoked, the Settlor or any other person may, at any time and from time to time, with the consent of the Trustee, add to the Trust any other policies or any other property, by deed, assignment, bequest, devise, gift, change of beneficiary or any other method. If so added, such additional property and policies shall be covered by the provisions of this Trust, the same as if originally included hereunder.

**3. Lifetime Trust.** Any property added to this Trust during Settlor's lifetime shall be kept invested and managed as a separate Trust, and:

(A) The Trustee shall, from time to time, pay or apply as much, or all, of the net income and principal either to the Settlor or as the Settlor may otherwise direct; and

(B) The Trustee shall, in the event that the Settlor is disabled, pay to or for the benefit of the Settlor, the Settlor's wife, or anyone whom the Settlor is legally obligated to support, as much of the net income and principal as the Trustee may from time to time consider desirable for the welfare, comfort, support or education of that person or persons; and

(C) Any net income not so paid or applied shall, from time to time, be added to principal.

**4. Unified Credit Trust.** As of the date of the Settlor's death, the Trustees shall set aside as a separate Trust an amount of Trust assets equal to: (a) the highest taxable estate for purposes of the federal estate tax, which, after the appropriate credit for state death taxes paid, and after giving effect to the unified credit available to the Settlor's estate, will produce a federal estate tax payable to the United States of zero; reduced by (b) the sum of: (1) the Settlor's adjusted taxable gifts; (2) nondeductible principal expenditures from the Settlor's estate and the Trust Estate; (3) principal expenses of the Settlor's estate and the Trust Estate which were not allowed as deductions in computing the Settlor's federal estate tax; (4) amounts passing under the Settlor's Will or otherwise to persons other than the Settlor's surviving spouse; and (5) property



passing to Settlor's surviving spouse which does not qualify for the marital deduction. The Trustees, giving due regard to the provisions of Paragraph 5, shall have the sole discretion to select the assets, which shall have an aggregate fair market value fairly representative of the appreciation or depreciation in value from the federal estate-tax valuation date to the date, or dates, of distribution of all trust assets then available for distribution. This Trust, as so set apart, shall be known as the "Unified Credit Trust," and shall be held, administered and disposed of as follows:

**(A)** If the Settlor's wife, JEAN G. SMITH, survives him, then:

**(i)** Commencing with the date of the death of the Settlor, the Trustees shall pay all the income from this Trust in convenient installments, but not less frequently than quarter-annually, to the Settlor's wife during her lifetime.

**(ii)** The Settlor's wife shall have the power to direct the Trustees to pay to her, out of principal in each year including the year of the Settlor's death, an amount not in excess of the greater of Five Thousand Dollars (\$5,000) or five percent (5%) of the then-aggregate value of the Trust principal as determined at the end of each taxable year of the Trust. This power is noncumulative, and can be exercised only by an instrument in writing signed by the Settlor's wife and delivered to the Trustees in any calendar year of withdrawal.

**(iii)** The Trustees, other than the Settlor's wife, shall be fully authorized to pay to the Settlor's wife from the principal of the Trust, but only after the exhaustion of the Marital Deduction Trust, such sums as shall be necessary or advisable from time to time for the medical care, maintenance and support of the Settlor's wife, taking into consideration all other income available to the Settlor's wife for such purposes from all sources known to the Trustees.

**(B)** Upon the death of the Settlor's wife, or upon the death of the Settlor if the Settlor's wife shall not survive him, then the principal and any undistributed income of the Unified Credit Trust, together with any amounts added thereto from the Marital Deduction Trust, or otherwise, shall be distributed as follows:

**(i)** The sum of One hundred Fifty Thousand Dollars (\$150,000.00) shall be held IN FURTHER TRUST for the benefit of the Settlor's friend, AGNES GOLL, and the Trustees shall pay to or for the benefit of AGNES GOLL as much of the income and principal as the Trustees determine necessary or proper for her health, maintenance and support in reasonable comfort. Upon the death of AGNES GOLL, or if she is not then surviving, the then-remaining principal and any undistributed income shall be added to the share set forth below in Subparagraph 12.

**(ii)** The sum of Two Hundred Thousand Dollars (\$200,000.00) shall be distributed to the Settlor's cousin, JUNE SMITH, if she is then living, or, if she is not then living, such share shall be added to the share set forth below in Subparagraph 12.

**(iii)** The sum of One Hundred Fifty Thousand Dollars (\$150,000.00) shall be divided into equal shares, so that there will be one share for each child of CLARA

JONES who is then living, or who is not then living but is survived by then-living issue. Each such share shall be distributed outright to such child. If no child of CLARA JONES, or the issue of a child of CLARA JONES is then living, such share shall be added to the share set forth below in Subparagraph 12.

(iv) The sum of Fifty Thousand Dollars (\$50,000.00) shall be distributed to the Settlor's grandson, TIMOTHY SMITH.

(v) The sum of Fifty Thousand Dollars (\$50,000.00) shall be distributed to Settlor's grandson, JESSE SMITH.

(vi) The sum of Twenty-Five Thousand Dollars (\$25,000.00) shall be distributed to LILA FLOWERS, if she then-living, or, if she is not then living, this share shall be added to the share set forth below in Subparagraph 12.

(vii) The sum of Ten Thousand Dollars (\$10,000.00) shall be distributed to NANETTE SAMUELS, if she is then living, or, if she is not then living, this share shall be added to the share set forth below in Subparagraph 12.

(viii) The sum of Ten Thousand Dollars (\$10,000.00) shall be distributed to the SALVATION ARMY.

(ix) The sum of Ten Thousand Dollars (\$10,000.00) shall be distributed to SYLVIA FLOWERS, if she is then living, or, if she is not then living, this share shall be added to the share set forth below in Subparagraph 12.

(x) The sum of Two Thousand Five Hundred Dollars (\$2,500.00) shall be distributed to the ABC ENVIRONMENTAL INSTITUTE.

(xi) The sum of Two Thousand Five Hundred Dollars (\$2,500.00) shall be distributed to ABC COLLEGE.

(xii) The balance of this Trust shall be divided into two equal, separate shares and distributed to THOMAS JEFFERSON UNIVERSITY HOSPITAL and HAHNEMAN UNIVERSITY HOSPITAL, for use in medical education.

(C) Notwithstanding the above provisions, JEAN G. SMITH shall have the right in her Last Will and Testament, and by specific reference to this limited power, to direct the distribution of the balance of this Unified Credit Trust remaining at the time of her death, if any, in such proportions and either outright or in trust as herein provided, as she may direct, but only to the Settlor's children and their issue, or any of them. This special power shall not apply to any property which may have passed to this Unified Credit Trust as a result of a disclaimer by JEAN G. SMITH.

**5. Part 1 - Marital Deduction Trust.** Notwithstanding the provisions of Paragraph 4, if the Settlor's wife, JEAN G. SMITH, shall not survive the Settlor, the balance of the Trust

Estate shall be added to and become a part of the Unified Credit Trust, to be held, administered and disposed of in accordance with the provisions of Paragraph 4. If the Settlor's wife, JEAN G. SMITH, shall survive the Settlor, the Trustees shall set aside the balance of the Trust Estate not allocated to the Unified Credit Trust as a separate trust for the benefit of the Settlor's wife, called the "Marital Deduction Trust"; provided, however, that each asset so distributed in kind shall be valued at the date or dates of distribution or at its basis in the Settlor's estate for federal income-tax purposes, whichever value shall be lower, and provided further that there shall not be included in this Trust any assets or the proceeds of any assets which will not qualify for the federal estate-tax marital deduction, and this Trust shall be reduced to the extent that it cannot be created with such qualifying assets. Any assets or proceeds of any assets which do not qualify for the federal estate-tax marital deduction shall be added to and become part of the Unified Credit Trust, to be held, administered and disposed of in accordance with the provisions of Paragraph 4. This Trust for the benefit of the Settlor's wife, as so set apart, shall be held, administered and disposed of as follows:

(A) Commencing with the date of the death of the Settlor, the Trustees shall pay all the income from this Trust in convenient installments, but not less frequently than quarter-annually, to the Settlor's wife during her lifetime. Until the exact amount of this Trust is known, the Trustees may advance to the Settlor's wife, not less frequently than quarter-annually, amounts equal to the estimated income of this Trust, and the Trustees shall not have any liability for the failure of the Settlor's wife to return to this Trust any portion of such advances later determined to be in excess of the actual income due her from this Trust.

(B) The Trustees shall distribute as much of the principal of this Trust that the Settlor's wife may, from time to time, request in writing.

(C) The Trustees shall be fully authorized to pay to the Settlor's wife such sums from the principal of this Trust as in the Trustee's discretion shall be necessary or advisable from time to time for the medical care, comfort, maintenance, and welfare of the Settlor's wife, taking into consideration all other income available to the Settlor's wife for such purposes from all sources known to the Trustees.

(D) Upon the death of the Settlor's wife, the entire remaining principal of this Trust, together with any accrued and undistributed income therefrom, shall be paid over, conveyed and distributed to or in trust for such appointee or appointees (including the estate of the Settlor's wife, her creditors, or the creditors of her estate), in such manner and in such proportions as the Settlor's wife may appoint in and by her Last Will, by making specific reference to the power of appointment herein conferred upon her.

(E) In default of the exercise of such general power of appointment by the Settlor's wife, the entire remaining principal of this Trust, or the part of such Trust not effectively appointed, shall be added to and become a part of the Unified Credit Trust, to be held, administered and disposed of in accordance with all the provisions of this Agreement governing the Unified Credit Trust; provided, however, that the Trustees shall first deduct and pay over to the Personal Representatives of the Settlor's wife an amount equal to any increase in inheritance, estate or other death taxes (exclusive of any generation-skipping transfer taxes) and

administration expenses in her estate caused by the inclusion therein of the value of this Marital Deduction Trust for federal estate-tax and state death-tax purposes; and a written statement by her Personal Representatives of the amounts thus payable may be accepted as being correct.

(F) It is the intention of the Settlor that this Marital Deduction Trust shall qualify for the federal estate-tax marital deduction, and the Settlor directs that all provisions of this Trust Agreement shall be construed and applied in a manner that will not impair the qualification of this Marital Deduction Trust for marital deduction purposes under the Internal Revenue Code; and the Settlor further directs that, insofar as any provisions of this Trust Agreement may adversely affect the qualification of said Marital Deduction Trust for marital deduction purposes, such provisions shall be disregarded and become inoperative.

(G) Notwithstanding the above provisions, if any part of this Marital Deduction Trust is disclaimed, then such amount shall not pass under the terms of this Marital Deduction Trust, but instead shall pass to and be distributed under the terms of the Disclaimer Trust below.

**Part 2 - Disclaimer Trust.** Any amounts passing to this Disclaimer Trust shall be held, managed and invested as a separate trust, and shall be distributed as follows:

(A) The Trustees shall pay all of the income from the Disclaimer Trust in convenient installments, but not less frequently than quarter-annually, to the Settlor's wife, JEAN G. SMITH, during her lifetime.

(B) In addition, the Trustees shall pay to or for the benefit of said JEAN G. SMITH from the principal of this Disclaimer Trust such amounts as shall be necessary from time to time for the medical care, maintenance and support in reasonable comfort of said JEAN G. SMITH, taking into consideration all other income available to her for such purposes from all sources known to the Trustees.

(C) Upon the death of JEAN G. SMITH, any balance remaining in this Disclaimer Trust shall be kept invested as a separate trust, and shall be distributed under the same provisions as set forth in Subparagraph 4(B) above.

**6. Simultaneous Death.** For purposes of this Trust, the Settlor's wife shall be deemed to have survived him if the order of their deaths is not clear.

**7. Power of Revocation and Amendment.**

(A) The Settlor retains all rights now or hereafter vested in the Settlor as the owner of all policies subject hereto, including but not limited to the rights to change beneficiaries, to borrow on policies (either from the issuing companies or from others), to pledge policies for any loan, to receive dividends and all other such payments, and to assign ownership of the policies.

(B) In addition, the Settlor may at any time and from time to time during his lifetime, by an instrument in writing delivered to the Trustees, alter, amend or revoke this Agreement, either in whole or in part. In case of revocation, the policies or other property held in trust hereunder, or that part thereof as to which this Agreement may be revoked, shall be delivered by the Trustees to the Settlor, or in accordance with his written directions. No amendment shall substantially increase the obligations of the Trustees without their consent.

## **8. Life Insurance.**

(A) During the lifetime of the Settlor, the Trustees shall be under no obligation to pay any premiums or other charges which may become due and payable on any of the policies, nor to be kept informed that any such payments are paid or payable, nor shall the Trustees be liable to anyone in the event that any charges are unpaid, or in the event that any of the policies fail for any reason. The Trustees shall be responsible for the proceeds of the policies only when, as and if they are delivered to them; and

(B) Upon the death of the Settlor, the proceeds of all policies which are then subject to this Agreement shall be collected by the Trustees. The Trustees shall have full authority to take any action in regard to the collection that the Trustees deem best, and to pay the expense thereof out of the Trust Estate; but the Trustees shall not be required to enter into or maintain any litigation to enforce payment of such policies unless the Trustees shall have been indemnified for all expenses and liabilities to which the Trustees might be subjected. The Trustees shall have full authority to make any compromise or settlement with respect to such policies, or any of them, that the Trustees may deem expedient, and to give to each of the insurance companies all the necessary and proper releases in full discharge of all liabilities under such policies. No insurance company whose policy or policies shall be deposited hereunder and which shall make payment of the proceeds thereof to the Trustees shall be required to inquire into or take notice of any of the provisions of this Agreement, or to see to the application or disposition of the proceeds of such policies; and the receipt of the Trustees to any insurance company shall be effective to release and discharge such insurance company for any payments so made, and shall be binding upon every beneficiary of the Trusts hereby created.

**9. Disclaimer.** This paragraph is intended as a reminder to the Settlor's wife that any part or all of any power or interest hereunder may be disclaimed. In particular, it may be desirable for tax purposes for her to disclaim a portion of the Marital Deduction Trust.

**10. Death Taxes.** The Trustees shall pay all estate, inheritance and any other death taxes (but not including any generation-skipping transfer tax for which the Settlor may be liable as transferor under §2603(a)(3) of the Internal Revenue Code, as revised or amended, or any additional federal estate tax resulting from the application of §4981A(d) of the Internal Revenue Code, as revised or amended), and any interest and penalties thereon, as a result of the Settlor's death, with respect to all property includible in the gross estate of the Settlor, whether or not such taxes are payable by the estate of the Settlor or by the recipient of any such property, including inheritance and other death taxes which may be prepaid by or on behalf of any person having a contingent or remainder interest therein, if the Trustees deem it advisable to prepay such taxes. All such taxes shall be paid out of the principal of the then-general principal of the Trust Estate,

without apportionment or right of reimbursement from any beneficiary or recipient. Such taxes shall be paid at such time or times as the Trustees deem advisable, and the Trustees are authorized to remit to the Settlor's Personal Representative such sums as may be required to pay such taxes. No property which would otherwise be exempt from federal or state death taxes shall be used to pay any death taxes under this paragraph.

**11. Payments to Aid in Settlement of Estate.** The Trustees shall have the power, but not the duty, to make such payments from the principal of the Unified Credit Trust as the Trustees may think desirable to facilitate the settlement of the Settlor's estate, and in the exercise of this power the Trustees may pay, in whole or in part, any or all of the Settlor's debts, the expenses of the Settlor's funeral and burial, any or all of the administration expenses in connection with the Settlor's estate, or any or all of the Settlor's death taxes as provided hereinabove, even though they do not relate to property becoming subject to this Trust. Such payments shall be made at such time or times as the Trustees deem advisable, and the Trustees are authorized to remit to the Settlor's Personal Representative such sums as may be required to pay such debts or expenses. Neither the Settlor's Personal Representative nor any beneficiary of the Settlor's estate shall be required to reimburse the Trustees for any such expenditures. No property which otherwise would be exempt from federal or state death taxes shall be used to make any payments under this paragraph.

**12. Protection of Beneficiaries.** The interests of beneficiaries in principal or income of any Trust created hereunder, or any share thereof, shall not in any way during their respective lifetimes be subject to the claims of their creditors or others, nor to legal process, and may not be voluntarily alienated or encumbered.

**13. Management Powers.** In addition to other powers conferred upon the Trustees by this Agreement or by common law or statute, the Trustees shall have the following powers, all of which shall be exercised in a fiduciary capacity for the best interests of the beneficiaries hereunder, and none of which shall apply in any manner which would cause the disqualification of any marital deduction for tax purposes:

(A) to hold, possess, manage and control the Trust Estate for the purposes and uses herein set forth;

(B) to invest and reinvest all or any part of the Trust Estate in any property, real or personal, including stock, common trust funds or other securities of any corporate fiduciary, or of a holding company controlling said fiduciary, without regard to statutes limiting the property which the Trustees may purchase;

(C) to compromise claims, and to abandon any property which in the Trustees' opinion is of little or no value;

(D) to sell, transfer, exchange or lease any real or personal property of the Trust Estate, for cash or on terms, publicly or privately, and to give options for sales or leases;

(E) to execute and deliver any deeds, leases, assignments or other instruments as may be necessary to carry out the provisions of this Trust;

(F) to open and maintain, in the name of the Trust, bank accounts, safe-deposit boxes and other adequate measures for the safeguarding of property;

(G) to borrow from anyone, even if the lender is a Trustee hereunder, and to pledge property as security for repayment of any funds borrowed;

(H) to make loans to, and to buy property from, the estate of the Settlor or of the Settlor's wife;

(I) to exercise in person or by proxy any subscription right in connection with any security held hereunder, and to consent to or participate in any reorganization, consolidation or merger of any corporation;

(J) to allocate any property received or charge incurred to principal or income, or partly to each, without regard to any law defining principal and income, except that this authority shall not apply in any manner which would disqualify any marital deduction for tax purposes; provided that, whenever the principal, or any part thereof, of the Trust Estate is invested, such premium shall be charged against principal, and any such discount shall be credited to principal; and provided further that stock dividends and rights to purchase additional stock issued on securities held in trust shall be treated as principal, and not as income. All other dividends, except liquidating distributions, shall be treated as income;

(K) to make any distribution hereunder in kind or in money, or partly in each, and to allocate specific assets among the beneficiaries (including any Trust hereunder), in such proportions as the Trustees may think best, so long as the total market value of any beneficiary's share is not affected by such allocation, except that this authority shall not apply in any manner which would disqualify any marital deduction for tax purposes;

(L) to engage attorneys, accountants, agents, custodians, clerks, investment counsel and such other persons as they may deem advisable, and to make such payments therefor as they may deem reasonable, and to delegate to such persons any discretion which they may deem proper;

(M) to agree with the Personal Representative of the Settlor's estate in the use of expenses and losses as deductions for estate-tax or income-tax purposes, or partly for each, as shall be deemed advisable, without adjustments between income and principal, or in the amounts passing to each beneficiary;

(N) to deal with the stock of any close corporation, any partnership or any other business interest forming a part of any Trust hereunder, including the powers: to disregard any principal of investment diversification, and to retain any part or all of such interest as long as the Trustees consider it advisable to do so; to sell any part or all of such interest at such time or times, for such prices, to such persons (including persons who are Trustees or beneficiaries

hereunder) and on such terms and conditions as they may think desirable; to do anything that may seem advisable with respect to the operation or liquidation of any such business or any change in the purpose, nature, or structure of any such business; to delegate authority to any director, stockholder, manager, agent, partner or employee, and to approve payment from the business of adequate compensation to any such person; to cause the business to borrow money from the banking department of any corporate trustee, regardless of any rule of law with respect to conflict of interest; and to make additional investments in any such business if such action seems desirable for the best interests of this Trust and the beneficiaries thereof;

(O) without being required to obtain leave of court, organize a corporation to carry on such business, if unincorporated, by themselves or jointly with others, and contribute all or part of the property of such business as capital to such corporation, and to accept stock in the corporation in lieu thereof. Similarly, the Trustees may dissolve any corporation carrying on any such business, and may operate such business in any other form that the Trustees in their discretion, deem appropriate;

(P) to do all such acts, take all such proceedings and to exercise all rights and privileges, although not hereinbefore specifically mentioned, with relation to any such property, as if the absolute owners thereof, and in connection therewith to make, execute and deliver any instruments, and to enter into any covenants or agreements binding any Trust created hereunder;

(Q) to purchase securities on margins, and to rehypothecate same;

(R) to purchase United States of America Treasury Bonds which may be redeemed at par in payment of the federal estate-tax which will be imposed upon the Settlor's estate. In purchasing those bonds, each Trustee is authorized: (i) to borrow cash, collateral, or both from any lender, including a Trustee; (ii) to secure any such loan by pledge of either the bonds or any other Trust asset, or by any other arrangement upon the terms and conditions of any such loan. The exercise of this discretion by any Trustee shall not impose any liability upon any other Trustee who does not participate in it. The Trustees shall retain all of those bonds as Trust assets until the Trustees determine that it is no longer advisable to do so.

**14. Provisions Relating to Trust.** The following provisions shall apply as indicated to the Trusts created hereunder and to each share thereof, except that none of these provisions shall apply in any manner or to any property which would cause a disqualification of the marital deduction for tax purposes:

(A) If any share becomes distributable to any person who is a minor or to a beneficiary who, in the judgment of the Trustees, is legally incapacitated, then such share shall immediately vest in such person, but the Trustees may retain possession of such share during such minority or incapacity. The Trustees shall use and expend as much of the income and principal of such share as the Trustees deem necessary or desirable for the medical care, comfort, support, maintenance and education (including but not limited to college and postgraduate education) of such person, or the Trustees may otherwise pay the same to said person, to the legally appointed guardian or conservator of such person, or into an account for said person under a Uniform Gifts to Minors Act, Uniform Transfers to Minors Act, or otherwise for the



benefit of said beneficiary. Any income and principal not so expended or applied by the Trustees shall be retained by the Trustees, and paid to the beneficiary upon termination of the incapacity (including minority), or to the estate of the beneficiary if he or she dies while still a minor or while still incapacitated, as the case may be, unless otherwise provided herein. For purposes of this subparagraph, a person shall be deemed to be a "minor" so long as such person is under the age of twenty-one (21) years, any statute now or hereafter in force to the contrary notwithstanding.

**(B)** Any income accrued or undistributed at the termination of any estate or interest under the Unified Credit Trust or any share thereof shall be paid by the Trustees as income to the persons entitled to the next successive interest in the proportions in which they take such interest.

**(C)** For convenience of administration and investment, the Trustees are authorized to hold the several shares of the Unified Credit Trust as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares, and to make joint investments of the funds belonging to them. Notwithstanding any other provisions of this Trust, and regardless of the size of a Trust hereunder, if the dispositive provisions specifically enumerated under any other trust established by the Settlor or any member of his family are substantially the same as a Trust hereunder, the Trustees may add the principal to such other trust, to be held, administered and disposed of thereunder, in which event the Trustees shall have no further responsibility for funds so paid.

**(D)** If the Trustees, in their sole discretion, determine that it is desirable to do so, the Trustees may terminate any Trust if its fair market value declines to a size which makes the continued retention of its principal in trust uneconomical, imprudent or unwise; but no Trustee who is a beneficiary of the Trust shall participate in the exercise of this power to terminate. If this power is exercised, then such termination shall be made by paying the then-remaining principal and income of that Trust to the person then eligible to receive the income, or, if there is more than one such person, to them in such amounts or proportions as the Trustees may think appropriate.

**(E)** The Trustees shall have the power to determine, irrespective of statute or rule of law, how all receipts and disbursements of the Trusts created hereunder, or any share thereof, including the Trustees' compensation, shall be credited, charged or apportioned as between income and principal, and the decision of the Trustees shall be final, and not subject to question by any beneficiary thereof.

## **15. Trustees.**

**(A)** Any Trustee named in this Trust may resign without court approval at any time by a written notice of resignation delivered to the Settlor, if living, and, if not, then to the remaining Co-Trustees, or if no other Co-Trustee is then acting then to the beneficiaries then entitled to the Trust income, which notice shall thereupon be attached to this Agreement. If upon the death, resignation, ill health, or for any other reason, the Settlor ceases to act as Trustee, he

shall be succeeded by JEAN G. SMITH, LINDA WENGER, and JUNE SMITH as successor Co-Trustees.

**(B)** Any successor Co-Trustee appointed hereunder shall serve with all the powers and duties conferred upon the Trustee first hereinabove named, and any successor shall, with the written approval of the beneficiaries, accept as correct the account rendered by the prior Trustee without incurring liability.

**(C)** The Settlor's wife while acting as Co-Trustee shall not participate in (i) the exercise of, or decision not to exercise, any discretion to pay income or principal to, or to apply income or principal for the benefit of, any beneficiary (including discretion to allocate funds among a group of beneficiaries, and discretion to accumulate income); (ii) the determination whether a beneficiary is disabled; (iii) a decision when to pay death taxes on any future interest; (iv) the decision to accelerate payment or terminate any trust hereunder; (v) the exercise of discretion to allocate receipts or expenses between principal and income; (vi) the decision to exercise tax options; (vii) a decision to make payments to aid in the settlement of the Settlor's estate; or (viii) the selection of the property to be allocated to any trust qualifying for the marital deduction. Nothing contained herein, however, shall in any way detract from the absolute right of the Settlor's wife to participate as Trustee, or to exercise any of her powers over any property which qualifies for the marital deduction for federal estate-tax purposes in the Settlor's estate.

**(D)** Any individual Trustees shall be entitled to receive a fair and just compensation for their services hereunder, and shall also be reimbursed for all reasonable expenses incurred in the management and protection of the Trust Estate, regardless of having received any commissions as the Personal Representative of the Settlor's estate. As full compensation for its services hereunder, any corporate Trustee shall receive such fees as, from time to time, are agreed upon by it and the Settlor in a writing separate from this Agreement, but if, for any period, no such fees are so agreed upon, any corporate Trustee shall receive compensation in accordance with its standard schedule of fees in effect while its services are performed.

**(E)** The Settlor's wife, in her sole discretion, or at her death a majority of the beneficiaries to whom the current Trust income may or must then be distributed, shall have the power to revoke the appointment of any corporate Trustee, provided that a successor corporate Trustee is simultaneously appointed. If any such person is then under a legal disability, such revocation and reappointment may be made by the duly appointed guardian of such person's estate, either parent or the guardian of the person (which guardian need not be court appointed) of any such person for whose estate no guardian has been appointed.

**(F)** The Settlor when acting as Trustee shall have the sole power to effect property transactions, including but not limited to transfers, assignments, purchases, sales and pledges, upon his signature alone.

**(G)** A majority of the Trustees shall have the power to make any decision, undertake any action, execute any action, or execute any documents affecting the Trusts created herein. In the event of a difference in opinion among the Trustees, the decision of a majority of

them shall prevail, but the dissenting or nonassenting Trustee(s) shall not be responsible for any action taken by the majority pursuant to such decision. If only two Trustees are in office, they must act unanimously.

**16. Rule Against Perpetuities.** No Trust created hereby, or by exercise of a power of appointment hereunder, shall continue for a period which would cause violation of the Rule Against Perpetuities. Any property still held in trust at the expiration of that period shall immediately be distributed to the person or persons then entitled to receive or have the benefit of the income therefrom in the proportions in which they are entitled thereto, or, if their interests are indefinite, then in equal shares.

**17. Trustees' Bond and Accounting.** Any fiduciary acting hereunder shall not be required to enter any bond or other security in any jurisdiction in which said fiduciary may be called upon to act; nor shall such fiduciary be required to file an accounting with any court; however, the Trustees shall render to the adult beneficiary, or those beneficiaries then entitled to the income from each Trust then being administered under this Agreement, statements of account of its receipts and disbursements, at least annually.

**18. Law Governing Trusts.** All questions pertaining to the administration, construction or validity of this Trust shall be governed by the law of the Commonwealth of Pennsylvania.

**19. Definitions and Construction.** The term "Trustees," "Personal Representative," and any word used to indicate the Trustees, Personal Representative or any person or organization shall be deemed to apply to the singular or plural and to the appropriate gender, as the case may be. The terms "child" and "children" mean descendants in the first degree of the designated parent who are living at the date of execution of this Agreement, and those who are born thereafter. Those terms include persons who are legally adopted by the designated parent only before that adopted person attains the age of eighteen. That term does not include a stepchild, foster child or a grandchild or more remote legitimate descendant. The term "grandchild" of a designated individual means a child of that individual's child.

The term "issue" includes children and more remote descendants of the designated ancestor who are living at the date of execution of this Agreement, and those who are born thereafter. That term includes persons who are legally adopted by the designated ancestor or by any descendant of the designated ancestor only before that adopted person attains the age of eighteen. That term also includes all children and issue, whether natural or legally adopted before attaining that age, of any adopted person, to the same extent as if each person legally adopted before attaining that age had been the adoptive parent's natural child.

**IN WITNESS WHEREOF,** WILLIAM P. SMITH, the Settlor, and WILLIAM P. SMITH, the Trustee herein, has signed and sealed this Agreement on this 18<sup>th</sup> day of April, 2002.

_____	_____	(SEAL)
WITNESS	WILLIAM P. SMITH,	
	SETTLOR	

_____	_____	(SEAL)
WITNESS	WILLIAM P. SMITH,	
	TRUSTEE	

COMMONWEALTH        OF  
PENNSYLVANIA        :  
                                     :SS.  
COUNTY                OF :  
MONTGOMERY

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned authority, personally appeared WILLIAM P. SMITH, and in due form of law acknowledged the foregoing Trust to be his act and deed, and desired it to be recorded as such.

WITNESS my hand and seal the day and year aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC

**SCHEDULE "A"**

SCHEDULE OF POLICIES AND ANY OTHER PROPERTY REFERRED TO IN THE  
ANNEXED WILLIAM P. SMITH REVOCABLE TRUST DATED APRIL 18, 2002.