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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PALM BEACH COUNTY, FLORIDA

Case No. 502015CPOO l l62XXXXSB

Judge Martin Colin

ELIOT BERNSTEIN , individually;

ELIOT BERNSTEIN as a beneficiary of the 2008 SIMON L. BERNSTEIN TRUST

AGREEMENT, as amended and restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated

July 25, 2012 and as Legal Guardian of JOSHUA BERNSTEIN, J ACOB BERNSTEIN, and DANIEL BERNSTEIN,

Plaintiffs,

V.

THEODORE STUART BERNSTEIN , as Successor

Tmstee of the 2008 SIMON L. BERNSTEIN

TRUST AGREEMENT, as amended and restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012; ALEXANDRA BERNSTEIN;

ERIC BERNSTEIN ; MICHAEL BERNSTEIN ; MOLLY SIMON;

JILL MARLA IANTONL MAX FRlEDSTEIN; LISA SUE FRIEDSTEIN ,

Defendants.



AMENDED COMPLAINT TO REMOVE THEODORE STUART BERNSTEIN AS SUCCESSOR TRUSTEE

COMES NOW, Eliot Ivan Bernstein ("Eliot" or "Plaintiff '), beneficiary of the 2008 SIMON L. BERNSTEIN TRUST AGREEMENT and Eliot Bernstein as Legal Guardian of his three minor children under the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008, as amended and restated in the S ON L. BERNSTEIN AMENDED AND RESTATED



TRUST AGREEMENT dated July 25, 2012 (the "2012 Simon Trust or "Trust(s)"), and pursuant to §736.0706, Fla. Stat. (2013), files this Amended Compl aint To Remove Theodore Stuart Bernstein ("Ted") As Successor Trustee, and in support states as follows:

1.· Plaintiff Eliot Ivan Bernstein is over the age of 18, a resident of Palm Beach County, Florida and is a beneficiary of the 2008 Simon Trust.

1. Plaintiff Eliot Ivan Bernstein is legal guardian of his three minor children, Joshua Bernstein, Jacob Bernstein ;u1d Daniel Bernstein, beneficiaries under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.
2. Plaintiff has standing to seek removal in his capacity as Legal Guardian for his minor children who are beneficiaries of the 2012 Simon Trust.
3. Defendant, Theodore Stuart Bernstein is currently serving as the Successor Trustee of the Trusts and is a resident of Palm Beach County.
4. Alexandra Bernstein, who is over the age of 18, resides in Virginia and is a beneficiary under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.
5. Eric Bemstein, who is over the age of 18, resides in Palm Beach County Florida and is a beneficiary under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.
6. Michael Bernstein, who is over the age of 18, resides in Palm Beach County Florida and is a beneficiary under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.
7. Molly Simon, who is over the age of 18, resides in Arizona is a beneficiary under the

alleged SIMON L. BERNSTEIN AMENDED



and RE

TATED TRUST dated 7/25/2012 .

1. Jill Marla lantoni is the parent and natural guardi an of minor beneficiaiy Julia lantoni m1der the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.

l 0. Max Friedstein who is over the age of 18, resides in New York and is a beneficiaiy under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.

11. Lisa Friedstein is the parent and natural guardian of minor beneficiary Carley Friedstein under the alleged SIMON L. BERNSTEIN AMENDED and RESTATED TRUST dated 7/25/2012.

12.

Legal Standard for Removal of Trustee

1. When removal of a trustee is at issue, §736.0706, Fla. Stat. (2014) governs:

736.0706. Removal of trnstee

1. The court may remove a trustee if:
   1. The trustee has committed a serious b1·each of trust
   2. The lack of cooperation among cotrustees substantially impairs the administration of the trust;
   3. Due to unfitness, unwillingness, or persistent failure of the tmstee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries: or
   4. There has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.
2. TED's removal is warranted by Subsections (2) (a), (c) and/or (d) of §736.0706, Fla. Stat. (2014).
3. The previous Co-Trustees of the 2012 Simon Trust were DONALD R. TESCHER, ESQ. and ROBERT L. SPALLINA, ESQ. (Tesch r & Spallina) by virtue of the Successor Trustee



provision set forth in Article IV, Section C of the 2012 Simon Trust. A copy of the 20J 2 Amended and Restated Trust is attached hereto as Exhibit "A"

1. By a letter dated January 14, 2014 addressed to the five children of Simon Bernstein, as opposed to the beneficiaries of the 2012 Simon Trust, TESCHER and SPALLINA resigned as,

L Co-Trustees of Simon's 2012 trust,

* 1. Co-Personal Representatives/Executors to the Simon Estate,

111. Counsel to themselves as Co-Trustees and Co-Personal Representatives of Simon's Estate and trusts,

* 1. Counsel to TED as alleged Trustee of the Shirley Trust,

1. Counsel to TED as Personal Representative of the Shirley Estate,
2. Counsel to TED as Alleged Trustee of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated 1995,

vii. Alleged Trustee of the legally nonexistent Simon Bernstein Irrevocable Insurance Trust dated 1995, and,

v111. Counsel in all other fiducial and legal capacities they were acting in for any Bernstein family related matters.

A copy of the letter is attached hereto as Exhibit "B."

1. Upon their resignation, TESCHER stated, "If the majority of the Bernstein family is in agreement, I'vould propose to exercise the power to designate a successor trustee by appointing Ted Bernstein in that capacity."

COUNT I

TED BERNSTEIN IS NOT ELIGIBLE TO SERVE AS SUCCESSOR TRUSTEE AS THE LANGUAGE OF THE TRUST DISQUALIFIES HIM TO SERVE AS SUCH

1. Article IV, Section C.(3) (Page 16) of the 2012 Simon Trust states:

C. Appointment of Successor Trustee

3. . .. A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. (emphasis added)

1. Under Article III, Subsection E (7), A "Related or Subordinate Party" is defined in the Trust as follows:

ARTICLE III. GENERAL

E. Definitions. In this Agreerne t,



7. Related or Subordinate Partv. A *"Related or Subordinate Party"* to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672( c ).

The "Code" is defined as "the Internal Revenue Code of 1986 ... "

A "Related or subordinate party" under the Code means any nonadverse party who is " ... (2) any one of the following: The Grantor's father, mother, issue, brother or sister ... "

1. TED is the son, or an "issue" of the Grantor, SIMON BERNSTEIN, and a related party (father) to some of the beneficiaries. Therefore, TED is ineligible as a "Related or Subordinate Party" to serve as a Successor Trustee under §736.0706(2)(c).
2. Further, TED is specifically disqualified to be a Successor Trustee by the tenns of the 2012 Simon Trust in another provision of the Trust that also disqualifies TED. Article Ill E (1) states:

Notwithstanding the foregoing, for all purposes of this Tmst and the disposition s made hereun der, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL

!ANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me..."(emphasis added)

1. Therefore, by the very language of the Trust, TED, in any scenano, is wholly disinherited, considered legally predeceased and further disqualified by the provision of the Trust to serve as a Successor Trustee.

COUNT II

TED BERNSTEIN, AS SUCCESSOR TRUSTEE, HAS FAILED TO FOLLOW FLORIDA STATUTE 736.0813AND 736.08135 BY BREACHJNG HIS DUTY TO INFORM AND ACCOUNT

1. The duty of a trustee to account has been codified in Florida Statute §736.0813: 736.0813 Duty to inform and account.-

The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust d its administration.



1. The trustee's duty to inform and account includes, but is not limited to, the following:
   1. Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust and the full name and address of the trustee.
   2. Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust's existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, and the right to accountings under this section.
   3. Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.
   4. A trustee of an irrevocable trust shall provide a trust accow1ting, as set forth in s. 736.08135, to each qualified beneficiary annually and on termination of the trust or on change of the trustee. (emphasis supplied)
   5. Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.
2. TED has provided NO accow1tings for the 2012 Simon Trust.
3. The duty to account is so fundamental to the law of trusts that this duty cannot be diminished by the trust itself The trust instrument may provide that a trustee need not account or only account informally to a beneficiary , but according to the Florida Trust Code, any such limiting provisions are ineffectual and cannot relieve the trustee of his or her duty to account fully to a qualified beneficiary. See: Florida Statute §736.0105(2)(s).

**A. FAILURE TO ACCOUNT IN THE SIMON TRUST**

1. Ted, currently acting as successor trustee in 20·12 Simon Trust has provided NO

accountings despite repeated requests by beneficiaries and despite changes in fiduciaries, when

TED's former counsel and fiduciaries for



the 2012

imon Trust, TESCHER and SPALLIN A

resigned.

1. Between TED and his former counsel there has been NO accounting for over two years in violation of probate and trust rules and statutes.

COUNT III

TED BERNSTEIN, AS TRUSTEE, HAS FAILED TO KEEP ACCURATE RECORDS AND COMMITTED WASTE OF TRUST AND ESTATE ASSETS

1. TED as successor trustee has a duty to maintain clear, complete, and accurate books and records regardi ng the trust
2. The Florida Trust Code explicitly states that a trustee shall keep clear, distinct and accurate records of the administration of the trust.

736.0810 Record keeping and identification of trust property.

* 1. A trustee shall keep clear, distinct, and accurate records of the administration of the trust.
  2. A trustee shall keep trust property separate from the trustee's own property .
  3. Except as otherwise provided in subsection

(4), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(5) Ifthe trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

1. TED does not possess the original signed and executed 2012 Simon Trust under which he alleges to operate as Successor Trustee.
2. At this time no original signed and legally executed originals exist of the 2012 Simon Trust.
3. The 2012 Simon Trust was also used to seize control of Trust assets.
4. Once control was gained by TED he began to loot Trusts through a series of fraudulent acts and heybegan recklessly billin outrageous and unaccounted for legal and



fiduciary fees, while simultaneously concealing, altering and destroying records and precluding beneficiaries from any financial information or access to the dispositive documents.

1. Legal and fiduciary fees have nm rampant , with often 6-7 attorneys attending hearings.
2. Real estate was sold at fire sale prices and distributions were made to knowingly improper parties by TED and other accounts were discovered being used post mortem at Legacy Bank and others. Ban k accounts and investment accounts are unaccounted for.
3. A trustee who, after being requested to do so, refuses to provide a beneficiary with relevant information about the assets of the trust, refuses to account for how the trust is being administered, and who refuses to provide an accounting when required, has breached his fiduciary duty owing to the beneficiaries and should be removed.

COUNT IV

TED BERNSTEIN SHOULD BE REMOVED AS SUCCESSOR TRUSTEE BASED ON CONFLICT OF INTEREST

1. ILLINOIS INSURANCE LITIGATION CONFLICT OF INTEREST
2. At the time of SIMON'S death, it was detennined that there existed a life insurance policy issued by Heritage Union Insurance Company ("Heritage") allegedly payable to the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995 (the "Insurance Trust) as beneficiary.
3. Shortly after SlMON's death in 2012 a claim form was filed to Heritage Union Life

on behalf of the nonexistent Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995.

1. This was done for the benefit of the grown children of Simon Bernstein (excluding Eliot), including TED, who as set forth above, was onsidered predeceased under the Simon's estate and Trust plans.



1. Under Florida law, if it is determined that no Simon Bernstein Irrevocable Insurance Trust dated June I , 1995 existed at the time of SIMON'S death, the insurance proceeds are payable to the Estate of Simon and then per the terms of Simon's Last Will and Testament, would pour over into Trust.
2. After the claim was denied by Heritage, TED somehow replaced a prior Trustee as the alleged "Trustee" of the lost trust and he filed an Illinois circuit court breach of contract lawsuit against Heritage. The suit was transferred to federal court in the United States District Court for the Northern District of Illinois in Chicago.
3. The Estate of Simon Bernstein filed a Motion to Intervene in the Illinois life insurance litigation to assert the Estate's interest in the life insurance proceeds. The Curator, Ben Brown, retained counsel with the approval of this Court.
4. The Plaintiffs in the Life Insurance Litigation , include TED acting as "Trustee" of the nonexistent ] 995 trust and TED, individually. They filed a Memorandwn of Law in Opposition to the Estate's Motion to Intervene (the "Opposition Memorandum").
5. The opening paragraph of the Opposition Memorandum states as follows:

**NOW COMES** Plaintiffs, SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dtd 6/21/95, by **TED BERNSTEIN, as**

**Trustee, (collectively referred** t o as **"BERNSTEIN TRUST"),**

**TED BERNSTEIN, individually,** PAMELA B. SIMON, **TILL**

!ANTONI AND LISA FRIEDSTEIN... **(emphasis added)**

1. As Plaintiff, TED stands to benefit personally if the claim by the Simon Bernstein Estate to the life insurance proceeds is defeated because TED and his siblings (other than Eliot) have taken the position that they are the benefi iaries of the nonexistent insurance Trust and not their children.

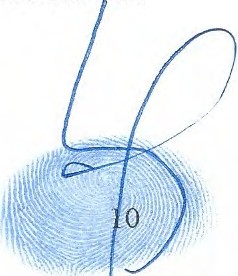


1. Despite the opposition of TED BERNSTEIN to the Intervention, the federal court granted the Estate's Motion to Intervene.
2. TED is now an opposing partv of record to the Estate's claim in the Illinois life insurance litigation.
3. TED, individually and as the alleged trustee of the nonexistent 1995 Insurance Trust, has placed his personal interests above the interests of the 2012 Simon Trust beneficiaries, the grandchil dren of SIMON, including his own children.
4. Through TED's opposition to the Estate's intervention in the Illinois life insurance litigation, and that he is a party plaintiff in that litigation, an inherent conflict of interest is present where TED is blocking the interests of his children and other beneficiaries of the Trust while simultaneously acting as Trustee of the Trust
5. TED, as Successor Trustee of the 2012 Simon trust, owes a duty of loyalty under

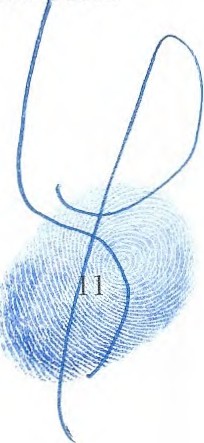
§736.0706(1), Fla. Stat (2014) to the trust beneficiaries to administer the trust solely in thei r interests. His actions in the Illinois Insurance Litigation have violated that duty.

5 L TED, acting as a fiducimy to the Trust, must support, or at the least not obstruct, the efforts of the Estate and 2012 Simon Trust to recover an additional $1.7 million in life insurance benefits. However, TED benefits directly from his obstruction and therefore has an obvious conflict of interest.

1. If the insurance proceeds are recovered for the Estate, this would dramatically increase the Estate assets that Estate and Trust beneficiaries receive.
2. This attempt to redirect the insurance proceeds by TED through a lost insurance trust scheme has caused intentional interferences and elays with expectancies to the Trust beneficiaries.



1. TED attempted to block the grandchildren, including minor children, from their interests being represented by counsel in the Illinois insurance litigation , leaving the grandchildren' s interests wholly unprotected while trying to secure the benefi ts for himself
2. TED'S efforts in the Life Insurance Litigation are designed to keep the approximately $1.7 million out of the estate and trust and to redirect the money to him and his siblings (excluding Plaintiff).
3. As a consequence of the foregoing conflict of interest, TED is in breach of his fiduciary duty to the benericiaries of the 2012 Simon Trust by opposing efforts to make the Estate and Simon Trusts more solvent, which in turn ex.poses the Estate and Simon Trusts to increased liabil ity . This warrants his removal under §736.0706(2)(a).
4. TEff s continued interference is an attempt to redirect estate assets to him personally and would further damage the trust beneficiaries as Ted's interference has caused unnecessary and costly legal fees to the Estate and Trust beneficiaries.
5. TED'S CONFLICT OF INTEREST WITH BENEFICIARIES
   1. TED'S ADVERSE INTEREST WITH ELIOT
6. TED and his counsel have adverse interests to Eliot and in fact are hostile towards Eliot and his minor children, due to the fact that Eliot is the one who has uncovered their wrongdoings exposed them to potential criminal prosecution.
7. TED and his attorneys have conspired to use a strategy of force and aggression on Eliot, which was discovered in an email TED sent to Eliot describing their tactics and then later TED attested to their intent on the record before the ourt.



**ii. TED'S CONFLICT OF INTEREST HAS CAUSED HARM TO**

**MINOR CIDLDREN BENEFICIARIES**

1. The Palm Beach County Circuit Court, Probate Division, ordered that tuition for Saint Andrews school, including past due balances, be paid for Plaintiffs ' three minor children for the 2014-2015 school year.
2. TED intentionally failed to make the Court-ordered pay ment, resulting in all three children being removed from school and forcing them to attend new schools, causing damages to the minor children both short term and long term, emotionally and scholastically.
3. Because of the conflicts of interests with the beneficiaries, TED has failed to maintain a duty of impartiality owed to the beneficiaries and should therefore be removed .
4. TED as Personal Representati ve of the Estate of Shirley Bernstein has knowledge that Shirley Bernstein 's Trust was altered, which had the effect of benefitting TED'S family over others.
5. No successor was appointed until this Court reopened the Estate of Shirley due to the fact that Simon closed the Estate as Personal Representative/Executor while dead, yet TED acted as Personal Representative in multiple transactions during that time in order to begin selling assets of the estate and trusts of Shirley.
6. Statements made by SPALLINA to Palm Beach Sheriiiinvestigators reveal that TED took distributions against the advice of his counsel, again making him wholly unfit to continue as a fiduciary in these matters.
7. TED also claimed to Palm Beach Sheriff investigators that he had not read all of the trust documents that he was acting as fiduciary un er, again making him wholly unfit to continue as a fiduciary in these matters.



**WHEREFORE ,** Plaintiff requests that this Court;

* 1. Remove TED as the alleged successor trustee of the Simon Trust,

1. Appoint a successor trustee with no conflicts of interests or affiliation with any of the former fiduciaries or attorneys at law invol ved in the prior frauds in any way,
2. Require the filing of a Trust Accounting as required by law.

4. Award damages for failure to account or for improper accoW1ting, including the removal of the trustee, reducing or denying compensation to the trustee, and requiring the trustee to repay money to the trust or by restoring property to the trust by other means.

5. Appoint a special fiduciary to take possession of the trust prope1ty and administer the trust;

6. Subject to §736.1016, void an act of the trustee, impose a lien or a constructive trust on trust property , or trace trust property wrongfully disposed of and recover the

property or its proceeds; any other appropriate relief this ourt deems just and proper, including an award of attorney 's fees and costs.

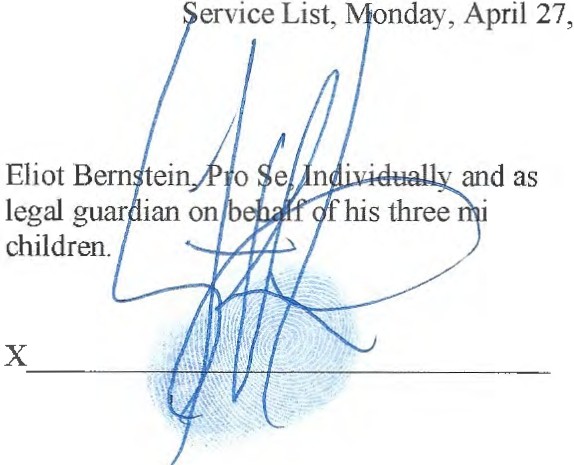


Dated: Monday, Apri l 27, 2015

**CERTIFICATE OF SERVICE**

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I, ELIOT IVAN BERNSTElN , HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following

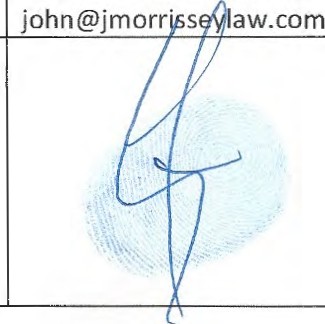


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**SERVICE LIST**



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|  |
| Julia lantoni,a Minor c/o Guy and Jill lantoni,Her Parents and Natural Guardians  210 I Magnolia Lane Highland Park, IL 60035 [jilliantoni@gmail.com](mailto:jilliantoni@gmail.com) |



**EXHIBIT A**

**SIMON L. BERNSTEIN TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED IN THE SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT DATED JULY 25, 2012**

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**SIMON L. BERNSTEIN TRUST AGREEMENT**

*Prepared by:*

Tescher & Spallina, P.A.

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SIMON L. BERNSTEIN

TRUST AGREEMENT

This Trust Agreement is dated this.1,(f'day of fvl *Ci* ,2008, and is between SIMON

L. BERNSTEIN, of Palm Beach County, Florida referred to in th first person, as settlor, and SIMON

* 1. BERNSTEIN, of Palm Beach County, and SIMON L. BERNSTEIN's successors, astrustee (referred to as the *"Trustee,"* which tenn more particularly refers to all individ uals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or asa successor trustee). Said Trustee acknowledges receipt of the property described in the Attachment to this Agreement, and agrees to hold said property and all additions, in trust, as provided in this Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

* + 1. Rights Reserved. I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement. However, after my spouse's death I may not exercise any of said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise.
    2. Pl!)'ments During My Life. lfincome producing property is hel d in the trust during my life, the Trustee shall pay the net income of the trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me oron my behalf such amounts of the net income and pri ncipal of the trust as is proper for my Welfare, and also may in its discretion pay to my spouse such amounts of said net income and principal as is proper for her Welfare. Any income not so paid shall be added to principal.
    3. Gifts. If[ am Disabled, I authorize the Trustee to make gifts from trust property d uring my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

I . Recipients. The gifts may be made only to my spouse and my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).

1. Trustee Limited. When a person eligible to receive gi fts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph I .shall thereafter not exceed the greater ofFive Thousand Dollars ($5,000), or five percent

**SIMON L. BERNSTEIN**

**TRUST AOREEMENT**

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(5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

1. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).
   * 1. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or provid ing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

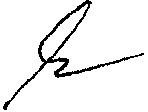
ARTICLE II. AFTER MY DEATH

1. Disposition of Tangible Personal Property. If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distri buted by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee ofthe trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.
2. Ma rital Ded uction Gift. Ifmy spouse survives me:
   1. Family Trust. The Trustee shall hold as a separate *"Family Trust"* (i)all property of the trust estate as to which a federal estate tax marital deduction would not be allowed if it were distributed outright to my spouse, and (ii) after giving effect to (i), the largest pecuniary amount which will not result in or increase any federal or state death tax otherwise paya ble by reason of my death. In determining the pecuniary amount the Trustee shall assume that none of this Fami ly Trust qualifies for a federal estate tax deduction, and shall assume that all of the Marital Trust hereinafter established (including any part thereof disclaimed by my spouse) qualifies for the federal estate tax marital deduction. l recognize that the pecuniary amount may be reduced by certain state death taxes and administration expenses which are not deducted for federal estate tax purposes.
   2. Marital Trust. The balance of the trust remaining after the establishment of the Family Trust shall be held as a separate *"Marital Trust."*

Notwithstand ing the foregoing, prior to the funding of the Family Trust and the Marital Trust under this Subparagraph H.B., or only the Family Trust if my spouse does not survive me, the Trustees of this Trust

SIMON L, BERNSTI!IN

**TM.UST** AGREEMENT -2-



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or the Personal Representatives of my estate as the case may be, shall finalize the sale of my shares in LIC HOLDINGS, INC., a Florida corporation or its successor in interest *("UCHOLDINGS'' ),* owned by me or this Trust at the time of my death, pursuant to that certain buy-sell agreement entered into by and between my son, TED S. BERNSTEIN, a nd me. Upon the sale of such shares, the Trustee shall fund the trust(s) provided for hereunder.

3. Disclaimer. Any part of the Marital Trust my spouse discla ims shall be added to the Family Trust. My spouse shall not be deemed to have predeceased me for purposes of such addition. Isuggest that my spouse or my spouse's fiduciaries consider an appropriate partial disclaimer to minimize the death taxes due upon both of our deaths.

If my spouse does not survive me, the entire trust shall be held as the Family Trust without regord to the provisions of Subparagraph 11.B. l describing or limiting which assets shall be held thereunder.

1. Durine Spouse's Life. Commencing with the date of my death the Trustee shall,

I. Marital Trust. Pay to my spouse from the Marital Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare; and

2. Fam jly Irust. Pay to my spouse from the Family Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare. I request (but do not require) that no principal be paid to my spouse from the Family Trust for my spouse's Welfare unless the Marital Trust has been exhausted by use, consumption, distribution, or otherwise or is not reasonably availabk.

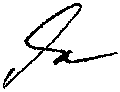
1. Disposition of Trusts Upon Death of Su rvivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,
   1. Limited Power. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and **their spouses;**

2. Disposition of Balance. Any parts of the Marital Trust and.the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and held in separate Trusts for my l ineal descendants then living, *per stirpes.* Any assets allocated under this Subparagraph ILD. to my children (as that tenn is defined under this Trust), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by me as grantor on even date herewith (the *"Family Trusts"* which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts

SIMON **L,** BERNSTEIN

TRUSf AGREEMENT -3-

### TESCHER 8 SPALLINA, P.A.



TS001405

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for such lineal descendants and admin istered as provided in Subparagraph !I.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a *"beneficiary,''* with their separate trusts to be administered as provided in Subparagraph ll.E. below.

1. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The val ue ofeach trust shall be its va lue as of the first exercise of each withdrawal right, plus the value of any sub8equent addition as of the date of addition. The right of withdrawa l shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons;

I . for his or her lineal descendants then living, *per stirpes;* or

2. if he or she leaves no lineal descendant then living, *per stirpes* for the l ineal descendants then living of his or her nearest ancestor (among me and my li neal descendants) with a lineal descendant then living who is also a li neal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

1. Termination of Small Trust.!fat any lime after the death of the survivor of my spouse and me in the opinion of the Trustee a separate trust holds assets of a value of less than $50,000.00 and is too small to justify the expense of its retention, an d termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.
2. Contingent Gift. If at any time property of a trust hel d under this Agreement is not disposed of under the other provisions of th is Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be ditributed if my spouse and I had each then owned one-half of such property and had each then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

**SIMON L. 8ERNSTETN**

**TRUST AGREEMENT** -4-

TESCHER 8 SPALLINA, P.A.



TS001406

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1. Protective Provision. No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no cred itor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstand ing that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.
2. Maximum Duration. Regard less ofanything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years as provided in F.S. § 689.225(2)(a)(2), nor shall any power ofappointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

J. Florida Homestead Possessory Rii:;hts. Notwithstanding anything herein to the contrary, ifany portion ofany Florida improved residential real estate (excluding commercial multi-un it rental property) is an asset of the Marital Trust, my spouse shall have the exclusive and continuous present right to full use, occupancy and possession of such real estate for life. It is my intention that my spouse's interest i n suchproperty shall constitute a "beneficial interest for life" and "equitable title to real estate" as contemplated by Section 196.041(2) of Florida Statutes, as amended from time to time or any corresponding provision of law.

ARTICLE III. GENERAL

1. Disability. Subject to the following Subparagraph captioned "SubchapterS Stock," while any beneficiary (other than my spouse as beneficiary of the Marital Trust) is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her cred itors or others for his or her sole benefit or to an adult person or an eligible institution (includ ing the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.
2. Timing oflncome Distributions. The Trustee shall make required payments ofincome at least quarterly.

SIMON L. BERNSTEIN

TRUST AGREEMENT -5-

TESCHER 8 SPALLINA, ·P.A.



TS001407

1. Substance Abuse.
   1. Jn Genera l. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:
      1. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substa nce, or
      2. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasona bly believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary' s rights to participate in decisions concerning the removal and appointment of Trustees will be suspended (excluding, however, mandatory income rights under the Marital Trust). In that event, the following provisions of this Subparagraph lll.C will apply.

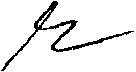
1. Testing. The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined lo be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidential ity of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required orpermitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.
2. Treatment. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the exam ining doctor will determ ine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. Ifthe beneficiary consents to the treatment, the Trustee shall pay the costs of treatment d irectly to the provider of those services from the distributions suspended under this Subparagraph 111.C.
3. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

*5.* Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaini ng balance, if any, of distributions that were suspended may be distributed to

**SIMON L BEJ.NSTEIN**

**TRUST AGREEMENT** -6-

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TS001408

the beneficiary at that time. Ifthe beneficiary dies before distribution of those suspended amounts, the Trustee shall d istribute the balance of the suspended amounts to the persons who would be the alternate takers of that beneficiary's share (or takers through the exercise ofa power ofappointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inqui re whethera beneficiary uses drugs orother substances as described in this Subparagraph lll.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any l iability of any nature in exercising itsjudgment and authority under this Subparagraph lll.C. including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph lll.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qua lify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

D. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapler S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

1. Definitions. In this Agreement,
   1. Children. Lineal Descendants. The terms *"child," "children"* and *"lineal descenda11t"* mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other,
2. children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and

(iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as Ihave adequately provided for them during my lifetime, for purposes of the dispositions made underthis Trust, my children, TED S. BERNSTEIN *("TED")* and PAMELA B. SIMON *("PAM"),* and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL !ANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

SIMON L. BERNSlETN

TRUST AOREEMENT -7-

##### TESCHER 8 SPALLINA, P.A.

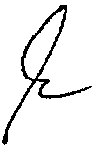


TS001409

1. Code. *"Code"* means the Internal Revenue Code of I 986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.
2. Disabled. *"Disabled"* or being under *"Disability"* means, as to any applicable indi vidual: ( I ) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or persona l affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A wrirten certificate executed by an individual's attending physician or attending psychiatrist confirm ing that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.
3. Ed ucation. The term *"education"* herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.
4. My Spouse. *"Myspouse"* is SHIRLEY BERNSTEIN *("SHIRLEY").*
5. Needs and Welfare Distributions. Payments to be made for a person's *"Needs"* means payments for such person's support, health (including lifetime residential or nursing home care), maintenance and education. Payments to be made for a person's *"Welfare"* means payments for such **person's Needs, and as the Trustee determines in its sole discretion also for such person's advancement** in life (includ ing assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.
6. Per Stirnes. In a division *''per stlrpes"* each generation shall be represented and counted whether or not it has a living member.

**SIMON L. BEll.NSTBIN**

**TRUST AGREEMENT** -8-



### TESCHER 0 SPALLINA, **p**.A.

**TS001410**

1. Related or Subordi nate Party. A *"Related or Subordinate Party"* to a trust describes a beneficiary of the subject trust or a related or subord inate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).
2. Spouse. A person's *"spouse"* includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

or after my death), or

1. the legal termination of the marriage to my descendant (whether before
2. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.
3. Gender. Number. Where appropriate, words of any gender include all genders and the singular and plura l are interchangeable.
4. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or i n a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.
5. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) shal I make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determ ination to terminate a trust described herein. For example, ifa Trustee (other than myselfand other than my spouse as Trustee of the Marital Trust) has the power to d istribute income or principal to himself or herself for h is or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principa l to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

**SIMON L. BF.RNST'EIN**

**TRUST AGREEMENT** -9-

###### TESCHER & SPALLINA, P.A.



TS001411

**H.** Presu mption of Survivorship. If my spouse and I die undercircumstances which make it difficult or impracticable to determ ine which one ofus survived the other, I direct that my spouse shall be deemed to have survived me for purposes of this Agreement (except in regard to any property passing hereunder that became part of this trust solely by reason of passage to my probate estate or this trust from the pro bate estate of or a revocable trust established by my spouse in which case the opposite presumption shall apply), notwithstanding any provisions of law which provide for a contrary presumption. If any person other than my spouse shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine wh ich one d ied first.

I. Governing Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficia1y Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

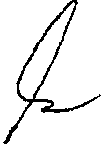
K. Mandatory Notice Req uired by Florida Law. The trustee of a trust may have duties and responsibilities in addition to those descri bed in the instrument creating the trust. If you have questions, you should obtain legal advice.

L. Release of Medical Information.

l . Disability ofBeneficiary. Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accounta bility Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the detennination of the Disability of the requested beneficiary as Disability is defined hereu nder. The period of each such valid authorization shall be for six months (or the earlier death of the requested beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days ofrecelpt of the request to provide a valid authorization, or

**SIMON L. 8ERNSIEJN**

**TRUST AGREEMENT** -10-



###### TESCHER 0 SPALLINA, P.A.

TS001412

at any time revokes an authorization within its tenn, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

1. Disability of Trustee. Upon the request to a Trustee that is an individ ual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current i ncome or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). Ifsuch requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.
2. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph lll.E.3 hereof.

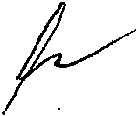
ARTICLE IV. FIDUCIARIES

1. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with *my* written approval. While l am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.
   1. Investments. To sell or exchange at pu blic or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time fanning a part of the trust estate (the *"estate");* to grant and eKercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes orjudicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

**SIMON L. BERNSTIJN**

**TRUST AGREEMENT** -I 1-

TESCHER s SPALLINA, P.A.



TS001413

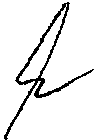
1. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited putnership interests,joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my i ntent that the Trustee have sole and absolute discretion in determining what constitutes accepta ble risk and what constitutes proper investment strategy), (e) lack ofa reasonable rate of return, (J) risks to the preservation of principal, (g) violation of a Trustee's duty ofimpartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or shou ld be made by a Trustee (including without limitation the provisions of Fla.Stats. *§ 5* I 8.11 and successor provisions thereto that would characterize such investments asforbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any Joss resulting from any such authorized investment, includ ing without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to d iversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential inveslment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion ofunproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 136l(d)(3).
2. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.
3. Management. To manage, deelop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

*5 .* Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and *te* mortgage, margin, encumber and pledge real and

**SIMON L. BERNSTEIN**

**TRUST AGREEMENT** -12-

##### TESCHER 6 SPALLINA, P.A.



**TS001414**

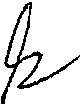
personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existi ng borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a l ien on trust assets.

1. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.
2. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.
3. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust d ifferences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determ ine; and to demolish any buildi ng, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.
4. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.
5. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as *"Business Entities").* I vest the Trustee with the following powers and authority in regard to Business Entities:
   1. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

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* 1. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole d iscretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;
  2. To hire and d ischarge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fid uciary in any of the foregoing capacities;
  3. To invest funds in the Business Entit ies, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;
  4. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property ofa trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;
  5. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;
  6. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;
  7. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorised and empowered to make such sale to any person, includ ing any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

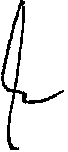
i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.

1 1. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided that the Trustee shall not be requ ired to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in red uction of such prem iums; to borrow agai nstthecash values thereof; to convert such policies into other forms of insurance, including pa id-up insurance; to

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exercise any settlement options provided in any such policies; to receive the proceeds ofany policy upon its maturity and to administer such proceeds as a pa rt of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

I 3. Contin uing Power. To continue to have or exercise, after the tennination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

1. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.
2. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation ofany closely held un incorporated business, corporation, partnershi p or joint venture, and including the power to complete contracts to purchase and sell real estate.
3. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.
4. Com bination of Shares. To hold the several shares ofa trust or several Trusts as a common fund, divid ing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physica lly undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.
5. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the adm inistration thereof.

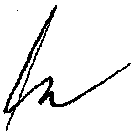
J 9. Reliance Upon Communication. To rely, in acting under atrust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowl­ edged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

1. Assumotions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under

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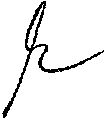
a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

1. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.
2. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.
3. Change of Situs. The situs and/or applicable law ofany trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.
4. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the dom iciliary state, the Trustee, without order ofcourt, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herei n given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.
5. Selection of Assets for Marital Trust. The Trustee shall have sole discretion to determine which assets shall be allocated to the Marital Trust; provided, if possible no assets or the proceeds ofany assets which do not qualify for the federal estate tax marital deduction shall be allocated to the Marital Trust. To the extent that other assets qualifying fur the marital deduction are available, the Trustee sha ll not allocate to the Marital Trust any assets with respect to which a credit for foreign taxes paid is allowable under the Code, nor any policy of insurance. on the life of my spouse. Any allocation of assets among the Family Trust and the Marital Trust shall, with respect to each such trust, be comprised of assets having an aggregate market value at the time of such allocation fairly representntive of the net appreciation or depreciation in the value of the property available for such

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allocation between the date of va luation for federal estate tax purposes and the date or dates of said allocation and selection.

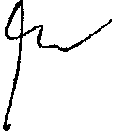
1. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact. ·
2. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.
3. Dealin g with Estates. To use principal of the Trusts to make loans to my estate,. with or without interest, and to make purchases from my estate or my spouse's estate.
4. ·To employ persons, including attorneys, aud itors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the perfonnance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.
5. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

**B.** Resii:nation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the setLlement of accounts and in the transfer of assets to his or her successor.

1. Apnointment of Successor Tr ustee.
   1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, SHIRLEY and WILLIAM E. STANSBURY *("BILL"),* or either of them alone if the other is unable to serve, shall serve as successor co-Trustees or Trustee as the case may be. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the 'time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequcncs by reason of the characterization of 11

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trust hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

* 1. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph J V.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the followi ng Trusts under the following described circumstances:
     1. Trustee of the Marital Trust. SHIRLEY shall serve as Trustee of the Marital Trust. While serving as Trustee, my spouse may designate a co-Trustee to serve with my spouse and my spouse may remove and/or replace such co-Trustee from time to time.
     2. Trustee of the Family Trust. SHIRLEY shall serve as Trustee of the Family Trust. While serving as Trustee, my spouse may designate a co-Trustee that is not a Related or Subordinate Party to serve with my spouse and my spouse may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.
     3. Trustee of Separate Trusts for My Children. Each child of mine shall serve as sole Trustee of h is or her separate trust While serving alone as Trustee, a child of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such child and such child may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.
     4. Trustee of Separate Trusts for My Lineal Descendants Other Than My Children. In regard to a separate trust held for a lineal descendant of mine other than a child of mine which lineal descendant is the sole current mandatory or discretionary income benefidary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon reaching age twenty-five (25).
  2. Successor Trustees Not Provided For. Whenever a successor Trustee or co- Trustee is required and no successor or other functioning mechanism for succession is provided for under the terrns of this Trust Agreement , the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):
     1. The remaining Trustees, if any; otherwise,
     2. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed u nder this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two

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witnesses and acknowledged before a notary public delivered to the appointed Tru.stee and to me if! am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion doliars.

4. Power to Remove Trustee. Subsequent to my death, the age 25 or older permissi ble current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, with the successor Trustee to be determined in accordance with the foregoing provisions.

1. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in •written instrument e><ecuted by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.
2. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.
3. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact addingproperty to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.
4. Liability and Indem nification of Trustee.
   1. Liabilitv in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to net as Trustee, even if the fodivid ual Trustee is found by a court to have been negligent or in breach offiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contri bution by any individual Trustee.
   2. Indemnification of Trustee. Except in regard to liabil ities imposed on a Trustee under Subparagraph lV.G. l,each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from

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the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to th estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, lhe Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individ ual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats oflawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, Ideliberately and intentionally waive any such conflict ofinterest with respect to any individ ual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for h is or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

**H.** Compensation. Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its pu blished fee schedu le in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individ ual Trustee for making principal distributions, for termi nation of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

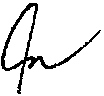
I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annua l statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

**J.** Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts i n an individual capacity, as a fiduciary of another trust or estate (including my estate) or in nny other capacity. The Trustee may in good faith enter into n sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without

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l iability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the Trustee's spouse, (ii) the Trustee's child1en or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not proh ibit the Trustee from participating in t!ie Trustee's individual capacity in such opportun ity or expectancy.

1. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.
2. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.
3. Multiple Trustees. Iftwo Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the aut hority to act on behalf of both Trustees and to exercise any power held by the Trustees. lf more than two Trustees are serving at any time, and un less unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees i n performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who lias not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

A. GST Trusts.

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I . Family Trust. I direct (a) that the Trustee shall divide any trust other than the Marital Trust to which there is allocated any OST exemption into two separate Trusts (each subject to the provisions of this Trust Agreement relating to the trust that is being divided) so that the generation­ skipping tax inclusion ratio of one such trust is zero.

1. Marital Trust. I direct that, if possible, (a) the Trustee shall divide the Marital Trust into two separate Marital Trusts (each subject to the provisions hereof concerning the Marital Trust) so that through allocation of my OST exemption remaining unallocated at my death and not otherwise allocated to transfers occurring at or by reason of my death (including allocations to the Family Trust), if any, the generation-skipping tax inclusion ratio of one such Marital Trust is zero (the OST Marital Trust), (b) my Personal Representative to exercise the election provided by Code Section 2652(a)(3) as to the OST Marital Trust, and (c) that upon the death of my spouse the total amount recoverable by my spouse's estate from the property of the Marital Trusts under Code Section 2207A shall first be recoverable in fu ll from the non-OST Marital Trust to the extent thereof.
2. Misc. I direct that (a) upon the death of the survivor of me and my spouse, any property then directed to be paid or distributed which constitutes a direct skip shall be paid first from property then exempt from generation-skipping taxation (by reason of the allocation of any OST exemption) to the extent thereof, (b) property exempt from generation-skipping taxation (by reason of

the allocation of any OST exemption) and not directed to be paid or distributed in a manner which

constitutes a d irect skip shall be divided and distributed as otherwise provided herein and held for the same persons designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) ifupon the death o(a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and lineal descendants, in such estates, interests, and proportions as such beneficiary may, by a will specifically referring to this general power appoint, and any part of atrust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or d istributed for the same persons and the generation-skipping tax incl usion ratio of any such trust is zero, the amount of any othcr such trust to which there is allocated any of such beneficiary's OST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios ofzero in equal shares. I request (but do not require) tht if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available. Notwithstanding any other provision of this Trust Agreement, for purposes of funding any pecuniary payment or trust division to which there is allocated any OST exemption, such payment or trust division allocation shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such

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distribution or allocation could be made, and any pecuniary payment i;nade before a residual transferof property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share ofincome earned by all such assets between the valuation date and the date of payment. In regard to the division or severance of a trust hereunder, including the Marital Trust, such d ivision or severance shall be made in a manner that all resu lting trusts are recognized for purposes of Chapter 13 of the Code, including without limitation complying with the requirements of Treas.Regs.

§26.2654-1 (b). Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property d istributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the val ue of such property on the valuation date. All terms used i n this Article which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of"appropriate interest" as determined by the Trustee as that term is appl ied and used in said Regulations.

1. Individual Retirement Accounts. In the event that th is trust or any trust created under this Agreement is the beneficiary of an Individ ual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 40 I (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

I . I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 40 I (a)(9)and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accord ingly, the following provisions shall apply to such trust:

* 1. No benefits from any IRA may be used or applied for the payment of any debts, taxes orothcr claims against mycstate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.
  2. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoi nt any part of such trust t a charitable organization or to a lineal descendant of mine (or a spouse ofa lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

**SIMON L. BERNSTEIN**

**TRUST AGREEMENT** -23-

###### TESCHER 8 SPALLINA, p .A.



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2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 40 I (a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. Ifthe custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

1. Gift Transfers Made **From** Trust **During** My Lifetime. l direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall bo treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalfaeting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

**D.** Death Costs. Ifupon my death the Trustee hold any United States bonds which may be redeemed at par in.payment offederal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, adm inistrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

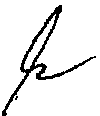
l . my debts which are allowed as claims against my estate,

1. my funeral expenses without regard to' legal limitations,
2. the expenses of administering my estate,
3. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its fund ing) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and

*5 .* any gifts made in my Will or any Codicil thereto.

**SIMON L. BERNSTEIN**

**TRUST AGREEMENT** -24-



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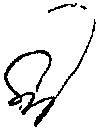
The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the d irection of my executor, admin istrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset wh ich would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the tangible personal property disposed of pursuant to the prior paragraph captioned "Disposition of Tangible Personal Property" nor from the Marital Trust.

E. Marital Trust. l intend the maximum obtainable reduction of federal estate tax due by reason of my death by use of the federal estate tax marital deduction, and qualification of all property of the Marital Trust for the marital deduction. This Agreement shall be construed and all powers shall be exercised consistent with such intent. For example, the Trustee shall not allocate any receipt to principal or any d isbursement to income if such allocation understates the net income of the Marital Trust under Florida law; and upon the written demand of my spouse, the Trustee shall convert unprod uctive or underprod uctive property of said trust into productive property within a reasonable time notwithstanding any other provision hereunder. The foregoing not withstanding, if my spouse survives me but dies within six months after my death, the Marital Trust provided in Subparagraph Il.B will be reduced to that amount, if any, required to obtain for my estate an estate tax marital deduction resulting in the lowest combined estate taxes in my estate and my spouse's estate, on the assumption that my spouse d ied after me on the date of my death, that my spouse's estate is valued on the same date and in the same manner as my estate is valued for federal estate tax purposes, and that elections in my spouse's estate were made that would be consistent with minimizi ng taxes. The purpose of this provision is to equalize, insofar aspossible, our estates for federal estate tax purposes, based on the above assumptions.

F. Su bchapterS Stock. Regardless of anything herein to the contrary, i n the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)( I ) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the mean ing of Code Section 663(c), wh ich share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments,

1. upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d)distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointmenf granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code ·section:1361(d)(3), and shall otherwise manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoi ng provisions of this paragraph.

**SIMON L. BEJlNSTErN**



**TRUST AGREEMENT** -25-

TESCHER & SPALLINA, P.A.

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G. Residence as Homestead. Regardless of anything herein to the contrary, while any residential real property located in Florida is owned by a trust, I, or my spouse ifl am not then living and such trust is the Marital Trust, shall have the right to use, possess and occupy such residence as a personal residence so that such right shall constitute a possessory right in such real property within the meaning of Florida Statute Section 196.041.

*[remainder ofpage intentionally left blank]*

**SIMON L, BEILNS'll;llN**

**TRUST AGREEMENT** -26-

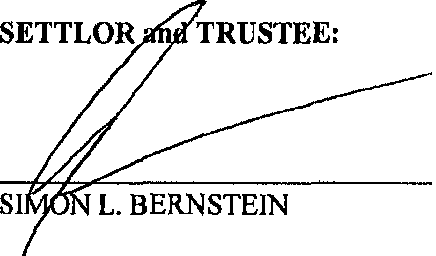


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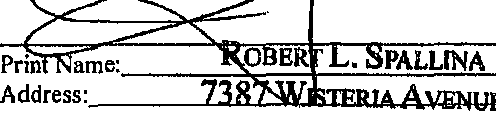
IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement on the date first above written.



This instrument was signed by SIMON L. BE STEIN in our presence, and at the request of

and in the presence of SIMON L. BERNSTEIN and each other, we subscribe our names as witnesses on this D *f::::1.r -,* ,2008:

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STATE OF FLORIDA

COUNTY OF PALM BEACH

SS.

The foregoing instrument was acknowledged before me this *W* day of by SIMON L. BERNSTEIN.m>lllllA

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;,.,... ,,. ATl.JaNTlC BONDING CO., INC.

110NDED 11111.U Signature - Notary Public-State of Florida

[Seal with Commission Expiration Date]

Print, type or stamp name of Nolal)' l'ublic

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Personally Known / or Produced Identification -----

Type ofldentification Produced ------'--------------------

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SIMON L. BERNSTEIN

TRUST AGREEMENT -27-

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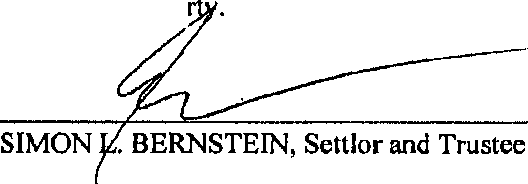
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**ATTACHMENT**

The following property has been delivered in trust under this Agreement:

One Dollar ($1.00) Cash

During my life, the Trustee has no duty to maintain, invest, review, insure, account for, or any other responsibility with respect to trust property other than income producing property, or any duty to pay premiums on life insurance payable to the trust, and shall receive no fee for its services as Trustee based on any trust property other than income producing prope



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**TRUST AOREllMENT** -28-

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**SIMON L. BERNSTEIN**

**AMENDED AND RESTATED TRUST AGREEMENT**

*Prepared by:*

Tescher & Spallina, P.A.

4855 Technology Way, Suite 720, Boca Raton, Florida 33431 (561) 997-7008

[www.tescherspallina.com](http://www.tescherspallina.com/)

L A W O F F I C E S

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SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT



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This Amended and Restated Trust Agreement is dated this ? *of*

and is between SIMON L. BERNSTEIN, of Palm Beach County, Florida referre t in the irst person, as settlor, and SIMON L. BERNSTEIN, of Palm Beach County, Florida and SI L. B RNSTEIN's successors, as trustee (referred to as the *"Trustee,"* which term more particularly refers to al I individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or *as* a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SIMON L. BERNSTEIN TRl)ST AGREEMENT (the *"TrustAgreement, "*which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article l. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, del ivered to the Trustee to amend or revoke said Trust Agreement, in whole or in part.

NOW, THEREFORE, I hereby amend and restate the Trust Agreement in its entirety and the Trustee accepts and agrees to perform its duties and obligations in accordance with the following amended provisions. Notwithstand ing any deficiencies in execution or other issues in regard to whether any prior version of this Trust Agreement was a valid and bind ing agreement or otherwise created an effective trust, this amended and restated agreement shall constitute a valid, binding and effective trust agreement and shall amend and succeed all prior versions described above or otherwise predating this amended and restated Trust Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

1. Rights Reserved. I reserve the right (a) to add property to this trust during my life or on niy death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or i n part and otherwise modify or amend this Agreement.
2. Payments During My Life. If income producing property is held in the trust during my life, the Trustee shall pay the net income of the trust to me or as *1* may direct. However, during any periods whi le I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the trust as is proper for my Welfare. Any income not so paid shall be added to principal.



SIMON L. BERNSTEIN

AMENDED AND RESTATeD TRUST AGREEMENT

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1. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trusfunder any insurance policy on my l ife or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs,11 the Trustee shall hold the trust according to the following provisions.

ARTICLE II. AFTER MY DEATH

1. Disposition of Tangible Personal Property. If any non-business tangible personal prope1ty other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be prom ptly disfributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Wil I(including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.
2. Disposition of Trust Upon My Death. Upon my death, the remaining assets in this trust shall be divided among and held in separate Trusts for my then living grandchildren. Each of my grandchildren for whom a separate trust is held hereunder shall hereinafter be referred to as a *"beneficiary"* with the separate Trusts to be administered as provided in Subparagraph 11.C.
3. Trusts for Beneficiaries. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the net income and principal of such beneficiary's trust as is proper for the Welfare of such individuals. Any income not so paid shall be added to principal each year. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th bi1thday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any grandchild of mine as beneficiary of a separate trust. The value of each trust shall be its val ue as of the first exercise of each withdrawal right, pl us the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privi lege which may be exercised only vol untarily and shall not include an involuntary exercise. Ifa beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of any of my lineal descendants (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

SJMON L. BERNSTEIN



AMENDED AND RESTATED TRUST AGREEMENT - 2-

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I . for his or her lineal descendants then living, *per stirpes;* or

2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nerest ancestor (among me and my lineal descendants) with a lineal descendant then living.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

1. Termination of Small Trust. If at any time after my death in the opinion of the Trustee a separate trust holds assets of a val ue of less than $50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.
2. Contingent Gift. Ifat any time prope11y of these Trusts is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such prope11y would be distributed if J had then owned such property and had then died solvent, u111narried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.
3. Protective Provision. No beneficiary of any trust herein created shal I have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or princi pal of such trust. Fu1thermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary i n this trust (other than myself) and such interest shall not be liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntaril y or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled,

·notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

1. Maximum Duration. Regardless ofanything in this Agreementto the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years after the date of creation of this Agreement, nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the propo11ions in which such persons are the beneficiaries, and if such proportions cannot be asce11ained, then equally among such beneficiaries.

ARTICLE III. GENERAL

SIMON L. BERNSTEIN



AMENDED AND RESTATED TRUST AGREEMENT - 3-

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A. Disability. Subject to the following Subparagraph captioned "Subchapter SStock," while any beneficiary is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. Whi le any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an ad ult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. Timing oflncome Distributions. The Trustee shall make required payments of income at least quarterly.

1. Substance Abuse.

1 . ln General. lf the Trustee reasonably believes that a beneficiary (other than myself)of any trust:

* 1. routinely or frequentl y uses or consumes any illegal substance so as to be physically psychologically dependent upon that substance, or

or

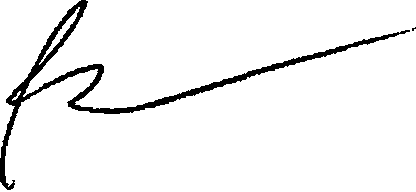
* 1. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescri bed by a hoard certified med ical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended. In that event, the following provisions of this Subparagraph 1I I .C will apply.

* 1. Testing. The Trustee may req uest the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) dete1mined to be appropriate by a board certified med ical doctor and to consent to full disclosure to the Trustee of the resu lts of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those resu lts to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or pattially suspend all distributions otherwise rcq uired or perm itted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.
  2. Treatment. If,in the opinion of the examining doctor, the examination ind icates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an

SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT - 4 -



L A W O F F I C E S

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inpatient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment d irectly to the provider of those services from the distributions suspended under this Subparagraph lll.C.

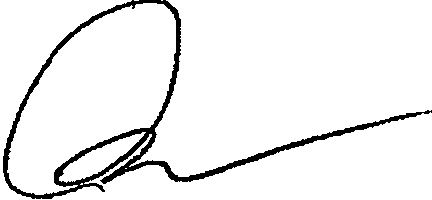
* 1. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an iliegal substance, examination indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.
  2. Disposition of Suspended Amou nts. When other distributions to the beneficiary are resumed, the rnmaining balance, if any, of d istributions that were suspended may be distributed to the beneficiary at that time. Ifthe beneficiary dies before distribution of those suspended amou nts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.
  3. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsi ble or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in th is Subparagraph I r l.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph 111.C, incl uding any failure to request a beneficiary to submit to medical examination, and including a decision

to distribute suspended amounts to a beneficiary.

* 1. Tax Savings Provision. Despite the provisions of this Subparagraph f ll.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

1. Income on Death of Beneficiary. Subject to the later paragraph captioned 11Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the princi pal of his or her trust but shall remain income for trust accounting purposes.
2. Definitions. In this Agreement,
   1. Children, Lineal Descendants. The terms *"child," "children," "grandchild," "grandchildren"* and *"lineal descendant"* mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate bilths occurring during the marriage of the joint biological parents to each other, (b) children born of female lineal descendants, and (c) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is

SIMON L. BERNSTEJN



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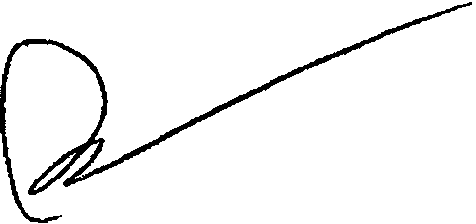
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raised from or neal' the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) *one* of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple patticipated in the decision to have such child. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstand ing the foregoing, for all purposes of this Trust and the dispositions made hereunder, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA

1. FRIED STEIN, shall be deemed to have predeceased me as I have adequately provided forthem during my lifetime.
   1. Code. *"Code"* means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax\_ law.
   2. Disabled. *"Disabled"* or being under *"Disability"* means, as to any applicable ind i vid ual: (I ) being under the age of 21 years, (2) having been adjudicated by a court of competent ju risdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individ ual's attend ing physi cian or attend ing psychiatrist confirming that person's impairment will be sufficient evidence of Disabi lity under item (3) above, and all persons may rely concl usively on such a certificate.
   3. Education. The term *"education"* herein means vocational, primary, secondary, preparatory, theological, college and professional education, includ ing post-grad uate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, includ ing tuition, books and suppl ies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereu nder for education obtain the best possible education commensurate with their abilities and desires.
   4. Needs and Welfare Distri butions. Payments to be made for a person's *"Needs"* means payments necessary for such person's health (including lifetime residential or nursing home care), education, maintenance and support. Payments to be made for aperson's *"Welfare"* means discretionary payments py the Trustee, from time to time, for such person's Needs and also for such person's advancement i n life (including assistance in the purchase of a home or establishment or development ofany business or professional enterprise which the Trustee bel ieves to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of 1.iving, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to

SIMON L. BERNSTEIN



AMENDED AND RESTATED TRUST AGREEMENT - 6-

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such individ ual or applied by the Trustee directly for the benefit of such person. The Trustee may make a d istri bution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

* 1. Per Stirpes. In a division *"per stirpes"* each generation shall be represented and cou nted whether or not it has a living mem ber.
  2. Related or Subordinate Party. A *"Related or Subordinate Party"* to a trust · descri bes a beneficiary of the subject trust or a related or subordinate party *to* a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).
  3. Spouse. *A* person's *"spouse"* includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

or after my death), or

1. the legal termination of the marriage to my descendant (whether before
2. the death of my descendant if a dissolution of marriage proceeding was pend ing when he or she died.

The trust will be administered as if that person had died upon the happening of the terminating event described above.

* 1. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.
  2. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such .holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary pu bl ic, but in either case only if such will, trust agreement, or inslrument specifically refers to such power.
  3. Limitations on Powers of Tl'Ustee. Regard less of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which wou ld directly or indirectly discharge any legal obligation of such

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Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such be.neficiary; and no Trustee (other than myself) shall make or participate in making any discretionary distribution of income or principal to or for the ·benefit of himself or herself other than for his or her Needs, including by reason of a determination to term inate a trust described herein. For example, if a Trustee (other than myself) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or pa1ti cipate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

H. Presumption of Survivorship. Ifany person shall be required to survive another person in order to take any interest under th is Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it d ifficult or impracticable to determine which one died first.

1. Governing Law. This Agreement is governed by the law of the State of Florida.
2. Other Beneficiary Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any ind ivid ual retirement account, other retirement plan or account, or annuity or insurance contract, (b) Ihereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contr?-ry, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable Jaw or othe1wise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.
3. Release of Medical Information.
   1. Disability of Beneficiary. Upon the written req uest of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries and myself ifa beneficiary) for whom a determination of Disability is relevant to the administration of a tnst hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be iden tified thereon both by name to the extent known and by class description) a valid authorization under the Health insurance Portability and Accountability Act of 1996 and any other appl icable or successor Jaw authorizing all health care providers and all medical sources of such req uested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the req uested

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AMENDED AND RESTATED TRUST AGREEMENT -8 -

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beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within th irty days ofreceipt of the i·equest *to* provide a valid authorization, or at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

1. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adu lt current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisd iction, such Trustee shall issue to such person and all p·ersons, courts of competent ju risdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accou ntability Act of 1996 and any other appl icable or successor law authorizing all hea lth care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the req uested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the ea1•J ier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days ofreceipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.
2. Ability to Amend or Revoke. The foregoing provisions of this paragraph shall not constitute a restriction on myself to amend or revoke the terms of this trust instrument under paragraph I.A hereof, provided I othe1wise have legal capacity to do so.
3. Authorization to Issue Certificate. All required authorizations under this paragraph shall incl ude the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph lll.E.3 hereof.

ARTICLE IV. FIDUCIARIES

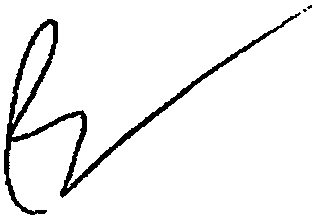
1. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.
   1. . Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the *"estate");* to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any

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AMENDED AND RESTATED TRUST AGREEMENT

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decline in the value thereof; all without limitation by any statutes orjudicial decisions whenever enacted or annou nced, regu lating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

* 1. Special- Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company mem bership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common Jaw or statutory diversification req u irements \_(it being my intent that no such duty to diversify shall exist) (c) a lack ofcurrent cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate ofreturn, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose). and (h) similar limitations on investment under this Agreement or under law pertaini ng to investments that may or should be made by a Trustee (including without limitation the provisions of Fla\_.Stats. -§518.11 and successor provisions thereto that would characterize such investmentsas forbidden, imprudent, improper or u nlawful). The Trustee shall not be responsi ble to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particu lar entity, investment, or enterprise, the failure to invst i n more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determ ines that the future potential investment return from any illiq uid or closely held investment asset warrants the retention of that investment asset or that sufficient val ue could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary red uce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the avai labi l ity of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but -for such provisions, shal I not override any express powers hereunder of my surviving spouse to demand conversi\_on of unproductive property to prod uctive property, or red uce any income distributions otherwise req uired hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 136l (d)(3).
  2. Distri butions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate und ivided interests in prope1ty and dissimilar property (without regard to its tax basis) to different shares.

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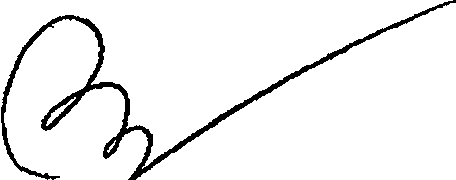
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* 1. Management. To manage, develop, improve, partition or change the character of an asset or interest in prope1ty at any time; and to make ordinary and extraord inary repai rs, replacements, alterations and improvements, structural or otherwise.
  2. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in patt by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liabil ity; and such borrowi ng from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

1. Lending. To extend, mod ify or waive the terms of any obligation, bond or mortgage at any time forming a pait of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the prope1ty securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such prope1ty from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and cond itions.
2. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To absta in from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosu re or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.
3. Real Prope1ty Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or *to* erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encum ber, or otherwise to manage and dispose ofreal property to the extent such power is not otherwise granted herein or otherwise restricted herein.
4. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

l 0. Business Entities. To deal with any business entity or enterprise even ifa Trustee is or may be a fiduciary of or own interests in said business entity or enterprise. whether operated in the form of a corporation, pattnership, business trust, limited liability company, joint venture, sole

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AMENDED AND RESTATED TRUST AGREEMENT -11-

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proprietorship, or other form (all of which business entities and enterprises are referred to herein as *"Business Entities" ).* I vest the Trustee with the following powers and authority in regard to Business Entities:

1. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;
2. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, pat1ner, officer or employee of the Business Entity;
3. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consu ltants, accountants, and such other representatives as the Trusree may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;
4. To invest funds in the Business Entities, to pledge other assets of a trust as security for Joans made to the Business Entities, and to lend funds from a trust to the Business Entities;
5. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust,

·and to receive in exchange such stocks, bonds, partnership and member interests, and such .other securities or interests as the Trustee may deem advisable;

1. To treat Business Entities as separate from a trust Jn a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;
2. To retain i n Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;
3. To seJI or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (includ ing cred it) as the Trustee may determine. My Trustee is specifically authorised and empowered to make such sale to any person, including any pa1tner, officer, or employee oft.he Business Entities, a fiduci ary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.

SIMON L. BERNSTEIN



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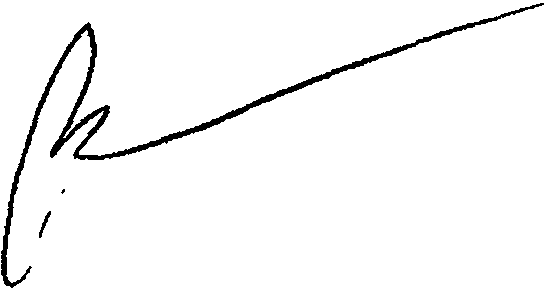
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1 1 . Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the avai lability of the estate tax marital deduction, provided, unless otherwise provided in this instrument, the Trustee shall establish out of income and credit to principal reasonable reserves for depreciation, obsolescence and depletion, determined to be equitable and fair in accordance with some recognized reasonable and preferably uncomplicated trust accounting principle and; provided, further that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

1. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premi urns; to apply dividends in reduction of such prem iums; to borrow against the cash values thereof; to conve11such policies into other forms of insurance, including paid-up insurance; to exercise any settlement options provided in any such policies; to recei ve the proceeds ofany policy upon its maturity and to administer such proceeds \_as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.
2. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in prut, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.
3. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.
4. Agreements. To comply with, amend, mod ify or rescind any agreement made during my lifetime, including those regard ing the disposition, management or continuation ofany closely held uni ncorporated business, corporation, partnership or joint venture, and includ ing the power to complete contracts to purchase and sell real estate.
5. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.
6. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, maki ng the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shalJ not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.



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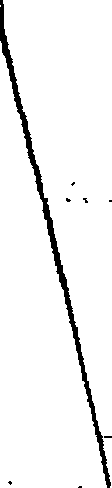
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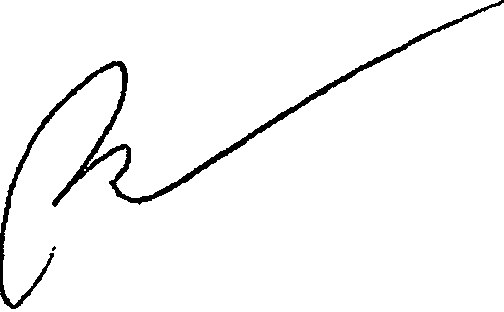
18. Reimbursement. To reimburse itself from a trust forreasonable expenses incurred in the administration thereof.

1. Reliance Upon Comm u nication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowl­ edged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.
2. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under a trust shall commence or terminate, does not exist or has not occurred, without incurring liabi lity for any action or inaction based upon such assumption.

21 . Service as Custod ian. *To* serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.



1. Removal of Assets. The Trustee may remove from the domici liary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether princi pa l or not, and to take and keep the same outside the domiciliary state and at such place or places withi n or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom .
2. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.
3. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agen t of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such prope1iy as are herein given to the appointi ng Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (I0) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this



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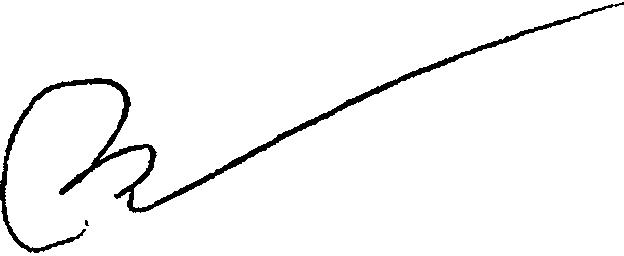
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paragraph. No periodic court accounting shall be req uired of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinari-ly be required.

1. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact. ·
2. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.
3. Deal ing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate.
4. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to emp1oy one or more agents to perform any act of administration, whether or not discretionary.
5. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reim bursements between any ofthe Trusts or any of the trust accounts or any beneficiaries.
6. Resignation. A Trustee may resign with or without cause, by giving no Jess than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1 )(a) and 736.0109. As to anyrequired recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reim bursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee.

l . Appointment. Upon a Trustee's resignation, or ifa Trustee becomes Disabled or for any reason ceases to serve as Trustee, l may appoint any person or persons as successor Trustee, and in default of such appointment by me, ROBERT L. SPALLINA and DONALD R. TESCHER shall serve together as successor co-Trustees, or either of them alone as Trustee if either of them is unable to serve. Notwithstanding the foregoing, *if* a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax conseq uences by reason of the characterization of a trust



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hereunder *as* a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to ·serve.

* 1. Specific Trusts. Notwithstandingthe preceding provisions of this Subparagraph I V.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances provided that the foregoing appointments shall apply when and to the extent that no effective appointment is made below:
     1. Trustee of Separate Trusts for My Grandchildren. Each grandchild of mine shall serve as co-Trustee with the immediate parent of such grandchild which parent is also a child of mine as to all separate trusts under which such grandchild is the sole current mandatory or discretionary income beneficiary upon attaining the age of twenty-five (25) years, and shall serve as sole Truste of such trusts upon attaining the age of thi rty-five (35) years. While serving alone as Trustee, a grandchild of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such grandchild and such grandchi ld may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.
     2. Trustee of Separate Trusts for My Lineal Descendants Other Than My Grandchildren. In regard to a separate trust held for a lineal descendant of mine other than a grandchild of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shal I serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve\_, of his or her separate trust upon attaining age twenty­ five (25) years. While serving alone as Trustee, a lineal descendant of mine other than a grandchild of mine may designate a co-Trustee to serve with such lineal descendant and such lineal descendant may remove and/or replace such co-Trustee with another from time to time.
  2. Successor Trustees Not Provided For. Whenever a successor Trustee or co- Trustee is req uired and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement , the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successo1· Trustee (who may be one of the persons making the appointment):
     1. The remaining Trustees, if any; otherwise,
     2. A majority ofthe permissi ble current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me ifl am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or

SIMON L.BERNSTEIN



AMeNDED AND RESTATED TRUST AGREEMENT -16-

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TESCHER & SPALLIN A , P.A.

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entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

* 1. Power to Remove Trustee. Subsequent to my death, the age 35 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, other than a named Trustee or successor Trustee designated hereunder, OJ' a Trustee appointed by me during my lifetime or under my Will or otherwise at the time of my death, with the successor Trustee to be determined in accordance with the foregoing provisions.

1. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in awritten instrument executed by such person in the presence of two witnesses and acknowledged before a notary publ ic which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.
2. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an ind ividual (including such power when reserved to me) is personal to that individual and may not be exercised by a guard ian, power of attorney holder, or other legal representative or agent.
3. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representati ve, or trustee or attorney-in-fact adding property to these Trusts, or ofany predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.
4. Liability and Indemnification of Trustee.
   1. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individ ual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.
   2. Indemnification of Trustee. Except in regard to liabi lities imposed on a Trustee under Subparagraph J V.G. I , each Trustee shall be held harmless and indem nified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or ifthe f01mer Trustee is an individual

SJMON L BERNSTEIN

AMENDED AND RESTATED TRUST AGRF.EMENT -17-



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and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

* 1. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ord inarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individ ual named to serve as a Trustee. Just as important.• I do not want an individual who has been selected to serve as a Trustee\_ to be rel uctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsu its that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict ofinterest with respect to any ind ividual serving as Trustee so that he or she can hire counsel to defend himself or herselfagainst allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate u ntil the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it·as provided by Jaw. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Compensation, Bond. Each Trustee is entitled to be pafd reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-indi vid ual Trustee for making principal distributions, for termination of the trust, and upon termination of its services m ust be based solely on the value ofits services rendered, not on the val ue of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

1. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any ad ult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon a!J persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a jud icial settlement of any account. No Trustee shall be req uired to file any statutory or other periodic accountings of the administration of a trust.
2. Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction

involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without

liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the

SJMON L BERNSTEIN



AMENDED AND RESTA *TBD* TRUST AGREEMENT - 18 -

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TESCHER & SPALLIN A , P.A.

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Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business oppo1tunities that are presented to the Trustee. Such renunciation shall not proh ibit the Trustee from participating in the Trustee's ind ividual capacity in such opportunity or expectancy.

1. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of prope1ty.
2. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be

- paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. Ifit is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

M. Multiple Trustees. Iftwo Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and un less unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation ofauthority to other Trustees wi ll be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who *did* not consent to the delegation of authority to another Trustee and who has not joined in the exercise ofa power or discretion cannot be held liable for the conseq uences of the exercise. A d issenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

1. GST Trusts. I direct (a) that the Trustee shall divide any trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions hereof) so that the generation-skipping tax inclusion ratio of one such trust is zero, (b) any property exempt from generation-skipping taxation shall be divided as otherwise provided herein and held forthe same persons

SIMON L. BERNSTEIN



AMENDED AND RESTATED TRUST AGREEMENT -19-

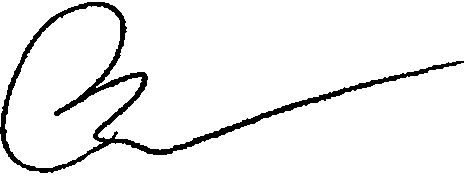
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designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficia1y a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons includ ing only such beneficiary's estate, spouse, and issue, as such beneficiary may appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, ifupon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such Trust to which there is allocated any of such beneficiary's OST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. For purposes of funding any pecuniary payment to which there is allocated any OST exemption, such payment shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the as.sets from which such distribution could be made, and any pecuniary payment made before a residual transfer of prope11y to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the val uation date and the date of distri bution) in all of the assets from which such pecun iary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. Except as otherwise expressly provided herein, the val uation date with respect to any prope1ty shall be the date as of which its val ue is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such propetty on the valuation date. All terms used in. this paragraph which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. *1* request (but do not req uire) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consum ption, distribution or otherwise or is not reasonably available. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determ ined by the Trustee as that te1m is applied and used in said Regulations.

1. Individ ual Retirement Accounts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individ ual retirement account established and maintained under Code Section 408 or a qualified pension, profit shadng or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

SJMON L. BERNSTEIN  AMENDED AND RESTATED TRUST AGREEMENT -20-

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TESCH E R & SPALLINA , P.A.

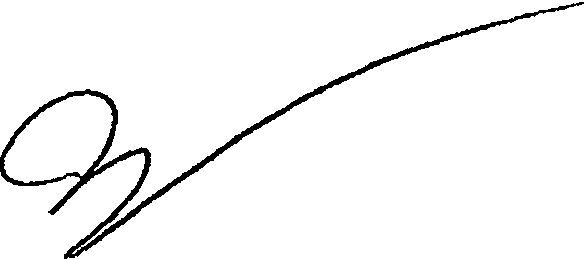
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* 1. . I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regu lations thereu nder. All provisions of suchtrust shall be construed consistent with such intent. Accord ingly, the following provisions shall apply to such trust:
     1. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.
     2. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any po1tion of any trnst established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shalJ not appoint any pa1t of such trust to a charitable organization or to a lineal descendant of mine (or a spouse ofa lineal descendanfof mine) who is older than the beneficiary whose life expectancy is being used to calcu late distributions from such IRA.
  2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section *401* (a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custod ian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. Gift Transfers Made From Trust During My Lifetime. I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift prope1ty had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift prope1ty is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

D. Gifts. lf l am Disabled, *1* authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1 . Reci pients. The gifts may be made only to my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).



SIMON L. 6ERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT -21-

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1. Trustee Limited. When a person eligible to receive gifts is serving a<; Trustee, the aggregate of al l gifts to that person during the calendar year allowable under the preceding subparagraph I . shall thereafter not exceed the greater ofFive Thousand Dollars ($5,000), or five percent (5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.
2. Charitable Pledges. The Trustee may pay any charitable pledges Imade while

1 was not Disabled (even if not yet due).

1. **Death** Costs. Ifupon my death the Trustee hold any United States bonds which may be redeemed at par in payment offederal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shal l also pay from the trust all of my following death costs, but ifthere is an acting executor, administrator or Personal Representati ve of my estate my Trustee shall pay only such amounts of such costs as such executor, adm inistrator or Personal" Representati:ve directs:
   1. . my debts which are allowed as claims against my estate,
   2. my funeral expenses without regard to legal limitations,
   3. the expenses of administering my estate,
   4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all properly whether or not passing under my Will or this Agreement (other than property over which Ihave a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and
   5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, admin istrator or- Personal Representative or directly to the proper patty. The Trustee shall not be reim bursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as prope1ty received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the tangible personal property disposed of pursuant to the prior paragraph captioned "Disposition of Tangible Personal Property."



SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT -22-

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1. Subchapter SStock. Regardless of anything herei n tothe contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section I 361 (e)(l) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereofin annual or more frequent installments,
   1. upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) d istribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" *as* that term is defined in Code Section 136J (d)(3), and shall otherwise manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.
2. Residence as Homestead. I reserve the right to reside upon any real prope1ty placed in this trust as my permanent residence during my life, it being the intent of this provision to retain for myself the requisite beneficial interest and possessory right in and to such real property to comply with Section 196.041 of the Florida Statutes such that said beneficial interest and possessory right constitute in all respects "equitable title to real estate" as that term is used in Section 6, Article VII of the Constitution of the State of Florida. Notwithstanding anything contained in this trust to the contrary, for pu rposes of the homestead exemption under the laws of the State of Florida, my interest in any real prope1ty in which I reside pursuant to the provisions of this trust shall be deemed to be an interest in real property and not personal ty and shall be deemed my homestead.

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SIMON L\_ BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT - 2 3-

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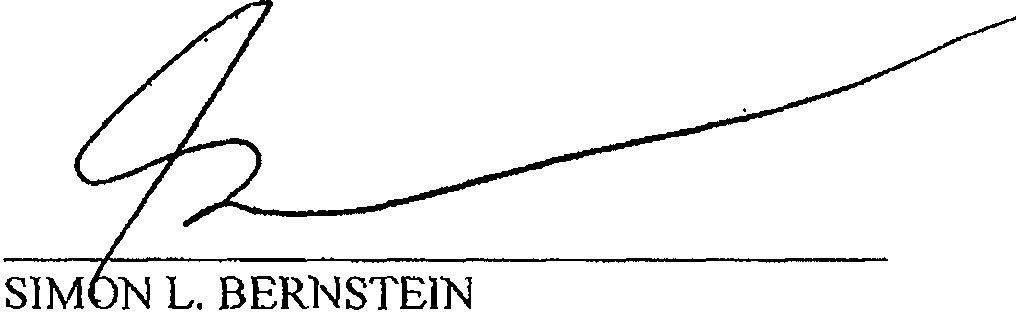
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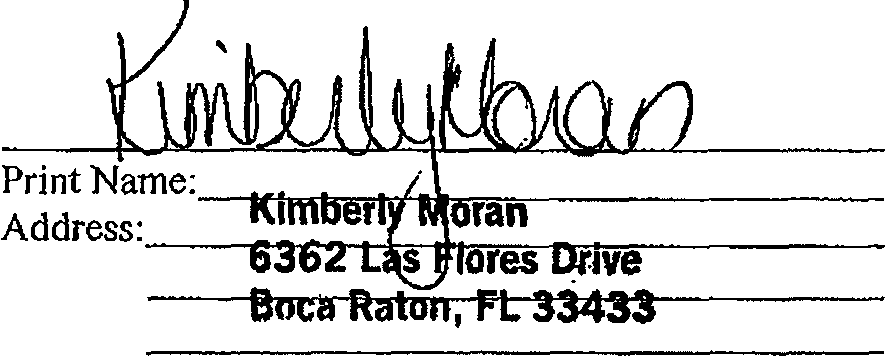
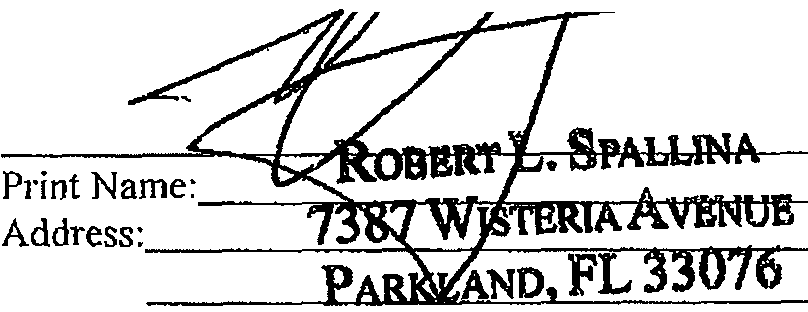
IN WITNESS WHEREOF, the pal'ties hereto have executed this Amended and Restated Trust Agreement on the date first above written.

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SETTLOR and TRUSTEE:

This instrument was sig d by SIMON L. BERNSTEIN in our presence, and at the req uest of and in thnence of I . BERNSTEIN and each other, we subscribe our names as witnesses on thisc::2:f\_ day ow- -l=::;;;;:;="'-\_,. 2:

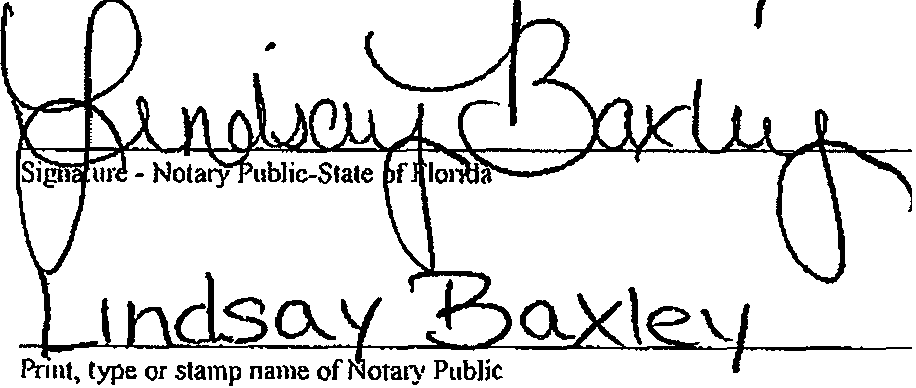


STATE OF FLORIDA

COUNTY OF PALM BEACH

SS.

Theforegoing instrument was acknowledged before metl1is2,6Jay of Ju,,\ y by SIMON L. BERNSTEIN. •



,2012,

[Seal with Commission Expiration Date]

NOTARY PUBLIC-STATE OF FLORIDA

............. Lindsay Baxley

*i W* Commission # EE092282

*\. l* Expires: MAY 10,2015

BQED THRU ATLANTIC BONDING CO., INC.

Personally Known o{Produced Identification -----

Type ofldentification Produced -------------------------

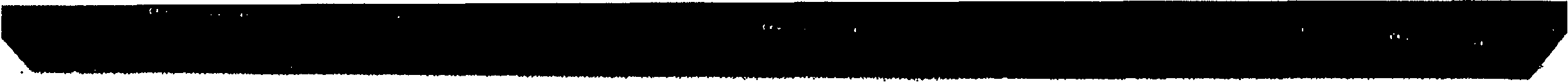
SJMON L BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT - 2 4 -

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#### SHIRLEY BERNSTEIN TRUST AGREEMENT

*Prepared by:*

Tescher & Spallina, P.A.

2101 Corporate Blvd., Suite 107, Boca Raton, Florida 33431

(561) 998-7847

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SHIRLEY BERNSTEIN

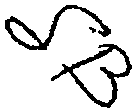
TRUST AGREEMENT

This Trust Agreement is dated this .2lJ\_ day of */Y?* :. 2008, .and is between SHIRLEY BERNSTEIN, of Palm Beach County, Florida referred the first person, as settlor, and SHIRLEY BERNSTEIN, of Palm. Beach County, and SHIRLEY BERNSTEIN's successors, as trustee (referred to as the *"Trustee,"* which tenn more particularly refers to all individuals and entities serving

as .trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee). Said Trustee acknowledges receipt of the property described in the Attachment to this Agreement, and agrees to hold said property and all additions, in trust, as provided in this Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

1. Riehts Reserved. I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and·otherwise modify or amend this Agreement. However, after my spouse's death I may not exercise any f said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise.
2. Payments Du rin My Life. If income producing property is held in the trust during my life, the Trustee shall pay the net income of the trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the trust as is proper for my Welfare, and also may in its discretion pay to my spouse such amou nts of said net income and principal as is proper for his Welfare. Any income not so paid shall be added to principal.
3. Gifts. IfI am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:
   1. Recipients. The gifts may be made only to my spouse and my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).
   2. Trustee Limited. When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1 .shall thereafter not exceed the greater ofFive Thousand Dollars ($5,000), or five percent

SHIRLEY BERNSTEIN  TRUST AGREEMENT

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(5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

* 1. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

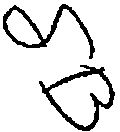
1. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust accord ing to the following provisions.

ARTICLE II. AFTER MY DEATH

1. Disposition of Tan2ible Personal Property. If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.
2. Specific Cash Devise. The Trustee shall set aside in a separate trust the sum of Two Hundred Thousand ($200,000.00) Dollars for MATTHEW LOGAN, and said separate trust shall be administered as provided in Subparagraph 11.Fbelow. If MATTHEW LOGAN does not survive me this devise shall lapse.
3. Ma rital Ded uction Gift. If my spouse survives me:

I . Family Trust. The Trustee shall hold as a separate "*Family Trust"* (i) all property of the trust estate as to which a federal estate tax marital deduction would not be allowed ff it were distributed outright to my spouse, and (ii) after giving effect to (i), the largest pecuniary amount which will not result in or increase any federal or state death tax otherwise payable by reason of my death. In detennining the pecuniary·amount the Trustee shall assume that none of this Family Trust qualifies for a federal estate tax. deduction, and shall assume that all of the Marital Trust herinafter stablished (including any part thereof disclaimed by my spouse) qualifies for the federal estate tax marital deduction. I recognize that the pecuniary amount may be reduced by certain state death taxes and administration expenses which are not deducted for federal estate tax. purposes.

SHIRLEY BF.RNSTEIN



TRUST AGREEMENT ·-2-

### TESCHER 8 SPALLINA, P.A.



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* + 1. Marital Trust. The balance of the trust remaining after the establishment of the Family Trust shall be held as a separate *"Marital Trust."*
    2. Disclaimer. Any part of the Marital Trust my spouse disclaims shall be added to the Fami ly Trust. My spouse shall not be deemed to have predeceased me for purposes of such addition. I suggest that my spouse or my spouse's fiduciaries consider an appropriate partial disclaimer to minimize the death taxes due upon both of our deaths.

Ifmy spouse does not survive me, the entire trust shall be held as the Family Trust without regard to the provisions of Subparagraph TT.B.1 describing or limiting which assets shall be held thereunder.

1. Du rina: Spouse's Life. Commencing with the date of my death the Trustee shall,

J . Marital Trust. Pay to my spouse from the Marital Trust, the net income, and such amounts of pri ncipal as is proper for my spouse's Welfare; and

2. Family Trust. Pay to my spouse from the Family Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare. I request (but do not require) that no principal be paid to my spouse from the Family Trust for my spouse's Welfare unless the Marital Trust has been exhausted by use, consumption, d istribution, or otherwise or is not reasonably available.

1. Disposition of Trusts Upon Death of Survivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,
   1. Limited Power. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit ofone or more of my lineal descendants and their spouses;

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* 1. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my

spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust ifmy spouse did not survive me, shall be divided among and held in separate Trusts for my lineal descendants then living,*per stirpes.* Any assets allocated under this Subparagraph II.D. to my children (as that term is defined under this Trust), shall be distributed to the then serving Trustees of each of their respective Fami ly Trusts, established by my spouse asgrantor on even date herewith (the *"Family Trusts"* which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a *"beneficiary,"* with their separate trusts to be administered as provided in Subparagraph 11.E. below.

SHIRLEY BERNSTEIN

TRUST AGREEMENT ·3-

TESCHER 0 SPALLINA, P.A.



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F. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, *112* in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

I . for his or her lineal descendants then living, *per stirpes;* or

2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

1. Termination of Small Trust. Ifat any time after the death of the survivor of my spouse and me *in* the opinion of the Trustee a separate trust holds assets of a value of less than $50,000.00 and is too small to justify the expense of its retention, and termination of such trust is *in* the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.
2. ContinKent Gift. If at any time property of a trust held under this Agreement is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be d istributed if my spouse and I had each then owned one·halfof such property and had each then died solvent, unmarried and intestate dom iciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.
3. Protective Provision. No beneficiary ofany trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) .and such interest shall not be

SHIRLEY BERNSTEIN

TRUST AGREEMENT -4-



TESCHER 0 SPALLINA, P.A.

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•;'?::·•.·, ' <lble for or subjct to the.debts, liabilities orobligatlons of any such beneficiary or any claims against uch beneficiary (whether v'oluntariJy or involutarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstand ing that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective. exercise of any power of appointment granted herein or the exercise of any disclaimer. ·

1. Maximum Duration. Regardless of anything in t\_his Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years as provided in F.S. *§* 689.225(2)(a)(2), nor shall any power ofappointment be exercised in such manner so asto delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

K. Florida Homestead Possessory Ri2hts. Notwithstanding anything herein to the contrary, if any portion of any Florida improved residential real estate (exclud ingcommercial multi-unit rental property) is an asset of the Marital Trust, my spouse shall have the exclusive and continuous present right to full use, occupancy and possession of such real estate for life. It is my intention that my spouse's interest in such property shall constitute a "beneficial interest for life" and "equitable title to real estate" as contemplated by Section 196.041(2) of Florida Statutes, as amended from time to time or any correspond ing provision oflaw.

ARTICLE III. GENERAL

A. Disability. Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary (other than my spouse as beneficiary ofthe Marital Trust) is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

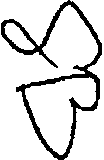
**B Timine of Income Distributions. The Trustee shaH make required payments of income**

at least quarterly.

1. Su bstance Abuse.

SHIRLl!Y BERNSTEIN

TRUST AGREBMENT -5-



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& SPALLINA, P.A.

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I . hi General. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

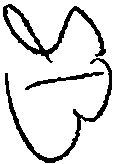
* 1. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or
  2. is clinically dependent'upon the use or consumption of alcohol or any other legal drug or chemical substance tha.t is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary 1s withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended (excluding, however, mandatory income rights under the Marital Trust). Jn that event, the following provisions of this Subparagraph IIJ.C will apply.

1. Testing. The Trustee may request the beneficiary to submit to one or more exam inations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written pennission of the beneficiary. The Trustee may totally orpartially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.
2. Treatment. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. Ifthe beneficiary consents to the treatment, the Trustee· shall pay the costs of treatment d irectly to the provider of those services from the distributions suspended under this Subparagraph JII.C.
3. Resum ption of Distri butions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee· in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.
4. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. Ifthe beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate

SHIRLEY BERNSTEIN

Tuusr AGREEMENT -6-



## TESCHER 8 SPALLINA, P.A.



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takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

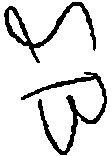
1. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsi ble or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty tp inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising itsjudgment and authority under this Subparagraph III.C, including any failure to request a beneficiary to subm it to medical examination, and including a decision to distribute suspended amounts to a beneficiary.
2. Tax Savings Provision. Despite the provisions of this Subparagraph llI.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.
3. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.
4. Definitions. In this Agreement,
   1. Children, Lineal Descendants. The terms *"child," "children"* and *"lineal descendant"* mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of thejoint biological parents to each other,
      1. children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and

(iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN *("TED")* and PAMELA B. SIMON *("PAM'),* and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S.

FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED

and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

SHIRLEY BERNSTEIN TRUST AGREEMEl'IT



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## TESCHER 0 SPALLINA, P.A.

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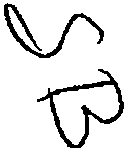
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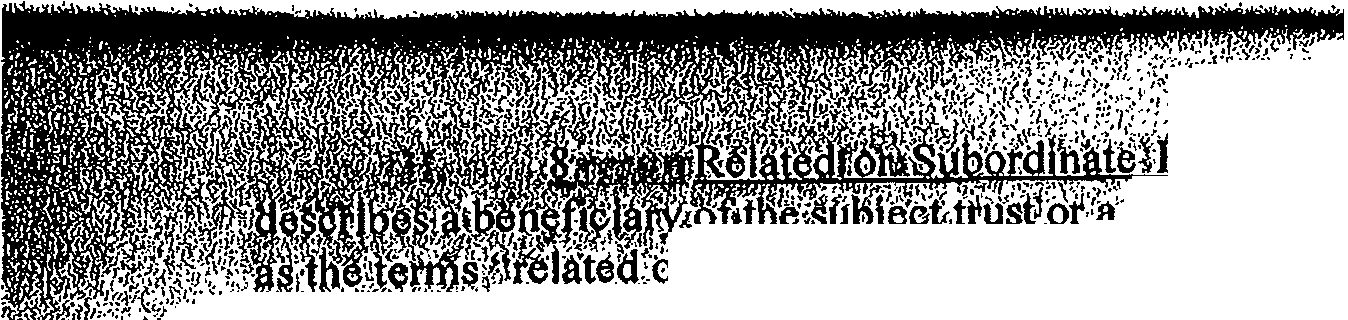
* 1. Code. *'.'Code11* means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.
  2. Disabled. *"Disabled"* or.being under *"Disability"* means, as to any applicable individual: **(1)** being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to- manage his. or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual'& attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.
  3. Education. The term *"education"* herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating d irectly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possi ble education commensurate with their abilities and desires.
  4. My Spouse. *"My spouse''* is SIMON L. BERNSTEIN *("SIMON').*
  5. Needs and Welfare Distributions. Payments to be made for a person's *"Needs"* means payments for such person's support, health (including lifetime residential or nursing home care), maintenance and education. Payments to be made for a person's *"Welfare"* means payments for such person's Needs, and as the Trustee determines in its sole discretion also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee bel ieves to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.
  6. Per Stirpes. ln a division *"per stirpes"* each generation shall be represented and counted whether or not it has a living member.

SHIRLEY BERNSTEIN

TRUST AGREEMENT -8-



### TESCHER & SPALLINA, P.A.



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.: - p; .• :*"spouse"* ·includes.only a spouse then married to and living

as husband and .wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a perm issible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

or after my death), or

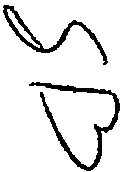
1. the legal termination of the marriage to my descendant (whether before
2. ·the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

10. Gender. Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

1. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in· either case only if such will, trust agreement, or instrument specifically refers to such power.
2. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which wou ld directly or ind irectly discharge any legal obligation of such Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to termi nate a trust described herein. For example, ifa Trustee (other than myself and other than my spouse as Trustee of the Marita l Trust) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

SHIRLEY BERNSTEIN TRUST AORE6MENT

## TESCHER 8 SPALLINA, P.A.



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·· *:'* · · *:,;* /.·:·.ff ..*:;* · :P.resumptign of Survivorship. Ifmy spouse,and I die under circumstan.ces which make

it difficult odmpracticabfe to determine which one of us survived the other, I direct that my spouse shall be deemed to have survived me for purposes of this Agreement (except in regard to any property passing hereunder that became part of this trust solely by reason of passage to my probate estate or this trust from the probate estate of or a revocable trust established by '?"Y spouse in which case the opposite presumption shall apply), notwithstanding any provisions of. law which provide for ·a contrary presumption. Ifany person other than my spouse shall be requi red to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

I. Governini: Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficiary Desi nations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regard less of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

1. Mandatory Notice Req uired by Florida Law. The trustee of a trust may have duties and responsi bilities in add ition to those described in the instrument creating the trust. If you have questions, you should obtain legal advice.
2. Release of Med ical Information.

I . Disability of Beneficiary. Upon the written request ofa Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall. issue to all Trustees (who shall be identified thereon both by name to ,the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law **authoiizing all health caie providcis and alJ medical souices of such requested beneficiary to release** protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or

SHIRLEY BERNST!llN

TRUST AGREEMENT -10-

## TESCHER 8 SPALLINA, P.A.

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Pi:·J>,,...'.-<"':·. *:* :·at ayfone ;eokes \_an authoriZation within its term; the Trustee shall treat such beneficiary as Disabled

·hereunder until such valid authorization is delivered.

1. Disability of Trustee. Upon the req uest to -a Trustee that is an individual by (a) a co-Trustee, or ifnone, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court ofcompetent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, ·that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). Ifsuch requested Trustee refuses within thirty days ofreceipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.
2. Authorization to Issue Certificate. AH required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph 111.E.3 hereof.

ARTICLE IV. FIDUCIARIES

1. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.
   1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the *"estate");* to grant and exercise options to= buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether original ly a part of any trust herein created or subsequently acqu ired, even if the Trustee is personally interested in such property, and without liability for any decline in the value thereof; all without Jim itation by any statutes orjudicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

SHIRLEY BERNSTEIN



TRUST AOREEMEITT -11-

TESCHER 8 SPALLINA, P.A.

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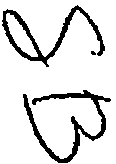
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* · retain;.m e,-old, and'dispo'se of inv.stmens not.regarded s traditional'for trusts, incluqing interests or investments in privately held business and investmet entities and enterprises, incluc!ing withqut limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust intrests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy),(e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g).violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or. under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.1 I and successor provisions thereto that would characterize such investmentsas forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potentia l investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section I 36l (d)(3).

1. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.
2. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs; replacements, alterations and improvements, structural or otherwise.
3. Borrowing. To borrow money from anyone on commercially reasonable tenns, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and

SHIRLEY BERNSTEIN



TRUST AGREEMBNT -12-

TESCHER & SPALLINA, P.A.

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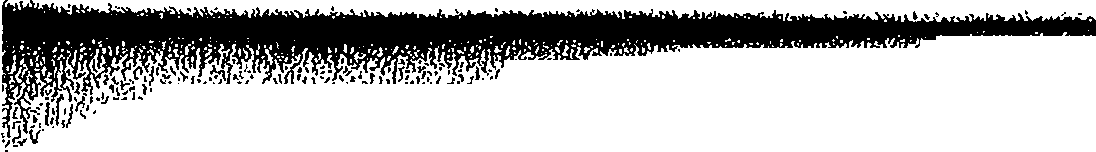
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Qr extend existing borrowing or'l similar or different terms and with the same or different security without incurring an·y personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

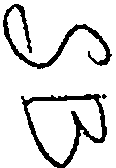
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1. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.



1. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property fo be Jost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone includ ing a charity or by escheat to a state; all without personal liability incurred therefor.
2. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any bu ilding, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.
3. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.
4. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as *"Business Entities 11 ).* I vest the Trustee with the following powers and authority in regard to Business Entities:
   1. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

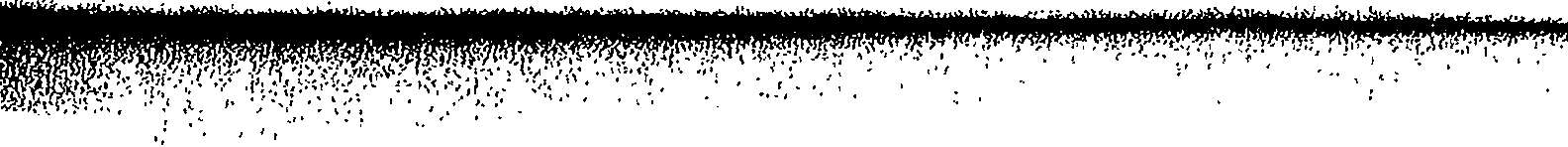
SHIRLEY BERNSTEIN



TRUST AGREEMENT -13-

TESCHER 8 SPALLINA, P.A.

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* + Trustee,· in its sole discretion, shall determine the manner and extent of its active participation in the operati.on and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, includ ing any associate, partner, officer or employee of the Business Entity;

1. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;
2. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Busi ness Entities;
3. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto al Ior any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;
4. To treat Business Entities as separate from a trust. In a Trustee1s accounting to any beneficiary, the Trustee shall only be required to report the earnings and cond ition of the Business Entities in accordance with standard business accounting practice;
5. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;
6. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorised and empowered to make such sale to any person, incl uding any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets ofa trust to secure such a guaranty.

I I . Principal and Income. To allocate items ofincome or expense between income and principal as pennitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

1. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to

SHIRLl!Y BERNSTEIN

TRUST AGREEMEJIIT -14-

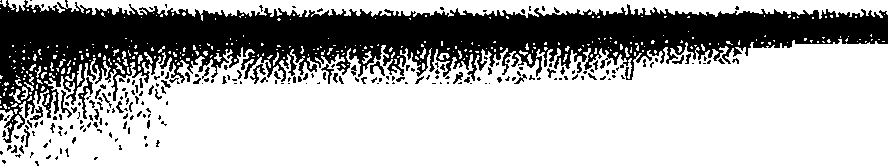


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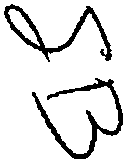
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. . "e){erdse'h'nt settlein'eiJt.options prov.i\;ted in any such policiesj to receive the proceed of any policy upon its. maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.



1. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and unti I final distribution thereof, alJ title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.
2. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.
3. Agreements. To comply with, amend,. modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.
4. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.
5. Com bination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shaJJ not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.
6. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.
7. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to' be signed, sealed, acknowl­ edged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.
8. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under

SHIRLEY BERNSTEIN



TRUST AGREll/'dENT -15-

TESCHER & SPALLINA, P.A.

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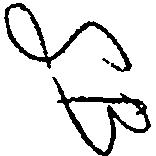
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* any ctjon or inaction' bas.ed upon such assumption.

1. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.
2. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, wjthout in any event being chargeable for any Joss or depreciation to the trust which may result therefrom.
3. Change of Sitys. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.
4. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may. remove such appointed Trustee and appoint another upon ten (I 0) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by *it* as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.
5. Selection of Assets for Marital Trust. The Trustee shall have sole discretion to determine which assets shall be allocated to the Marital Trust; provi'ded, if possible no assets or the proceeds ofany assets which do not qualify for the federal estate tax marital deduction shall be allocated to the Marital Trust. To the extent that other assets qualifying for the marital deduction are available, the Trustee shall not allocate to the Marital Trust any assets with respect to which a credit for foreign taxes paid is allowable under the Code, nor any policy of insurance on the life of my spouse. Any allocation of assets among the Family Trust and the Marital Trust shall, with respect to each such trust, be comprised of assets having an aggregate market value at the time of such allocation fairly representative of the net appreciation or depreciation in the value of the property available for such

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TRUST AGRBBMEITT -16-



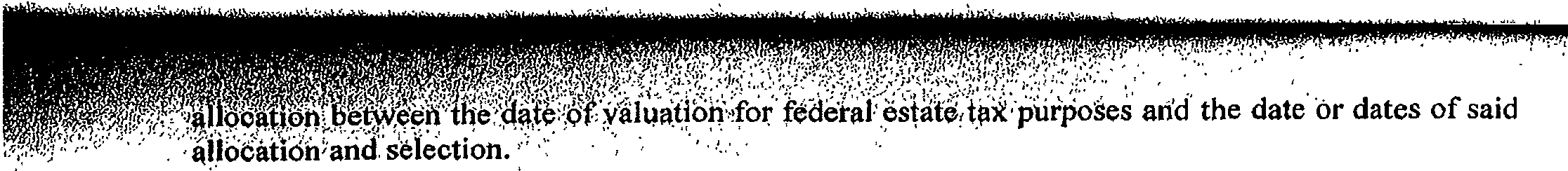
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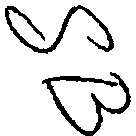


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1. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.
2. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer fonn.
3. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate or my spouse's estate.
4. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such emp1oyment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.
5. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.
6. Resienation. *A* Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.
7. Appointment of Successor Trustee.

l . Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, Imay appoint any person or persons as successor Trustee, and **in defau!t of such appointment by me, Slf\.10J'. and TED, one at a time and successively in that order,** shall serve as successor Trustee. Notwithstanding the foregoing, ifa named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust hereunder as a foreign trust under the Code, but shal 1 not be construed to have any duty to so decline if such Trustee desires to serve.

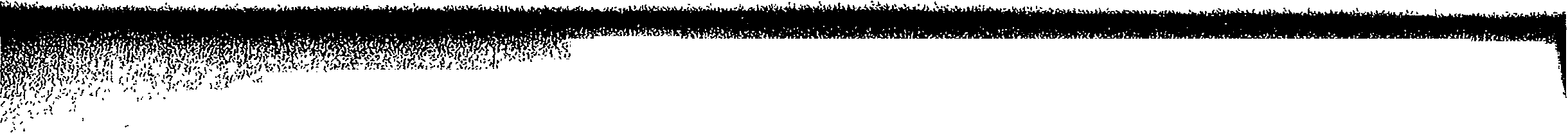
SHIRLEY BERNSTEIN

TRUST AGREEMENT 17- 

TESCHER s SPALLINA, P.A.

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folfowing Trusts under the following described circumstances:

* 1. Trustee of the Marital Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Marital Trust. While serving as Trustee, my spouse may designate a co-Trustee to serve with my spouse and my spouse may remove and/or replace such co-Trustee from time to time.
  2. Trustee of the Family Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Family Trust. While serving as Trustee, my spouse may designate a co-Trustee that is not a Related or Subordinate Party to serve with my spouse and my spouse may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.
  3. Trustee of Separate Trusts for My Children. Each child of mine shall serve as sole Trustee of his or her separate trust. While serving alone as Trustee, a child of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such child and such child may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.
  4. Trustee of Separate Trusts for My Lineal Descendants Other Than My Children. In regard to a separate trust held for a lineal descendant of mine other than a child of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such· lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon reaching age twenty-five (25) years.
  5. Trustee of Separate Trust for MATTHEW LOGAN. In rgard to a separate trust held MAITHEW LOGAN, his mother, DEBORAH BERNSTEIN *("DEBORAH"),* shall serve as Trustee until MATTHEW attains age 25 years, at which time he shall serve as a co-Trustee with DEBORAH of such separate trust.

1. Successor Trustees Not Provided For. Whenever a successor Trustee or co- Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement , the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, **the following persons shall appoint a successor Trustee (\vhc may be one of the persons making the** appointment):
   1. The remaining Trustees, if any; otherwise,

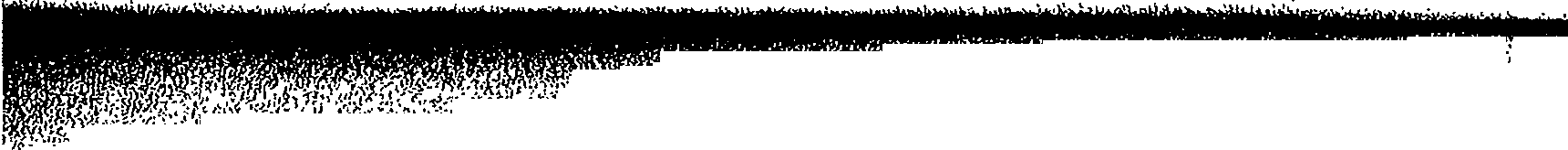
SHJRLl!Y BERNSTEIN

TRUST AGREEMENT -18-



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.. '·· · · ·beneficiaries; icluding the ntural or legal guardians of any beneficiaries who are Disabled.

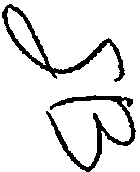
A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me ifl am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

1. Power to Remove Trustee. Subsequent to my death,. the age 25 or older pennissi ble current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, with the successor Trustee to be determined in accordance with the foregoing provisions.
2. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be mae under the last Will of such person.
3. Limitations on Rem2val and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.
4. Successor Fid uciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.
5. Liability and Indemnification of Trustee.

l . Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee; even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Tru.stee that is a corporation orother entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

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TRUST AGREEMEITT -19-

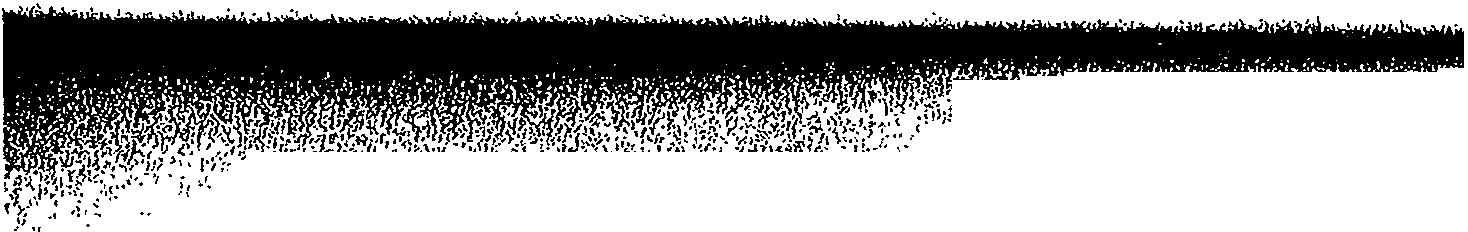


## TESCHER & SPALLINA, P.A.

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,. ,, :.. .. ·, . ..'·• ,>\_ ,. ,•.,.,.= *:0:* .': "'tiSn·:df Trtite·:·Ecept·in fegi'd lo.Jiabilities· imposed on a Trustee "· qHa6r:Sbpa·; #t\ni'.v .o:r*1* each.Trustee shall :be held harmless and indemnified from the assets of the

trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason wiJ Ibe entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, o if the former Trustee is an individual

and not a corporation or other entity, against any beneficiary to the extent of distributions received by

that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict ofinterest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict ofinterest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Com pensation, Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedu le in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-ihdividual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value ofits services rendered, not on the value of the trust princi pal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement The Trustee may at any time apply for ajudicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

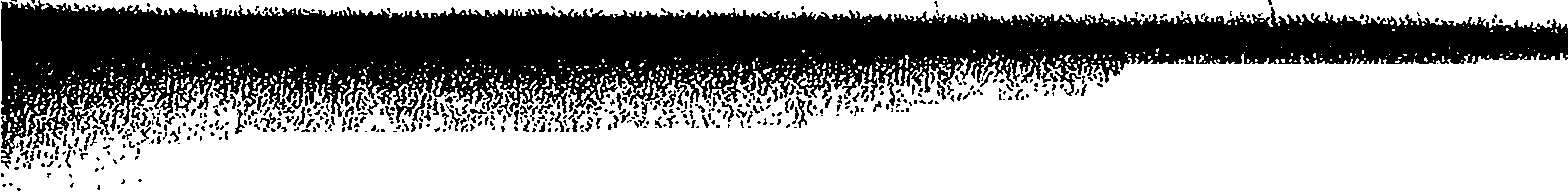
SHIRLEY BERNSTEIN

TRUST AGREEMENT -20-



## TESCHER 8 SPALLINA, P.A.

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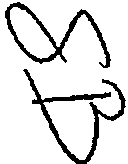
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·. .... hese Trust"in an lridividuai capa'city, as a·fiduciry of anther trust or estate (includ ing my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, pu rchase or exchange assets in a transaction with (i) the Trustee's spouse, (ii) thff Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the. Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capadty in such opportunity or expectancy.

1. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.
2. Mereer of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. .The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. *lf* it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.
3. Multiple Trustees. Iftwo Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. \_Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically req uired by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authprity to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trµstee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

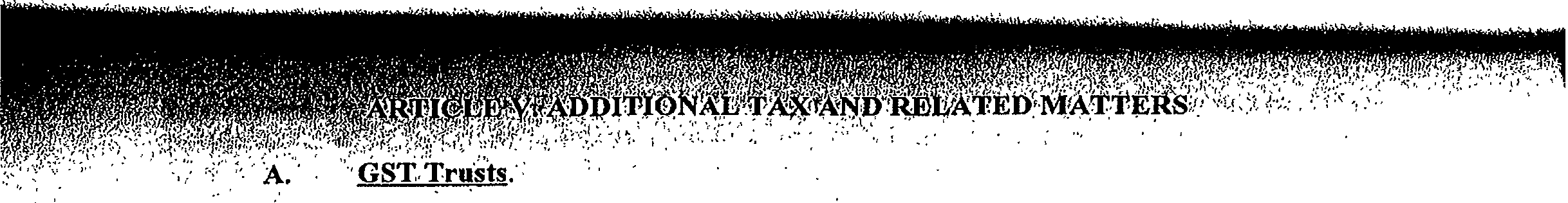
SHIRLEY BERNSTEIN

TRUST AGREEME!off -21-



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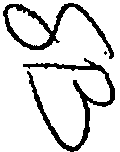
* 1. Family Trust. I direct (a) that the Trustee shall divide any trust other than the Marital Trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions of this Trust Agreement relating to the trust that is being divided) so that the generation­ skipping tax inclusion ratio of one such trust is zero.

2. Marital Trust. I direct that, if possible, (a) the Trustee shall divide the Marital Trust into two separate Marital Trusts (each subject to the provisions hereof concerning the Marital Trust) so that through allocation of my GST exemption remaining unallocated at my death and not otherwise allocated to transfers occurring at or by reason of my death (including allocations to the Family Trust), if any, the generation-skipping tax inclusion ratio ofone such Marital Trust is zero (the GST Marital Trust), (b) my Personal Representative to exercise the election provided by Code Section 2652(a)(3) as to the GST Marital Trust, and (c) that upon the death of my spouse the total amount recoverable by my spouse's estate from the property of the Marital Trusts under Code Section 2207A shall first be recoverable in full from the non-GST Marital Trust to the extent thereof.

3. Misc. I direct that (a) upon the death of the survivor of ipe and my spouse, any property then directed to be paid or distributed which constitutes a direct skip shall be paid first from property then exempt from generation-skipping taxation (by reason of the allocation of any GST exemption) to the extent thereof, (b) property exempt from generation-skipping taxation (by rea\_son of the allocation of any GST exemption) and not directed to be paid or distributed in a manner which constitutes a direct skip shall be divided and distributed as otherwise provided herein and held for the same persons designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death ofa beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which ifincluded in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and lineal descendants, in such estates, interests, and proportions as such beneficiary may, by a will specifically referring to this general power appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping **tax inclusion ratio ofany such trust is zero, the amount of any other such trust to v·lhich there is a!!ccated** any of such beneficiary's GST exemption shall be added to the Trusts with generation-ski pping tax inclusion ratios of zero in equal shares. I request (but do not req uire) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generationskipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available.

SHIRLEY BERNSTEIN

TRUST AGREEMENT -22-

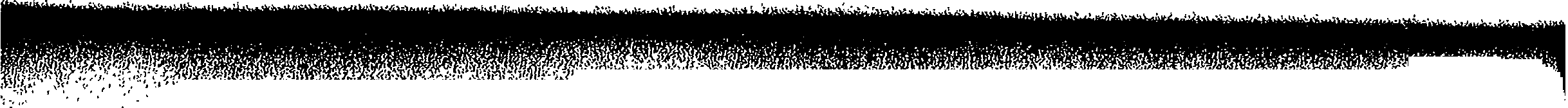


## TESCHER *f!5* SPALLINA, P.A.

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payment or'trtist division to which there is allocated.-aily"GST exemption, such payment or tru'st division

allocation shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution or allocation could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. In regard to the division or severance of a trust hereunder, including the Marital Trust, such division or severance shall be made in a manner that all resulting trusts are recognized for purposes of Chapter 13 of the Code, including without limitation complying with the requirements of Treas.Regs.

§26.2654-l (b). Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this Article which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of"appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

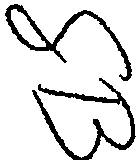
1. Individ ual Retirement Accou nts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

I . I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 40 l (a)(9) and the Treasury Regu lations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

* 1. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.
  2. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to

SHIRLEY BERNSTEIN

TRUST AGREEMENT -23-



## TESCHER s SPALLINA, P.A.



a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prscribed Code Section 40l (a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shal Iattach such receipt to this Agreement. Th Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. Gift Transfers Made From Trust Dorine My Lifetime. I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus; in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

1. Death Costs. If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment offederal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:
   1. my debts which are allowed as claims against my estate,

2. my funeral expenses without regard to legal limitations,

1. the expenses of administering my estate,
2. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and pena lties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which Ihave a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds

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### TESCHER & SPALLINA, P.A.

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1. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohi bits such use: Further, no payment of any such death costs shall be charged against or paid from the property disposed of pursuant to the prior paragraphs captioned "Disposition of Tangible Personal Property", "Specific Cash Devise" nor from the Marital Trust.

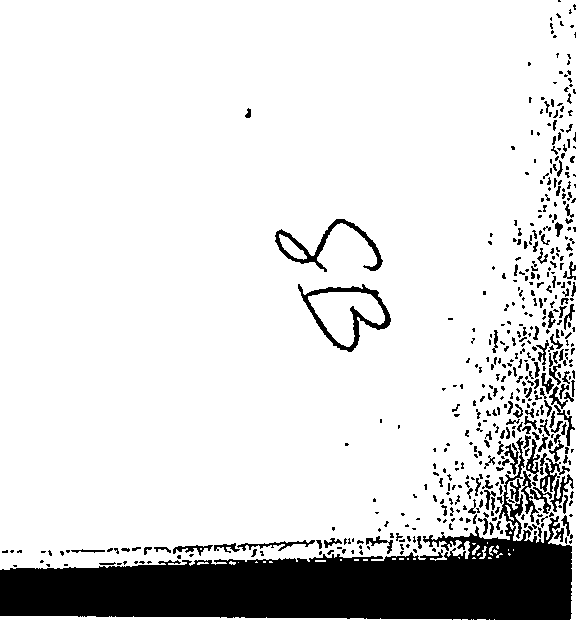
1. Marital Trust. I intend the maximum obtainable reduction of federal estate tax due by reason of my death by use of the federal estate tax marital deduction, and qualification of all property of the Marital Trust for the marital deduction. This Agreement shall be construed and all powers shall be exercised consistent with such intent. For example, the Trustee shall not allocate any receipt to principal or any disbursement to income if such allocation understates the net income of the Marital Trust under Florida law; and upon the written demand of my spouse, the Trustee shall convert unproductive or underprod uctive property of said trust into productive property within a reasonable time notwithstanding any other provision hereunder. The foregoing not withstanding, if my spouse survives me but dies within six months after my death, the Marital Trust provided in Subparagraph ll.B will be reduced to that amount, if any, required to obtain for my estate an estate tax marital deduction resu lting in the lowest combined estate taxes in my estate and my spouse's estate, on the assumption that my spouse died after me on the date of my death, that my spouse's estate is valued on the same date and in the same manner as my estate is valued for federal estate tax purposes, and that elections in my spouse's estate were made that would be consistent with minimizing taxes. The purpose of this provision is to equalize, insofar as possi ble, our estates for federal estate tax purposes, based on the above assumptions.

F. Subchapter S Stock. Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 136J (e)( 1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the tenns of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments,

* + 1. upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appo'intment granted to any person including

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the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a

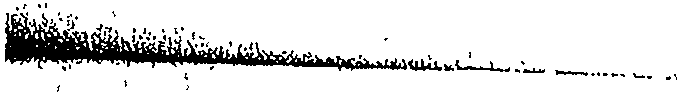
"qualified Subchapter S trust" as that term is defined in Code Section 136J (d)(3), and shall otherwise

SHIRLEY BERNSTEIN

TRUST AGREEMENT

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TESCHER s SPALLINA, p.A.

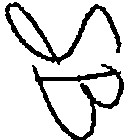


manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

G. Residence as Homestead. Regardless of anything herein to the contrary, while any residential real property located in Florida is owned by a trust, I, or my spouse ifl am not then living and such trust is the Marital Trust, shall have the right to use, possess and occupy such residence as a personal residence so that such right shall constitute a possessory right in such real property within the meaning of Florida Statute Section 196.041.

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SHIRLEY BERNSTEIN



TRUST AGREEMENT -26-

TESCHER s SPALLINA, p.A.





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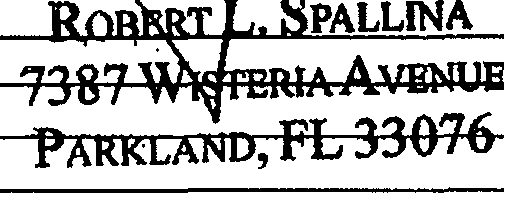
IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement on the date first above written.

SETTLOR and TRUSTEE:

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This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on

this *<.P<> "I* , 2008:



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STATE OF FLORIDA

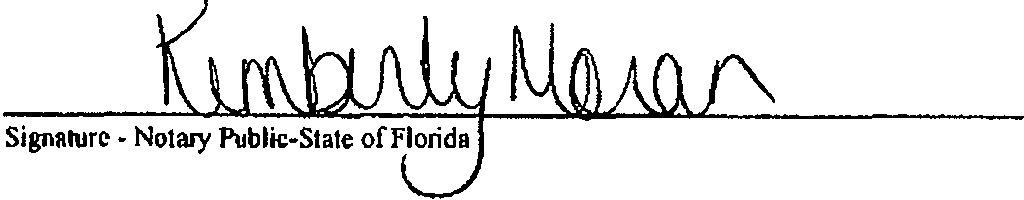
COUNTY OF PALM BEACH

SS.

The foregoing instrument was acknowledged before me this *z.o\_* day of MabJ

by SHIRLEY BERNSTEIN.

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[Seal wit!Ptssion Expiration Date]

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Print, type or stamp name of Notary Public

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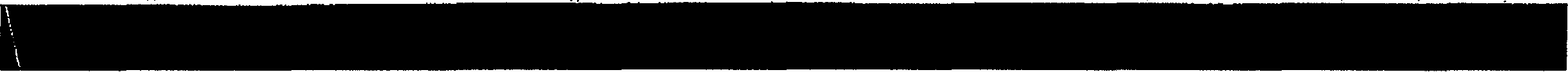
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TRUST AGREEMENT -27-

## TESCHER s SPALLINA, P.A.





ATTACHMENT

The following property has been delivered in trust under this Agreement:

One Dollar ($1 .00) Cash

During my life, the Trustee has no duty to maintain, invest, review, insure, account for, or any other responsibility with respect to trust property other than income producing property, or any duty to pay premiums on life insurance payable to the trust, and shall receive no fee for its services as Trustee based on any trust property other than income producing property.

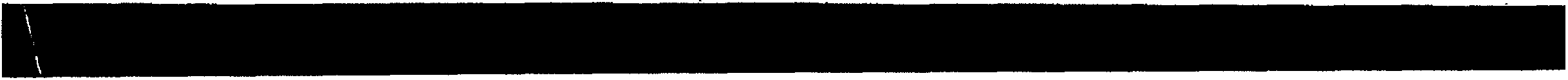


SHIRLEY BER r and Trustee

SHIRLEY BERNSTEIN

TRUST AGREEME!ff -28-

## TESCHER 8 SPALLINA, P.A.



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FIRST AMENDMENT TO

SHIRLEY BERNSTEIN TRUST AGREEMENT

This First Amendment is dated this / f day of */l}e.* v , 2008, and is between SHIRLEY BERNSTEIN of Palm Beach County, Florida referred to in the first person , as settlor, and SHIRLEY BERNSTEIN of Palm Beach County, Florida as trustee (referred to as the *"Trustee,"* which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SHIRLEY BERNSTEIN TRUST AGREEMENT (the *"TrustAgreement, "*which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I.of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke the said Trust Agreement, in whole or in part.

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

* 1. I hereby delete Paragraph B. of Article II. in its entirety.
  2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN *("TED")* and PAMELA B. SIMON *("PAM '),* shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL!ANTONI and LISA S. FRJEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

* 1. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.



*[remainder of page intentionally left blank]*

FIRST AMENDMENT TO

SHIRLEY BERNSTEIN TRUST AGREEMENT

## TESCHER 0 SPALLINA, P.A.

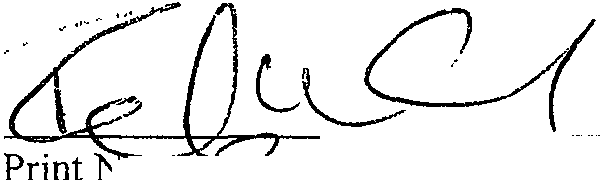
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:

SHEIN

This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of

and in th,..presence of SHl Y BERNSTEIN and each other, we subscribe our names as witnesses on this *Lj'.:::\_* day of */ V'* '-" ,2008:



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STATE OF FLORIDA

COUNTY OF PALM BEACH

SS.

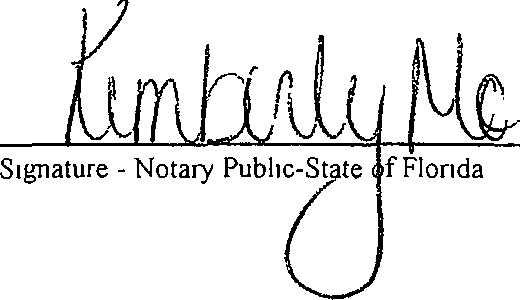
The foregoing instrument was acknowledged before me this *JS* day of 1Uu*V(Jrlber* ' 2008, by SHIRLEY BERNSTEIN.

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[Seal with Commission Expiration Date]

Prmt, type or stamp name of Notary Public

Personally Known

-----or Produced Identification-----

Type of Identification Produced --------------------------

N \WPDATA\drt\Bernstem, Shirley & Simon\2008 Estate Planmng\First Amendment to Shirley Bernstein Trust Agreement wpd [1 1 09 26 J S OS]

FIRST AMENDMENT TO

SHIRLEY BERNSTEIN TRUST AGREEMENT -2-

## TESCHER s SPALLINA, p.A.

**EXHIBIT B**

#### DONALD R. TESCHER, ESQ. LETTER DATED JANUARY 14, 2014

L- A W 0 F F I C E S

## TESCI-IER & SPALLINA, P.A.

*ATTORNEYS*

DONALD R. TESCHER ROBERT L. SPALLINA LAUREN A. GALVAN)

ROCA VIUAGE CORPORATE CENTER I 4855 Tl:lCllNOLOGY WAY, SUITE 720 ROCA RATON, FLORIDA 33431

TEL: 561-997-7008

FAx: 561-997-7308 TOLL FREE: 888-997-700S . [WWW.TESCHERSPALLINA.COM](http://WWW.TESCHERSPALLINA.COM/)

January 14, 2014

*SUPPOlff SW F* DlA.NE DUSTIN KIMBERLY MORAN SuANN TESCHER

VIA U.S. MAIL AND EMAi.i:

Ted S. Bernstein

Eliot Bernstein

"

Lisa S. Friedstei n

880 Berkeley Street

2753 NW 341

Street

2142 Churchill Lane

Roca Rnton, FT, 33487

Boca Raton, FL 33434

Highland Park, IL 60035

Pamela B. Simon

950 No1th Michigan Ave. Suite 2603

Chicago, IL 60606

Jill Jantoni

2101 Magnolia Lane

Highland Park, IL 60035

Re Estates and Trusts of Shirley Bernstein and Simon Bernstein

Dear Ladies and Gentlemen:

Ithas been hrought to my attention that a document was prepared in our office that altered the disposition of the Shirley Bernstein Trust subsequent to Simon Bernstein's death. Information provided to me appears to indicate that there were two versions of the First Amendment to the Shirley Bernstein Trust Agreement, both executed on November 18, 2008. Under one version the children of Pam Simon and Ted Bernslein wou ld not be permissible appointeesorSimon Bernstein's exercise of the power of appointment while under the second version that restriction was removed, As you all know, Simon Bernstein's dispositi ve plan, expressed to alJ of you during his litetime on a conference call, was to distribute the Estate to all ten of his grandchildren. That was the basis upon which the administration was moving forward.

Under the Shirley Bernstein Trust, there is a definition of children and lineal descendants. That definit ion excluded Pam Simon, Ted Bernstein and their respective children from inheriting. The document also contained a special Power of Appointment for Simon when;i n he could appoint the assets of the Trust for Shirley's lineal descendants. Based upon the definition of children and lineal descendants, the Power of Appointment cou ld not be exercised i n favor of Pam Simon, Ted IJemstein or their respective ehildren, although we believe it was Simon Bernstein's wish to provide equally for all of his grandchildren.

On November 18, 2008, it does appear from the information that I have reviewed that Shirley Bernstein executed a First Amendment to her trust agreement. The document as executed appea rs to ma.k.e only one relativfy minor mod ification to her trust disposition by eliminating a specific gitl to Ted

Hemstein FamiJy January 14, 2014

Page 2

Bernstein's stepson. In January of 2013 a First Amendment to the Shirley Bemstein Trust Agreement was provided to Christine Yates, Esq. who, at that time, was representing Eliot Bernstein. The document provided contained a paragraph-immper 2 which modified the definitional language in Shirley's

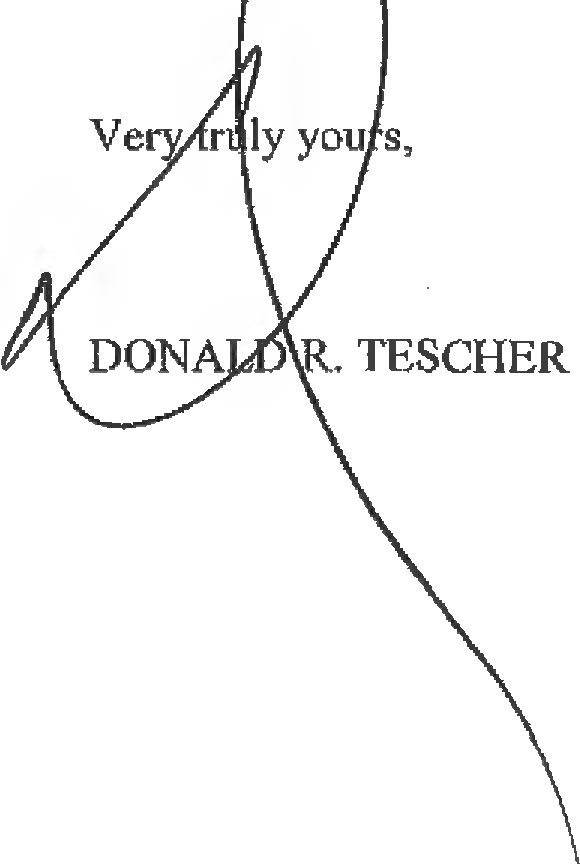
document so *as* to permit, by deleting the words "and their 1·espectivc lineal descendants" from the

definition, an exercise of the power of appointment by Simon Bernstein over the Shirley Bernstein Trust

to pass equally to all ten grandchildren rather than only six of the grandchildren.

By virtue of The Florida Bar Rules of Professional Conduct, I am duty bound to provide this information to you. Obviously, as a result of the issues and ramifications raised by the allegations, my firm must resign from further representation in all matters relating to the Estates and Trusts of Simon Bernstein and Shirley Bernstein. Furthermore, it is my intent, and l assume also the intent of Robert Spallina, to tender our resignations as personal representatives of the Simon Bernstein Estate and as trustees of the Simon Bernstein Trust. Ifthe majority of the Bernstein family is in aga·eement, I would propose to exercise the power to designate a successor trustee by appointing Ted Bernstein in that capacity. With regard to the Simon Bernstein Estate, the appointment of the successor would require a comt proceeding.

1am obviously upset and distraught over this chain of events anci will do all that 1reasonably can to correct and minimize any damages to the Bernstein fi 1! . As I believe you know, to date there has only been amodest funding of some, but not all, of the c tinui g trusts for the grandchildren emanating from Shirley's Trust assets.



DRT/km

cc: Alan Rose, Esq.

L A W O F F I C E S

TESCHER *&:* SPALLINA, P.A.