

SAMPLE REVOCABLE TRUST

DECLARATION OF TRUST

DECLARATION OF TRUST, made as of this ____ day of _____, 20____,
between _____, having an address at _____,
as grantor (hereinafter referred to as the "Grantor"),
and _____, having an address at _____,
as trustee (hereinafter referred to as the "Trustee").

WITNESSETH:

WHEREAS, the Grantor is the owner of the property more particularly described in Schedule A attached hereto and made a part hereof; and

WHEREAS, the Grantor's [husband/wife] has predeceased the Grantor, and the Grantor has two children, _____ and _____; and

WHEREAS, the Grantor desires to create a revocable trust of the property described in Schedule A hereto, together with such monies, securities and other assets as the Trustee hereafter may hold or acquire hereunder (said property, monies, securities and other assets, together with any additions thereto received pursuant to the Grantor's last will and testament or otherwise, being hereinafter referred to as the "trust estate"), for the purposes and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the covenants herein contained and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Grantor hereby transfers, assigns and delivers to the Trustee as and for the trust estate the property more particularly described in Schedule A hereto, to hold the same, and any other property which the Trustee hereafter may acquire, **IN TRUST**, for the purposes and upon the terms and conditions hereinafter set forth:

FIRST: The Trustee shall hold, manage, invest and reinvest the trust estate, shall collect the income therefrom, and shall pay any part or all of the income and principal to whomever the Grantor from time to time may direct in writing.

Until the Grantor hereafter may direct to the contrary, the net income shall be paid to the Grantor quarter-annually.

Any income not so paid or applied shall be accumulated and added to the principal of this trust at least quarter-annually.

SECOND: If at any time the Grantor, in the judgment of the successor Trustee, shall be under any legal disability or shall be unable to manage properly [his/her] affairs by reason of illness or mental or physical disability (whether or not a court of competent jurisdiction has declared the Grantor incompetent or mentally ill or has appointed a legal representative for the Grantor), the successor Trustee may pay or apply so much or all of the net income and the

principal of the trust estate as the successor Trustee deems necessary or advisable for the health, education, maintenance or support of the Grantor. Any income not so paid or applied shall be accumulated and added to the principal of this trust at least quarter-annually.

In making any payment hereunder, the successor Trustee may consider, but shall not be required to consider, the income and other resources of the Grantor. No such payment shall be charged upon a subsequent division of the trust estate against the principal of any share which may be set apart for any beneficiary hereunder.

THIRD: Upon the death of the Grantor, the Trustee shall pay and distribute the trust estate at that time remaining to the Grantor's then living issue, in equal shares, per stirpes, discharged of trust. If there are no issue of the Grantor then living, the trust estate shall be paid and distributed to such persons and in such proportions as the same would be distributed under the laws of the State of New York then in force had the Grantor then died intestate, a resident of New York and the owner of said property.

FOURTH: In any case in which the Trustee is authorized or directed by any provision of this Agreement to pay or distribute income or principal to any person who shall be a minor or incompetent, the Trustee, in the absolute discretion of the Trustee and without authorization of any court, may pay or distribute the whole or any part of such income or principal to such minor or incompetent personally, or may apply the whole or any part thereof directly to the health, education, maintenance or support of such minor or incompetent, or may pay or distribute the whole or any part thereof to the guardian, committee, conservator or other legal representative, wherever appointed, of such minor or incompetent or to the person with whom such minor or incompetent may from time to time reside, or in the case of a minor, may pay or distribute the whole or any part thereof to a custodian for such minor under any gifts to minors or transfers to minors act. Evidence of such payment or distribution or the receipt therefor by the person to whom any such payment or distribution is made shall be a full discharge of the Trustee from all liability with respect thereto, even though the Trustee may be such person.

The Trustee, in the absolute discretion of the Trustee, may defer payment or distribution of any or all income or principal to which a minor may be entitled until such minor shall attain the age of twenty-one (21) years, or to make such payment or distribution at any time and from time to time, during the minority of such minor, holding the whole or the undistributed portion thereof as a separate fund vested in such minor but subject to the power in trust hereby given to the Trustee to administer and invest such fund and to use the income or principal thereof for the benefit of such minor as if such fund were held in trust hereunder. No bond or other security and no periodic accounts shall be required with respect to such fund, and the same shall be subject to commission as if it were a separate trust fund. The Trustee shall pay and distribute any balance of such fund to such minor when such minor shall attain the age of twenty-one (21) years. Except as is herein above provided, if such minor shall die before attaining the age of twenty-one (21) years, the Trustee shall pay and distribute such balance to the executors, administrators or legal representatives of the estate of such minor.

The word "minor", wherever used in this Article FOURTH, shall mean any person who has not attained the age of twenty-one (21) years.

FIFTH: Upon the death of the Grantor, the Trustee may pay from the principal of the trust estate the amount of any estate or death taxes, by whatever name called, imposed under the laws of any jurisdiction by reason of the Grantor's death, whether in respect of property passing under this Agreement or the Grantor's last will and testament or otherwise.

SIXTH: The Grantor reserves the right, at any time during the life of the Grantor and without the consent of any person or notice to any person, to amend or revoke in whole or in part this Agreement or any trust created hereunder, including the right to change the terms or beneficiaries thereof, by delivering to the Trustee written notice of such amendment or revocation signed by the Grantor. This Agreement shall become irrevocable upon the death of the Grantor. No amendment of this Agreement, however, shall increase the obligations or reduce the commissions of the Trustee without the consent of the Trustee. Upon any such revocation, the Trustee shall deliver to the Grantor all property in the possession or control of the Trustee with respect to any trust which has been revoked and shall execute and deliver any instruments necessary to release any interest of the Trustee in such property. The sale or other disposition by the Grantor of the whole or any part of the trust estate held hereunder shall constitute as to such whole or part a revocation of this Agreement and the trust or trusts affected thereby.

The Grantor reserves the power and right during the life of the Grantor to collect any interest or other income which may accrue from the trust estate and, in her sole discretion, to accumulate such income as a trust asset or to pay such income to the Grantor individually and not in any fiduciary capacity. The Grantor further reserves the power and right during life of the Grantor to pledge all or any part of the trust estate as collateral for any loan.

SEVENTH: In the administration of any property at any time forming a part of the trust estate, including accumulated income, and in the administration of any trust created hereunder, the Trustee, in addition to and without limitation of the powers conferred on trustees under the New York Estates, Powers and Trusts Law, as amended or any successor thereto, or otherwise provided by law, shall have the following powers to be exercised in the absolute discretion of the Trustee, except as otherwise expressly provided in this Agreement:

- (a) To retain such property for any period, whether or not the same is of the character permissible for investments by fiduciaries under any applicable law, and without regard to the effect any such retention may have upon the diversity of investments;
- (b) To sell, transfer, exchange, convert or otherwise dispose of, or grant options with respect to, such property, at public or private sale, with or without security, in such manner, at such times, for such prices, and upon such terms and conditions as the Trustee may deem advisable;
- (c) To invest and reinvest in common or preferred stocks, securities, limited liability companies, investment trusts, mutual funds, regulated investment companies, bonds and other property, real or personal, foreign or domestic, including any undivided interest in any one or more common trust funds, whether or not such investments be of the character permissible for investments by fiduciaries under any applicable law, and without regard to the effect any such investment may have upon the diversity of investments;

(d) To render liquid the trust estate or any trust created hereunder in whole or in part, at any time and from time to time, and to hold unproductive property, cash or readily marketable securities of little or no yield for such period as the Trustee may deem advisable;

(e) To lease any such property beyond the period fixed by statute for leases made by fiduciaries and beyond the duration of any trust created hereunder;

(f) To join or become a party to, or to oppose, any reorganization, readjustment, recapitalization, foreclosure, merger, voting trust, dissolution, consolidation or exchange, and to deposit any securities with any committee, depository or trustee, and to pay any fees, expenses and assessments incurred in connection therewith, and to charge the same to principal, and to exercise conversion, subscription or other rights, and to make any necessary payments in connection therewith, or to sell any such privileges;

(g) To form one or more corporations or limited liability companies, alone or with any person, in any jurisdiction, and to transfer assets to any new or existing corporation or limited liability company in exchange for stock or membership interests; to form one or more partnerships with any person in any jurisdiction, to have any trust or a nominee be a general or limited partner, and to transfer assets to any new or existing partnership as a capital contribution; to enter into one or more joint ventures or associations with any person in any jurisdiction, and to commit assets to the purposes of those ventures or associations; and to retain as an investment for any period any securities, partnership interests or other assets resulting from any such actions;

(h) To vote in person at meetings of stock or security holders and adjournments thereof, and to vote by general or limited proxy with respect to any stock or securities;

(i) To hold stock and securities in the name of a nominee without indicating the trust character of such holding, or unregistered or in such form as will pass by delivery, or to use a central depository and to permit registration in the name of a nominee;

(j) To initiate or defend, at the expense of the trust estate, any litigation relating to this Agreement or any property of the trust estate which the Trustee considers advisable, and to pay, compromise, compound, adjust, submit to arbitration, sell or release any claims or demands of the trust estate or any trust created hereunder against others or of others against the same as the Trustee may deem advisable, and to make any payments in connection therewith which the Trustee may deem advisable;

(k) To borrow money for any purpose from any source, including any trustee at any time acting hereunder, and to secure the repayment of any and all amounts so borrowed by mortgage or pledge of any property;

(l) To purchase from the legal representatives of the estate of the Grantor or from the trustees of any trust established by the Grantor any property constituting a part of such estate or trust at its fair market value and to make loans for adequate consideration to such legal representatives or trustees, upon such terms and conditions as the Trustee may determine in the absolute discretion of the Trustee;

(m) To carry insurance of the kinds and in the amounts which the Trustee considers advisable, at the expense of the trust estate, to protect the trust estate and the Trustee personally against any hazard;

(n) To make distribution of the trust estate or of the principal of any trust created hereunder in cash or in kind, or partly in kind, and to cause any distribution to be composed of cash, property or undivided fractional shares in property different in kind from any other distribution, and to determine the fair valuation of the property so allocated, with or without regard to the tax basis; to hold the principal of separate trusts in a consolidated fund and to invest the same as a single fund; and to merge any trusts which have substantially identical terms and beneficiaries, and to hold them as a single trust;

(o) To employ and pay the compensation of accountants, attorneys, experts, investment counselors, custodians, agents and other persons or firms providing services or advice, irrespective of whether the Trustee may be associated therewith; to delegate discretionary powers to such persons or firms; and to rely upon information or advice furnished thereby or to ignore the same, as the Trustee in its discretion may determine;

(p) To change the situs and/or governing law of any trust hereunder to any State the Trustee from time to time may deem desirable, and to take such further actions, including without limitation the amendment to the terms of the trust, as may be necessary or advisable to effectuate such change;

(q) To execute and deliver any and all instruments or writings which it may deem advisable to carry out any of the foregoing powers; and

(r) To exercise all such rights and powers and to do all such acts and enter into all such agreements as persons owning similar property in their own right might lawfully exercise, do or enter into.

No person who deals with any Trustee hereunder shall be bound to see to the application of any asset delivered to such Trustee or to inquire into the authority for, or propriety of, any action taken or not taken by such Trustee.

Notwithstanding anything to the contrary contained herein, during such time as any current or possible future beneficiary of any trust created hereunder (other than the Grantor) may be acting as a Trustee hereunder, such person shall be disqualified from exercising any power to make any discretionary distributions of income or principal to himself or herself (unless the discretion to make such distributions is limited by an ascertainable standard within the meaning of Section 2041(b)(1)(A) of the Internal Revenue Code), or to satisfy any of his or her legal obligations, or to make discretionary allocations of receipts or disbursements as between income

and principal. No Trustee who is a current or possible future beneficiary of any trust hereunder (other than the Grantor) shall participate in the exercise of any powers of the Trustee which would cause such beneficiary to be treated as the owner of trust assets for tax purposes.

No Trustee shall be liable for acts or omissions in administering the trust estate or any trust created by this Agreement, except for that Trustee's own actual fraud, gross negligence or willful misconduct. If any Trustee becomes liable as Trustee to any other person who is not a beneficiary in connection with any matter not within the Trustee's control and not due to the Trustee's actual fraud, gross negligence or willful misconduct, such Trustee shall be fully indemnified and held harmless by the trust estate and any trust created hereunder giving rise to such liability, as the case may be, against and in respect of any damages that such Trustee may sustain, including without limitation attorneys' fees. No successor Trustee shall incur any liability, by reason of qualifying as a Trustee hereunder, for the acts or omissions of any predecessor Trustee.

The Trustee is authorized, but not required, to accept any property transferred to the Trustee by any person during such person's lifetime or by such person's last will and testament. Any property so transferred to, and accepted by, the Trustee shall become a part of such trust or trusts created by this Agreement as such person shall direct and may be commingled with the other property in the trust or trusts to which such property has been added and shall be held, administered and disposed of as a part of such trust or trusts.

EIGHTH: The Grantor appoints [himself/herself] as Trustee hereunder. The Grantor hereby appoints _____, having an address at _____, and _____, having an address at _____, to act jointly as successor Trustees hereunder in the event of the death of the Grantor, or [his/her] physical or mental incapacity. If either _____ or _____ for any reason shall fail or cease to act as Trustee, the remaining successor Trustee may act alone as successor Trustee.

The term "Trustee" wherever used herein shall mean the trustee in office from time to time. Any such trustee shall have the same rights, powers, duties, authority and privileges, whether or not discretionary, as if originally appointed hereunder.

No bond, surety or other security shall be required of any Trustee acting hereunder for the faithful performance of the duties of Trustee, notwithstanding any law of any State or other jurisdiction to the contrary.

NINTH: The Trustee, at any time and from time to time, may render to the Grantor an account of the acts and transactions of the Trustee with respect to the income and principal of any trust created hereunder, from the date of the creation of such trust or from the date of the last previous account of the Trustee. After the death of the Grantor, the Trustee, at any time and from time to time, may render an account to the living person or persons who are entitled, at the time of such account, to receive all or a portion of the income of the trusts herein created. The approval of any person of full age, or a guardian or parent of a minor or incompetent person, to whom an account is rendered shall, as to all matters stated therein, be final and binding upon him or such minor or incompetent person, or any persons claiming through him or such minor or incompetent person, as the case may be.

The Trustee shall not be required at any time to file any account in any court, nor shall the Trustee be required to have any account judicially settled. Nothing herein, however, shall be construed as limiting the right of the Trustee to seek a judicial settlement of any account.

TENTH: The determination of the Trustee in respect of the amount of any discretionary payment of income or principal from any trust established hereunder, and of the advisability thereof, shall be final and conclusive on all persons, whether or not then in being, having or claiming any interest in such trust, and upon making any such payment, the Trustee shall be released fully from all further liability or accountability therefor.

The right of any beneficiary to any payment of income or principal shall in every case be subject to any charge or deduction which the Trustee may make against the same under the authority granted to the Trustee by any law or by this Agreement.

ELEVENTH: For purposes of this Agreement, any beneficiary hereunder shall be deemed to have predeceased the Grantor or any other person upon whose death such beneficiary shall become entitled to receive income or principal unless such beneficiary shall survive the Grantor or such other person by more than thirty days. The provisions of this Agreement shall be construed as aforesaid, notwithstanding the provisions of any applicable law establishing a different presumption of order of death or providing for survivorship for a fixed period as a condition of inheritance of property.

TWELFTH: No disposition, charge or encumbrance on the income or principal of any trust established hereunder shall be valid or binding upon the Trustee. No beneficiary shall have any right, power or authority to assign, transfer, encumber or otherwise dispose of such income or principal or any part thereof until the same shall be paid to such beneficiary by the Trustee. No income or principal shall be subject in any manner to any claim of any creditor of any beneficiary or liable to attachment, execution or other process of law prior to its actual receipt by the beneficiary.

THIRTEENTH: The validity and construction of this Agreement and the trusts created hereunder shall be governed by the laws of the State of New York.

The words "child" and "children", wherever used in this Agreement, shall include not only the child and children of the person or persons designated, but also the legally adopted child and children of such person or persons, at the time in question. The word "issue", wherever used in this Agreement, shall include not only the child, children and issue of the person or persons designated, but also the legally adopted child and children of such person or persons and the child, children or issue thereof, at the time in question.

Any provision herein which refers to a statute, rule, regulation or other specific legal reference which is no longer in effect at the time said provision is to be applied shall be deemed to refer to the successor, replacement or amendment to such statute, rule, regulation or other reference, if any, and shall be interpreted in such a manner so as to carry out the original intent of said provision.

For purposes of this Agreement, the disability or incapacity of an individual (including the Grantor or any Trustee) shall be conclusively established by a written statement signed by such individual's then attending physician and filed with the records of any trust established hereunder

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [he/she] executed the same in [his/her] capacity, and that by

[his/her] signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

[illegible]

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [he/she] executed the same in [his/her] capacity, and that by [his/her] signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

TRUST ESTATE PROPERTY

Sample

MEMORANDUM OF TRUST

KNOW THAT, _____, having an address at _____, as Grantor, created a revocable trust, known as the _____ Living Trust dated _____, 20__, by executing a Declaration of Trust, dated _____, 20__, naming _____, having an address at _____, as trustee (referred to as the "Trustee"), and _____, having an address at _____, and _____, having an address at _____, as successor trustees (collectively referred to as a "successor Trustee").

This Memorandum of Trust is executed as evidence of the existence of the foregoing Declaration of Trust. Any person may rely upon this Memorandum of Trust as evidence of the existence of said Declaration of Trust, and is relieved of any obligation to verify that any transaction entered into by a Trustee or successor Trustee thereunder is consistent with the terms and conditions of said Declaration of Trust.

The Declaration of Trust and the trusts created thereunder may be referred to by the name: "_____ Living Trust dated _____, 20__." Any transfers to the Declaration of Trust or any trust thereunder may refer to the aforesaid name or to "_____ as Trustee under _____ Living Trust dated _____, 20__," with or without specifying any change in Trustee or any amendment to the Declaration of Trust.

IN WITNESS WHEREOF, the Grantor has executed this Memorandum of Trust as of this _____ day of _____, 20__.

[Name of Grantor]
Grantor

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [he/she] executed the same in [his/her] capacity, and that by [his/her] signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Sample