

**DONALD LAWRENCE TIBBELS AND CYNTHIA ARLENE TIBBELS REVOCABLE  
TRUST**

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**DONALD LAWRENCE TIBBELS AND CYNTHIA ARLENE TIBBELS REVOCABLE  
TRUST**

**ARTICLE ONE. CREATION OF TRUST**

**1.1 Declaration**

Donald Lawrence Tibbels and Cynthia Arlene Tibbels, husband and wife, both of San Bernardino County, California, who are herein referred to as “the settlors” or “the trustees,” depending on the context, hereby declare that they hold certain property (the “trust estate”), in trust, to be held, administered, and distributed as provided in this instrument. The settlors declare that any property listed on the attached Schedules is trust property.

**1.2 Names of Trusts**

The trusts created by this instrument shall be known collectively as the Donald Lawrence Tibbels and Cynthia Arlene Tibbels Revocable Trust, and each separate trust created under this instrument shall be identified by the name of the settlor or settlors whose property is held in that separate trust and adding the name or designation of that separate trust as it appears in the appropriate section of this instrument.

**1.3 Effective Date**

This declaration shall be effective immediately on execution by the settlors-trustees.

**1.4 Identification of Living Children**

The settlors have three (3) living children, as follows:

<u>Name</u>	<u>Date of Birth</u>
Richard Tibbels	January 21, 1971
Cynthia Dawn Sepe	October 19, 1973
Lisa McGuire	January 8, 1978

### 1.5 No Deceased Children

The settlors have no deceased children.

### 1.6 Definitions of Child, Children, and Issue

As used in this instrument, the terms “child” and “children” refer to natural children and children who have been legally adopted during minority by the parent or parents from or through whom their right to inherit or to take is determined or derived, and the term “issue” refers to all lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of “child” and “children” set forth in this instrument.

## **ARTICLE TWO. TRUST ESTATE**

### 2.1 Definition of Trust Estate

All property subject to this instrument from time to time is referred to as the “trust estate” and shall be held, administered, and distributed as provided in this instrument. The trustee shall hold, administer, and distribute the property described in the Schedule of Community Property Assets (which are attached hereto and made a part of this trust instrument), any other property that may be hereafter subject to this trust, and the income and proceeds attributable to all such property, in accordance with the provisions of this instrument.

### 2.2 Character of Trust Assets

All community property of the settlors transferred to this trust, and the proceeds of all such property, shall continue to be community property under the laws of California, subject to the provisions of this instrument. All separate and quasi-community property shall remain the separate or quasi-community property, respectively, of the contributing settlor.

### 2.3 Additions to Trust

From time to time, the trustee may accept additions to this trust from any source. All such additions shall become a part of the trust estate and shall be held, administered, and distributed in

accordance with the terms of this instrument. That additional property shall become part of the trust estate upon written acceptance of it by the trustee. Any additions to the trust shall be made by designating in writing the property to be added. However, the titling of any account, deed, or similar asset in the name of the trustee, as trustee of this trust, or any alternate or successor trustee acting under this instrument, shall be deemed to be a transfer to this trust. Any designation by a third party, whether by will, deed, account title designation, or similar transfer, shall also be a transfer to the trust estate.

### **ARTICLE THREE. RIGHTS AND POWERS OF SETTLORS**

#### **3.1 Power of Revocation and Amendment While Both Settlers Are Living**

During the joint lifetimes of the settlers, any trust created by this instrument may be revoked or terminated, in whole or in part, by either settlor as to any separate and quasi-community property of that settlor and any community property of the settlers. Any trust created by this instrument may be modified or amended by either settlor acting alone as to any separate and quasi-community property of that settlor, and by both settlers acting jointly as to any community property of the settlers.

#### **3.2 Power of Revocation and Amendment After Death of Deceased Settlor**

After the death of the deceased settlor, the surviving settlor may at any time amend, revoke, or terminate, in whole or in part, any trust created by this instrument other than the Disclaimer Trust, which shall be irrevocable and not subject to amendment. After the death of the surviving settlor, none of the trusts created by this instrument may be amended, revoked, or terminated.

#### **3.3 Method of Revocation or Amendment**

Any amendment, revocation, or termination of any trust created by this instrument shall be made by written instrument signed by both settlers or by the settlor making the revocation,

amendment, or termination, and delivered to the trustee. If the instrument making the revocation, amendment, or termination is signed by only one settlor and the other settlor is living at that time, a copy of the instrument making the amendment, revocation, or termination shall also be delivered to the other settlor. An exercise of the power of amendment substantially affecting the duties, rights, and liabilities of the trustee shall be effective only if agreed to by the trustee in writing. The method of amendment and revocation provided in this section is the exclusive method of such amendment or revocation.

#### 3.4 Delivery of Property After Revocation

After any revocation or termination with respect to community property, the trustee shall promptly deliver the designated property to the settlors. Unless otherwise provided in the revocation of this trust instrument, any community property so returned shall continue to be the community property of the settlors. After any revocation or termination with respect to separate or quasi-community property, the trustee shall promptly deliver the designated property to the contributing settlor.

#### 3.5 Trustee's Retention of Assets on Revocation

In the event of any revocation of all or part of the trust, the trustee shall be entitled to retain sufficient assets to reasonably secure the payment of liabilities the trustee has lawfully incurred in administering the trust and any fees that have been earned by the trustee, until such time as those liabilities have been discharged and fees paid, unless the settlors indemnify the trustee against loss or expense.

### **ARTICLE FOUR. DISTRIBUTIONS DURING SETTLORS' JOINT LIVES**

#### 4.1 Payment of Income During Settlers' Joint Lives

So long as both settlors are living, the trustee shall pay the net income of the trust as specified in this section.

(a) Community Property

The trustee shall pay to or apply for the benefit of the settlors, or either of them, all of the net income from the trust community property, in monthly or other convenient installments (but not less often than annually) as the settlors, or either of them, and the trustee may agree on from time to time.

(b) Separate and Quasi-Community Property

The trustee shall pay to or apply for the benefit of a settlor whose separate property or quasi-community property comprises part of the trust estate all of the net income from that property, in monthly or other convenient installments (but not less often than annually) as that settlor and the trustee may agree on from time to time.

4.2 Distributions of Principal During Settlors' Joint Lives

So long as both settlors are living, the trustee shall distribute principal of the trust, at any time or times, as specified in this section.

(a) Community Property

The trustee shall distribute to or apply for the benefit of the settlors, or either of them, as much of the principal of the community property of the trust as the trustee, in the trustee's discretion, deems necessary for the comfort, welfare, and happiness of the settlors, or either of them.

(b) Separate and Quasi-Community Property

The trustee shall distribute to or apply for the benefit of either settlor as much of the principal of the separate and quasi-community property of that settlor as the trustee, in the trustee's discretion, deems necessary for the comfort, welfare, and happiness of that settlor.

(c) Consideration of Other Resources When Distributing Principal

In exercising discretion under subsections (a) and (b), the trustee shall give the consideration that the trustee deems proper to all other income and resources then readily available for use by the settlor or settlors, as the case may be, for the stated purposes and that are then known to the trustee. All decisions of the trustee regarding such payments, if any, are within the trustee's discretion.

4.3 Distributions of Principal at Request of Settlors

So long as both settlors are living, the settlors shall have the right to withdraw principal of the trust, at any time or times, as specified in this section.

(a) Community Property

The trustee shall distribute to the settlors, or either of them, such amounts from the principal of the community property of the trust, up to the whole thereof, as the settlors, or either of them, may request of the trustee in writing.

(b) Separate and Quasi-Community Property

The trustee shall distribute to a settlor whose separate or quasi-community property comprises part of the trust estate as much of the principal of that property, up to the whole thereof, as that settlor may request of the trustee in writing.

4.4 Settlors' Obligation for Community Property Distributed

Any payment of income or principal from the trust community property to or for the benefit of the settlors, or either of them, shall remain the community property of the settlors. A settlor who receives any such payment shall have the same obligations respecting that property that he or she would have with respect to all community property generally.

4.5 Distributions for Incapacitated Settlor

(a) If, at any time, a settlor is unable to request the trustee to distribute the net income or principal of the trust, that settlor's right to request may be exercised by an agent:

- (i) acting for that settlor under a valid and enforceable durable power of attorney; or
- (ii) acting for that settlor under a valid advance health care directive or comparable instrument.

Any agent's authority will be limited by the terms of the instrument governing the agent's authority.

(b) When an incapacitated settlor has a right to distributions on request, the trustee may make distributions as the trustee deems necessary for that settlor without receiving a request.

4.6 Trustee's Power to Make Gifts at Direction of Settlers

So long as both settlors are living, the trustee shall have the power to make gifts, as specified in this section:



(a) Community Property

The trustee shall distribute such sums of community property trust principal to such person or persons who are the natural objects of the settlors' bounty, as the settlors, acting jointly, may direct in writing.

(b) Separate and Quasi-Community Property

The trustee shall distribute such sums of trust principal that is the separate property or the quasi-community property of a settlor to such person or persons who are the natural objects of that settlor's bounty, as that settlor may direct in writing.

(c) Incapacity of a Settlor

In the event that a settlor is unable to direct the trustee in writing under this section due to incapacity, such direction may be made on the settlor's behalf by a duly authorized attorney in fact acting under a valid durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act (or successor statute); provided, however, that the amount of such gifts pursuant to the direction of an attorney in fact to any one person in any one year shall not exceed the amounts excluded from gift tax under Sections 2503(b) and (e) of the Internal Revenue Code (or a successor statute).

## **ARTICLE FIVE. DISTRIBUTIONS AFTER DECEASED SETTLOR'S DEATH**

### **5.1 Payment of Death Taxes, Debts, and Expenses on Statement From Personal Representative**

After the deceased settlor's death, on receipt by the trustee of a written statement from the personal representative of the deceased settlor's estate requesting that the trustee pay death taxes, debts, and expenses (as defined in Article Eight), with respect to any property in the deceased settlor's estate, the trustee shall pay, either directly or to the personal representative, any amounts requested by the personal representative for those purposes, in the manner specified below. The trustee may rely on the personal representative's statement and shall not be liable for any act or omission by the personal representative in protesting or failing to protest the legality, propriety, or amount of the death taxes, debts, or expenses. If there is no personal representative, the trustee shall make the payments directly. Payments of debts and expenses shall be made by

the trustee from the trust estate. All death taxes payable by reason of the death of the deceased settlor shall also be paid by the trustee from the trust estate. Payments under this section on the death of the deceased settlor shall be made only out of (1) the deceased settlor's separate property, if any, (2) the deceased settlor's one-half (1/2) interest in the settlors' community property, and (3) the deceased settlor's one-half (1/2) interest in the deceased settlor's quasi-community property, and shall not be made from the surviving settlor's property. Any death taxes that are attributable to a disclaimer of property under this instrument by the surviving settlor shall be paid from the Disclaimer Trust.

#### 5.2 Trustee's Power to Defer Division or Distribution

Whenever the trustee is directed to divide any part of the trust estate or distribute trust assets on the death of either settlor, the trustee may, in the trustee's discretion, defer actual division or distribution for such reasonable period of time as is needed to effectively identify, take possession of, value, divide, and distribute the assets of the trust. During this time of deferral, the trustee may manage the trust assets through a single administrative trust. The ability of the trustee to delay division or distribution shall not affect the vesting of interests, which shall be as of the date of death.

#### 5.3 Trust Estate Allocated to Power of Appointment Trust

On the deceased settlor's death, the remaining trust estate shall be held, administered, and distributed according to the terms of the Power of Appointment Trust, as set forth in Article Six.

#### 5.4 Intention That Disposition Be Eligible for Marital Deduction

The settlors intend that the disposition of the trust estate set forth in the preceding section (to the extent that it provides for disposition of the deceased settlor's property) be eligible for the federal estate tax marital deduction, and this instrument shall be construed accordingly.

### 5.5 Disclaimer of Property

Any property or portion of property that is disclaimed by the surviving settlor shall be held, administered, or distributed according to the terms of the Disclaimer Trust, as set forth in Article Six.

## **ARTICLE SIX. DISPOSITIVE PROVISIONS OF TRUSTS CREATED AFTER DECEASED SETTLOR'S DEATH**

### 6.1 Power of Appointment Trust

The trustee shall hold, administer, and distribute the assets of the Power of Appointment Trust as follows:

#### (a) Payment of Income

The trustee shall pay to or apply for the benefit of the surviving settlor, so long as the surviving settlor lives, the entire net income of the trust, in monthly or other convenient installments agreed on by the surviving settlor and the trustee, but not less often than annually. In determining the net income of the trust distributable to the surviving settlor, the trustee shall include all income that must be considered as income in order for the trust to qualify for the marital deduction under the federal estate tax law, and shall make no deductions from gross income that would prevent the trust from qualifying for that marital deduction, notwithstanding any contrary provisions of this instrument or any applicable provisions of state law. The settlors intend that the surviving settlor, as the beneficiary of a marital deduction trust, shall have substantially that degree of beneficial enjoyment of the trust during his or her lifetime that the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust, and the trustee shall not exercise the trustee's discretion in a manner that is not in accord with this expressed intention. The settlors further intend that the trust produce for the surviving settlor during his or her lifetime the income, or that the surviving settlor shall have the benefit of the trust property, as is consistent with the value of the trust property and with its preservation.

#### (b) Discretionary Payment of Principal by Trustee

At any time or times during the trust term, the trustee shall pay to or apply for the benefit of the surviving settlor so much of the principal of the trust as the trustee deems proper for the comfort, welfare, and happiness of the surviving settlor. In exercising discretion, the trustee shall give the consideration that the trustee deems proper to all other income and resources that are then known to the trustee and that are readily available to the surviving settlor. All decisions of the trustee regarding payments under this subsection, if any, are within the trustee's discretion.

(c) Right of Surviving Settlor to Withdraw Principal

The trustee shall pay to the surviving settlor as much of the trust principal, up to all of it, as the surviving settlor may from time to time request in a signed writing delivered to the trustee.

(d) General Power of Appointment

On the death of the surviving settlor, the trustee shall distribute all property subject to the trust (including the trust principal, all net income then held by the trustee, and all income then accrued but not collected by the trustee) to any entity or entities, person or persons, and on any trust, terms and conditions, or to or in favor of the estate of the surviving settlor, as the surviving settlor may direct by will, but only if that will expressly refers to and indicates an intention to exercise this power of appointment. The trustee may rely on any instrument admitted to probate (or in any summary administration proceeding) as the last will of the surviving settlor in carrying out the terms of the power of appointment and shall not be liable for any good-faith act in reliance on that will, even if for any reason it is later determined to be invalid with respect to its purported exercise of this power of appointment. If no such probate or summary estate proceeding is otherwise required or instituted, the trustee may rely on any will that on its face appears to be the last validly executed will of the surviving settlor. If the trustee receives no notice of the existence of a will of the surviving settlor within six (6) months after the death of the surviving settlor the trustee may distribute the trust assets and income as though this power of appointment had not been exercised and shall in that event be conclusively presumed to have acted in good faith, even if a valid will is thereafter discovered.

(e) Payment of Death Taxes, Debts, and Expenses

On the death of the surviving settlor and subject to any power of appointment exercised by him or her, the trustee may, in the trustee's discretion, pay out of the income or principal (or partly from each) of the Power of Appointment Trust, without proration, the death taxes, debts, and expenses (as defined in Article Eight) arising on the death of the surviving settlor.

(f) Payment of Federal Estate Taxes

The trustee shall determine from the personal representative of the estate of the surviving settlor the amount of the federal estate tax allocable to the property of the trust by reason of Internal Revenue Code Section 2207 and shall set aside a portion of the trust principal for the purpose of paying that tax upon written demand of the personal representative.

(g) Special Gift of settlors' residence On Death of Surviving Settlor

On the death of the surviving settlor, the trustee shall distribute from the Power of Appointment Trust the real property known as 11909 Mt. Vernon Avenue, Grand Terrace, CA 92313 (and all of the surviving settlor's interest in the insurance on that

property) to Richard Tibbels, settlors' son, if he survives the surviving settlor. If this real property is not in the trust on the date of the surviving settlor's death, if the real property has been disposed of by the surviving settlor's during his or her lifetime, Richard Tibbels does not survive the surviving settlor, or if the real property has been appointed to another recipient under the surviving settlor's general power of appointment over the assets in the Power of Appointment Trust, this gift shall lapse. The real property shall not be deemed to have been appointed to another recipient under the surviving settlor's general power of appointment over the assets of the Power of Appointment Trust unless the instrument exercising that power of appointment specifically states that the power is being exercised as to the real property. A general exercise of the power as to "all assets in the Power of Appointment Trust," or language of similar import, shall not be sufficient to exercise the power as to the real property. This property shall pass subject to any liens and encumbrances, without exoneration. This special gift is conditional on the following condition: If Richard Tibbels sells this property within three (3) years of the surviving trustor's death, then Richard Tibbels must distribute the net proceeds from the sale of the property in equal shares to himself and his two sisters, Cynthia and Lisa, by right of representation.

(h) Default Provision

If any of the property subject to the power of appointment of the surviving settlor is not effectively appointed by him or her, that property, after payment of any taxes, debts, and expenses pursuant to the applicable provisions of this instrument, shall be distributed in the manner specified in Section 6.3 applicable to the remainder provisions of the Disclaimer Trust.

6.2 Disposition of Disclaimer Trust Until Death of Surviving Settlor

During the lifetime of the surviving settlor, the trustee shall hold, administer, and distribute the assets of the Disclaimer Trust as follows:

(a) Payment of Income

Except as limited by the Spendthrift Clause contained in this instrument, the trustee shall pay to or apply for the benefit of the surviving settlor the entire net income of the trust, in monthly or other convenient installments agreed on by the surviving settlor and the trustee, but not less often than annually. Any trust income not distributed pursuant to the trustee's discretion contained in the Spendthrift Clause shall be accumulated and added to principal.

(b) Discretionary Payment of Principal by Trustee

At any time or times during the trust term, the trustee shall pay to or apply for the benefit of the surviving settlor so much of the principal of the trust as the trustee deems proper to pay the reasonable expenses of the surviving settlor for his or her

health, education, support, and maintenance. In exercising discretion, the trustee shall give the consideration that the trustee deems proper to all other income and resources that are known to the trustee and that are readily available to the surviving settlor for use for these purposes. All decisions of the trustee regarding payments under this subsection, if any, are within the trustee's discretion.

#### 6.3 Disposition of Disclaimer Trust on Death of Surviving Settlor

On the death of the surviving settlor, the trustee shall hold, administer, and distribute the assets of the Disclaimer Trust as follows:

- (a) If any children of the settlors survive the surviving settlor, the trustee shall divide the trust property into as many shares of equal market value as are necessary to create one share for each of the settlors' children who survive the surviving settlor and one share for each of the settlors' children who predecease the surviving settlor but who leave issue surviving the surviving settlor.
- (b) Each share created for a surviving child of the settlors shall be distributed outright to that surviving child.
- (c) The trustee shall distribute each share created for a deceased child outright to the then-living issue of that child, with those issue to take that share in the manner provided in California Probate Code Section 246.
- (d) If none of the children of the settlors survive the surviving settlor but there are issue of the settlors who survive the surviving settlor, the trustee shall distribute the trust property outright to those issue, who are to take that property in the manner provided in California Probate Code Section 246.
- (e) If none of the issue of the settlors survive the surviving settlor, the trust property shall be distributed outright as follows: one half (1/2) to the heirs of the deceased settlor and one half (1/2) to the heirs of the surviving settlor.

#### 6.4 Spendthrift Clause

The interests of the beneficiaries under this instrument are not transferable by voluntary or involuntary assignment or by operation of law, and shall be free from the claims of creditors and from attachment, execution, bankruptcy, and other legal process, to the maximum extent permitted by law. If any such transfer is made or attempted by or against any beneficiary, all further trust payments of income or principal or both to that beneficiary (and any right of that beneficiary to such payments) shall be suspended for a period of time or indefinitely (but in no

case for longer than the term of the trust) as the trustee determines. In lieu of payments to that beneficiary, the trustee may apply so much of the trust income or principal or both to which the beneficiary would otherwise be entitled as the trustee deems necessary for the beneficiary's education and support. All trust income (to which the beneficiary would otherwise be entitled) not so applied shall in the discretion of the trustee be accumulated and added to trust principal at such time or times as the trustee deems proper. Notwithstanding anything to the contrary in this section of this instrument, the surviving settlor shall be paid all income to which he or she is entitled under the Power of Appointment Trust.

## **ARTICLE SEVEN. TRUSTEE**

### **7.1 Successor Trustees**

#### **(a) Remaining Initial Cotrustee Serves Alone**

If, while acting as cotrustees, either initial cotrustee is unable (by reason of death, incapacity, or any other reason), or unwilling to continue to act as a trustee, the remaining initial trustee thereafter shall continue to serve as sole trustee, with full power to continue the trust administration.

#### **(b) Successor Trustees**

If the office of trustee becomes vacant, by reason of death, incapacity, or any other reason, the following, in the order of priority indicated, shall be trustee or cotrustees (as the case may be):

First: Cynthia Dawn Sepe, the settlors' daughter.

Second: Richard Tibbels, the settlors' son.

Third: Lisa McGuire, the settlors' daughter.

If all those named above are or become unable (by reason of death, incapacity, or any other reason) or unwilling to serve or continue to serve as successor trustee, a new trustee or set of cotrustees shall be appointed by majority vote of the beneficiaries of the trust who are then entitled to receive income under the trust, or who would be entitled to receive a distribution of principal from the trust if the trust were then terminating, and who then have the legal capacity to give such a vote. If any beneficiary who otherwise would be entitled to vote on appointment of a trustee under this section is a minor or is under a legal incapacity, then the custodial parent(s), guardian, or conservator of that beneficiary may vote on behalf of the

beneficiary. If a majority of the beneficiaries are unable to agree on a new trustee or cotrustees, a new trustee or cotrustees may be appointed by the court.

(c) No Replacement of Cotrustees

If, at any time when two or more persons or entities are serving as cotrustees, any one or more (but less than all) of them are unable or unwilling for any reason to continue to serve as cotrustees, and no successor cotrustee has been designated under any other applicable provisions of this trust instrument, no new cotrustee shall be appointed. Rather, the remaining cotrustee or cotrustees shall have full power to act as trustee or cotrustees and to continue the trust administration.

7.2 General Trustee-Related Provisions

(a) Definition of Trustee

Reference in this instrument to “the trustee” shall be deemed a reference to whoever is serving as trustee or cotrustees, and shall include alternate or successor trustees or cotrustees, unless the context requires otherwise.

(b) Waiver of Bond

No bond or undertaking shall be required of any individual who serves as a trustee under this instrument.

(c) Compensation of Individual Trustees

Each individual who is a trustee under this instrument shall be entitled to reasonable compensation for services rendered, payable without court order.

(d) Procedure for Resignation

Any trustee may resign at any time, without giving a reason for the resignation, by giving written notice, at least thirty (30) days before the time the resignation is to take effect, to the settlors, if living, to any other trustee then acting, to any persons authorized to designate a successor trustee, to all trust beneficiaries known to the trustee (or, in the case of a minor beneficiary, to the parent or guardian of that beneficiary) and to the successor trustee. A resignation shall be effective on written acceptance of the trust by the successor trustee.

(e) General Powers of Trustee

To carry out the purposes of the trusts created under this instrument, and subject to any limitations stated elsewhere in this instrument, the trustee shall have all of the following powers, in addition to all of the powers now or hereafter conferred on trustees by law:



- (i) With or without court authorization, sell (for cash or on deferred payments, and with or without security), convey, exchange, partition, and divide trust property; grant options for the sale or exchange of trust property for any purpose, whether the contract is to be performed or the option is to be exercised within or beyond the term of the trust; and lease trust property for any purpose, for terms within or extending beyond the expiration of the trust, regardless of whether the leased property is commercial or residential and regardless of the number of units leased.
- (ii) Engage in any transactions with the personal representative of the estate of either settlor that are in the best interest of any trusts created in this instrument.
- (iii) Manage, control, improve, and maintain all real and personal trust property.
- (iv) Subdivide or develop land; make or obtain the vacation of plats and adjust boundaries, or adjust differences in valuation on exchange or partition by giving or receiving consideration; and dedicate land or easements to public use with or without consideration.
- (v) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing party walls or buildings, and erect new party walls or buildings, as the trustee deems advisable.
- (vi) Employ and discharge agents and employees—including but not limited to attorneys, accountants, investment and other advisers, custodians of assets, property managers, real estate agents and brokers, appraisers, and Federal Firearms Licensees or other equivalent authorized to transfer firearms—to advise and assist the trustee in the management of any trusts created under this trust instrument, and compensate them from the trust property.
- (vii) With respect to securities held in trust, exercise all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and pay assessments and other sums deemed by the trustee necessary for the protection of the trust property; participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and, in connection therewith, deposit securities with and transfer title to any protective or other committee under such terms as the trustee deems advisable; exercise or sell stock subscription or conversion rights; and accept and retain as investments of the trust any securities or other property received through the exercise of any of the foregoing powers.
- (viii) Hold securities or other trust property in the trustee's own name or in the name of a nominee, with or without disclosure of the trust, or in unregistered form, so that title may pass by delivery.
- (ix) Deposit securities in a securities depository that is either licensed or exempt from licensing.

(x) Borrow money for any trust purpose from any person or entity, including one acting as trustee hereunder, on such terms and conditions as the trustee deems advisable, and obligate the trust for repayment; encumber any trust property by mortgage, deed of trust, pledge, or otherwise, whether for terms within or extending beyond the term of the trust, as the trustee deems advisable, to secure repayment of any such loan; replace, renew, and extend any such loan or encumbrance; and pay loans or other obligations of the trust deemed advisable by the trustee.

(xi) Procure and carry, at the expense of the trust, insurance in such forms and in such amounts as the trustee deems advisable to protect the trust property against damage or loss, and to protect the trustee against liability with respect to third persons.

(xii) Enforce any obligation owing to the trust, including any obligation secured by a deed of trust, mortgage, or pledge held as trust property, and purchase any property subject to a security instrument held as trust property at any sale under the instrument.

(xiii) Extend the time for payment of any note or other obligation held as an asset of, and owing to, the trust, including accrued or future interest, and extend the time for repayment beyond the term of the trust.

(xiv) Pay or contest any claim against the trust; release or prosecute any claim in favor of the trust; or, in lieu of payment, contest, release, or prosecution, adjust, compromise, or settle any such claim, in whole or in part, and with or without consideration.

(xv) At trust expense, prosecute or defend actions, claims, or proceedings of whatever kind for the protection of the trust property and of the trustee in the performance of the trustee's duties, and employ and compensate attorneys, advisers, and other agents as the trustee deems advisable.

(xvi) Exercise dominion and control in the exercise of the trustee's discretion, over any digital asset, as defined in the section of this instrument titled Access to Digital Assets, owned by settlor or assigned to the trust.

(f) Power to Retain Trust Property

The trustee shall have the power to retain property received into the trust at its inception or later added to the trust, without regard to whether the trust investments are diversified, until, in the judgment of the trustee, disposition of the property should be made.

(g) Trustee's Power to Invest Trust Property

The trustee shall have the power to invest in and acquire every kind of property, real, personal, or mixed, including but not limited to improved and unimproved real

property, corporate and government obligations of every kind, stocks (both preferred and common), shares of mutual funds of any character, shares of investment companies, interest-bearing accounts, and foreign assets. The trustee is under no duty to diversify investments. This section of the trust instrument shall be construed as allowing the trustee a broader latitude with respect to trust investments than would be permitted by the California Uniform Prudent Investor Act, as amended from time to time.

(h) Power to Access Digital Assets

The settlors consent to the disclosure to the trustee of all the settlors' digital assets including the contents of electronic communications sent or received by settlor. For purposes of this instrument, "digital asset" has the same meaning as set forth in California Probate Code section 871, or applicable successor statute. This authority is intended to constitute "consent to disclosure of the content of electronic communications" under the Revised Uniform Fiduciary Access to Digital Assets Act (California Probate Code sections 870 et seq. or applicable successor statute), and "lawful consent" under the Stored Communications Act (18 U.S.C. sections 2701 et seq. or applicable successor statute), and the Computer Fraud and Abuse Act (19 U.S.C. section 1030 or applicable successor statute), to the extent that such consent is required.

(i) Power Over Unproductive Property

The trustee shall have the power to retain or acquire unproductive or underproductive property.

(j) Power to Self-Deal

The trustee, acting as an individual or as a trustee of another trust not created by this trust instrument, shall have the power to perform the following acts with respect to the property of any trust under this trust instrument: purchase property from or sell property to the trust at fair market value; exchange property for trust property of equal value; lease property from or to the trust at fair rental value; lend or advance funds to the trust, with interest at then-prevailing rates, and receive security for the loans in any commercially reasonable form; and receive from any business in which the trust has an interest a reasonable salary and reimbursement of expenses while performing duties as a trustee. The trustee, acting as trustee of another trust established by the settlors or another trust established for the benefit of any one or more of the beneficiaries of the trust, shall have the power to borrow funds from the trust with interest at then-prevailing rates, and give security for the loans in any commercially reasonable form.

(k) Retention of Family Residence

The trustee shall retain, in any trust or trusts created by this trust instrument, any interest in real property used by the settlors as their principal residence at the time of

the deceased settlor's death ("the family residence"), and shall deal with the family residence in accordance with the following terms and conditions:

- (i) During his or her lifetime, the surviving settlor shall have the right to occupy the family residence (or any substitute residence or residential property purchased as provided in this section of the trust instrument) free of any rent.
- (ii) The trustee shall pay as much of the mortgage or trust deed payments, property taxes, assessments, insurance, maintenance, and ordinary repairs on the family residence (or any substitute residence or residential property purchased as provided in this section of the trust instrument) as corresponds to the trust's proportionate interest in the same. The trustee shall make those payments out of income or principal of the trust or trusts in accordance with the principles applicable to the charging of payments under California law, but in no event shall payment be made in a manner that disqualifies any part of the trust, that would otherwise so qualify, for the federal estate tax marital deduction.
- (iii) The surviving settlor, at his or her option, shall have the right to advise the trustee in writing that he or she no longer wishes to occupy the family residence and to direct the trustee to sell it, or any interest therein. In deciding on the terms and conditions relating to any sale, the trustee shall take into account all relevant factors, including, but not limited to, the intent of the settlors that no sale be made in a "forced sale" situation (other than at the direction of the surviving settlor) or at a time when, because of high mortgage rates or otherwise, the residential real estate market is depressed. In selling the family residence, the trustee may dispose of it on such terms as the trustee deems desirable, including an installment sale or any other desirable method of disposing of the family residence, provided that if the sale is for consideration other than cash, the purchaser's obligation shall be secured by a first deed of trust. In the event of a sale, the surviving settlor may direct the trustee in writing to apply the proceeds of the sale to the purchase of a substitute residence or residential property, of comparable or lesser value, to be selected by the surviving settlor, or to reinvest the proceeds in any manner that he or she may direct, provided that any such investments satisfy normal fiduciary standards of prudence and safety, and to use the income from reinvestment to pay the rental or lease payments on another residence or residential property, to be selected by the surviving settlor. Any net trust accounting income from any such investments, in excess of the trust share of the rental costs and any other expenses of trust administration, shall be added to the other trust income and distributed in accordance with the relevant provisions of the trust or trusts as set forth in Article Six of this trust instrument.
- (iv) On the death of the surviving settlor, the trust interest in either the family residence, any proceeds remaining from the sale of the family residence, or any substitute residence or residential property purchased by the trustee with any proceeds of sale of the family residence, shall be distributed in accordance with the applicable provisions of the trust or trusts in which the interest or interests are held, as set forth in Article Six of this trust instrument.

(l) No Duty to Segregate

Each trust created under this instrument shall constitute a separate trust and be administered accordingly; however, the assets of all of the trusts may be combined for bookkeeping purposes and held for the trust beneficiaries without physical division into separate trusts until time of distribution.

(m) Power to Divide or Combine Trusts

The trustee shall have the power to divide a single trust into separate shares, each to be administered in accordance with the terms and conditions of the single trust from which they were created, when the trustee, in the trustee's discretion, determines that division is desirable or advisable in view of tax considerations (including considerations related to the income tax, the gift tax, the estate tax, or the generation-skipping transfer tax) or other objectives of the trusts and their beneficiaries. The trustee shall not be required to make a physical segregation or division of the various trust shares created under this trust instrument, except as segregation or division may be required by reason of the termination and distribution of any of the trusts, but the trustee shall keep separate accounts and records for different undivided interests. The trustee, in the trustee's discretion, shall have the further power to combine two or more trusts having substantially the same terms into a single trust for purposes of administration, when tax or other factors indicate that such combination would be desirable or advisable.

(n) Trustee's Power to Determine Income and Principal

Unless otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of any trust under this instrument and the apportionment and allocation of receipts, expenses, and other charges between principal and income shall be governed by the provisions of the California Uniform Principal and Income Act from time to time existing. The trustee in the trustee's discretion shall determine any matter not provided for either in this instrument or in the California Uniform Principal and Income Act.

(o) Early Termination of Trusts

The trustee shall have the power, in the trustee's discretion, to terminate any trust created under this trust instrument whenever the fair market value of the trust falls below twenty thousand dollars (\$20,000.00), or becomes so small in relation to the costs of administration as to make continuing administration uneconomical, or contrary to the purposes of the trust. Continuing administration shall be uneconomical if the trustee determines that, with reference to the trust fee schedules then in effect for corporate fiduciaries in the area in which the trust is being administered, the trust would be subject to the minimum trust administration fees of those fiduciaries, regardless of the value of the trust. On termination, the trustee shall distribute the principal and any accrued or undistributed net income to the income beneficiaries in proportion to their shares of the income. If no fixed amount of income is payable to

specific beneficiaries, the trustee shall distribute the principal and any accrued or undistributed net income in equal shares to those beneficiaries who would then be entitled to income payments from the trust.

(p) Division or Distribution in Cash or Kind

In order to satisfy a pecuniary gift or to distribute or divide trust assets into shares or partial shares, the trustee may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind. Property distributed to satisfy a pecuniary gift under this instrument shall be valued at its fair market value at the time of distribution.

(q) Payments to Legally Incapacitated Persons

If at any time any trust beneficiary is a minor, or it appears to the trustee that any trust beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or make intelligent or responsible use of the payments, then the trustee, in lieu of making direct payments to the trust beneficiary, may make payments to the beneficiary's conservator or guardian; to the beneficiary's custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to the beneficiary's custodian under the California Uniform Transfers to Minors Act until the beneficiary reaches the age of twenty-five (25); to one or more suitable persons as the trustee deems proper, such as a relative of or a person residing with the beneficiary, to be used for the beneficiary's benefit; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary's assistance or benefit; or to accounts in the beneficiary's name with financial institutions. If there is no custodian then-serving or nominated to serve by the settlor for a beneficiary, the personal representative or trustee, as the case may be, shall designate the custodian. The receipt of payments by any of the foregoing shall constitute a sufficient acquittance of the trustee for all purposes.

(r) Written Notice to Trustee

Until the trustee receives written notice of any death or other event on which the right to payments from any trust may depend, the trustee shall incur no liability for disbursements made in good faith to persons whose interests may have been affected by that event.

(s) Duty to Account

The trustee shall render accounts at least annually, at the termination of a trust, and on a change of trustees to the persons and in the manner required by law. When a predecessor trustee has failed to render accounts as required under this provision, the successor trustee may, but need not, render accounts for such period with reasonable efforts without incurring any additional liability for acts of a predecessor trustee, other than as already provided under California law. This provision is intended to permit the successor trustee to render accounts for the predecessor without creating

any additional duty to investigate or to account. Nonetheless, if in the course of rendering accounts left undone by the predecessor trustee, the successor trustee obtains knowledge of a situation that may constitute a breach of trust committed by the predecessor trustee; the successor trustee shall deal with such knowledge in accordance with the successor trustee's fiduciary duties and powers.

(t) Time Period For Objecting to Account

Upon receipt of an account by the trustee, a beneficiary has 180 days to make any objection to such account or to make any claim against the trustee for matters adequately disclosed in such account. The existence of this time period for objecting to an account shall be stated in the accounts rendered by the trustee in a separate paragraph on the face of the account in not less than 12-point boldface type as follows:

**NOTICE TO BENEFICIARIES**

**YOU HAVE ONE HUNDRED EIGHTY (180) DAYS FROM YOUR RECEIPT OF THIS ACCOUNT OR REPORT TO MAKE AN OBJECTION OR OBJECTIONS TO ANY ITEM SET FORTH IN THIS ACCOUNT OR REPORT. ANY OBJECTION YOU MAKE MUST BE IN WRITING; IT MUST BE DELIVERED TO THE TRUSTEE WITHIN THE PERIOD STATED ABOVE; AND IT MUST STATE YOUR OBJECTION. YOUR FAILURE TO DELIVER A WRITTEN OBJECTION TO THE TRUSTEE WITHIN THE TIME PERIOD STATED ABOVE WILL PERMANENTLY PREVENT YOU FROM LATER ASSERTING THIS OBJECTION AGAINST THE TRUSTEE. IF YOU DO MAKE AN OBJECTION TO THE TRUSTEE, THE THREE YEAR PERIOD PROVIDED IN SECTION 16460 OF THE PROBATE CODE FOR COMMENCEMENT OF LITIGATION WILL APPLY TO CLAIMS BASED ON YOUR OBJECTION AND WILL BEGIN TO RUN ON THE DATE THAT YOU RECEIVE THIS ACCOUNT OR REPORT.**

(u) Mandated Disclosures Upon Incapacity of the Surviving Settlor

If the surviving settlor becomes incapacitated, the trustee shall account to those persons who will become beneficiaries of income and/or principal distributions from the trust estate immediately following the death of the surviving settlor in addition to accounting to the surviving settlor, any person who may be acting as conservator of the estate of the surviving settlor and any person who may be acting as agent under the surviving settlor's durable power of attorney for property management. If the surviving settlor becomes incapacitated, the trustee shall provide a copy of this instrument and any amendments hereto to those persons who will become beneficiaries of income and/or principal distributions from the trust estate immediately following the death of the surviving settlor.

(v) Cotrustee May Delegate Acts to Other Cotrustee

Any cotrustee may, from time to time, delegate to the other cotrustee routine acts of trust administration and may establish bank or other accounts for the trust that will honor the signature of one or of either cotrustee.

## **ARTICLE EIGHT. CONCLUDING PROVISIONS**

### **8.1 Perpetuities Savings Clause**

Notwithstanding any other provision of this instrument, every trust created by this instrument or by the exercise of any power of appointment created by this instrument shall terminate no later than twenty-one (21) years after the death of the last survivor of the settlors and their issue who are alive at the creation of the trust. For purposes of this perpetuities savings clause, a trust shall be deemed to have been created on the date the trust becomes irrevocable or the date of the death of the surviving settlor, whichever occurs first. If a trust is terminated under this section, the trustee shall distribute all of the principal and undistributed income of the trust to the income beneficiaries of the trust in the proportion in which they are entitled (or eligible, in the case of discretionary payments) to receive income immediately before the termination. If that proportion is not fixed by the terms of the trust, the trustee shall distribute all of the trust property to the persons then entitled or eligible to receive income from the trust outright in a manner that, in the trustee's opinion, will give effect to the intent of the settlors in creating the trust.



## 8.2 Simultaneous Death

If the settlors die under circumstances in which the order of their deaths cannot be established by clear and convincing evidence, each settlor shall be deemed to have survived the other, and this instrument shall be construed accordingly. If any other beneficiary under this instrument and either or both settlors die under circumstances in which the order of their deaths cannot be established by clear and convincing evidence, the settlor or settlors shall be deemed to have survived the beneficiary, and this instrument shall be construed accordingly.

## 8.3 Survivorship Requirement

For purposes of this instrument, a beneficiary shall be deemed not to have survived a settlor if that beneficiary dies within thirty (30) days after the death of that settlor.

## 8.4 No-Contest Clause

If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly does any of the following acts, then the right of that person to take any interest given to him or her by this instrument shall be void, and any gift or other interest in the trust property to which the beneficiary would otherwise have been entitled shall pass as if he or she had predeceased the settlors.

(a) Without probable cause challenges the validity of this instrument on any of the following grounds:

- (i) Forgery;
- (ii) Lack of due execution;
- (iii) Lack of capacity;
- (iv) Menace, duress, fraud, or undue influence;
- (v) Revocation pursuant to the terms of this instrument or applicable law;
- (vi) Disqualification of a beneficiary under California Probate Code section 21380.

(b) Files a pleading to challenge the transfer of property on the grounds that it was not the transferor's property at the time of the transfer;

(c) Files a creditor's claim or prosecutes any action against the trust for any debt alleged to be owed to the beneficiary-claimant.

#### 8.5 Definition of Deceased Settlor and Surviving Settlor

In this instrument, the first settlor to die is referred to as the "deceased settlor" and the other settlor is referred to as the "surviving settlor."

#### 8.6 Definitions of Death Taxes, Debts, and Expenses

As used in this instrument, the following definitions apply:

(a) The term "death taxes" shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person's interest in the estate of a settlor or by reason of that settlor's death, including penalties and interest, but excluding the following:

(i) any additional tax that may be assessed under Internal Revenue Code Section 2032A; and

(ii) any federal or state tax imposed on any generation-skipping transfer, as that term is defined in the federal tax laws, unless that generation-skipping transfer tax is payable directly out of the assets of a trust created by this instrument.

(b) The term "debts and expenses" shall include the following:

(i) all costs, expenses of litigation, counsel fees, or other charges that the trustee incurs in connection with the determination of the amount of the death taxes, interest, or penalties referred to in subsection (a) of this section; and

(ii) legally enforceable debts, funeral expenses, expenses of last illness, and administration and property expenses.

#### 8.7 Definition of Discretionary Distribution

In making a "discretionary distribution" the trustee shall use the following criteria: (a) If the trust has more than one current permissible beneficiary, the trustee may pay or apply more for some beneficiaries than for others, and may make payments to or for one or more beneficiaries to the exclusion of others. No equalizing distribution is required. (b) Discretionary distributions to or for the benefit of a beneficiary for health, education, maintenance, and support

will be based on the beneficiary's standard of living at the date of distribution. (c) No discretionary distribution need thereafter be repaid to the trustee or restored to the trust. (d) The trustee shall give the consideration that the trustee deems proper to all other income and resources that are known to the trustee and that are readily available to the beneficiaries for use for these purposes prior to making a discretionary distribution. (e) This section will not apply to mandatory distributions of income or principal, and any grant of power or discretion to the trustee under this section will be void to the extent that the grant would cause the estate of the deceased settlor to lose all or part of the federal estate tax marital deduction.

#### 8.8 Intentional Omission of Children Born or Adopted After Execution of Trust

Except as otherwise provided in this instrument, the settlors have intentionally failed to provide in this instrument for any children born to or adopted by either settlor after the execution of this instrument.

#### 8.9 Definition of Incapacity

As used in this instrument, "incapacity" or "incapacitated" means a person operating under a legal disability such as a duly established conservatorship, or a person who is unable to do either of the following:

(a) Provide properly for that person's own needs for physical health, food, clothing, or shelter; or

(b) Manage substantially that person's own financial resources, or resist fraud or undue influence.

The determination of incapacity shall be made by the trustee, but if the capacity of the trustee is at issue, the successor trustee.

#### 8.10 Number and Gender

As used in this instrument, references in the masculine gender shall be deemed to include the feminine and neuter genders, and vice versa, and references to the singular shall be deemed to include the plural, and vice versa, wherever the context so permits.

#### 8.11 Captions

The captions appearing in this instrument are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this instrument.

#### 8.12 Severability Clause

If any provision of this instrument is invalid, that provision shall be disregarded, and the remainder of this instrument shall be construed as if the invalid provision had not been included.

#### 8.13 California Law to Apply

All questions concerning the validity, interpretation, and administration of this instrument, including any trusts created under this instrument, shall be governed by the laws of the State of California, regardless of the domicile of any trustee or beneficiary.

#### 8.14 Gifts to Heirs

For any gift to “heirs” of either or both settlors that is made in this instrument, those heirs shall be determined as if the settlor or settlors had died intestate at the time for distribution prescribed in this instrument, and the identity and shares of those heirs shall be determined according to the California laws of succession that concern separate property not acquired from a previously deceased spouse and that are in effect at the time the settlor or settlors are deemed to have died.


## ARTICLE NINE. SIGNATURE AND EXECUTION

### 9.1 Execution

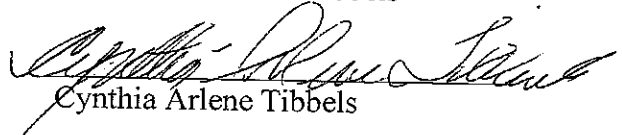
We certify that we have read the foregoing declaration of trust and that it correctly states the terms and conditions under which the trust estate is to be held, administered, and distributed. As settlors of the trusts created by this declaration of trust, we approve this declaration of trust in all particulars, and agree to be bound by its terms and conditions. As trustees of the trusts created by this declaration of trust, we approve this declaration of trust in all particulars, and agree to be bound by its terms and conditions.

Executed on 1-26-2021, at Redlands, California.

SETTLORS-TRUSTEES



Donald Lawrence Tibbels



Cynthia Arlene Tibbels

## ACKNOWLEDGMENT

*A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

State of California )

County of San Bernardino )

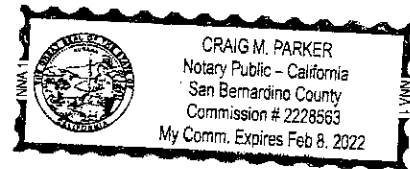
On Jan 26, 2021, before me, Craig M. Parker, notary public, personally

appeared Donald Lawrence Tibbels and Cynthia Arlene Tibbels, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Craig M. Parker



(Seal)

## **SCHEDULE OF COMMUNITY PROPERTY ASSETS**

1. Improved real property located at 11909 Mt. Vernon Avenue, Grand Terrace, CA 92313.
2. Settlers personal effects, personal property, furniture, and furnishings located at 11909 Mt. Vernon Avenue, Grand Terrace, CA 92313.
3. All Financial Accounts owned by the settlers.
4. All Vehicles owned by the settlers.

## **SCHEDULE OF DIGITAL ASSETS**

1. All websites, blogs, social media, and email accounts owned by the settlors.