

**2008 AMENDMENT & RESTATEMENT OF THE RUSSELL  
WALTER KELSEY AND CAROLYN LEE KELSEY FAMILY TRUST**

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**2008 AMENDMENT & RESTATEMENT OF THE RUSSELL  
WALTER KELSEY AND CAROLYN LEE KELSEY FAMILY TRUST**

**ARTICLE ONE**

**CREATION OF TRUST**

Preamble. RUSSELL WALTER KELSEY and CAROLYN LEE KELSEY are the settlors of the RUSSELL WALTER KELSEY AND CAROLYN LEE KELSEY FAMILY TRUST created under that certain declaration of trust dated June 12, 1992, as amended on August 6, 1996. RUSSELL WALTER KELSEY and CAROLYN LEE KELSEY are the trustees duly appointed and acting under and by terms of that declaration of trust. In Section 1.06 of that declaration of trust, the settlors reserved the right to amend the trust, in the following language:

“1.06 Amendment and Revocation. At any time during the joint lives of the Trustors, jointly as to Community Property and individually as to his or her own separate property, Trustors may, by a duly executed instrument:

“(a) Amend this Trust Agreement (including its technical provisions) in any manner; and/or

“(b) Revoke this Trust Agreement in part or in whole, in which latter event any and all Trust properties shall forthwith revert to such Trustor free of Trust. Such instrument of amendment or revocation shall be effective immediately upon its proper execution by Trustor(s) . . . .”

The settlors now wish to exercise their right of amendment and, to that end, do hereby amend that declaration of trust in the terms set forth in this amended and restated declaration of trust. The trustees hereby consent to the terms of this amended and restated declaration. The parties agree that upon execution of this instrument, that declaration of trust shall be replaced in whole, and the terms

of this amended and restated declaration of trust shall supersede the terms of that declaration of trust for all purposes. The settlors and the trustees confirm that all assets currently titled in the name of the RUSSELL WALTER KELSEY AND CAROLYN LEE KELSEY FAMILY TRUST shall continue to be held by the trustees as trust assets of the amended and restated trust.

1.1. Names of Trusts. The trusts created by this instrument shall be known collectively as the 2008 AMENDMENT & RESTATEMENT OF THE RUSSELL WALTER KELSEY AND CAROLYN LEE KELSEY FAMILY TRUST, and each separate trust created under this instrument shall be referred to by adding the name or designation of that separate trust as it appears in the appropriate section of this instrument.

1.2. Statement of Intent. The primary purpose of the settlors in the creation of this trust is to provide for the support of the settlors and to provide for the management of the trust property for their support in case that should become necessary. The interests of the settlors during their joint lifetimes and then the interests of the surviving settlor during that surviving settlor's lifetime are of primary importance for any trust while that trust remains revocable.

1.3. Effective Date. This declaration shall be effective immediately on execution by all the parties.

1.4. Identification of Living Children. The settlors have two living children, as follows:

<u>Name</u>	<u>Date of Birth</u>
CRAIG RUSSELL KELSEY	05/22/1958
MICHAEL JOHN KELSEY	05/17/1962

In addition to the children of both settlors, CAROLYN LEE KELSEY has four living children, as follows:

<u>Name</u>	<u>Date of Birth</u>
CHERYL ANN MILLER	01/20/1955
DARRELL EUGENE COLETTA	06/11/1956
LINDA LEE BULL	05/28/1963
SUSAN LORRAINE KELSEY ("LORI")	09/26/1964

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 to 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. The intention of the settlors is to include in the definitions of "child" and "children" the currently living children of CAROLYN LEE KELSEY who are not children of both of the settlors, but to exclude from the definitions of "child" and "children" any child born after the date of execution of this trust instrument who is not a child of both settlors. It is also the settlors' intention to include in the definition of "issue" any issue of any of the currently living children of CAROLYN LEE KELSEY who are not children of both settlors, but to exclude the issue of any child born after the date of execution of this trust instrument who is not a child of both settlors.

## 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 is 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. Nonprobate Transfers of Community Property. The consent of the settlors to the transfer of any community property assets subject to this trust shall be governed solely by the terms of this trust instrument. California Probate Code Sections 5010 through 5032 (or any successor sections), dealing with nonprobate transfers of community property, shall be inapplicable to any trust created by this instrument.

2.4. Additions to Trust. From time to time, the trustee may accept additions to this trust from any source or, in the trustee's sole and absolute discretion, refuse or disclaim any additional property if the trustee believes for any reason that the addition may not be in the best interest of the beneficiaries or of the trust estate or would unreasonably increase risks of liability to the trustee.



Any addition shall become a part of the trust estate only on written acceptance by the trustee. From the time of the acceptance, the addition shall be held, administered, and distributed in accordance with the terms of this instrument.

### ARTICLE THREE

#### RIGHTS AND POWERS OF SETTLORS

3.1. Power of Revocation 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 written instrument for revocation or termination must specify that a revocation or termination of trust is intended and specify the property that is affected; a change in title or possession is not sufficient for revocation or termination.

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 or 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.

3.6. Exercise of Rights and Powers of Settlers By Others. Any right or power that either settlor could exercise personally under the terms of this instrument, including any power to amend, revoke, or terminate any trust created by this instrument, may be exercised for and in behalf of that settlor by any attorney in fact who, at the time of the exercise, is duly appointed and acting for that settlor under a valid and enforceable durable power of attorney executed by that settlor under the Uniform Durable Power of Attorney Act, or any successor statute, or, if there is no such attorney in

fact, by a duly appointed and acting conservator of that settlor, after petition to the court in accordance with California Probate Code Section 2580, or any successor statute.

## ARTICLE FOUR

### DISTRIBUTIONS DURING SETTLORS' JOINT LIVES

4.1. Payment of Income During Settlers' Joint Lives. So long as both settlers 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 settlers, 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 settlers, 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 Settlers' Joint Lives. So long as both settlers 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 settlers, 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 settlers, 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 proper 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 and shall be final and incontestable by anyone.

4.3. Distributions of Principal at Request of Settlers. 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. Requests in Behalf of a Settlor Unable to Do So Personally. If, at any time, either settlor is unable personally to make a request of the trustee to withdraw principal of the trust, that settlor's right to make the request may be exercised for or in behalf of that settlor by an attorney in fact who, at the time of the exercise, is duly appointed and acting for that settlor under a valid and enforceable durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act, or any successor statute. If there is no such attorney in fact, then the trustee shall have the discretion

to make any principal distribution to or for the benefit of that settlor that the settlor could have requested personally if he or she were able to do so. In making any principal distribution under this section (whether pursuant to a request by an attorney in fact or not), the trustee shall pay as much of the principal as the trustee, in the trustee's discretion, deems necessary for that settlor's health, education, support, and maintenance. The trustee shall have discretion to determine when a settlor is unable personally to request principal payments from the trustee for purposes of this section.

4.6. Trustee's Power to Make Gifts at Direction of Settlers. So long as both settlers 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 settlers' bounty, as the settlers, 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 (c) of the Internal Revenue Code (or 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. However, payments of debts and expenses shall be made only out of (1) the deceased settlor's separate property, if any, (2) the deceased settlor's one-half ( $\frac{1}{2}$ ) interest in the settlors' community property, and (3) the deceased settlor's one-half ( $\frac{1}{2}$ ) interest in the deceased settlor's quasi-community property, and shall not be made from the surviving settlor's property. All death taxes payable by reason of the deceased settlor's death shall be prorated and apportioned among the persons interested in the deceased settlor's estate as provided in the California Probate Code. Any death taxes attributable to any property passing to the surviving settlor that qualifies for the federal estate tax marital deduction shall be paid prorata out of property that does not qualify for the federal estate tax marital deduction, so that the property qualifying for the federal estate tax marital deduction shall pass to the surviving settlor free of any death taxes.

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 Distributed Outright. On the deceased settlor's death, the remaining trust estate shall be distributed outright to the surviving settlor.

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. 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. 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 as agreed on by the surviving settlor and the trustee, but not less often than annually.

(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 and shall be final and incontestable by anyone.

6.2. No Provision for Cheryl Ann Miller, Darrell Eugene Coletto and Linda Lee Bull. The settlors specifically make no provision for CAROLYN LEE KELSEY's children, CHERYL ANN MILLER ("CHERYL"), DARRELL EUGENE COLETTA ("DARRELL") and LINDA LEE BULL ("LINDA") in the initial distribution of their estate, as CHERYL, DARRELL and LINDA are well provided for.

6.3. Disposition of Disclaimer Trust on Death of Surviving Settlor. On the death of the surviving settlor, the trustee shall divide the assets of the Disclaimer Trust into shares and distribute them in the following manner:

(a) A share of twenty-five (25%) percent of the total trust property to CRAIG RUSSELL KELSEY ("CRAIG") if he survives the surviving settlor; and if he does not, equally to MICHAEL JOHN KELSEY and SUSAN LORRAINE KELSEY, or all to the survivor of them.

(b) A share of twenty-five (25%) percent of the total trust property to MICHAEL JOHN KELSEY ("MICHAEL") if he survives the surviving settlor; and if he does not survive the surviving settlor, equally to CRAIG RUSSELL KELSEY and SUSAN LORRAINE KELSEY, or all to the survivor of them.

(c) A share of fifty (50%) percent of the total trust property to SUSAN LORRAINE KELSEY ("LORI") if she survives the surviving settlor; and if she does not survive the surviving settlor, equally to CRAIG RUSSELL KELSEY and MICHAEL JOHN KELSEY, or all to the survivor of them. Such 50% share shall include whatever motor home may be owned by the settlors, if any, at the time of the surviving settlor's death.



(d) If CRAIG survives the surviving settlor, the trustee shall distribute his share of the trust estate outright to him. If MICHAEL survives the surviving settlor, the trustee shall distribute his share of the trust estate outright to him. If LORI survives the surviving settlor, the share created for her shall be held, administered, and distributed by the trustee in a separate trust as set forth in Article Six applicable to the Trust for LORI..

(e) If none of the above-named beneficiaries survives the surviving settlor, the trustee shall distribute the remaining trust estate, in equal market value shares, to CAROLYN LEE KELSEY's children, CHERYL ANN MILLER ("CHERYL"), DARRELL EUGENE COLETTA ("DARRELL") and LINDA LEE BULL ("LINDA"), if they survive the surviving settlor. If any of CHERYL, DARRELL or LINDA fails to survive the surviving settlor, his or her gift shall lapse. If all of CHERYL, DARRELL and LINDA fail to survive the surviving settlor, the trustee shall distribute the remaining trust estate to the settlors' then living issue in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument, with each individual issue receiving his or her portion of the share outright if he or she has reached the age of 25 years at the time of the surviving settlor's death, or if he or she is under the age of 25 years at that time, the individual issue's portion of the share shall be held, administered, and distributed by the trustee in a separate trust for that individual issue according to the terms set forth in Article Six applicable to the Separate Share Trust for Issue.

(e) If none of the beneficiaries identified above are alive at the surviving settlor's death, and if none of the beneficiaries identified above leave issue who are alive at the surviving settlor's death, 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. Trust for Lori. The trustee shall hold, administer, and distribute the assets of the Trust for LORI as follows:

(a) Purpose. This trust is created for the benefit of CAROLYN LEE KELSEY's daughter SUSAN LORRAINE KELSEY ("LORI"), who was born on September 26, 1964. The primary purpose of this trust is to provide a supplemental and emergency fund to supplement any public benefits available to LORI during her lifetime. The intention of the settlors is that the assets of the trust shall, to the fullest extent permitted by law, be free from assignment or collection for the satisfaction of the claims of any creditors or government agencies. If this trust were to be invaded by creditors or subject to any liens or encumbrances, or if the terms of this trust were to be applied so as to cause LORI's eligibility for public benefits to be terminated, it is

likely that the trust assets would be depleted before her death, and the purpose of this trust could not then be fulfilled.

(b) Funds to Supplement Other Resources. The intention of the settlors is that any payments or distributions from this trust to or for the benefit of LORI shall supplement any public benefits or other private resources available to her. The trustee may, in the exercise of the trustee's discretion, seek as necessary all available public benefits for LORI's benefit, and shall segregate any public benefits received by the trustee for that purpose in a separate trust or account and administer the same for the benefit of LORI. All public benefits received by the trustee for that purpose, together with any other resources available to LORI, shall be taken into account by the trustee in making payments or distributions to or for the benefit of LORI. The trustee shall regularly consult with LORI and any persons or entities providing care or assistance to LORI for the purpose of determining LORI's needs and resources. The trustee shall not exercise the trustee's discretion to make any payments or distributions to or for the benefit of LORI if the trustee determines, in the trustee's sole discretion, that public benefits, private resources, or a combination of public benefits and private resources are reasonably available to LORI to satisfy those needs.

(c) Restrictions on Use of Funds. No part of the income or principal of the trust shall be used to replace or supplant public benefits of any county or any state, federal, or other governmental agency that has a legal responsibility to serve persons with disabilities or conditions that are the same as or similar to those of LORI. For purposes of determining LORI's eligibility for any public benefits, no part of the principal or undistributed income of the trust estate shall be considered available to her, and she shall have no right to compel the trustee to release principal or income to her or for her benefit or otherwise to have any access to any of the trust assets. In the event that the trustee is requested to release principal or income of the trust to or on behalf of LORI to pay for any equipment, medication, services, or other needs that any public benefits would be authorized to provide for were it not for the existence of the trust, or in the event that the trustee is requested to petition any court or any administrative agency for authorization to release principal or income for any purpose of that kind, the trustee shall deny the request and take whatever administrative or judicial steps may be necessary to continue the eligibility of LORI for all available public benefits, including obtaining a determination or declaration from a court of competent jurisdiction that the trust principal is not available to LORI for purposes of determining her eligibility for any public benefits. Any expenses of the trustees in this regard, including reasonable attorneys' fees, shall be a proper charge to the trust estate.

(d) Definition of Public Benefits. As used in this instrument, the term "public benefits" refers to any and all public resources or benefits available under or through

any governmental program or agency, including but not limited to any Supplemental Security Income (SSI), Medi-Cal, or other state medical assistance program authorized under the federal Medicaid program, and federal Social Security Disability Insurance.

(e) Discretionary Payments and Distributions. During the lifetime of LORI, the trustee shall pay to or apply for the benefit of LORI as much of the net income and as much of the principal of the trust as the trustee, in the trustee's sole discretion, from time to time deems necessary or advisable for the satisfaction of her special needs. For this purpose, "special needs" refers to the requisites for maintaining the good health, comfort, safety, and welfare of LORI when, in the discretion of the trustee, those requisites are not being provided for by any public agency, office, or department of any state or the United States, or by any person or persons with a legal obligation to support LORI. "Special needs" shall include, but not be limited to, medical and dental care, special equipment, programs of training, education, and rehabilitation, travel needs, and recreation not provided for or reimbursed by public benefits. The trustee shall consult with any guardian, conservator, custodian, or other person who cares for LORI regarding her special needs. Expenditures made by the trustee under this section may include reasonable compensation to any person who provides for the special needs of LORI as provided in this section. Any expenditure permitted by this section may be made either with or without prior court order. Any income not paid pursuant to this provision at the end of the calendar year shall be added to the principal of the trust.

(f) Alternate Beneficiaries. If any payment or distribution from the trust to or for the benefit of LORI would have the effect of disqualifying her for any public benefits, or if trust income cannot be completely utilized for her special needs, the trustee may accumulate trust income annually and add it to principal or may, from time to time, in the trustee's sole and absolute discretion, pay to or apply for the benefit of any one or more of the settlors' then-living children, during the lifetime of LORI, as much of the net income of the trust as the trustee, in the trustee's discretion, deems necessary for the health, education, support, and maintenance of each of them. In making payments pursuant to this provision the trustee may pay to 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.

(g) Trustee's Discretion to Terminate Trust. Notwithstanding any other provision of this instrument, if the existence of the trust or any change in any law, regulation, or rule relating to the trust or the administration of the trust for the benefit of LORI should at any time have the effect of disqualifying her for any public benefits, the trustee is authorized (but not required) to terminate the trust and to distribute the trust principal and income as provided in this subsection. On any termination of the trust under the provisions of this subsection, the trustee shall distribute the trust principal

and income to the settlors' son, MICHAEL JOHN KELSEY, if he is then living at the time of the termination; and if not, to the settlors' son, CRAIG RUSSELL KELSEY. If all persons named in this subsection are deceased at the time of termination, the trustee shall distribute any undistributed balance of the trust principal and income outright to the settlors' then living issue in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument. However, if an individual issue has not reached the age of 25 years at the death of LORI, the trustee shall continue to hold, administer, and distribute that issue's share in a separate trust for that issue according to the terms set forth in Article Six applicable to the Separate Share Trust for Issue. The settlor requests that any person receiving property pursuant to such a termination conserve, manage, and distribute that property for the benefit of LORI to ensure that she receives sufficient funds for her living needs when public benefits are unavailable or insufficient to satisfy those needs. This request is precatory, however, and not mandatory.

(h) Payment of Debts and Expenses On Death of Lori. On the death of LORI, the trustee may pay the expenses of the last illness and funeral of LORI out of the principal of the trust, unless the trustee determines that other adequate provisions have been made for payment of these expenses.

(i) Disposition of Trust on Death of Lori. On the death of LORI, the trustee shall distribute the trust property outright, in equal market value shares, to the settlors' children, MICHAEL JOHN KELSEY and CRAIG RUSSELL KELSEY, or all to the survivor of them. If neither MICHAEL JOHN KELSEY nor CRAIG RUSSELL KELSEY is then living, the trustee shall distribute the property outright, in equal market value shares, to the settlors' then-living children, or to the issue of a deceased child in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument. However, if an individual issue has not reached the age of 25 years at the death of LORI, the trustee shall continue to hold, administer, and distribute that issue's share in a separate trust for that issue according to the terms set forth in Article Six applicable to the Separate Share Trust for Issue.

(j) Final Disposition. If the trust property is not completely disposed of by the preceding provisions, the undisposed-of portion shall be distributed outright as follows: one half (½) to the heirs of the deceased settlor and one half (½) to the heirs of the surviving settlor.

6.5. Separate Share Trust for Issue. Each portion or share of the trust estate, or of the trust property of any other trust created by this trust instrument, that is allocated to a Separate Share Trust

for Issue for the benefit of the beneficiary (as defined in subsection (a), below) when that beneficiary is under the age of twenty-five (25) years shall be held, administered, and distributed by the trustee as a separate trust, as follows:

(a) Beneficiary. The beneficiary of this trust is the individual issue of a deceased child of the settlors or the individual issue of the settlors, as the case may be, for whom this trust is created pursuant to the other provisions of this trust instrument.

(b) Discretionary Payments. At any time or times during the trust term, the trustee shall pay to or apply for the benefit of the beneficiary as much of the net income and principal of the trust as the trustee deems proper for that beneficiary's 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 beneficiary for use for these purposes. All decisions of the trustee regarding payments under this subsection, if any, are within the trustee's discretion and shall be final and incontestable by anyone. The trustee shall accumulate and add to principal any net income not distributed.

(c) Distribution on Termination. The trust shall terminate on the beneficiary reaching 25 years of age or on the death of the beneficiary, whichever occurs first. If the trust terminates on the beneficiary reaching 25 years of age, the trustee shall distribute the trust property (including all income then accrued but uncollected and all net income then remaining in the hands of the trustee) to the beneficiary outright. If the trust terminates on the death of the beneficiary, the trustee shall distribute the trust property to the then-living issue of the beneficiary in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument; or if the beneficiary has no issue then living, to the then-living issue of that deceased child who is the ancestor of the beneficiary, with those issue taking in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument; or if there is no such issue, to the settlors' then-living issue in the manner provided in California Probate Code Section 240, as defined in the Article entitled "Concluding Provisions" of this instrument. However, for any share of an issue for whose benefit there is a trust being administered under this instrument, such share shall be added to that trust and administered according to its terms.

(d) Final Disposition. If the trust property is not completely disposed of by the preceding provisions, the undisposed-of portion shall be distributed outright as follows: one half (½) to the heirs of the deceased settlor and one half (½) to the heirs of the surviving settlor.

6.6. 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.

## ARTICLE SEVEN

### TRUSTEE

7.1. Settlors' Power to Designate Successor Trustees. At any time while both settlors are living, the settlors may designate either or both of the following:

- (a) Any suitable person or entity to act as a successor cotrustee if either cotrustee dies, becomes incapacitated, or is otherwise unable or unwilling to continue to act as a cotrustee.
- (b) One or more suitable persons or entities to act as a successor trustee, or as successor cotrustees, if both cotrustees die, become incapacitated, or are otherwise unable or unwilling to continue to act as cotrustees.

The powers specified in this section shall be exercisable only by both settlors acting jointly, unless one of the settlors is incapacitated or otherwise incapable of exercising this power, in which case the power may be exercised by the remaining settlor acting alone. Any designation under this section shall be made by a signed writing delivered to the person or entity designated as successor trustee or cotrustee. If more than one designation is made under this section, only the most recent designation shall be valid.

7.2. Remaining Settlor to Act as Sole Trustee on Death or Incapacity of Other Settlor. If, while both settlors are acting as cotrustees, either settlor dies, becomes incapacitated, or is otherwise unable or unwilling to continue to act as a cotrustee, and no successor cotrustee has been designated under any other provision of this trust instrument, the other settlor thereafter shall be sole trustee, with full power to continue the trust administration.

7.3. Power of Surviving Joint Settlor to Designate Successor Trustees or Cotrustees. Following the death of the deceased settlor, the surviving settlor may at any time designate one or more suitable persons or entities to act as trustee or cotrustees in the event that the surviving settlor dies, becomes incapacitated, or is otherwise unable or unwilling to continue to act as trustee. This designation shall be made by a signed writing delivered to the person or entity designated as successor. If more than one designation is made under this section, the most recent designation shall prevail over all earlier designations. The power granted by this section shall not apply to the Disclaimer Trust.

7.4. Successor Trustees. If the office of trustee becomes vacant by reason of death, incapacity, or any other reason, and no successor trustee or cotrustees have been designated under

any other provision of this trust instrument, the following, in the order of priority indicated, shall be trustee:

First, the settlors' son, MICHAEL JOHN KELSEY;

Second, the settlors' son, CRAIG RUSSELL KELSEY.

If all those named above are unwilling or unable to serve as successor trustee, a new trustee or cotrustees shall be appointed by majority vote of the adult 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 a majority of the beneficiaries are unable to agree on a new trustee or cotrustees, a new trustee or cotrustee may be appointed by the court. Any successor trustee of this trust shall not be required to account for any transactions that occurred prior to the time such successor trustee was appointed or acceded to that position.

7.5. 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.

7.6. Carolyn Lee Kelsey's Daughter Susan Lorraine Kelsey Not to Serve as Trustee. Notwithstanding any other provision of this instrument, CAROLYN LEE KELSEY's daughter SUSAN LORRAINE KELSEY shall not be appointed or serve as trustee or a cotrustee of any trust created by this instrument at any time.

7.7. Removal and Replacement of Trustee by Settlers. While both settlors are alive, the settlors shall have the power, at any time and for any reason, with or without cause, to remove any trustee acting under this instrument, and notwithstanding any other provision of this instrument, designate another trustee to replace the removed trustee. Removal shall be effected by giving a



written notice of removal to the trustee to be removed and to the designated successor. The removal shall become effective on the delivery to the settlors of a written acceptance of the trust by the successor trustee, and the settlors shall promptly notify the trustee being removed of the receipt of that acceptance.

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

7.9. 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.

7.10. 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.

7.11. General Powers of Trustee. To carry out the purposes of the trusts created under this instrument, the trustee shall have all of the powers enumerated in this trust instrument and all powers now or hereafter conferred on trustees under California law, subject to any limitations stated elsewhere in this trust instrument.

7.12. 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.

7.13. 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.

7.14. Power Over Unproductive Property. The trustee shall have the power to retain or acquire unproductive or underproductive property.

7.15. 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.

7.16. 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:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

7.17. Power to Combine Trust Assets. 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.

7.18. 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 eighty thousand dollars (\$80,000), or becomes so small in relation to the costs of administration as to make continuing administration uneconomical. 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.

7.19. 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.

7.20. 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.

7.21. Trustee's Liability. No trustee shall be liable to any interested party for acts or omissions of that trustee, except those resulting from that trustee's willful misconduct or gross negligence. This standard shall also apply regarding a trustee's liability for the acts or omissions of any cotrustee, predecessor trustee, or agent employed by the trustee.

7.22. 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.

7.23. 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.

7.24. 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.**

7.25. 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.

## ARTICLE EIGHT

### CONCLUDING PROVISIONS

8.1. Perpetuities Savings Clause. Notwithstanding any other provision of this instrument, every trust 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. The trustee's decision is to be final and incontestable by anyone.

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



8.4. No-Contest Clause. If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly contests this instrument, any amendment to this instrument, or the wills of the settlors in whole or in part, or opposes, objects to, or seeks to invalidate any of the provisions of this instrument or the wills of the settlors, or the validity of any contract, agreement (including trust agreement), declaration of trust, beneficiary designation, or other document executed by the settlors or for the benefit of either of them or executed by another for the benefit of the settlors or for the benefit of either of them that is part of the settlors' integrated estate plan, or seeks to succeed to any part of the estate of the settlors other than in the manner specified in this instrument or in the wills of the settlors, then the right of that person to take any interest given to him or her by this instrument or any amendment to 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 without issue. Settlers specifically exempt petitions under California Probate Code Sections 850 et seq. from the effect of this clause.

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 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 an independent physician in good standing.

8.8. Definition of Education. As used in this instrument, the term "education" refers to the following:

- (a) Education at public or private elementary, junior high, middle, or high schools, including boarding schools;
- (b) Undergraduate, graduate, and postgraduate study in any field, whether or not of a professional character, in colleges, universities, or other institutions of higher learning;
- (c) Specialized formal or informal training in music, the stage, the handicrafts, or the arts, whether by private instruction or otherwise; and
- (d) Formal or informal vocational or technical training, whether through programs or institutions devoted solely to vocational or technical training, or otherwise.

8.9. 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.

8.10. 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.

8.11. 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.

8.12. 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.

8.13. Distribution to Issue. Whenever a division of property is specified to be made under this instrument among the issue of an individual in the manner set forth in California Probate Code Section 240, the distribution shall be made as described in this section. The individual is referred to in this section as the Designated Ancestor. The first division shall be made at the generation of issue with members who survive the Designated Ancestor that is nearest in degree to the Designated Ancestor. The property shall be divided into as many equal shares as there are members of that generation who survive the Designated Ancestor plus deceased members of that generation who leave issue who survive the Designated Ancestor. Each member of that generation who survives the Designated Ancestor shall receive one such equal share. The equal share of each deceased member of that generation who leaves issue who survive the Designated Ancestor shall in turn be divided among that deceased member's issue who survive the Designated Ancestor in the manner described in this section as if the deceased member were the Designated Ancestor as to that share.

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

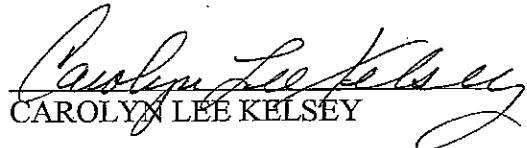
### SIGNATURE AND EXECUTION

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 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. 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.

EXECUTED on January 10, 2008, at Redlands, California.

### SETTLORS-TRUSTEES

  
RUSSELL WALTER KELSEY

  
CAROLYN LEE KELSEY

ACKNOWLEDGMENT

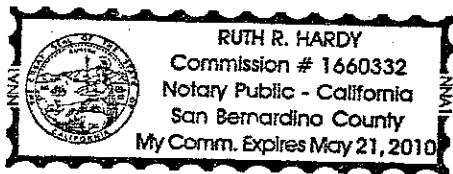
STATE OF CALIFORNIA

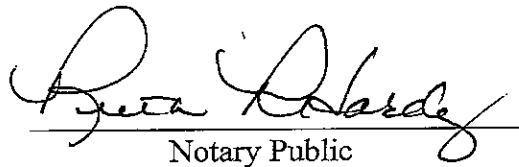
COUNTY OF SAN BERNARDINO

On January 10, 2008, before me, Ruth R. Hardy, a Notary Public in and for the State of California, personally appeared RUSSELL WALTER KELSEY and CAROLYN LEE KELSEY, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons, or the entity upon behalf of which the persons 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.



  
Notary Public