

MG TRUST COMPANY, LLC
DIRECTED TRUST AGREEMENT

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COMPANY AND PLAN IDENTIFYING INFORMATION

Company (Plan Sponsor): _____
Address: _____
City: _____ **State:** _____ **Zip:** _____
Phone Number: _____ **Tax ID #:** _____
Company payroll cycles are: bi-weekly or monthly (please check one)

Qualified Plan and Trust Name(s): _____

Original Effective Date of Plan and Trust: _____
Trust Tax ID#: _____
Trust fiscal year end date: _____

Plan Administrator (if different from Plan Sponsor): _____
Address: _____
City: _____ **State:** _____ **Zip:** _____
Phone Number: (____) _____

Designated Representative: _____
Address: _____
City: _____ **State:** _____ **Zip:** _____
Phone Number: (____) _____

AGREEMENT

This Directed Trustee Agreement ("*Trust Agreement*") is entered into by and between the Company, the Designated Representative(s), and MG Trust Company, LLC, ("*Trustee*") effective as of _____, 20____.

ARTICLE I

DEFINITIONS

For purposes of the Trust Agreement, the following terms shall have the meanings respectively indicated unless the context clearly requires otherwise:

1.01 Affiliated Company. "Affiliated Company" means any of the following which is itself not an Employer: (i) a member of a controlled group of corporations, determined in accordance with the provisions of Code Section 414(b), of which an Employer is also a member; (ii) an unincorporated trade or business which is under common control with an Employer as determined in accordance with Code Section 414(c) and regulations issued thereunder; or (iii) a member of an "affiliated service group" as determined in accordance with Code Section 414(m) and regulations issued thereunder; or (iv) any other entity which is not an Employer and which is required to be aggregated with an Employer in accordance with Code Section 414(o) and the regulations issued thereunder.

1.02 Alternate Payee. "Alternate Payee" means any spouse, former spouse, child or other dependent of a Participant who is recognized as such under the definition in Code Section 414(p)(8).

1.03 Beneficiary. "Beneficiary" means any Person or entity entitled to receive benefits which are payable upon or after a Participant's death pursuant to the Plan.

1.04 Board. "Board" means the Board of Directors of the Company, as from time to time constituted, or such other persons or group of persons referred to in Section 5.03 hereof in the case of a Company that is not a corporation.

1.05 Code. "Code" means the Internal Revenue Code of 1986, as amended from time to time. References to any section of the Code shall include any successor provision thereto.

1.06 Company. "Company" means the sponsor of the Plan and related Trust designated above.

1.07 Confidential Information. "Confidential Information" shall mean (individually and collectively) proprietary information of the parties to this Trust Agreement, including but not limited to, their inventions, confidential information, know-how, trade secrets, business affairs, prospect lists, product designs, product plans, business strategies, finances, and fee structures.

1.08 Designated Representative. "Designated Representative" means any Person named above or in Instructions provided to the Trustee, and as set forth in Company and Plan identifying information provided to the Trustee, who is authorized by the terms of this Agreement to give directions to the Trustee or to act on behalf of the Plan Administrator hereunder.

1.09 Eligible Employee. "Eligible Employee" means an Eligible Employee as defined in the Plan.

1.10 Employer. "Employer" means the Company or any Affiliated Company that adopts the Plan.

1.11 ERISA. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time. References to any section of ERISA shall include any successor provision thereto.

1.12 Force Majeure. “Force Majeure” means a cause or event outside the reasonable control of the parties or that could not be avoided by the exercise of due care, such as an act of God or any mechanical, electronic or communications failure.

1.13 Instruction(s). “Instruction(s)” means any oral, written, or electronic direction given to the Trustee in a form and manner required or accepted by the Trustee. The Trustee may require that any Instruction be in writing or in an electronic format, and may recognize standing requests, directions, or requisitions as Instructions.

1.14 Investment Manager. “Investment Manager” means a Person defined as such under ERISA Section 3(38) that is identified as such in Instructions to the Trustee, and who is appointed in accordance with Section 4.07 to manage, acquire or dispose of any portion of the Trust Fund pursuant to Section 4.08 hereof.

1.15 IRS. “IRS” means the Internal Revenue Service.

1.16 Named Fiduciary. “Named Fiduciary” means the Company, a named fiduciary of the Plan within the meaning of ERISA Section 402(a), or such other Person as is so designated under the Plan’s terms and identified as such in Instructions to the Trustee.

1.17 Participant. “Participant” means an Eligible Employee who participates in the Plan as provided in the Plan, and shall include any employee, former employee, or Alternate Payee with an account under the Plan that has not yet been fully distributed and/or forfeited, and shall include the Beneficiary(ies) with respect to the account of any deceased employee, former employee, or Alternate Payee until such account has been fully distributed and/or forfeited.

1.18 Person. “Person” means an individual, committee of individuals, partnership, limited liability partnership, joint venture, corporation, limited liability corporation, mutual company, joint-stock company, non-profit or not-for-profit organization, trust, estate, unincorporated organization, association or employee organization.

1.19 Plan. “Plan” means the retirement plan maintained by the Company under Code Section 401(a), as designated above, some or all of the assets of which are held by the Trustee pursuant to the terms of this Trust Agreement.

1.20 Plan Administrator. “Plan Administrator” shall have the meaning provided in the Plan.

1.21 Securities or Other Property. “Securities or Other Property” means mutual funds, qualifying employer securities (as defined in ERISA Section 407) and guaranteed investment contracts.

1.22 Trust. “Trust” means the legal entity resulting from the Trust Agreement between the Employer(s) and the Trustee who receives the contributions, and holds, invests and disburses funds to and for the benefit of Participants and their Beneficiaries, and each separate trust, if any, existing hereunder at the time in question. If the Plan existed prior to the effective date of this Trust Agreement, the Trust shall constitute a continuation by means of an amendment and restatement of each of the prior trusts from which Plan assets are transferred to the Trustee.

1.23 Trust Agreement. “Trust Agreement” means the Directed Trust Agreement between the Company and the Trustee, as reflected herein, provided that if this instrument, pursuant to its terms, be

amended, "Trust Agreement" as at a particular date, shall mean this instrument, as amended and in force on such date.

1.24 Trust Fund. "Trust Fund" means all assets of whatsoever kind or nature from time to time held by the Trustee pursuant to this Trust Agreement, without distinction as to income and principal.

1.25 Trustee. "Trustee" means MG Trust Company, LLC and any duly appointed additional or successor Trustee or Trustees acting hereunder.

ARTICLE II

ESTABLISHMENT AND PURPOSE OF THE TRUST

2.01 Designation. The Company hereby establishes the Trust. The Trust shall consist of an initial contribution of money or other property, acceptable to the Trustee in its sole discretion, made by the Company or transferred from a previous trustee under the Plan, and such additional sums of money or other property acceptable to the Trustee in its sole discretion, as shall from time to time be delivered to the Trustee under the Plan, all investments made therewith and proceeds thereof, and all earnings and profits thereon, less the payments that are made by the Trustee as provided herein.

2.02 Purpose. This Trust is part of the Plan. The purpose of this Trust is to implement the Plan, which provides certain benefits for the Employer's Eligible Employees who become Participants.

2.03 Exclusive Benefit. This Trust shall be maintained for the exclusive benefit of Participants and their Beneficiaries and, to the extent permitted by the Plan, the payment of reasonable Plan administration expenses. Except as provided under applicable law or otherwise provided in Section 2.04 below, no part of the Trust Fund shall be used for, or diverted to any purpose other than that stated in this Section 2.03.

2.04 Return of Amounts to the Company. The Trustee will return contributions to the Company if the Company or the Plan Administrator provides Instructions to the Trustee to do so. The Company is solely responsible for ensuring that an Instruction to return any amount to the Company meets all applicable legal requirements, including those of ERISA, as applicable. The Trustee has no duty or responsibility to question, and may conclusively rely upon any such Instruction.

2.05 Superseding Effect of the Trust Agreement. To the extent there are any inconsistencies between this Trust Agreement and any provisions set forth in the Plan document pertaining to a matter addressed herein, this Trust Agreement shall control, and its provisions shall supersede all other provisions in the Plan pertaining to the duties, responsibilities, obligations and liabilities of the Trustee. Further, this Trust Agreement shall operate as an amendment of the Plan that replaces all references to trustee discretion in the Plan with references to the discretion of the Plan Administrator. Under no circumstances shall the terms of the Plan be interpreted as conferring any investment or administrative discretion on the Trustee.

ARTICLE III

ACCEPTANCE OF, CONTRIBUTIONS TO, DISTRIBUTIONS FROM TRUST

3.01 Acceptance of Trust. The Trustee, by affixing its signature to this Trust Agreement, accepts this Trust and agrees to act as Trustee of the Trust according to the terms and conditions of this Trust Agreement, all of which the parties hereto agree, and to which the Employers and the Participants from time to time hereunder, and all those Persons claiming through or under any of them, shall be deemed to have agreed. Nothing contained in the Plan, either expressly or by implication, shall be deemed to impose any powers, duties

or responsibilities on the Trustee beyond those imposed by this Trust Agreement. The Trustee shall not have the authority to interpret the Plan.

3.02 Receipt of Contributions. Except for contributions of qualifying employer securities and as permitted under Section 4.08, the Trustee shall receive any contributions under the Plan paid to it in cash. All contributions so received, together with the income therefrom, any other increment thereon, and all assets acquired by investment or reinvestment, shall be held, managed, and administered by the Trustee pursuant to the terms of this Trust Agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall not be responsible for the collection of any contributions under or required by the Plan, but shall be responsible only for cash actually received by it hereunder. The Trustee shall have no power or duty to inquire whether the amount of any contributions delivered to it by an Employer is correct or complies with the powers of the Plan. The Trustee shall have no duty to compute any amount required to be transferred or paid to it by the Company.

3.03 No Separate Trusts. There shall be no separate accounting within the Trust for each Employer, and all assets held by it and contributions received by it, and all such contributions and accruals thereto from time to time, shall be held by the Trustee hereunder in the Trust Fund and shall be invested and applied by it as herein provided, and all of the assets in the Trust Fund shall be available to pay benefits that become payable with respect to any Employer hereunder. Notwithstanding the foregoing, amounts held within the Trust with respect to frozen or restricted funds will be accounted for separately.

3.04 Distribution to Participants. Upon receipt of Instructions from the Plan Administrator, the Trustee shall make payments from the Trust Fund to or for the benefit of Participants, in such manner, amounts and at such times and for such purposes, as may be specified in such Instructions. or for the payment of fees and expenses pursuant to Article IX.

3.05 Distributions.

(a) **Distributions Pursuant to Instructions.** The Trustee shall make distributions and disbursements in accordance with Instructions received from the Designated Representative and/or the Plan Administrator, and in such amounts and in the manner that the Designated Representative and/or the Plan Administrator so directs from time to time. The Trustee shall not be liable for any such distribution or payment made by it pursuant to Instructions received from the Designated Representative and/or the Plan Administrator, and shall be under no duty to make inquiry as to whether any distribution directed by the Designated Representative and/or the Plan Administrator is made pursuant to the provisions of the Plan or any applicable law, or as to such Instruction's effect for tax purposes or otherwise. Likewise, the Trustee need not see to the application of any payment made to or for the benefit of a Participant pursuant to the Instructions of the Designated Representative and/or the Plan Administrator.

(b) **Limitations.** The Trustee shall neither be responsible for the adequacy of the Trust Fund to discharge any payments and liabilities under the Plan, nor be required to make any disbursements under the Plan in excess of the net realizable value of the assets of the Trust allocable to such Plan at the time of the disbursement. The Trustee shall not be required to make any disbursement in cash unless the Designated Representative and/or the Plan Administrator has/have provided Instructions as to the assets to be converted to cash for the purpose of making the disbursement.

ARTICLE IV

MANAGEMENT AND CONTROL OF TRUST FUND ASSETS

4.01 Standard of Conduct and Liabilities of Fiduciaries.

(a) The Trustee and each fiduciary hereunder shall discharge its duties hereunder solely in the interest of the Participants and for the exclusive purpose of providing benefits to Participants and for paying reasonable expenses of administering the Plan. The Trustee and each fiduciary hereunder shall perform all of its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by law, and in accordance with the Plan and this Trust Agreement, insofar as they are consistent with ERISA. The Trustee and each fiduciary hereunder shall not cause the Trust to engage in a transaction if it knows or should know that such transaction directly or indirectly constitutes a prohibited transaction under ERISA Section 406 or Section 407 that is not exempt under ERISA Section 408. The fiduciary standards reflected in this Section 4.01(a) shall apply to the parties hereunder according to and limited by the scope of such party's duties, as expressly described in this Trust Agreement.

(b) Except as may be authorized by regulations promulgated by the Secretary of Labor, the Trustee shall not maintain the indicia of ownership in any assets of the Trust Fund outside of the jurisdiction of the District Courts of the United States.

4.02 Trustee's Powers of Investment and Management.

(a) The Trustee shall have no discretion over the investment of Trust assets, no responsibility for the selection of investment options under the Trust, and shall not render investment advice to any Person in connection with the selection of such options. Except to the extent required by ERISA or as otherwise provided in this Trust Agreement, the Trustee shall have no duty or responsibility to review, initiate action, or make recommendations regarding Trust assets and the Trustee shall retain assets until it receives Instructions from the Designated Representative and/or the Plan Administrator regarding disposal of them.

Except as provided below, the Plan Administrator shall have all power over and responsibility for the management, disposition, and investment of the Trust assets, and the Trustee shall comply with the Instructions of the Plan Administrator concerning those assets. The Plan Administrator represents to the Trustee that it shall not issue Instructions that violate the terms of the Plan and Trust or that are prohibited by the fiduciary responsibility rules of ERISA.

(b) The Plan Administrator shall have the exclusive authority and discretion to select the investments pursuant to Section 4.03, and to provide Instructions to the Trustee regarding investment of contributions hereunder unless an Investment Manager is appointed for such purpose. If permitted under the Plan, Participant directions regarding investments shall be furnished to the Plan Administrator under procedures adopted by the Company and/or the Plan Administrator consistent with the Plan document, and the Designated Representative and/or the Plan Administrator shall provide Instructions to the Trustee regarding the investment of such amounts. To the extent provided under ERISA Section 404(c), the Trustee shall not be liable for any loss, or by reason of any breach, which results from such Participant's exercise of control. If a Participant who has the right to direct investments under the terms of the Plan fails to provide such direction to the Plan Administrator, the Plan Administrator shall direct the investment of such Participant's accounts. The Designated Representative and/or the Plan Administrator shall maintain records showing the interest of each Participant and/or Beneficiary in the Trust Fund unless the Trustee enters into a written agreement with the Company to keep separate accounts for each such Participant and/or Beneficiary. The Trustee shall have no duty or responsibility to review, make recommendations, or otherwise render advice regarding investments

made pursuant to Instructions received from the Plan Administrator, and shall be required to act only upon receipt of such Instructions.

(c) If the Plan authorizes loans to Plan Participants, the Trustee's sole duty shall be to follow the Instructions received from the Designated Representative and/or the Plan Administrator with respect to same.

(d) When acting hereunder, subject to the Instructions of the Designated Representative and/or the Plan Administrator, as provided in the remaining Sections of this Trust Agreement, the Trustee shall have the following powers with respect to any and all cash and Securities or Other Property at any time held by it and constituting part of the Trust Fund:

(1) To purchase or subscribe for Securities or Other Property and to retain them in trust; to sell any Securities or Other Property at any time held by it at either public or private sale for cash or other consideration or on credit at such time or times and on such terms and conditions as may be deemed appropriate; to exchange such Securities or Other Property and to grant options for the purchase or exchange thereof, and to convey, partition or otherwise dispose of, with or without covenants, including covenants of warranty of title, any Securities or Other Property free of all trusts; to charge the Trust for the cost of all securities purchased or received against a payment and to credit the Trust with the proceeds received from the securities sold or delivered against payment. For any trades not settled immediately upon placement, the Trustee shall have the right to sell securities from the Trust in a reasonably prudent fashion sufficient to recover any funds advanced;

(2) To oppose, or consent to and participate in, any plan of reorganization, consolidation, merger, combination or other similar plan; to oppose or to consent to any contract, lease, mortgage, purchase, sale or other action by any corporation pursuant to such plan, and to accept and retain any Securities or Other Property issued under any such plan; to deposit any Securities or Other Property with any protective, reorganization or other similar Plan Administrator; to delegate discretionary power thereto and to pay and agree to pay part of its expenses and compensation and any assessments levied with respect to any such Securities or Other Property so deposited;

(3) To assign, renew, extend or discharge or participate in the assignment, renewal, extension or discharge of any debt, mortgage or other lien, upon such terms, including a partial release, as may be deemed advisable by the Trustee, and to agree to a reduction in the rate of interest thereon or to any other modification or change in the terms thereof or of any guarantee pertaining thereto, in any manner and to any extent that may be deemed in the best interest of the Trust Fund; to waive any default, whether in the performance of any covenant or condition of any note, bond or mortgage or in the performance of any guarantee, or to enforce any such default in such manner and to such extent as may be deemed advisable; to exercise and enforce any and all rights of foreclosure and to exercise and enforce, in any action, suit or proceeding at law or in equity, any rights or remedies in respect of any debt, mortgage, lien or guarantee;

(4) To exercise all conversion and subscription rights pertaining to any Securities or Other Property;

(5) Except as limited in Section 3.02 hereof, to collect and receive any and all moneys, Securities or Other Property of whatsoever kind or nature due or owing or belonging to the Trust Fund and to give full discharge and acquittance therefor;

(6) Upon the receipt of Instructions from an Investment Manager or other Plan fiduciary, to exercise, personally or by general or limited power of attorney, any right, including the right to vote or grant proxies, discretionary or otherwise, appurtenant to any assets held by the Trust, and the right to participate in voting trusts with other stockholders. Subject to the provisions of Section 4.02(d)(17), the Plan

Administrator shall have responsibility for instructing the Trustee as to voting such shares and the tendering of such shares, by proxy or in person, except to the extent such responsibility is delegated to another Person, under the terms of the Plan or Trust Agreement or under an agreement between the Named Fiduciary of the Plan and an Investment Manager, in which case such Persons shall have such responsibility. In no event shall the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received;

(7) To register any Securities or Other Property held by it hereunder in the name of the Trustee or in the names of nominees with or without the addition of words indicating that such Securities or Other Property are held in a fiduciary capacity, to take and hold the same unregistered or in form permitting transferability by delivery, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such Securities or Other Property may be held in the name of the nominee of such depository with other securities deposited therein by other Persons, or to deposit or to arrange for the deposit of any Securities or other Property issued by the United States government, or any agency or instrumentality thereof, with a Federal Reserve bank, provided that the books and records of the Trustee shall at all times disclose that all such Securities or Other Property are part of the Trust Fund;

(8) To settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust Fund; to commence or defend suits or legal proceedings whenever, in its judgment, any interest of the Trust Fund so requires, and to represent the Trust Fund in all suits or legal proceedings in any court of law or equity or before any other body or tribunal and to charge against the Trust Fund all reasonable expenses and attorney's fees in connection therewith;

(9) To borrow money for the purposes of the Trust Fund from others, excluding the Trustee in its corporate capacity and excluding any other party in interest; provided, however, the Trustee may borrow from a party in interest if such loan is exempted from the prohibited transaction provisions of ERISA by a currently applicable statutory exemption or class exemption issued by the Department of Labor (an "Exemption"), and the Company (a) directs the Trustee to enter into such loan, (b) certifies to the Trustee that the loan complies with all of the requirements of an Exemption, and (c) agrees to indemnify and hold the Trustee harmless from any and all liability, including but not limited to penalties, fines and excise taxes, related to following such direction. Any such loan shall be upon such terms and conditions as the Trustee (at the direction of the Company) may deem proper, and for the sum so borrowed or advanced, the Trustee may issue its promissory note as Trustee and secure the repayment thereof by creating a lien upon any assets of the Trust Fund. Notwithstanding the foregoing, the Company shall also be responsible for ensuring that the terms of any note and repayment issued to a party in interest comply with the conditions of an Exemption;

(10) To invest all or part of the Trust Fund in interest bearing deposits with a bank or similar financial institution related to the Trustee if such bank or other institution is a fiduciary with respect to the Plan as defined in ERISA, including but not limited to investments in time deposits, savings deposits, certificates of deposit or time accounts which bear a reasonable interest rate;

(11) To invest and reinvest all or a part of the Trust Fund, in accordance with the Designated Representative and/or the Plan Administrator's Instructions, in any available investments and to dispose of all or any part of the Securities or other Property which may from time to time or at any time constitute the Trust Fund, in accordance with Instructions provided the Designated Representative and/or the Plan Administrator, and furnished to the Trustee pursuant to Section 4.03;

(12) The Trustee may invest and reinvest all or a portion of the Trust Fund pursuant to an agreement between the Company and the Trustee establishing a special designated "pooled investment fund" primarily for the purpose of valuing certain trust assets held by the Trustee in a fiduciary capacity. The terms and conditions of such an agreement specifically creating such a pooled investment fund shall be incorporated by reference into this Trust Agreement;

(13) To register Trust Fund property in the Trustee's own name, in the name of a nominee or in bearer form, provided the Trustee's records and accounts show that such property is an asset of the Trust Fund;

(14) To exercise or dispose of any right it may have as the holder of any security, to convert the same into another security, to acquire any additional security or securities, to make any payments, to exchange any security, or to do any other act with reference thereto;

(15) To exchange any property for other property upon such terms and conditions as the Trustee may deem proper, and to give or receive money to effect equality in price;

(16) To deposit any security with any protective or reorganization committee, to delegate to that committee such power and authority as the Trustee may deem proper, and to agree to pay out of the Trust Fund that portion of the expenses and compensation of that committee as the Trustee may deem proper;

(17) Subject to Section 4.09, to invest in qualifying employer securities (as defined in ERISA Section 407). If stock of the Company as defined in the Plan ("Company Stock") is a permissible investment option under the Plan, the Plan Administrator or Named Fiduciary shall be responsible for providing specific Instructions to the Trustee regarding any acquisition limits applicable to Company Stock provided for under the terms of the Plan or applicable law. All voting rights with respect to shares of Company Stock held in the Trust Fund and allocated to Participants' Accounts shall be exercised by the Trustee only in such manner as provided in Instructions received from the Plan Administrator or Named Fiduciary. Notwithstanding any other provision of this Trust Agreement, if the Company files preliminary proxy solicitation materials with the Securities and Exchange Commission, the Company shall cause a copy of all the materials to be simultaneously sent to the Trustee. Otherwise, at the time of mailing of notice of each annual or special stockholders' meeting of the issuer of the Company Stock, the Company shall cause a copy of the notice and all proxy solicitation materials to be sent to the Trustee. The Trustee shall vote proxies for Company Stock held in the Plan only if the Plan Administrator or Named Fiduciary provides Instructions regarding same, and shall vote all such proxies per such Instructions;

(18) To appoint agents as necessary or desirable, including legal counsel who may be counsel for the Company;

(19) To hold that portion of the Trust Fund as the Trustee may deem necessary for ordinary administration, the transfer of assets to another trust or fiduciary, pending investment instructions, and for the disbursement of funds in cash, without liability for interest, by depositing the same in any bank (including deposits that bear no interest or a reasonable rate of interest in a bank or similar financial institution supervised by the United States or a State, even where a bank or financial institution is the Trustee, or otherwise is a fiduciary of the Plan, subject to the rules and regulations governing such deposits, and without regard to the amount of any such deposit; and

(20) To retain insurance contracts that are guaranteed investment contracts.

4.03 Investments.

(a) **Investment Options.** The Plan Administrator and/or the Designated Representative (or, if applicable, the Investment Manager) shall from time to time notify the Trustee in writing or electronically of its selection of the investments available under the Plan. The Plan Administrator (or, if applicable, the Investment Manager) shall have the sole duty to ascertain whether such investments are consistent with the Plan's investment policy, if any, and/or are otherwise a suitable investment of the Plan's assets. Cash or other property received by the Trustee as contributions, or otherwise, as permitted hereunder, shall, per the Plan

Administrator's and/or the Designated Representative's Instructions, be credited to any or all of such investments.

(b) **Investment Direction.** The Plan Administrator and/or the Designated Representative shall have the exclusive right, in accordance with the provisions of the Plan, to direct the investment by the Trustee of all amounts allocated to this Trust Fund among any one or more of the available investments. All investment Instructions provided to the Trustee by the Plan Administrator and/or the Designated Representative shall be timely furnished. In making any investment of the assets of the Trust Fund, the Trustee shall be fully entitled to rely on such directions furnished to it by the Plan Administrator and/or the Designated Representative or Named Fiduciary in accordance with the Plan Administrator's and/or the Designated Representative's approved rules and procedures, and shall be under no duty to make any inquiry or investigation with respect thereto. If the Trustee receives any contribution under the Plan that is not accompanied by Instructions directing its investment, the Trustee shall notify the Plan Administrator of that fact within a reasonable period of time, and the Trustee may, in its discretion, hold unvested or return all or a portion of such contribution without liability for loss of income or appreciation pending receipt of proper investment Instructions. It is specifically intended under the Plan and this Trust Agreement that the Trustee shall have no discretionary authority to determine the investment of the assets of the Trust Fund except as otherwise provided in Section 4.02(d)(19) and this Section 4.03.

4.04 Authority of Trustee. A third party dealing with the Trustee shall not make, or be required by any Person to make, any inquiry concerning the authority of the Trustee to take or omit any action but shall be fully protected in relying upon the certificates of the Trustee that it has authority to take such proposed action. No Person dealing with the Trustee shall be required to follow the application by the Trustee of any moneys, Securities or Other Property paid or delivered to the Trustee.

4.05 Power to Do All Necessary Acts. To the extent not inconsistent with the express provisions hereof, enumeration of any power herein shall not be by way of limitation, but shall be cumulative and construed as full and complete power in favor of the Trustee. In addition to the authority specifically herein granted, the Trustee shall have such power to do all acts as may be deemed necessary for full and complete management of the Trust Fund and appropriate to carry out the purposes of this Trust Fund, and shall further have all powers and authorities conferred on trustees by the laws of the State of Colorado.

4.06 Voting of Proxies. The Trustee shall maintain a complete record of the manner in which it votes shares of stock or other securities held as part of the Trust Fund, which shall be voted only in accordance with Instructions provided to the Trustee by the Plan Administrator or other Plan fiduciary independent of the Trustee, as provided under this Trust Agreement.

4.07 Appointment of Investment Manager and Power to Direct Trustee.

(a) **Appointment.** The fiduciary named in the Plan as having such authority, shall in its sole discretion appoint one or more Investment Managers with respect to some or all of the assets of the Trust Fund as contemplated by ERISA Section 402(c)(3). Any such Investment Manager shall: (i) be registered as an investment adviser under the Investment Advisers Act of 1940 and/or registered under the laws of the applicable state; (ii) be a bank, as defined in the Investment Advisers Act of 1940; or (iii) be an insurance company qualified to manage, acquire or dispose of Plan assets under the laws of more than one state. The authority of the Investment Manager shall not begin until the Trustee receives Instructions from the Company regarding the appointment of such Investment Manager. Such Instructions shall specify the scope of the Investment Manager's authority with respect to the assets of the Trust Fund, and the Investment Manager's authority thereunder shall continue and the Trustee shall be fully protected in relying on the notice of appointment provided hereunder until the Trustee receives an Instruction containing notice that such appointment has been rescinded. .

(b) **Power to Direct Trustee.** The assets with respect to which a particular Investment Manager has been appointed shall be specified by the Company, and the Trustee shall account for such assets separately from all other Trust assets. The Investment Manager shall, in accordance with the standard of conduct contained in Section 4.01 hereof, have the duty and power to direct the Trustee in every aspect of its investments specifically including (1) the power to direct the Trustee to invest and reinvest any Securities or Other Property under its management and control so that such investments are diversified so as to minimize the risk of large losses unless under the circumstances it is prudent not to do so, and (2) the voting of proxies with respect to shares of stock which are subject to such Investment Manager's management, control, and responsibility with respect to investment and reinvestment. The Company shall require the Investment Manager to maintain a record of the reasons for the manner in which it voted such proxies and the date it instructed the Trustee to vote and communicate such information from time to time to the Company, but not less frequently than annually. The Trustee shall follow the Instructions of the Investment Manager regarding the investment and reinvestment of the Trust Fund or such portion thereof as shall be under management by the Investment Manager. The Trustee shall be under no duty or obligation to review any investment to be acquired, held or disposed of pursuant to such Instructions nor to make any recommendations with respect to the disposition or continued retention of any such investment. The Investment Manager shall have the sole duty and responsibility of determining the acceptability of any contributions of property made under this Trust if such contributed property is to be part of its investment responsibility.

(c) **Reliance Upon Directions.** The Trustee may rely upon any order, certificate, notice, direction, or other documentary confirmation purporting to have been issued or given by an Investment Manager, which the Trustee believes to be genuine and to have been issued or given by such Investment Manager. The Trustee shall not be liable for the acts or omissions of an Investment Manager and shall have no liability or responsibility for acting or not acting pursuant to the direction of, or failing to act in the absence of, any direction from the Investment Manager (except with respect to short-term investments under Sections 402(e)(20) and 4.03(a) hereof), unless the Trustee knows that by such action or failure to act, it would be itself committing a breach of fiduciary duty or participating in a breach of fiduciary duty by the Investment Manager, it being the intention of the parties that, except with respect to investments under Sections 402(e)(20) and 4.03(a) hereof, the Trustee shall have the full protection of ERISA Section 405(d).

4.08 Investment in Company Stock or Employer Real Property. No assets of the Trust Fund shall be invested in Company Stock unless the Plan Administrator determines that the securities are exempt from registration under the federal Securities Act of 1933, as amended ("1933'Act"), and are exempt from registration or qualification under the applicable state law, and of any other applicable blue sky law, or in the alternative, that such securities have been so registered and/or qualified. The Plan Administrator shall also specify what restrictive legend on transfer, if any, is required to be set forth on the certificates for such securities and the procedure to be followed by the Trustee to effectuate a resale of such securities. The Plan Administrator shall not direct the investment in "employer securities" or "employer real property," within the meaning of Section 407 of ERISA, if such investment would be prohibited by ERISA. The Plan Administrator shall only direct the investment of Trust funds into Company Stock (i) if those securities are traded on an exchange permitting a readily ascertainable fair market value, or (ii) if the Plan Administrator shall have obtained a current valuation by a qualified independent appraiser.

The Plan Administrator shall have the sole responsibility (and hereby assumes all liability for the failure) to notify Participants of any limitations on investment Instructions necessary or appropriate to comply with federal securities laws (including the Securities Exchange Act of 1934 (the "Exchange Act") and the 1933 Act), including but not limited to, the frequency of investment changes by certain officers and shareholder-employees pursuant to Section 16(a), and to file all notices, amendments and reports required under Section 13 of the Exchange Act and any other filings required by the federal securities laws with respect to ownership of Company Stock by the Plan. Consequently, the Trustee shall have no liability to a Participant, any Beneficiary, the Company or any other Person for carrying out Instructions relating to the acquisition or disposition of Company Stock, regardless of whether those Instructions subject any such Person to any liability.

4.09 Prohibited Transactions.

(a) The Company understands that certain transactions are prohibited for tax-exempt retirement plans under ERISA and under Code Section 4975. The Company will not direct the purchase or sale of any Trust Fund asset to or from a "disqualified person" as defined in Code Section 4975(e), or a "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment or other transaction that would be deemed a non-exempt "prohibited transaction" with respect to the Plan under applicable law.

(b) The Company shall provide an annual certification to the Trustee in a form and manner acceptable to the Trustee that the Company has not engaged in or caused the Plan to engage in transactions that are inconsistent with this Section. The Trustee shall have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."

4.10 Company Representations and Warranties.

(a) **Company Stock Compliance.** The Company represents and warrants to the Trustee that it has taken all necessary steps to comply with the obligations imposed with respect to Company Stock under Section 4.08 hereof.

(b) **Prohibited Transactions.** The Company represents and warrants to the Trustee that the Company and the Plan are in compliance with Section 4.09(a) hereof concerning certain prohibited transactions.

(c) **Proper Appointment of Investment Manager.** The Company hereby represents and warrants to the Trustee that it has taken the necessary and advisable steps to properly appoint, accredit, and supervise any Investment Manager authorized hereunder, including:

(1) execution by the fiduciary named in the Plan as having such authority of instruments appointing the Investment Manager; and

(2) receipt of an instrument executed by the Investment Manager accepting such appointment and acknowledging that it is a fiduciary, within the meaning of ERISA Section 3(21)(A), with respect to the relevant assets of the Trust Fund, and that the Investment Manager meets the requirements of Section 4.07(a)(i) – (iii) above.

(d) **Survival.** The provisions of this Section 4.10 shall survive the termination of this Trust Agreement.

ARTICLE V

THE PLAN ADMINISTRATOR, THE DESIGNATED REPRESENTATIVE AND THE EMPLOYERS

5.01 Action by the Plan Administrator. The Trustee shall be fully protected in relying upon Instructions provided by the Plan Administrator.

5.02 Action by an Employer. Any action by an Employer, including action taken pursuant to the Plan, shall be evidenced by a copy of a written instrument executed in accordance with Section 5.03 hereof. The Trustee shall be fully protected in acting in accordance with such written instrument delivered to it.

5.03 Formal Action by Employer. Any formal action herein permitted or required to be taken by an Employer shall be:

(a) if and when a partnership, by written instrument executed by one or more of its general partners or by written instrument executed by a person or group of persons who has been authorized by written instrument executed by one or more general partners as having authority to take such action;

(b) if and when a proprietorship, by written instrument executed by the proprietor or by written instrument executed by a person or group of persons who has been authorized by written instrument executed by the proprietor as having authority to take such action;

(c) if and when a corporation, by resolution of its board of directors or other governing board, or by written instrument executed by a person or group of persons who has been authorized by resolution of its board of directors or other governing board as having authority to take such action; or

(d) if and when a joint venture, by written instrument executed by one of the joint venturers or by written instrument executed by a person or group of persons who has been authorized by written instrument executed by one of the joint venturers as having authority to take such action.

5.04 Appointment of Designated Representative; Action by the Designated Representative. The Company hereby designates and authorizes its Designated Representative to provide Instructions to the Trustee on behalf of the Company, including to place orders for the purchase and sale of securities, and authorizes the Trustee to disburse funds on behalf of the Company upon Instruction from such Designated Representative and perform as otherwise described in this Trust Agreement. The Company hereby also authorizes and directs the Trustee to pay for securities and receive payment from the sale of securities or other investment transactions arising out of Instructions of the Designated Representative. Designation of a Designated Representative is subject to the following provisions:

(a) The Company agrees that the Trustee may rely on Instructions from the Designated Representative, and the Company agrees that the Trustee shall be under no duty to make an investigation with respect to any Instructions received from the Designated Representative;

(b) Except to the extent delegated to an Investment Manager or another trustee, the Company is solely responsible for managing the investment of the Trust Fund and for the direction and supervision of the Designated Representative. All Instructions, directions, and/or confirmations received by the Trustee from a Designated Representative shall be deemed to have been authorized by the Company;

(c) The Company agrees that a Designated Representative is not an agent of the Trustee;

(d) The Company may remove a Designated Representative and designate a new representative at any time by written notice to the Trustee in a form satisfactory to the Trustee. The Company will give the Trustee prompt written notice of any change in the identity or authority of any Designated Representative. Removal of a Designated Representative will not have the effect of canceling any Instruction that has been received by the Trustee from the Designated Representative prior to the date that notice of removal is received by the Trustee. Until written notice of such change is received, the Trustee may conclusively rely upon and be protected in acting on the latest identification provided to it without further inquiry or verification.

ARTICLE VI

THE TRUSTEE

6.01 Reliance on Written Instrument. The Trustee shall be fully protected in relying on the identity of the Plan Administrator identified above, and the identities of successors to such Person or others authorized to provide Instructions to the Trustee to the extent that the Trustee is provided Instructions regarding appointment of same. The Trustee shall be fully protected in acting upon any instrument, certificate, or paper

believed by it to be genuine and to be signed or presented by the proper Person or Persons. The Trustee shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

6.02 Action by the Trustee. The Trustee may delegate ministerial acts, specifically including, but not limited to, the signing of checks, endorsement of stock certificates, production of statements and accountings provided for hereunder, execution of transfer instruments and any other document, and the signing of tax returns and governmental reports to be done by any agent of the Trustee.

6.03 Consultation with Counsel and Accountant. The Trustee may from time to time consult with counsel or accountant who may also be counsel or accountant for an Employer, and as long as the Trustee acts in conformity with the standards of Section 4.01 hereof, the opinion of such counsel or accountant with respect to legal matters or accounting matters, respectively, shall have full and complete authorization and protection in respect of any action taken or suffered by the Trustee in good faith and in accordance with such opinion.

6.04 Bond Not Required. Except as required under ERISA Section 412, the Trustee shall not be required to furnish any bond or security for the performance of its powers and duties hereunder. The cost of any bond required by applicable law shall be paid as an expense of the Trust Fund, unless paid by the Company.

6.05 Returns, Reports and Information. Except as set forth in a written agreement between the parties, the Plan Administrator shall be responsible for the preparation and filing of all returns, reports, and information required of the Trust or Plan by law. The Plan Administrator shall also be responsible for making any disclosures to Participants required by law, including without limitation such disclosures as may be required under federal or state truth-in-lending laws with regard to Participant loans.

6.06 Indemnification. The Company hereby agrees to indemnify, defend and hold the Trustee and its affiliates, and their respective directors, manager, officers, employees, agents and other representatives (the "Indemnified Parties") harmless from any and all losses, costs, excise taxes, expenses, fees, liabilities, damages, claims of any nature whatsoever, including but not limited to legal expenses, court costs, legal fees, costs of or associated with enforcement actions, investigations, suits, and regulatory or other actions and appeals thereof resulting from their reliance upon any certificate, notice, confirmation, or Instruction, purporting to have been delivered by the Plan Administrator, a Named Fiduciary, an Investment Manager, or a Designated Representative hereunder ("Plan Representative(s)"). The Company waives any and all claims of any nature it now has or may have against the Indemnified Parties, which arise, directly or indirectly, from any action that the Trustee takes in good faith in accordance with any certificate, notice, confirmation, or Instruction from a Plan Representative. The Company and the Plan Administrator also hereby agree to indemnify, defend and hold the Indemnified Parties harmless from and against any and all losses, costs, excise taxes, expenses, fees, liabilities, damages, claims of any nature whatsoever, including but not limited to legal expenses, court costs, legal fees, costs of or associated with enforcement actions, investigations, suits, and regulatory or other actions and appeals thereof, arising, directly or indirectly, out of any loss or diminution of the Trust Fund resulting from changes in the market value of the Trust Fund assets; reliance, or action taken in reliance, on Instructions from Company or one or more Plan Representatives; any exercise or failure to exercise investment direction authority by the Company or by a Plan Representative; the Trustee's refusal on advice of counsel to act in accordance with any investment direction provided by Company or a Plan Representative; any other act or failure to act by Company or a Plan Representative; any prohibited transaction or disqualification of a Plan due to any actions taken or not taken by the Trustee in reliance on Instructions from the Company or a Plan Representative; or any other act the Trustee takes in good faith hereunder that arises under this Trust Agreement or the administration of the Trust Fund.

The Trustee shall not be liable to Company for any act, omission, or determination made in connection with this Trust Agreement except for its gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Trustee shall not be liable for any losses arising from its compliance with Instructions from

the Company or a Plan Representative; or executing, failing to execute, failing to timely execute or for any mistake in the execution of any Instructions, unless such action or inaction is by reason of the gross negligence or willful misconduct of the Trustee.

The provisions of this Section 6.06 shall survive the termination, amendment or expiration of this Trust Agreement.

6.07 Acts of Prior Trustees. The assets of the Trust Fund or evidence of ownership shall be held by the Trustee under the terms of the Plan and this Trust Agreement. If the assets represent amounts transferred from another trustee, the Trustee named hereunder shall not be responsible for any actions or inactions of prior fiduciaries, including the review of the propriety of any investment under the former trust; said review to be the responsibility of prior fiduciaries. The Trustee named hereunder shall not be required to examine or question in any way the administration of the Trust prior to its appointment.

6.08 Plan Assets Not Held in Trustee's Trust. If, as provided in the Plan, other trustees of separate trusts under the Plan may be appointed, the Trustee under this Trust Agreement shall have no duties or responsibilities for Plan assets not held in the Trust by the Trustee, except as required by applicable law.

ARTICLE VII

DISPUTE RESOLUTION

The parties acknowledge that this Trust Agreement evidences a transaction involving interstate commerce. Except as provided in Section 10.02, the parties agree that any misunderstandings, controversies or disputes arising from this Trust Agreement shall be decided by binding arbitration which shall be conducted, upon request by either party, in Denver, Colorado, before three (3) arbitrators designated by the American Arbitration Association (the "AAA"), in accordance with the terms of the Commercial Arbitration Rules of the AAA and, to the maximum extent applicable, the United States Arbitration Act (Title 9 of the United States Code). The decision of the majority of the arbitrators shall be binding and conclusive upon the parties. Notwithstanding anything herein to the contrary, either party may proceed to a court of competent jurisdiction to obtain equitable relief at any time, other than to stay arbitration. Further, any such court proceeding shall only be brought in the federal district court in Denver, Colorado. The arbitration panel shall have no authority to award special, indirect, consequential, punitive or other damages not measured by the prevailing party's actual damages. To the maximum extent practicable, an arbitration proceeding under this Trust Agreement shall be concluded within one hundred eighty (180) days of the filing of the dispute with the AAA. The provisions of this arbitration clause shall survive any termination, amendment or expiration of the Trust Agreement and if any term, covenant, condition or provision of this arbitration clause is found to be unlawful or invalid or unenforceable, the remaining parts of the arbitration clause shall not be affected thereby and shall remain fully enforceable. Judgment on any award rendered by the arbitration panel may be entered in any court having competent jurisdiction. The parties shall each pay one-half of the forum and arbitrators' fees. The prevailing party in the arbitration, or in any court proceeding, shall be entitled to its reasonable attorney's fees and expenses from the non-prevailing party.

ARTICLE VIII

ACCOUNTS AND RECORDS

The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Plan Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties. Within sixty (60) days after the close of the calendar year of the Trust Fund, within sixty (60) days after the removal or resignation of the Trustee, and from time to time as mutually agreed to by the Plan Administrator and the Trustee, the Trustee

shall file an account with the Plan Administrator which shall show: (i) the assets of the Trust Fund, as of the end of such period, and current value thereof as defined in ERISA Section 3(26); and (ii) all investments, receipts, disbursements, and other transactions effected by it during such calendar year or other period for which such accounting is filed. The Plan Administrator may approve such accounting by notice of approval delivered to the Trustee or by failure to express objection to such accounting delivered to the Trustee within sixty (60) days from the date upon which the accounting is delivered to the Plan Administrator. Upon the expiration of sixty (60) days from the date of filing such account with the Plan Administrator or upon earlier specific approval thereof by the Plan Administrator, the Trustee, as between each Employer, the Plan Administrator and the Trustee, shall be forever released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Plan Administrator shall within such sixty (60) day period, file written objections with the Trustee. The liability of the Trustee to persons other than an Employer or the Plan Administrator shall be limited to actions under ERISA brought within the period permitted by law for the bringing of such action. Nothing herein contained, however, shall be deemed to diminish the right of the Trustee to have its accounts judicially settled by a court of competent jurisdiction.

In any case, the Trust Fund shall be valued by the Trustee at the frequency agreed to by the Trustee and the Company, but in any event not less than annually at the fair market value as of the close of business at the end of the last business day of the fiscal year of the Plan. Except as specified below, in the absence of fraud, the Trustee's valuation of the Trust Fund shall be conclusive.

Notwithstanding any other provision of this Article VIII, if the Trustee shall determine that the Trust Fund consists in whole or in part of Company Stock that is not traded freely on a recognized market, or that information necessary to ascertain the fair market value is not readily available, the Trustee may request instructions from the Plan Administrator concerning the value of such property for all purposes under the Plan and this Trust Agreement, and the Plan Administrator shall comply with that request. The Trustee shall be entitled to rely upon the value placed upon such Company Stock by the Plan Administrator. At the Trustee's option, it may request that the Plan Administrator hire an independent appraiser that meets the requirements of Code Section 401(a)(28)(C) to value the Company Stock. Alternatively, if the Trustee chooses, or if the Plan Administrator shall fail or refuse to instruct the Trustee on the value of such Company Stock within a reasonable time after receipt of the Trustee's request, the Trustee at its sole discretion may engage an independent appraiser to determine the fair market value of such Company Stock and, in that event, shall be entitled to rely upon the value placed upon such Company Stock by the independent appraiser. Any expenses with respect to such appraisal shall be paid by the Trustee out of the Trust Fund or, at the option of the Company, by the Company.

ARTICLE IX

FEES AND EXPENSES

9.01 Expenses of Administration. The Trustee shall be paid such reasonable compensation as shall from time to time be agreed upon by the Company and the Trustee. Such compensation shall include any earnings on funds retained pursuant to Section 4.02(d)(19) hereof.

Subject to the Plan Administrator's approval, the Trustee may pay outside counsel, independent accountants, actuaries, and other outside persons engaged by it, such compensation and expenses as are reasonable and proper as expenses of administration of the Trust Fund. All such compensation and all expenses of administration of the Trust, and the Plan of which it is a part, including fees of outside counsel, independent accountants, and actuaries, shall be a charge against and may be withdrawn by the Trustee out of the Trust Fund. However, nothing herein shall prohibit the Company from paying such amounts if the Trust Fund is sufficient and the Company so elects.

The Trustee may charge the Trust for the cost of all securities purchased or received against a payment and credit the Trust with the proceeds received from the securities sold or delivered against the payment. For any trades not settled immediately upon placement, the Trustee shall have the right to sell securities from the Trust in a reasonably prudent fashion sufficient to recover any funds advanced.

Expenses incurred by the Trustee that it believes to be subject to indemnification under Section 6.06 of this Trust Agreement shall be paid by the Company upon the Trustee's request, provided that the Company may delay payment of any amount in dispute until such dispute is resolved according to the provisions of Article VII hereof. Such resolution may include the award of interest on unpaid amounts determined to be payable to the Trustee under this Section. The Trustee shall not be held liable for its use of Plan assets to the extent that the use of such assets is permitted by ERISA.

In the event a successor Trustee is named pursuant to Section 10.02, prior to transferring assets to such successor, the Trustee is authorized to reserve such sum of money as it may deem advisable for payment of its fees and expenses in connection with the settlement of its accounts or other proper Trust expenses, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid to the successor Trustee. If the Trust applies to a court for appointment of a successor Trustee, as permitted under Section 10.02, the Trustee shall be entitled to reasonable compensation and reimbursement for costs associated with bringing such action.

9.02 Authorization with Respect to Taxes. The Trustee shall notify the Plan Administrator and/or the Designated Representative of any tax levied upon or assessed against the Trust Fund of which the Trustee has knowledge. If the Trustee receives no instructions from the Plan Administrator and/or the Designated Representative, the Trustee may pay the tax from the Trust Fund. If the Plan Administrator and/or the Designated Representative wish(es) to contest the tax assessment, it shall give appropriate and timely instructions to the Trustee. The Trustee shall not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless the Trustee has been indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorney's fees. The Trustee shall have no liability for making any distribution or transfer pursuant to the Instruction of the Plan Administrator and/or the Designated Representative (including amounts withheld pursuant to the previous sentence) and shall be under no duty to make inquiry whether any distribution or transfer directed by the Plan Administrator and/or the Designated Representative is made pursuant to the provisions of the Plan. The Plan Administrator and/or the Designated Representative shall furnish to the Trustee all information necessary to carry out such withholding in a timely fashion or, if such information is not so provided to the Trustee, the Plan Administrator and/or the Designated Representative and the Company shall hold the Trustee harmless from and indemnify it for any liability and related expenses that arise in connection with improper withholding.

ARTICLE X

RESIGNATION OR REMOVAL OF TRUSTEE; SUCCESSOR TRUSTEE

10.01 Resignation; Removal of the Trustee. The Trustee may resign at any time by giving at least thirty (30) days' prior notice of such resignation to the Company, the Plan Administrator and all other fiduciaries of the Plan that have been identified in Instructions provided to the Trustee. The Company may remove the Trustee, with or without cause, upon giving at least thirty (30) days' prior notice to the Trustee, the Plan Administrator and all other fiduciaries of the Plan that have been identified in Instructions provided to the Trustee.

10.02 Appointment of Successor Trustee. The Company shall appoint a successor Trustee or additional Trustees to fill the vacancy occurring as the result of the resignation or removal of the Trustee. The Company shall designate the successor Trustee by an instrument, delivered to the Trustee so removed and to the successor Trustee, the Plan Administrator and all other fiduciaries of the Plan that have been identified in

Instructions provided to the Trustee. The successor Trustee shall have all of the rights, powers, privileges, liabilities, and duties of a Trustee as set forth in this Trust Agreement. If either party has given notice of termination as provided under this Trust Agreement, and upon the expiration of the advance notice period no other successor Trustee has been appointed and has accepted such appointment, this provision shall serve as (i) notice of appointment as Trustee of a Company officer who is authorized under state law to serve as a trustee, and (ii) as acceptance by that individual of that appointment.

If no appointment of a successor is made by the Company within thirty (30) days after the resignation or removal of the Trustee, after notice to the other party, the Trustee or the Company may apply to any court of competent jurisdiction for appointment of a successor. The Trustee shall be furnished with notice from the Company or the court, as the case may be, of the appointment of the successor, and shall also be furnished with evidence of the successor's acceptance of trusteeship.

10.03 Transfer of Assets to Successor Trustee. Upon acceptance of such appointment by a successor Trustee, the Trustee shall assign, transfer, pay over and deliver the assets then constituting the Trust Fund to the successor Trustee. The Trustee is authorized, however, to reserve such reasonable sum of money, - as to it may seem advisable, to provide for any sums chargeable against the Trust Fund for which it may be liable, or for its fees and expenses in connection with the settlement of its account or otherwise, and any balance of such reserve remaining after payment of such fees and expenses shall be paid over to the successor Trustee. If the reserve is not sufficient for all amounts otherwise payable hereunder, the resigning or removed Trustee shall be entitled to reimbursement for any deficiency from the successor Trustee and the Company, which shall be jointly and severally liable therefor. Each, successor Trustee shall succeed to the title of all Securities or Other Property then held in the Trust Fund and vested in its predecessor without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to vest such title of record in any successor Trustee. The terminating Trustee shall transfer all property of the Trust Fund then held by it to such successor Trustee. The terminating Trustee may require as a condition of making such transfer that the successor Trustee present evidence that any bonding requirement under ERISA Section 412 has been met and/or may require that the Company provide the Trustee with an indemnification against any losses arising from the replacement of the Trustee.

10.04 Terminating Trustee's Accounting. Within thirty (30) days after the transfer to the successor Trustee, the terminating Trustee shall provide the Company with an account in the form and manner prescribed for the annual account by Article VIII hereof. Unless the Company files written objections with the Trustee within sixty (60) days after such account has been mailed or otherwise delivered, the account shall be deemed to have been approved by the Company.

10.05 Changes in Organization of Trustee. Any corporation, banking association or trust company into which a corporate Trustee may be merged, converted or with which it may be consolidated, or any corporation, banking association, or trust company, resulting from any merger, reorganization or consolidation to which a corporate Trustee may be a party, or any corporation, banking association or trust company to which all or substantially all of the trust business of a corporate Trustee may be transferred shall be the successor of the corporate Trustee hereunder without the execution or filing of any instrument or the performance of any other act and with the same powers and duties as conferred upon the Trustee hereunder. In any such event, it shall not be necessary for the Trustee or any successor Trustee to give notice thereof to any person, and any requirements, statutory or otherwise, that notice shall be given is hereby waived.

10.06 Company Bankruptcy.

(a) If the Company becomes insolvent, files for or becomes subject to bankruptcy or a similar proceeding in state or federal court, the Company will notify the Trustee in writing as soon as possible. The notification will include confirmation of the individual(s) who will direct the Trustee. If, within sixty (60)

days of such filing the Company does not notify the Trustee, the Trustee may invoke the provisions of Section 10.06(c).

(b) Notwithstanding any provision hereof to the contrary, in the case of bankruptcy, insolvency, or dissolution of the Company, the Trustee will have the right to petition a court of competent jurisdiction to appoint a new Trustee, the costs of such action being payable from the Trust Fund.

(c) In the case of dissolution of the Company, or at any other time that the Company does not respond to requests from the Trustee for confirmation of the individuals who will provide direction to the Trustee, the Trustee may, in its sole discretion, assume the Plan has been terminated and distribute assets according to applicable law. Before the Trustee may make such assumption, however, the Trustee will send to the last known address of the Company, and the individuals who last had authority for providing direction to the Trustee, via certified mail, a written notice of the Trustee's intent to begin such action. The Trustee will then wait at least thirty (30) days before beginning such action.

(d) If the Trustee receives notice of the Company's bankruptcy, insolvency or dissolution (either by the Company or a court of competent jurisdiction), or if the Plan has been deemed abandoned as described in Section 9.05(c) above, any fees and other expenses relating to the provision of services under this Trust Agreement (whether current or overdue) may be immediately deducted from the Trust Fund.

ARTICLE XI

AMENDMENT OF TRUST

This Trust Agreement may be amended by an instrument executed by the Company and the Trustee, and the provisions of any such amendment may be made applicable to the Trust Fund as constituted at the time of the amendment as well as to any part of the Trust Fund subsequently acquired. Any amendment shall, unless otherwise provided therein, become effective upon execution by the Company and the Trustee. However, no amendment shall alter the duties, liabilities, or compensation of the Trustee without its consent. Nor shall any amendment cause any part of the Trust Fund to revert to or be recoverable by the Company or to be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries, except to the extent permitted by law and the Plan, or to reduce the then-accrued benefits or the amounts then held for the benefit of any Participant or Beneficiary of the Plan. An amendment to this Trust Agreement that is mutually agreed to hereunder by the Company and the Trustee shall be binding upon all Employers as of the effective date of such amendment.

ARTICLE XII

ADDITIONAL EMPLOYERS

12.01 Adoption of Trust. Any Affiliated Company may, with the approval of the Plan Administrator, adopt this Trust by written instrument executed in accordance with Section 5.03 hereof, duly acknowledged and delivered to the Plan Administrator, provided such Affiliated Company adopts the Plan. Upon such approval by the Plan Administrator and the Trustee, the Trustee shall execute the necessary documents to make such Affiliated Company a party to the Trust Agreement as an Employer, and such Affiliated Company shall notify the other fiduciaries that have been identified in Instructions provided to the Trustee.

12.02 Withdrawal from Trust. Any Employer may withdraw from the Trust upon giving the Company and the Trustee at least thirty (30) days' notice in writing or electronically of intention to withdraw. Such withdrawal shall terminate obligations of the withdrawn Employer under the Plan, but Accounts of such

Employers' Participants shall remain in Trust until otherwise payable to such Participants per the Instructions of the Plan Administrator and/or a successor Trustee.

ARTICLE XIII

TERMINATION OF TRUST

13.01 Termination of Trust Fund. This Trust Agreement and the Trust created hereby may be terminated at any time by the Company upon thirty (30) days notice.

13.02 Continuation by an Employer's Successor. Any corporation or other business entity succeeding to the interest of an Employer by sale, transfer, consolidation, merger, or bankruptcy, may elect to continue this Trust or any separate trust then existing hereunder, subject to the approval of the Company, by adopting this Trust Agreement and assuming the duties and responsibilities of the Plan and Trust, or such corporation or other business entity may establish a separate plan and trust for the continuation of benefits for its employees, in which event, subject to the approval of the Company, the Trust assets held on behalf of the employees of the prior employer shall be transferred to the trustee of the new trust.

13.03 Liquidation of Trust. Upon any termination of this Trust or any separate trust then existing hereunder, the Trustee shall, as directed by the Company, liquidate the assets of the Trust Fund or hold certain assets in kind. After deducting estimated expenses for such liquidation and the distribution thereof, the Trustee shall, if directed by the Company, disburse the proceeds thereof or the assets held in kind to or for the benefit of the Participants. Unless sooner terminated, this Trust shall terminate when there are no funds remaining in the hands of the Trustee hereunder. The Trustee may condition the transfer or distribution of any assets of the Trust Fund upon termination of the Trust on receipt of a favorable determination letter from the IRS confirming that the termination of the Plan does not adversely affect the tax-exempt status of the Trust Fund. Alternatively, the Trustee, in its sole discretion, may accept the indemnification of the Trustee against any liability arising from such transfer or distribution that is provided by the Company or may require the Company to post a bond sufficient to protect the Trustee against such liability until such time as a favorable determination letter is received.

From the date of termination of the Plan and until the final distribution of the Trust assets, the Trustee shall continue to have all the powers provided under this Trust Agreement that are necessary or desirable for the orderly liquidation and distribution of the Trust Fund. In no instance upon any termination or discontinuance and subsequent distribution shall the Trust Fund or any part of it be used for, or diverted to, purposes other than providing benefits to Participants and their Beneficiaries, and defraying the administrative expenses of the Plan until all Plan liabilities have been satisfied, except in the instance of the failure of the Trust initially to qualify for tax-exempt status as set forth in Section 2.04.

ARTICLE XIV

MISCELLANEOUS

14.01 Applicable Law.

(a) **Choice of Law.** Except where inconsistent with the express provisions hereof, or where preempted by ERISA, the powers and duties of the Trustee and all questions of interpretation, construction, operation, and effect of this Trust Agreement shall be governed by the laws of the State of Colorado. All contributions to the Trustee shall be deemed to take place in the State of Colorado, and except for such matters as may arise under ERISA, the Trustee shall be liable to account in the courts of that state.

(b) **Choice of Venue.** All controversies, disputes, and claims arising under this Trust Agreement and not otherwise resolved will be submitted to the United States District Court for the district where the Trustee has its principal place of business, and by executing this Trust Agreement, each party hereto consents to that court's exercise of personal jurisdiction over them

14.02 Evidence. Evidence required of anyone under this Trust Agreement may be by certificate, affidavit, document, facsimile, E-mail or other form which the person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

14.03 Notices. The address of the Company shall be as set forth in this Trust Agreement, but may be changed by providing written notice to the Trustee sent by certified mail, return receipt requested.

14.04 Limitation on Claims. No claim may be made by the Company against the Trustee for any lost profits or any special, indirect or consequential damages in respect of any breach or wrongful conduct in any way related to this Trust Agreement.

14.05 Severability of Provisions. Should any provision of this Trust Agreement be held invalid or illegal for any reason, such illegality or invalidity shall not affect the remaining provisions of this Trust Agreement, but shall be fully severable, and the Trust Agreement shall be construed and enforced as if such illegal or invalid provision had never been inserted herein.

14.06 Trust Qualification. The Trust is intended to qualify as a tax-exempt trust under Code Section 501(a) such that it may be part of a plan that is qualified under Code Section 401(a), and the Trust is intended to meet the applicable requirements of ERISA, including ERISA Section 404(c) to the extent applicable to the Plan, and the provisions hereof shall be interpreted consistent with such intentions. The Company shall be solely responsible for ensuring the compliance of the Plan and Trust with the applicable sections of the Code and ERISA, and the Trustee may assume, unless advised to the contrary that the Plan is qualified and that the Trust is entitled to tax exemption. If the Plan ceases to be qualified within the meaning of Code Section 401(a), the Company shall notify the Trustee of same as promptly as is reasonable, and such notice shall include Instructions to the Trustee as to the disposition of the assets remaining in the Trust.

14.07 Construction of Trust Agreement. If and whenever the Trustee be, in good faith, in doubt as to the proper construction or interpretation of this Trust Agreement, or any other question that may arise during the administration of the Trust herein created, the Trustee is authorized to resolve all such doubts and questions in such manner as it may deem proper, without the necessity of resorting to a court for construction or instructions, and all decisions so made shall be binding and conclusive on all persons ever interested hereunder. In addition, the Trustee may apply to the Plan Administrator for Instructions, directions, authorizations or information, and the Trustee may demand assurances satisfactory to it that any action that it is directed to take will not adversely affect the tax exemption of the Trust; provided, however, that no such assurances shall be required if, in the opinion of counsel (which counsel may also be counsel for the Company), such action does not adversely affect the tax exemption of the Trust. This Trust Agreement shall be binding upon all persons who are ever entitled to such benefits hereunder, their heirs, executors, administrators and legal representatives, and upon all Employers and their successors, and upon the Trustee and its successors.

14.08 Spendthrift Provisions. No Participant shall have any right to assign, transfer, appropriate, encumber, commute or anticipate his interest in the Trust Fund, or any payments to be made hereunder, and no benefits or payments, rights, or interests of any such person of any kind or nature, shall be in any way subject to any legal or equitable process or writ by way of levy, garnishment, execution or attachment for payment of any claim against any such person, nor shall any such person have any right of any kind whatsoever with respect to the Trust Fund, or any estate or interest therein, or with respect to any other property or rights, other than the right to receive such distributions as are lawfully made out of the Trust Fund, as and when the same, respectively, are due and payable, under the terms of this Trust Agreement. The Trustee shall not recognize any

attempted alienation or encumbrance of the right or interest hereunder of any Participant. The foregoing provisions shall not, however, apply to a “qualified domestic relations order” as defined in Code Section 414(p), withholding of any applicable taxes, and to assignments permitted by Code Section 401(a)(13). Neither the Trust Fund nor any benefits hereunder shall be liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person to whom such benefits or funds are payable, nor shall the Trust Fund or any benefits hereunder be considered an asset of such person in the event of his bankruptcy.

14.09 Title of Trust Assets. The legal and equitable title and ownership of all assets at any time constituting a part of the Trust Fund shall be and remain with the Trustee, and neither any Employer nor any Participant in the Plan (or any person who may be entitled to benefits under the Plan) shall ever have any legal or equitable estate therein, save and except that a Participant shall be entitled to receive distribution as and when lawfully made under the terms hereof.

14.10 Benefits Supported Only by Trust. Any person having any claim under the Plan will look solely to the assets of the Trust Fund for satisfaction. In no event will the Employers or any of their officers, employees, agents, members of their boards of directors, the original Trustee, any successor Trustees or Plan Administrator be liable in their individual capacities to any person whomsoever for benefits provided for under the provisions of the Plan and Trust, and nor do any of them guarantee in any manner the payment of benefits hereunder.

14.11 Rights Determined from Entire Instrument. This Trust Agreement embodies the entire agreement and understanding of the parties relating to the subject matter hereof. This Trust Agreement, for convenience only, has been divided into Articles and Sections, but the rights, powers, duties, privileges, and other legal relationships shall be determined from this Trust Agreement as an entirety and without regard to the division into Articles and Sections or to the headings prefixing such Sections.

14.12 Waiver. No waiver by either party of any failure or refusal to comply with an obligation hereunder shall be deemed a waiver of any other obligation hereunder or any subsequent failure or refusal to comply with any other obligation hereunder.

14.13 Word Usage. Whenever appropriate, words used in this Trust Agreement in the singular may mean the plural, the plural may mean the singular, and the masculine may mean the feminine. The words “herein,” “hereof,” “hereto” and “hereunder” shall refer to this Trust Agreement.

14.14 Assignment. This Trust Agreement, and any of the rights and obligations hereunder, may not be assigned by the Company without the prior written consent of the other party(ies), and such consent may be withheld in any such party’s sole discretion. The Trustee may assign this Trust Agreement in whole or in part, and any of its rights and obligations hereunder without the consent of the Company, provided notice of such assignment is sent to the Company at least thirty (30) days prior to the effective date of any such assignment. All provisions in this Trust Agreement shall extend to and are binding upon the parties hereto and their respective successors and permitted assigns.

14.15 Force Majeure. The Trustee may delay the processing of any transaction provided for hereunder due to a Force Majeure.

14.16 Complete Agreement. This Trust Agreement and any schedule of fees provided to the Trustee by the Company or the Plan Administrator embody the entire agreement and understanding of the parties relating to the subject matter hereof.

14.17 Confidentiality. Both parties to this Trust Agreement recognize that in the course of implementing and providing the services described herein, each party may disclose to the other Confidential Information. All such Confidential Information, individually and collectively, and other proprietary information

disclosed by either party shall remain the sole property of the party disclosing the same, and the receiving party shall have no interest or rights with respect thereto. Each party agrees to maintain all such Confidential Information in trust and confidence to the same extent that it protects its own proprietary information, and not to disclose such Confidential Information to any third party without the written consent of the other party. Each party further agrees to take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information. In addition, each party agrees not to disclose or make public to anyone, in any manner, the terms of this Trust Agreement, except as required by law, without the prior written consent of the other party.

14.18 USA Patriot Act Notification. The following notification is provided to Company pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Company: When Company opens an account, if the Company is an individual, the Trustee will ask for the Company's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Company, and, if Company is not an individual, Trustee will ask for the Company's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Company. The Trustee may also ask, if the Company is an individual, to see a valid driver's license or other identifying documents, and, if the Company is not an individual, to see the Company's legal organizational documents or other identifying documents.

14.19 Execution in Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original and no other counterpart need be produced. Telephonic or electronic facsimile copies of original signatures, writings, or initials on this Trust Agreement shall be as valid as the original signatures, writings, or initials.

IN WITNESS WHEREOF, the parties have caused this Trust Agreement to be executed by their duly authorized officers effective as of the date and year first written above.

COMPANY

MG TRUST COMPANY, LLC

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

DESIGNATED REPRESENTATIVE

By: _____

Title: _____

Date: _____