

Article Ten

Trust for Joshua D. Smith

Upon the death of the survivor of us, our Trustee shall administer and distribute our remaining trust property (not distributed under prior Articles of this instrument) for the benefit of Joshua D. Smith.

Section 10.01 Administration and Distribution of Joshua D. Smith's Trust

Our Trustee shall hold and administer Joshua D. Smith's trust under the provisions of this Section.

(a) Our Intent

At the time that we created this Trust, our son Joshua suffered from dependency problems and has no spouse or children. Our intent in creating his trust share is to ensure that he has sufficient resources to pay for life's necessities for the rest of his life. That is why we always want a third-party trustee governing his trust share. The life necessities include, but are not limited to, adequate housing, food, clothing, transportation, education, medical, dental, mental health, convalescent care and even leisure and travel. Leisure and travel should be the last considerations of our modest estate, however. We include provisions in this Article that are intended to provide our Trustee with direction, especially should Joshua have a dependency episode that requires intervention. We do not intend to be punitive, but also wish to give the Trustee means to require Joshua to seek rehabilitation. While we give our Trustee such means herein, our overall intent and our direction to the Trustee to provide for Joshua's necessities should not cease. Further, the Trustee does not have its normal obligation to preserve trust assets for remaindermen. It is consistent with our intent for the Trustee to invest and plan to exhaust the trust assets for Joshua's benefit over the course of his life. We also realize that our assets include income with respect to a decedent (IRD) accounts that pose income tax difficulties should the Trustee accumulate rather than distribute income. To that end we give the Trustee maximum flexibility to consider tax ramifications, but do not want the Trustee to allow said tax consequences to force distributions that otherwise aren't wise. We realize that no one can anticipate every situation that arises in the future, so we therefore give our Trustee broad discretion to make or withhold distributions to satisfy our intent, and to make such investments for Joshua within our trust assets or within our IRD accounts, consistent with our intent as expressed herein. "Withhold" refers to direct transfers to Joshua rather than to or for his benefit as described below. To the extent that any other provision of this Trust is inconsistent, ambiguous or counter to our intent as expressed in this Section 10.01(a), this provision shall supersede and govern.

(b) Retirement Plan Benefits Qualified

This Section contains provisions for the withdrawal and distribution of qualified retirement plan benefits payable to Joshua D. Smith's trust.

(1) Withdrawal of Required Minimum Distributions

Each year, beginning with the year of my death, our Trustee shall withdraw from qualified retirement accounts made payable to Joshua D. Smith's trust, the minimum required distribution under Internal Revenue Code Section 401(a)(9).

My Trustee shall take into consideration the amount and timing of the distributions to comply with the SECURE Act withdrawal requirement, taking into consideration our intent, the beneficiary's needs, tax bracket and other relevant factors.

(2) Withdrawal of Additional Amounts

Additionally, our Independent Trustee may withdraw as much of the net income and principal of qualified retirement accounts payable to Joshua D. Smith's trust as our Trustee determines necessary or advisable for any purpose. If no Independent Trustee is then serving, our Trustee may withdraw as much of the net income and principal of qualified retirement accounts payable to Joshua D. Smith's trust as our Trustee determines necessary or advisable for Joshua D. Smith's health, education, maintenance or support.

(c) Distributions of Income and Principal

Our Independent Trustee may distribute to Joshua D. Smith, his descendants, or both as much of the income and principal of his trust as our Independent Trustee may determine advisable for any purpose. If no Independent Trustee is then serving, our Trustee may distribute to Joshua D. Smith, his descendants, or both as much of the income and principal of his trust as our Trustee determines necessary or advisable for their health, education, maintenance or support.

In making distributions, our Trustee shall give primary consideration to the needs of Joshua D. Smith and only secondary consideration to the needs of his descendants. Our Trustee is advised that any distribution to a lineal descendant of a beneficiary during the beneficiary's lifetime may be a taxable distribution upon which federal generation skipping transfer tax may be imposed, and is advised to consult with the appropriate tax professionals before making any such distribution. Our Trustee shall add any undistributed net income to principal.

In lieu of making cash distributions to or for the benefit of the beneficiaries, our Trustee is specifically authorized to purchase assets (including one or more residences) and hold such assets in trust for the use and benefit of any beneficiary of such separate trust for his or her health, education, maintenance or support. Our Trustee is further authorized to make loans to a beneficiary and to purchase assets to be used by a beneficiary as a home, for establishing a trade or business, provided that any such expenditure or use must be related to the beneficiary's health, education, maintenance or support, and may not be in satisfaction of any legal obligation, including support obligation, of any beneficiary or Trustee.

(d) Guidelines for Discretionary Distributions

If my Trustee knows or has reason to suspect that Joshua is dependent upon or has a problem with drugs and/or alcohol, then my Trustee, in its sole and absolute discretion, may withhold both income and principal distributions made directly to him rather than to or for his benefit as described below until Joshua is evaluated for drug and alcohol abuse. We remind the Trustee to adhere to our overall intent found above in paragraph (a).

In helping to determine whether Joshua has a substance abuse problem, or is alcoholic or chemically dependent, my Trustee may select and consult with a certified addictionologist or addiction specialist. Joshua and my Trustee shall each have the right to obtain, at the separate share trust's expense, the opinion of a different certified addiction specialist. After considering the reports of the addiction specialists, my Trustee shall decide which to

accept. The specialist whose report my Trustee accepts shall be the “consulting certified addiction specialist.” If he or she is unable to continue to act in such capacity, my Trustee may select another qualified certified addiction specialist.

In helping to determine whether or not Joshua has a substance abuse problem, or is alcoholic or chemically dependent, my Trustee may instead deem it advisable to consult with Joshua’s employer, physician, family members and other with a private relationship with Joshua.

If my Trustee determines, in its sole and absolute discretion, that Joshua fails to qualify for a distribution because he has a drug and/or alcohol abuse problem, my Trustee shall offer Joshua the opportunity to enter a certified treatment program to be paid for from the assets of the trust share created for Joshua.

My Trustee may distribute *for the benefit of, but not directly to*, Joshua, any amount my Trustee deems appropriate and necessary, to satisfy our intent as provided in paragraph (a) above, or to any recognized institution, facility, hospital or school that will care for, rehabilitate, or train Joshua.

(e) Distribution upon the Death of Joshua D. Smith

Subject to the terms of the next paragraph, Joshua D. Smith has the unlimited testamentary general power to appoint all or any portion of the principal and undistributed income remaining in his trust at his death among our descendants, their spouses and charities qualified under Section 2055 of the Internal Revenue Code and Joshua D. Smith’s estate’s creditors. Joshua D. Smith has the exclusive right to exercise this general power of appointment.

Joshua D. Smith may not exercise this power of appointment to appoint to himself, his estate, his creditors, or the creditors of his estate from the *limited share* of his trust. For purposes of this power of appointment, the *limited share* of Joshua D. Smith’s trust is that portion of his trust that has an inclusion ratio of zero for generation-skipping transfer tax purposes, or that would not constitute a taxable generation-skipping transfer at his death in the absence of the power of appointment’s exercise. If the generation-skipping tax does not then apply, the limited share is Joshua D. Smith’s entire trust.

Under Section 3.11(p) of this trust, our Trust Protector may amend this Subsection to limit the class of permissible appointees.

If any part of Joshua D. Smith’s trust is not effectively appointed, our Trustee shall distribute the remaining unappointed balance *per stirpes* in trusts to the descendants of Joshua D. Smith. If Joshua D. Smith has no then-living descendants, our Trustee shall distribute the balance of the trust property *per stirpes* in trusts to our descendants. Our Trustee shall administer the trusts under the same terms as Joshua D. Smith’s trust. If we have no then-living descendants, our Trustee shall distribute the balance of the trust property as provided in Article Eleven.

Section 10.02 Distribution if Joshua D. Smith Is Deceased

If Joshua D. Smith dies before the establishment of his trust, our Trustee shall distribute the remaining trust property *per stirpes* in trusts to the descendants of Joshua D. Smith. If Joshua D. Smith has no then-living descendants, our Trustee shall distribute Joshua D. Smith’s share *per stirpes* in trusts to our descendants. Our Trustee shall administer the trusts under the same terms as Joshua D. Smith’s trust. If we have no then-living descendants, our Trustee shall distribute

Joshua D. Smith's share as provided in Article Eleven. Under Section 3.11(p) of this trust, our Trust Protector may amend this Subsection to limit the class of remainder beneficiaries.

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