

**PROBATE COURT OF FRANKLIN COUNTY, OHIO**  
**ROBERT G. MONTGOMERY, JUDGE**

IN RE TRUST OF: \_\_\_\_\_  
Deceased

FBO: \_\_\_\_\_  
Beneficiary

CASE NO.: \_\_\_\_\_

**WRONGFUL DEATH TRUST DECLARATION**  
[Loc. R. 70.2]

Pursuant to the provisions of Ohio R.C. 2125.03, Robert G. Montgomery, Judge of the Court of Common Pleas, Probate Division, Franklin County, Ohio (the "Probate Judge"), hereby creates this Trust for the benefit of the following beneficiary of \_\_\_\_\_, deceased:

NAME OF BENEFICIARY: \_\_\_\_\_

BENEFICIARY'S PORTION: \_\_\_\_\_

BIRTH DATE OF BENEFICIARY: \_\_\_\_\_

Pursuant to an order of the Court of Common Pleas, Probate Division, Franklin County, Ohio (the "Court"), the personal representative of said decedent is depositing into this Trust the indicated portion of the amount received by such personal representative in an action for wrongful death under Ohio R.C. 2125.01 and 2125.02.

With the approval of the adult beneficiary or the guardian(s) of the minor beneficiary of this Trust, \_\_\_\_\_, is hereby appointed as the Trustee of this Trust. The Trustee shall hold and administer the assets of this Trust in accordance with the following terms and provisions:

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**ARTICLE ONE**

The Trust shall be administered until the beneficiary attains the age of twenty-five (25) years or until such beneficiary's earlier death. Until the termination of the Trust, the Trustee shall apply the net income and principal of the Trust as follows:

(A) The Trustee may pay to, or apply for the benefit of, the beneficiary of the Trust the net income or principal of that beneficiary's Trust, up to the whole thereof, as approved from time to time by the Probate Judge, pursuant to an order of the Court. The determination of the Probate Judge with respect to payments to the beneficiary from that beneficiary's Trust shall be conclusive on all persons interested in that beneficiary's Trust.

(B) The Trustee shall not be liable to the beneficiary or other interested parties for distributions made from Trust income or Trust principal pursuant to an order of the Court.

(C) The Trustee shall not be required to see to the application of any funds paid or applied pursuant to an order of the Court, and the receipt of the payee shall be the full acquittance of the Trustee. The decision of the Probate Judge as to method of payment shall be conclusive and binding on all parties concerned.

(D) An adult beneficiary shall receive or waive notice of all proceedings pertaining to this trust, including, but not limited to applications to expend funds and accountings.

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## **ARTICLE TWO**

Any attempt to alienate any of the beneficial interests under this Trust shall be dealt with in the following manner:

If, because of any alienation or attempted alienation by the beneficiary of any interest or right to receive payments under this Trust, or if, from any cause whatsoever, such payments or any part thereof shall, or but for this provision would, at any time become payable to or pass to or for the benefit of any persons other than the beneficiary, the beneficiary's interest or right to receive such payments or such parts thereof shall cease and terminate during such period. Notwithstanding any forfeiture of the beneficiary, the Trustee may continue to pay to, or apply for the benefit of, such beneficiary the net income or principal of such beneficiary's Trust, up to the whole thereof, as approved from time to time by the Probate Judge, pursuant to an order of the Court, in the Probate Judge's uncontrolled discretion, but without any obligation on the Probate Judge to do so. If such a forfeiture exists when the beneficiary attains the age of twenty-five (25) years, or the beneficiary shall die prior to attaining the age of twenty-five (25) years, then all such forfeitures shall cease and terminate, and the Trust Estate shall be distributed pursuant to the provisions of Article Three.

## **ARTICLE THREE**

(A) When the beneficiary attains the age of twenty-five (25) years, then the remaining accumulated income and principal in the Trust shall be distributed to the beneficiary.

(B) If the beneficiary shall die prior to attaining the age of twenty-five (25) years, then the remaining accumulated income and principal of the Trust shall be distributed to the beneficiary's estate.

## **ARTICLE FOUR**

The Trustee shall have such power, authority, and discretion as may be granted by law or pursuant to an order of the Court.

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**ARTICLE FIVE**

The Trustee shall receive the compensation stipulated in its regular schedule of compensation on file with the Court or in the Court rules which are in effect and applicable at the time such compensation may become payable.

**ARTICLE SIX**

(A) Any successor to the office of Probate Judge of the Court of Common Pleas, Probate Division, Franklin County, Ohio, shall succeed to all of the power, authority, and discretion of the Probate Judge.

(B) Any corporate successor to the Trust business of the Trustee shall become the successor Trustee without the necessity of any conveyance, transfer, or order of the Court.

(C) Any Trustee may resign upon providing the Probate Judge with sixty (60) days prior written notice or upon written approval of the Court. The Probate Judge may remove or cause the removal of any Trustee. Upon the resignation or removal of the Trustee, the Probate Judge may appoint the successor Trustee. Upon delivery to the successor Trustee of all assets in the Trustee's possession and an accounting of the Trustee's actions, and upon approval of such accounting by the Probate Judge, the resigning or removed Trustee shall be completely discharged of its fiduciary liabilities. Upon its acceptance, the successor Trustee shall be vested with all of the duties and all of the power, authority, and discretion granted to the predecessor Trustee.

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**ARTICLE SEVEN**

If, at any time, the Trustee shall determine that it would be impractical to continue the administration of this Trust, the Trustee may, with the consent of the Probate Judge, terminate this Trust and distribute the assets to or for the benefit of the beneficiary in accordance with an order of the Court.

**ARTICLE EIGHT**

Unless otherwise directed by the Probate Judge, the Trustee shall provide accounts, pursuant to Court rules, to the Court and to the adult beneficiary or guardian of the minor beneficiary; otherwise, reports as set forth in Ohio R.C. 5808.13(C) are not required.

**ARTICLE NINE**

The Trustee accepts this Trust and agrees to carry out the Trust provisions on the Trustee's part to be done and performed.

**ARTICLE TEN**

The Probate Judge reserves the right to amend or modify this Trust, in whole or in part, and to order partial distributions or final distributions to or for the benefit of the beneficiary.

**ARTICLE ELEVEN**

This Trust shall be deemed to be an Ohio Trust and shall be governed and interpreted in all respect by the laws of the State of Ohio.

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IN WITNESS WHEREOF, the Probate Judge and the Trustee have executed this instrument in duplicate on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Columbus, Ohio.

\_\_\_\_\_  
**Robert G. Montgomery, Judge**

TRUSTEE:

By: \_\_\_\_\_

Its: \_\_\_\_\_

**BENEFICIARY'S APPROVAL OF TRUSTEE:**  
Each of the undersigned hereby agrees to the Appointment of the Trustee named herein.

\_\_\_\_\_  
\_\_\_\_\_

**ACKNOWLEDGMENT BY ATTORNEY:**  
This instrument conforms with the Prototype Trust filed under Franklin County Probate Court Case No. 424,500 as of the date of execution.

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Supreme Court Registration Number)