

TRUST INDENTURE

THIS TRUST INDENTURE dated for reference the ____ day of _____, _____.

BETWEEN:

[NAME OF SETTLOR]
(the "Settlor")

AND:

[NAME OF TRUSTEE]
(the "Trustee")

AND:

[NAME OF PROTECTOR]
(the "Protector")

WHEREAS:

- A. The Settlor desires to establish a Trust for the benefit of the Beneficiary, and has entered into this Trust Indenture to witness the creation of the same, to establish its terms, and to define the rights and obligations of the Trustee; and
- B. The Trustee has agreed, subject to the terms hereof, to act as the trustee of the Trust.

NOW THEREFORE the parties hereby agree as follows:

PART I CREATION OF THE TRUST

1.1 Name of the Trust

The Trust created by this Trust Indenture will be known as [insert name of trust] Trust.

1.2 Settlement of the Trust

The Settlor has settled upon the Trustee, and the Trustee acknowledges that the Settlor has settled upon it those assets set forth on Schedule "A" attached hereto and forming part hereof upon the trusts herein contained.

1.3 Acceptance of the Trust

The Trustee, by executing this Trust Indenture, accepts this Trust and the duties and obligations contained herein.

1.4 Trust is Irrevocable

The Settlor may not revoke the Trust.

1.5 Trust May Not Revert

No part of the Trust Property may revert to the Settlor in his capacity as Settlor.

Part II INTERPRETATION

2.1 Definitions

In this Trust Indenture:

- (a) "Act" means the *Income Tax Act*, RSC 1985 (5th Supp.), c. 1, as amended together with all regulations promulgated thereunder or any legislation substituted therefor.
- (b) "Beneficiary" means _____.
- (c) "Beneficiary's Estate" means the estate of _____.
- (d) "company", "corporation" or any similar word includes any form of organization such as a trust, partnership, joint venture or otherwise, whether it is recognized as a separate legal entity and a reference to a director, officer or other person in respect of a corporation includes a reference to any similar person of any such organization.
- (e) "Continuing Trustee" has the meaning referred to in Clause 6.8.
- (f) "Division Date" means the earlier of the following:
 - (i) the day which is eighty (80) years from the date of creation of this Trust; and
 - (ii) the day immediately after the death of the Beneficiary.
- (g) "Net Income" means all income computed without reference to the Act (and for greater certainty not including capital gains) received by the Trust less the aggregate of:
 - (i) all expenses incurred or payable in respect of or to protect the Trust Property or incurred or payable in connection with the management and administration of the Trust, as determined by the Trustee to be chargeable to the income;
 - (ii) such other amounts in each year as the Trustee considers to be proper allowances, reserves, deductions, disbursements and outgoings in accordance with international generally accepted accounting principles applied on a consistent basis; and
 - (iii) without limiting the generality of the foregoing, such amounts in each year as the Trustee considers necessary and advisable from time to time as being on account of depletion, deterioration or obsolescence of any part of the Trust Property.
- (h) "Proper Law of the Trust" means the law of the jurisdiction in which the Trustee is resident, which will determine all matters in respect of the Trust.

- (i) "Trust Property" means the following, which, for greater certainty shall be regarded as capital assets:
 - (i) the property described in clause 1.2;
 - (ii) all property hereafter paid or transferred to or otherwise vested in and accepted by the Trustee as additions to the Trust Property, and of which a Memorandum endorsed hereon will be conclusive evidence;
 - (iii) all Net Income accumulated by the Trustee and added to the Trust's capital; and
 - (iv) all money, investments and other property from time to time representing or substituted for the property referred to in paragraphs (i) and (ii) above and the said additions and accumulations or any part or parts thereof respectively.
- (j) "Trustee" means:
 - (i) the original Trustee as at the date of execution; and
 - (ii) any other person appointed as trustee of this Trust, including a Continuing Trustee.
- (k) "Trust's Year End" means December 31 of any calendar year.
- (l) "writing" or any term associated therewith includes email and fax, provided the email address or fax number to which the writing is addressed has been previously supplied by the recipient of the writing to the sender of the writing and not thereafter changed.

2.2 Interpretation

Unless the context indicates otherwise, the singular includes the plural and vice versa, any gender includes both genders and references to person and persons include a corporation or corporations. The title and subtitles of this Trust Indenture may not be used to interpret or construe this Trust Indenture.

PART III TRUSTEE'S DUTIES

3.1 Purpose

The Trustee will hold the Trust Property in trust for the Beneficiary and administer it as follows:

- (a) *Income Interests.*
 - (i) The Trustee will invest and keep invested the Trust Property separate from all other property owned or held by it absolutely or in trust or in any other form. Until the Division Date, the Trustee must pay, in respect of each year, all Net Income to or for the benefit of the Beneficiary, to the extent the Beneficiary demands in writing the payment of such income for such year.
 - (ii) The Trustee will accumulate any amount or amounts of the Net Income not paid in accordance with Clause 3.1(a)(i), or segregated for distribution, within thirty (30) days after the Trust's Year End and will add such amount or amounts to the Trust Property.