

Jake,

Here's the paperwork for your part of the trust. Nick's is identical. There's a W-9 that you need to send back ASAP.

It's mostly legalese and boilerplate, but my understanding is that there's \$1M in trust for you. Until you are 35, you will receive the earnings on this trust, and at 35, you will have access to the balance. Prior to 35, you can petition the trustee for withdrawals for things like education. You might want to call the lawyer to verify the details.

The earnings on \$1M could be substantial. On the one hand, it's enough to insure you won't have any practical worries like lodging, insurance, transportation, etc, but on the other hand, I hope it won't make you complacent. More than anything else, I would like you to complete your education and define your own life. I want to talk about this to you, and to keep talking about it.

As you can see, there are specific clauses exempting me from receiving any money, even in the event of your death. You'll note these clauses are underlined – and not by me. Other parts of the trust documentation go out of their way to make it clear I was to inherit \$25M, but that this was zeroed out in October of 2014. My father wanted to make it crystal clear how much he despised me in the end.

As I said, I have absolutely no idea what this is about. According to Debbie, it has something to do with a conversation we had two years ago that I don't even remember having. I have no idea what I said, and he never confronted me about it directly. When we spoke, he pretended to be friendly. I didn't find out about any of this until after the funeral, and even then I didn't know the extent of his animosity until I received the paperwork a few days ago. The fact that he pretended to be friendly when we spoke or when I went out there, not strikes me as downright ghoulish.

Whatever was said, the fact that one conversation undid the relationship I spent 35 years building with him meant that relationship was never there in the first place. That realization is far more painful than the money.

I went looking for my father at 16, pretty much as soon as I could manage it after getting my driver's license. This was before the internet, so I didn't know anything about him or his business. I fully expected to find the drunk my mother had divorced, but I wanted to meet him anyway. I honestly never held those 14 years against him. Your grandmother gave me a great childhood, and if he'd wasted time being a decent husband and father, he would never have become Conrad the Legend. As far as was concerned, it was a win all around: for my mom, for me, for him, and for San Diego. Still, those 14 years should count for something. When balanced

against a single misunderstood conversation, they should have at least bought me the benefit of the doubt.

In the end my father's money has brought me nothing but pain. Your mother's obsession with it helped ruin our marriage, and his paranoia about it led to this. The money you are getting is a lot less than that, but even it has the power to ruin your life if you don't handle it properly.

Worse than everything else is the effect this has had on Donna. Because it happened so soon after our marriage, she's convinced it has something to do with her, and nothing I can say will disabuse her of that notion. For the first time in my life, she has made me really feel like part of an extended family, and I've repaid her by dragging her into an Arthur Miller play.

I guess this shouldn't surprise me. When Nick stormed out of the house and wasn't talking to us, I tried to discuss it with my father. The conversation went something like this:

"He's out of the house?"

"Yes"

"Are you giving him any money?"

"No"

"Then I don't see what your problem is".

He meant it. He literally couldn't understand why I was upset about something that wasn't costing me anything. I realized then that he had no paternal instincts whatsoever. In retrospect, that should have been obvious from our history, but denial isn't just a river in Egypt, as they say.

I just want you to know that I am not like my father. I love you and Nick, and nothing on Earth would ever make me treat you like this.

I only ask that you finish your education and use this money for something constructive, and also that when you get the remainder of it you consider possible needs of Alicia and Chris. They are more family to you than your grandfather ever was.

Love,
Dad

BEAMER, LAUTH, STEINLEY & BOND, LLP

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August 30, 2016

BY EXPRESS MAIL

Mr. Jake Prebys
1251 Averill Drive
Batavia, IL 60510

Re: Conrad Prebys Gift Trust

Dear Mr. Prebys:

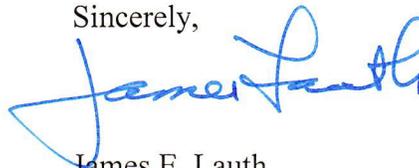
I am writing as legal counsel to Laurie Anne Victoria in her capacity as successor trustee of the Conrad Prebys Trust, and as a courtesy to City National Bank, which is the successor trustee of the Conrad Prebys Gift Trust #13. As required by California law, enclosed is a notification relating to the Conrad Prebys Gift Trust #13. This notice is required by law to be sent to trust beneficiaries and to a deceased trustor's closest living relatives.

However, please note that all trust distributions shall be made pursuant to the terms of the trust, not based on any other relationship.

In particular, the Conrad Prebys Gift Trust #13 provides that a gift of \$1,000,000 shall be held, administered and distributed for your benefit pursuant to the terms of the trust. A copy of the complete terms of the trust is enclosed.

For purposes of administering the trust, please complete and return to me the enclosed Form W-9. A return envelope is enclosed for your convenience.

Sincerely,



James E. Lauth
for
BEAMER, LAUTH, STEINLEY & BOND, LLP

Enclosures
JEL
Doc 139590

**NOTIFICATION BY TRUSTEE PURSUANT TO
CALIFORNIA PROBATE CODE SECTION 16061.7**

CONRAD PREBYS executed that certain trust instrument dated July 15, 2014, also known as the "Conrad Prebys Gift Trust #13," as a revocable and amendable grantor trust, and the trust was last amended and restated in its entirety on February 25, 2016. Pursuant to California Probate Code Section 16061.7, CITY NATIONAL BANK, as the current sole trustee of the trust, provides the following notification:

1. The name, mailing address and telephone number of the trustee of the trust are set forth below:

City National Trust & Estate
18111 Von Karman Ave., Suite 450
Irvine, CA 92612
Attn: Stephanie L. Wheeler, CTFA, Sr. Vice President
(949) 223-4087

2. The principal place of trust administration pursuant to California Probate Code Section 17002 is 18111 Von Karman Ave., Suite 450, Irvine, CA 92612.

3. You are entitled to receive from the trustee a true and complete copy of the terms of the trust by requesting the same from the trustee as listed above. However, in lieu of requiring any such request from you, a true and complete copy of the terms of the trust is enclosed with this notice.

4. **YOU MAY NOT BRING AN ACTION TO CONTEST THE TRUST MORE THAN 120 DAYS FROM THE DATE THIS NOTIFICATION BY THE TRUSTEE IS SERVED UPON YOU OR 60 DAYS FROM THE DATE ON WHICH A COPY OF THE TERMS OF THE TRUST IS MAILED OR PERSONALLY DELIVERED TO YOU DURING THAT 120-DAY PERIOD, WHICHEVER IS LATER.**

RESTATED DECLARATION OF TRUST

CONRAD PREBYS GIFT TRUST #13

DATED JULY 15, 2014

AS RESTATED ON FEBRUARY 25, 2016

RESTATED DECLARATION OF TRUST

CONRAD PREBYS GIFT TRUST #13

On February 25, 2016, in San Diego County, California, that certain Declaration of Trust dated July 15, 2014, and subsequently amended, known as the Conrad Prebys Gift Trust #13 is hereby further amended and restated in its entirety by CONRAD PREBYS as trustor and trustee, pursuant to the provisions permitting the trustor to alter, amend and revoke the trust.

The trustor hereby declares that the property set forth in Schedule A is held in trust by the trustee. Said property, together with any other property that may become subject to this trust, shall constitute the trust estate, and shall be held, administered and distributed as hereinafter provided.

The trust is hereby amended and restated in full to read as follows:

Section 1: **FACTS AND DECLARATIONS**

1.1 **Name of Trust.** The trust may continue to be referred to by any designation appropriate for the original trust instrument and may also be referred to as the "Conrad Prebys Gift Trust #13" dated July 15, 2014.

1.2 **Declarations Concerning Family**

1.2.1 **Marital Status.** The trustor is unmarried. The trustor hereby expressly confirms the gifts provided in this trust regardless of his marital status as married or unmarried on the date of his death.

1.2.2 **Children.** The trustor has one child now living, namely ERIC PREBYS. The trustor has no other children, living or deceased.

1.3 **Character of Property.** All property transferred to the trust by the trustor, including the proceeds thereof, is and shall retain its character as separate property of the trustor.

1.4 **Addition of Property.** Other property acceptable to the trustee may be added to the trust at any time, by the trustor or by any other person, either during lifetime or at death. Such additional property, upon its receipt and acceptance by the trustee, shall become a part of the trust estate.

1.5 **Intentional Omission of Heirs.** Except as otherwise provided in this trust, the trustor has intentionally omitted to provide herein for any of the trustor's heirs who are living at the date of the trustor's death. In particular, the trustor expressly makes no provision herein for his son ERIC PREBYS.

Section 2: **ADMINISTRATION AND DISTRIBUTION OF THE TRUST DURING THE TRUSTOR'S LIFETIME**

During the trustor's lifetime, the trust estate shall be held, administered and distributed as follows:

2.1 **Income and Principal.** The trustee shall pay to or apply for the benefit of the trustor as much of the income and principal of the trust estate as the trustee, in the trustee's discretion, deems appropriate for the trustor's support, health, comfort and well-being. Any income of the trust that is not paid, applied or distributed as provided above shall be accumulated each year and added to the principal of the trust.

2.2 **Requests for Additional Distributions.** In addition, at the written request of the trustor, the trustee shall pay to or apply for the benefit of the trustor as much of the income and principal of the trust, up to the whole thereof, as the trustor requests in writing at any time or from time to time. If the trustor is acting as trustee, a written request is not required.

Section 3: **ADMINISTRATION AND DISTRIBUTION OF THE TRUST AFTER THE TRUSTOR'S DEATH**

Upon the trustor's death, the trustee shall hold, administer and distribute the trust estate as follows:

3.1 **Pecuniary Gifts in Trust**

3.1.1 The trustee shall hold the sum of One Million Dollars (\$1,000,000) as a separate trust for the benefit of NICK PREBYS to be administered and distributed pursuant to the terms of the Grandchild's Trust provided herein below, if NICK PREBYS survives the trustor, otherwise this gift shall lapse.

3.1.2 The trustee shall hold the sum of One Million Dollars (\$1,000,000) as a separate trust for the benefit of JAKE PREBYS to be administered and distributed pursuant to the terms of the Grandchild's Trust provided herein below, if JAKE PREBYS survives the trustor, otherwise this gift shall lapse.

The amounts indicated may be satisfied in cash or in kind, including undivided interests, by pro rata or non-pro rata division, or in any combination of these ways. Each asset distributed in kind shall be valued at its date of distribution value. These gifts shall be free of estate tax and any other death tax.

3.2 **Distribution of the Remainder of the Trust Estate.** The trustee shall distribute any of the trust not disposed of as provided above (the "remainder of the trust estate") to the then acting trustee of the Conrad Prebys Trust dated December 17, 1982 (the "Conrad Prebys Trust"), in trust, to be added to, administered and distributed as a part of that trust, according to the terms of that trust on the date of the trustor's death, giving effect to any amendments thereafter made in accordance

with the terms of that trust by the exercise of a power of amendment, appointment, withdrawal, or otherwise.

Section 4: GRANDCHILD'S TRUST

Any of the trust estate allocated to the Grandchild's Trust for the benefit of NICK PREBYS or JAKE PREBYS (each referred to herein as the "beneficiary" of his particular trust) shall be held as a separate trust, each of which is referred to herein as a "Grandchild's Trust" (and which may also be referred to by the name of the particular beneficiary, such as the "[Grandchild's Name] Trust of the Conrad Prebys Gift Trust #13" or the "[Grandchild's Name] Trust"), and shall be administered and distributed as follows:

4.1 **Discretionary Income Before Age Twenty-One (21).** While the beneficiary is under the age of twenty-one (21), the trustee shall pay to or apply for the benefit of the beneficiary, quarterly or more frequently, as much of the income of the beneficiary's trust as the trustee, in the trustee's discretion, deems necessary for the beneficiary's proper support, health, maintenance, and education. Any income not distributed shall be accumulated and added to principal.

4.2 **Mandatory Income After Age Twenty-One (21).** After the beneficiary attains the age of twenty-one (21), the trustee shall pay to or apply for the benefit of the beneficiary, quarterly or more frequently, the entire income of the beneficiary's trust.

4.3 **Discretionary Distributions of Principal.** If the trustee deems the income to be insufficient, the trustee may also pay to or apply for the benefit of the beneficiary as much of the principal of the beneficiary's trust as the trustee, in the trustee's discretion, deems necessary for the beneficiary's proper support, health, maintenance, and education.

4.4 **Testamentary Powers of Appointment.** Upon the death of the beneficiary, any of the beneficiary's trust then remaining (including both principal and accrued or undistributed income but excluding any portion of the trust as to which the beneficiary has previously filed with the trustee a written request for withdrawal authorized by this instrument) shall be distributed as follows:

4.4.1 **Exempt Trust.** Any of the beneficiary's trust that is exempt from generation-skipping transfer tax (including both principal and accrued or undistributed income) shall be distributed among the beneficiary's then living issue and/or the trustor's then living issue, except excluding ERIC PREBYS, in such shares and on such terms and conditions, either outright or in trust, as the beneficiary shall appoint by the last dated instrument delivered to the trustee, including a will (whether or not admitted to probate), specifically referring to and exercising this power of appointment.

4.4.2 **Non-Exempt Trust.** Any of the beneficiary's trust that is not exempt from generation-skipping transfer tax (including both principal and accrued or undistributed income) shall be distributed among creditors of the beneficiary's estate, and/or the beneficiary's then living issue, and/or the trustor's then living issue, except excluding ERIC PREBYS, in such shares and on such terms and conditions, either outright or in trust, as the beneficiary shall appoint by the last dated

instrument delivered to the trustee, including a will (whether or not admitted to probate), specifically referring to and exercising this power of appointment.

4.5 **Distribution in Default of Appointment.** Upon the death of the beneficiary, any of the beneficiary's trust not effectively appointed as provided above shall be distributed by right of representation to the beneficiary's then living issue, or if there is none, then by right of representation to the then living issue of the beneficiary's nearest ancestor who has then living issue and who is a member of the class composed of the trustor and the trustor's issue, except excluding ERIC PREBYS as such a beneficiary. If any portion of the beneficiary's trust would otherwise be distributed to a person for whose benefit a trust is then being administered under this instrument, that portion shall instead be added to that trust and shall thereafter be administered according to the terms of such trust.

Section 5: TRUST FOR BENEFICIARIES UNDER AGE THIRTY-FIVE (35)

Notwithstanding any contrary provisions of this instrument, any share of the trust estate otherwise distributable free of trust to a beneficiary under age thirty-five (35) other than NICK PREBYS and JAKE PREBYS, under any provision of this instrument, other than mandatory income distributions and income or principal distributions made in the discretion of the trustee or withdrawals expressly authorized in this Section, shall be held as a separate trust (each of which may be referred to by the name of the particular beneficiary, such as the "[Beneficiary's Name] Trust of the Conrad Prebys Gift Trust #13" or the "[Beneficiary's Name] Trust"), and shall be administered and distributed as follows:

5.1 **Discretionary Income Before Age Twenty-One (21).** While the beneficiary is under the age of twenty-one (21), the trustee shall pay to or apply for the benefit of the beneficiary, quarterly or more frequently, as much of the income of the beneficiary's trust as the trustee, in the trustee's discretion, deems necessary for the beneficiary's proper support, health, maintenance, and education. Any income not distributed shall be accumulated and added to principal.

5.2 **Mandatory Income After Age Twenty-One (21).** After the beneficiary attains the age of twenty-one (21), the trustee shall pay to or apply for the benefit of the beneficiary, quarterly or more frequently, the entire income of the beneficiary's trust.

5.3 **Discretionary Distributions of Principal.** If the trustee deems the income to be insufficient, the trustee may also pay to or apply for the benefit of the beneficiary as much of the principal of the beneficiary's trust as the trustee, in the trustee's discretion, deems necessary for the beneficiary's proper support, health, maintenance, and education.

5.4 **Withdrawal Rights.** At any time or times after attaining the age of thirty-five (35) years, the beneficiary may withdraw any part or all of the principal of the beneficiary's trust. The value of the beneficiary's trust for this purpose shall be its value as of the beneficiary's first exercise of this withdrawal right plus the value of any subsequent additions as of the date of any such additions. The trustee shall make payment without question upon the beneficiary's written request. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not

include an involuntary exercise. Notwithstanding the foregoing, if the beneficiary's trust consists of separate exempt and non-exempt trusts, this provision for staged withdrawal rights shall apply only to the non-exempt trust held for the beneficiary's benefit.

5.5 **Testamentary Powers of Appointment.** Upon the death of the beneficiary, any of the beneficiary's trust then remaining (including both principal and accrued or undistributed income but excluding any portion of the trust as to which the beneficiary has previously filed with the trustee a written request for withdrawal authorized by this instrument) shall be distributed as follows:

5.5.1 **Exempt Trust.** Any of the beneficiary's trust that is exempt from generation-skipping transfer tax (including both principal and accrued or undistributed income) shall be distributed among the beneficiary's then living issue and/or the trustor's then living issue, except excluding ERIC PREBYS, in such shares and on such terms and conditions, either outright or in trust, as the beneficiary shall appoint by the last dated instrument delivered to the trustee, including a will (whether or not admitted to probate), specifically referring to and exercising this power of appointment.

5.5.2 **Non-Exempt Trust.** Any of the beneficiary's trust that is not exempt from generation-skipping transfer tax (including both principal and accrued or undistributed income) shall be distributed among creditors of the beneficiary's estate, and/or the beneficiary's then living issue, and/or the trustor's then living issue, except excluding ERIC PREBYS, in such shares and on such terms and conditions, either outright or in trust, as the beneficiary shall appoint by the last dated instrument delivered to the trustee, including a will (whether or not admitted to probate), specifically referring to and exercising this power of appointment.

5.6 **Distribution in Default of Appointment.** Upon the death of the beneficiary, any of the beneficiary's trust not effectively appointed as provided above shall be distributed by right of representation to the beneficiary's then living issue, or if there is none, then by right of representation to the then living issue of the beneficiary's nearest ancestor who has then living issue and who is a member of the class composed of the trustor and the trustor's issue, except excluding ERIC PREBYS as such a beneficiary. If any portion of the beneficiary's trust would otherwise be distributed to a person for whose benefit a trust is then being administered under this instrument, that portion shall instead be added to that trust and shall thereafter be administered according to the terms of such trust.

Section 6: CONTINGENT GIFT

If at any time before full distribution of the trust estate the trustor is deceased and no other disposition is directed by this instrument, the trust estate or the portion of it then remaining shall thereupon be distributed to the then acting trustee of the Conrad Prebys Trust dated December 17, 1982 (the "Conrad Prebys Trust"), in trust, to be added to, administered and distributed as a part of that trust, according to the terms of that trust on the date of the trustor's death, giving effect to any amendments thereafter made in accordance with the terms of that trust by the exercise of a power of amendment, appointment, withdrawal, or otherwise.

Section 7: **GENERAL PROVISIONS**

7.1 **Primary Purpose.** The primary purpose of this trust is to provide for the trustor during his lifetime. In each case, the rights and interests of remainder beneficiaries are subordinate and incidental to that purpose, and the provisions of this trust shall be liberally construed in the interest and for the benefit of the trustor.

7.2 **Use of Tangible Personal Property.** Until the death of the trustor, he shall have the right during his lifetime to the use of all jewelry, clothing, works of art, collectibles, household furniture and furnishings, automobiles, and all other items of domestic, household or personal use or adornment which are included in the trust estate. The trustee, in the trustee's discretion, shall pay out of principal or income of the trust estate insurance premiums and other expenses relating to such property. Neither the trustee nor the trustor shall be liable to any beneficiary of this trust for losses resulting from such use of the property. The trustee shall not sell any of such property during the lifetime of the trustor without the consent of the trustor, the trustor's conservator, or the trustor's agent acting under authority of a Durable Power of Attorney for Property.

7.3 **Provision Concerning Residence.** If any house the trustor occupies as his principal or secondary residence (or any interest therein) is or becomes a part of this trust, the trustee shall allow the trustor to use and occupy such house as a residence without payment of rent therefor during his lifetime or so long as the trustor continues to so occupy such house. During such occupancy, the trustee is authorized but not directed to pay from the trust estate, in the trustee's discretion, any taxes, assessments, appropriate insurance premiums, maintenance costs, ordinary repairs and replacements, and reasonable improvements for the house. With the written consent of the trustor or when the trustor ceases to occupy the house, the trustee may sell the house and, upon the request of the trustor, the proceeds of sale may be used by the trustee to purchase, acquire or build another house, taking title in the name of the trustee and allowing the trustor to occupy the new house on the terms previously set out in this paragraph. If the trustor does not request acquisition of another house, the trustee shall invest the proceeds of any such sale and shall administer and distribute the income and principal of such funds under the terms of this trust, exclusive of this paragraph. The word "house," as used in this paragraph, shall mean any residence originally distributed to or held by the trustee and any other residence acquired in lieu thereof, including but not limited to a condominium or a time share unit.

7.4 **Notice of Right to Payment.** Until the trustee shall receive written notice of any birth, marriage, death, or other event upon which the right to payments from this trust may depend, the trustee shall incur no liability to persons whose interests may have been affected by that event for disbursements made in good faith.

7.5 **Power to Distribute If Power of Appointment Not Exercised.** If, on the expiration of four (4) months after the death of any person holding a power of appointment given him or her in this instrument, no instrument purporting to exercise that power has been brought to the attention of the trustee, any property may be distributed according to the terms of this instrument as if the power had not been exercised. If a document purporting to exercise the power of appointment shall

be located later, the trustee shall not be liable to the appointees under the exercise for any property that has been otherwise so distributed, and the rights of the appointees and the persons receiving property from the trustee shall be governed by applicable law.

7.6 **Spendthrift Provision.** No interest in the principal or income of any trust provided for herein shall be voluntarily or involuntarily anticipated, assigned, encumbered, or subject to any creditor's claim or to legal process prior to its actual receipt by the beneficiary.

7.7 **Discretionary Distributions.** In each case in which the trustee is given authority to distribute income or principal for the support, health, maintenance and education of a beneficiary of any trust established hereunder, the trustee shall take into consideration, to the extent the trustee deems advisable, any income or other resources of the beneficiary known to the trustee and reasonably available for these purposes.

7.8 **Coordination of Decisions by Trustee.** The trustee may administer separate trusts established under this trust instrument in ways that, in the long run, are likely to eliminate or reduce to the extent possible the overall burden of income and transfer taxation among trusts and their beneficiaries and that are likely to make efficient utilization of available tax privileges, such as generation-skipping exemptions. In furtherance of these objectives, the trustee of any trust herein may consult and coordinate decisions with trustees of other trusts established by the trustor pursuant to this instrument or otherwise and trusts established by others if those other trusts have, in whole or in part, the same beneficiaries.

7.9 **Definition of "Education".** Whenever provision is made in this trust for payment for the "education" of a beneficiary, the term "education" shall be construed to include private primary and secondary schools, vocational, preparatory, college and postgraduate study, specialty training, and general preparation for a vocation, so long as in the sole judgment of the trustee such study is pursued to advantage by the beneficiary, at an institution of the beneficiary's choice. In determining payments to be made for such education, the trustee shall take into consideration the beneficiary's reasonable related travel and living expenses.

7.10 **Rights of Successive Beneficiaries.** Unless otherwise directed by the terms of this instrument or by an exercise of a power of appointment granted under this instrument, whenever the right of any beneficiary to payments from income or principal hereunder shall terminate, either by reason of death or otherwise, all such payments accrued or undistributed by the trustee at the date of such termination shall be distributed to the beneficiary entitled to the next successive interest hereunder.

7.11 **Payments to Minors and Persons Under Legal Disability.** The trustee may make distributions to or for a beneficiary who is a minor or under disability in any of the following ways: by payment directly to said beneficiary, if the trustee, in the trustee's discretion, considers said beneficiary to be of sufficient age, maturity and discretion to accept and manage the distribution; by payment to the guardian or conservator of the person or estate of the beneficiary, or to a parent of a minor beneficiary, or to any suitable person with whom such beneficiary resides; by payment of expenses for such beneficiary's health, maintenance, support, or education; by distribution to a

custodian designated by the trustee for the beneficiary under any applicable Uniform Gifts To Minors Act or Uniform Transfers To Minors Act, and the trustee may provide that the time for the transfer of custodial property to the minor may be delayed until a specified time after the minor attains the age of eighteen (18) years, such delay to be specified in the manner and within the limits provided by the applicable statute; or by any other way authorized by law.

7.12 **Qualified Subchapter S Trusts**

7.12.1 Notwithstanding any provision herein to the contrary, the trustee may distribute the income of any separate trust created by this instrument to or for the benefit of the beneficiary of such trust if necessary for such trust to be treated as a qualified subchapter S trust, as defined in Section 1361 of the Code and the regulations thereunder. The trustee, in the trustee's sole discretion, may distribute such income to the beneficiary directly, to the natural guardian or the legally appointed guardian of the beneficiary, to a custodian for the beneficiary under the Uniform Transfer to Minors Act, or directly for the beneficiary's benefit, if making such distribution in such manner would satisfy that requirement of a qualified subchapter S trust as defined in the Code and the applicable regulations.

7.12.2 If any trust created under this instrument holds stock of a corporation that intends to elect or has elected to be taxed as an S corporation, the trustee is authorized to divide any such trust that has multiple beneficiaries into separate trusts, one for each beneficiary; to modify, if necessary, the income payment terms of any such trust so that income is required to be paid to the beneficiary; and to modify other terms of such trust but only if and to the extent necessary to qualify such trust as a Qualified Subchapter S Trust under Section 1361(d) of the Code. The modification shall be made by written instrument delivered to the income beneficiaries of the trust (or if a beneficiary is a minor or is otherwise disabled, to a parent, guardian or conservator of the beneficiary).

7.12.3 In addition, instead of dividing a trust into separate trusts as provided above, the trustee may make an Electing Small Business Trust election as permitted under Section 1361(e) of the Code.

7.13 **Interest on Pecuniary Distributions.** Except as otherwise provided in this instrument, no interest shall be paid on any pecuniary distribution provided for in this trust unless such pecuniary distribution is not paid within fifteen (15) months after the trustor's death, in which case such pecuniary distribution shall bear interest at the rate and for the time period required by the California Probate Code for such distributions.

7.14 **Segregation of Trusts.** There need be no physical segregation or division of the various trusts except as segregation or division may be required by the termination of any of the trusts, but the trustee shall keep separate accounts for the different undivided interests.

7.15 **Reports and Accounts.** The trustee may render an accounting from time to time regarding the transactions of a trust created under this instrument by delivering a written accounting to each beneficiary entitled to current distributions from the trust. The account shall contain that

information required by the Trust Law of the California Probate Code (Section 16063 or its successor). In the event a current beneficiary is a minor, the accounting shall be delivered to the minor's parents or to the guardian of the minor's person. The trustee shall provide with the accounting the "Notice to Beneficiaries" referenced in Probate Code Section 16461 (or its successor). Unless one or more of the beneficiaries (or a minor's parent or guardian of a minor's person) shall deliver a written objection to the trustee within one hundred eighty (180) days of receipt of the trustee's account, the account shall be deemed settled, and shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of the trust, including unborn and unascertained beneficiaries. After settlement of the account by reason of the expiration of the one hundred eighty (180) day period referred to above, or by agreement of the parties, the trustee shall no longer be liable to any beneficiary of the trust, including unborn or unascertained beneficiaries, in respect to transactions disclosed in the account, except for the trustee's intentional wrongdoing or fraud.

7.16 **Foreign Trust Savings Clause.** It is the trustor's intention that all trusts created by this instrument qualify as "United States Persons" under Section 7701(a)(30)(E) of the Code, and one or more United States Persons shall always have the authority to control all substantial decisions under this instrument. A person who is not a "United States Person" (as defined in Section 7701(a)(30)(A) through (C) of the Code) shall not serve as a trustee, and any power, fiduciary or otherwise, held by a person who is not a United States Person shall be effective only to the extent such power is not the power to make a "substantial decision," as defined in Treasury Regulation Section 301.7701-7. Furthermore, any person who does not reside in one of the fifty (50) states of the United States shall be disqualified from serving as trustee of any trust created under this instrument.

7.17 **Termination of Separate Trust.** If at any time the net fair market value of the principal of any separate trust established by this trust instrument is less than One Hundred Thousand Dollars (\$100,000), the trustee, in the trustee's sole discretion, may terminate such separate trust, and the assets of such separate trust as then constituted (including both principal and any accrued or undistributed income) shall be distributed to the then income beneficiaries of such separate trust in the proportions in which they are, at the time of termination, entitled to receive such separate trust's income, or if the rights to income are not then fixed by the terms of such separate trust, then any terminating distribution pursuant to this paragraph shall be made in equal shares to those beneficiaries who are then entitled or authorized to receive income distributions from such separate trust.

7.18 **Perpetuities Saving Clause.** Unless sooner terminated in accordance with other provisions of this instrument or the provisions of any trust created by the exercise of any power of appointment conferred by this instrument, each trust created hereunder and each trust created by the exercise of any such power of appointment shall terminate twenty-one (21) years after the death of the last survivor of the individual trust beneficiaries hereunder who were in being at the time of the death of the trustor. All principal and undistributed income of any trust so terminated shall be distributed to the then income beneficiaries of that trust in the proportions in which they are at the time of termination, entitled to receive the income. If the rights to income are not then fixed by the

terms of the trust, distribution under this clause shall be made in equal shares to those beneficiaries who are then entitled or authorized to receive income payments.

Section 8: **TRUSTEE'S POWERS**

Except as otherwise provided in this instrument, the provisions of this section shall apply to each trust created herein. The enumeration of certain powers of the trustee shall not limit the trustee's general powers, the trustee, subject always to the discharge of the trustee's fiduciary obligations, being hereby given all the rights, powers and privileges that an absolute owner of the same property would have. To carry out the purposes of this trust and subject to any limitations stated elsewhere herein, the trustee is vested with the following powers, in addition to those now or hereafter conferred by law affecting the trust and the trust estate:

8.1 **General Authority to Collect and Hold Assets.** The trustee may ask, demand, sue for, recover, collect, cash, receive, and hold and possess all such sums of money, debts, dues, bonds, notes, checks, drafts, money orders, accounts, deposits, rents, legacies, bequests, devises, interests, dividends, stock certificates, certificates of deposit, annuities, pension and retirement benefits, insurance benefits and proceeds, documents of title, choses in action, personal and real property, tangible and intangible property, and property rights and demands whatsoever, liquidated or unliquidated, as are now, or shall hereafter become due, owing, payable, owed, or belonging to the trust or in which the trust has or may acquire an interest, and to have, use, and take all lawful ways and means, and legal and equitable remedies, procedures, and writs on behalf of the trust for the collection and recovery thereof, and to compromise, settle, and agree for the same, and to make, execute, and deliver on behalf of the trust all endorsements, acquittances, releases, receipts, or other sufficient discharges for the same.

8.2 **Retain Assets.** The trustee may continue to hold any property (including shares of an institutional trustee's own stock) that the trustee receives or acquires under the trust as long as the trustee shall deem advisable and may continue to operate any business as long as the trustee deems advisable. Except as otherwise expressly provided in this instrument concerning any particular asset or category of assets, any investment and management decision pursuant to this paragraph shall be made by the trustee subject to the standards established by the California Uniform Prudent Investor Act.

8.3 **Title to Assets.** The trustee may hold property in the trustee's own name, in the name of a nominee, unregistered, or in a manner that will allow title to pass by delivery or will otherwise facilitate proper administration without disclosing any fiduciary relationship.

8.4 **Stock Options.** The trustee may exercise any and all stock options held by the trustor, whether "incentive" or "non-qualified"; borrow funds and/or pledge stock as collateral in order to finance such exercise; hold stock purchased through such exercise; or make any other disposition of such options as the trustee deems advisable. When exercising any of such options and holding the stock purchased thereby, the trustee is to take into consideration the tax treatment and/or compliance with applicable laws or rules, and is exempt from requirements to diversify trust investments that might otherwise be imposed by California Trust Law from time to time. The trustee

may distribute to the trustor's conservator or to the holder of a durable power of attorney authorized to exercise said stock options on behalf of the trustor, such sum or sums as shall be requested by such conservator or attorney-in-fact to exercise any stock option of the trustor; or, in the case of an option the purchase price under which may be paid in stock rather than cash, to distribute stock to be used for such exercise, if suitable stock is an asset of this trust and if so requested by such conservator or attorney-in-fact.

8.5 **Authorized Investments.** The trustee may invest and reinvest the trust estate, from time to time, in every kind of property, real, personal, or mixed, and in every kind of investment permitted by law, including (without limiting the generality of the foregoing language) domestic and foreign corporate obligations of every kind, preferred and common stocks, shares of investment trusts, investment companies, common trust funds and mutual funds, notes, bonds, debentures, deeds of trust, mortgages and mortgage participations, real estate, and general and limited partnerships, commodities and commodity futures contracts, including any common trust fund administered by any institutional trustee under this trust, provided, however, that the trustee shall act as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust, and by exercising reasonable care, skill and caution, subject always to the standard of care imposed by the Trust Law contained in the California Probate Code as it may exist from time to time, including but not limited to the California Uniform Prudent Investor Act.

8.6 **Management and Control of Property.** The trustee shall have full power to manage and control trust property in all respects, including but not limited to the power to grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property.

8.7 **Lease.** The trustee may lease trust property for terms within or beyond the term of the trust and for any purpose, including exploration for and removal of gas, oil, and other minerals; and to enter into community oil leases and pooling and unitization agreements.

8.8 **Bank, Brokerage and Financial Accounts, and Safe Deposit Boxes.** The trustee may open and maintain checking, savings, brokerage, mutual fund or similar accounts and safe deposit boxes in the name of the trustee with any bank, trust company, savings and loan association, stock broker or brokerage house, or other financial services institution.

8.9 **Trustor Withdrawals.** The trustee may allow the trustor to sign and issue checks and to withdraw funds directly from checking, savings, brokerage, mutual fund or similar financial accounts, if and to the extent the funds are subject to the trustor's power of revocation.

8.10 **Purchases, Sales, and Other Transactions.** The trustee may buy, sell, convey or exchange, at public or private sale for cash or on deferred payment terms, manage, maintain, improve, develop, insure, lease for any term, negotiate and renegotiate leases, whether or not extending beyond the term of the trust created hereunder, and for any lawful purpose rent, mortgage, pledge, or hypothecate, purchase or sell on margin, conduct "long" and "short" sales, purchase puts and calls, and sell uncovered options, subdivide, partition, grant options at such times, in such manner and upon such terms and conditions as the trustee shall deem advisable, exercise or dispose

of any or all options, privileges, or rights, or refrain from exercising such options, privileges, or rights, and otherwise dispose of any trust property or interest therein, and for such purposes may maintain and operate margin accounts with brokers and pledge any securities held or purchased as part of the trust estate with such brokers as security for loans and advances made to the trust estate.

8.11 **Promissory Notes.** The trustee may collect on, compromise, endorse, borrow against, hypothecate, release and reconvey any promissory note receivable, whether secured or unsecured, and any related deed of trust.

8.12 **Alter, Demolish and Construct Buildings.** The trustee may make alterations, repairs or improvements to any buildings located on any trust property or demolish the same and construct new buildings, all in such manner and upon such terms and conditions as the trustee shall deem advisable, and may enter into contracts with respect to any of the foregoing.

8.13 **Develop Mineral Interests.** The trustee may sell, lease, or grant the right to mine or drill and to remove from any real property gas, oil, and other minerals, and any timber, whether or not any such grant or lease is to continue longer than the duration of any trust; pool or unitize any or all of the lands, leaseholds, or other types of mineral interests; engage in secondary or tertiary recovery methods; make and execute mineral royalty conveyances; execute options, contracts, and any other instruments necessary or desirable to engage in the oil, gas, mining, or timber business; and do any other act or thing which may be now or hereafter recognized or contemplated as common or proper practices among those engaged in the business of prospecting for, developing, producing, processing, transporting, or marketing any such oil, gas, mineral, or timber interests.

8.14 **Abandon Property.** The trustee may abandon any property or interest in property belonging to the trust when, in the trustee's discretion, such abandonment is in the best interests of the trust and its beneficiaries; may abstain from the payment of taxes, liens, water rents, assessments, repairs, and maintenance of any such property; may permit any such property to be lost by tax sale or other proceeding; or may convey any such property for a nominal consideration or without consideration.

8.15 **Powers Concerning Securities.** With respect to securities held in the trust, the trustee shall have all the rights, powers, and privileges of an owner with respect to the securities held in trust, including but not limited to the powers to vote, give proxies, pay assessments, participate in any voting trust agreement, whether or not extending beyond the term of the trust, pooling agreement, reorganization, recapitalization, consolidation, merger, foreclosure, and liquidation, and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the trustee may deem advisable, and participate in any rescission, termination, or amendment of such agreement or action, exercise or sell stock subscription or conversion rights, and hold securities in the name of a nominee or in unregistered form such that ownership will pass on delivery.

8.16 **Loan, Borrow and Encumber.** The trustee may borrow and make loans, secured or unsecured, in such amounts, upon such terms, at such rates of interest, to or from such persons, firms, banks or other corporations as the trustee shall deem appropriate, and may grant a security

interest in or otherwise encumber trust property by deed of trust, mortgage, pledge, or otherwise, and may guarantee any loans whenever the trustee shall deem such guarantee appropriate. The trustee may borrow money and encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise for the debts of the trustor, individually, for the debts of the trust estate, or for the joint debts of the trust estate and a co-owner of property in which the trust estate has an interest. The trustee may borrow money on behalf of one trust from any other trust created hereunder; may guarantee or indemnify in the name of the trust for the benefit of the trustor, individually, or for the benefit of any third party if approved by the trustor in writing.

8.17 **Transactions With Trustor's Probate Estate.** The trustee may lend money to the probate estate, if any, of the trustor, and may purchase property from the probate estate of the trustor at the fair market value of such property.

8.18 **Purchase Liability Insurance.** The trustee may obtain and carry, at the expense of the trust, insurance of such kind and in such amounts as the trustee deems advisable to protect the trustor, the trust estate and the trustee against any hazard.

8.19 **Litigate, Enforce, Defend, and Compromise Claims.** The trustee may commence, prosecute, enforce, defend, answer, or oppose all actions, suits, litigation or other legal proceedings as the trustee shall deem advisable and may adjust, compromise, settle, or refer to arbitration any claim in favor of or against the trust upon such terms and conditions as the trustee shall deem advisable.

8.20 **Employ and Pay Agents.** The trustee may appoint, employ and pay such agents and employees as the trustee deems necessary or advisable, including (without limiting the generality of the foregoing) brokers, bankers, custodians, investment counsel, financial advisors, attorneys, accountants, professional property managers, tax preparers, tax advisors, and other counsel and professional advisors, including a firm of which the trustee may be a member. The trustee may delegate investment and management functions as prudent under the circumstances, including the power to purchase and sell trust assets, and whether for all or any portion of the trust assets, provided, however, that any such delegation shall be subject to the standard of care imposed by the Trust Law contained in the California Probate Code as it may exist from time to time, including but not limited to the California Uniform Prudent Investor Act. The compensation paid to any agent or delegated investment manager shall be reasonable, subject to the standards provided by the California Uniform Prudent Investor Act.

8.21 **Execute Documents.** The trustee may sign, endorse, execute, acknowledge, deliver, receive, and possess such applications, contracts, agreements, options, covenants, deeds, conveyances, reconveyances under deeds of trust, escrow instructions, trust deeds, security agreements, bills of sale, leases, mortgages, assignments, insurance policies, bills of lading, warehouse receipts, documents of title, bills, bonds, debentures, checks, drafts, bills of exchange, secured or unsecured notes, stock certificates, proxies, warrants, commercial paper, receipts, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of, banks, savings and loan or other institutions or associations, proofs of loss, evidences of debts, releases, and satisfaction of mortgages, judgments, liens, security agreements, and other debts

and obligations, and such other instruments in writing of whatever kind and nature as may be necessary or proper in the exercise of the rights and powers herein granted.

8.22 **Purchase and Own Life Insurance.** The trustee may purchase life insurance policies on the life of any person. Except as otherwise provided herein, the trustee may exercise all incidents of ownership, options, benefits, rights, and privileges with respect to any life insurance policy owned by the trustee. The trustee may but shall not be required to pay premiums, assessments, or other charges upon any life insurance policy which is owned by the trustee or of which the trust may be a designated beneficiary but which is owned by the trustor or otherwise, and may but shall not be required to keep any such life insurance policy a binding contract of insurance. The trustee may but shall not be required to borrow funds from the insurer in accordance with the terms of such life insurance policy and to use such borrowed funds to keep such life insurance policy a binding contract of insurance.

8.23 **Collect Proceeds of Life Insurance, IRAs and Employee Benefit Plans.** The trustee shall use the trustee's best efforts to collect all sums payable under any life insurance policy, IRA or employee benefit plan (including but not limited to any benefit under a pension, profit sharing, stock bonus, or retirement contract or plan) and may exercise any of the allowable options or elections for the payment of said sums. The receipt of the trustee to any insurer or payor of any IRA or employee benefit plan shall be a full discharge of such insurer or payor and such insurer or payor shall have no duty to inquire concerning the application of the proceeds by the trustee.

8.24 **Divisions, Allocations and Distributions.** The trustee may make divisions, allocations (including to independent shares) or distributions in cash or in kind, including undivided interests, by pro rata or non-pro rata division, or in any combination of these ways (with no obligation to take account of the income tax basis of the assets) in the discretion of the trustee.

8.25 **Allocations to Exercise of Power of Appointment.** Except as a beneficiary may otherwise specify in exercising any power of appointment granted to such beneficiary, assets of the beneficiary's trust estate may be allocated or distributed in satisfaction of an exercise of such beneficiary's power of appointment in cash or in kind, including undivided interests, by pro rata or non-pro rata division, or in any combination of these ways. Each asset distributed in kind shall be valued at its date of distribution value.

8.26 **Division of Trust.** The trustee may, in the trustee's discretion, divide any trust created hereunder into two or more separate trusts, at any time and for any purpose or reason. When a trust is divided into separate trusts under this provision, each trust shall have the same provisions as the original trust from which it is established, and references in this instrument to the original trust shall collectively refer to the separate trusts derived from it.

8.27 **Combination of Substantially Identical Trusts.** The trustee may, in the trustee's discretion, combine the assets of any trust created hereunder with any other trust the beneficiaries of which are the same and the terms of which are substantially identical to the terms of the trust created hereunder and may administer both trusts as a single trust.

8.28 **Discretion re Principal and Income.** Subject to the later provisions of this paragraph, matters relating to the rights of beneficiaries among themselves as to principal and income shall be governed by the provisions of the Principal and Income Act from time to time existing. In the event the Principal and Income Act shall contain no provision concerning a particular item, the trustee shall have the power to determine what is principal or income of the trust estate and apportion and allocate, in the trustee's reasonable discretion, receipts and expenses as between these accounts. All of the foregoing powers shall be subject to the trustee's duty to act impartially in managing trust property, taking into account any differing interests of the beneficiaries.

8.29 **Authority Necessary to Implement Actions.** The trustee shall have full power and authority to do and perform all and every act and thing which may be incidental, necessary or proper in connection with any of the foregoing.

8.30 **Limitations on Trustee's Powers**

8.30.1 **No Discharge of Trustee's Support Obligation or Other Personal Legal Obligation.** Notwithstanding any other provision of this instrument to the contrary, no person acting as a trustee of any trust created hereunder who holds in a fiduciary capacity a power to appoint or distribute the income or principal of a trust to or for the benefit of others, shall use that power to discharge, in whole or in part, the personal legal obligation, if any, of said trustee, from time to time existing, to provide for the support, health, maintenance, or education of such other persons, or to discharge any other personal legal obligation of said trustee. When determining the legal obligation of any person to provide for the support, health, maintenance, or education of any of the beneficiaries of that trust, the existence of that trust and funds made available by it shall not be taken into consideration.

8.30.2 **No Incidents of Ownership for Life Insurance.** Any individual trustee, other than the trustor, serving as a trustee of any trust created hereunder shall have no power or discretion as such trustee with respect to any incidents of ownership (as such term is used in Section 2042 of the Code) in any insurance policy on said trustee's life which is a part of said trust.

8.31 **Allocation of Powers to Special Co-Trustee.** All powers and discretions prohibited to a trustee pursuant to the foregoing provisions shall be vested solely in any then-serving co-trustee, and if there is no such co-trustee, the next successor trustee shall act as special co-trustee and all such prohibited powers and discretions shall be vested solely in said special co-trustee. If for any reason any successor trustee fails or ceases to act as such special co-trustee, the next successor trustee shall act as successor special co-trustee. If for any reason all successor trustees fail or cease to act as such special co-trustee, the provisions herein for appointment of a successor trustee to fill a vacancy in the office of the trustee shall apply and a successor trustee shall be appointed to serve as such successor special co-trustee, provided, however, that no person who would be prohibited from exercising the powers and discretions vested in said special co-trustee may participate in the appointment of such successor special co-trustee. The responsibilities of said special co-trustee shall be limited to the exercise of the powers and discretion prohibited to the trustee.

8.32 **Disclaim, Release or Restrict Powers.** The trustee may disclaim, release, or restrict the scope of any administrative power that the trustee may hold in connection with the trusts created under this instrument, whether said power is expressly granted in this instrument or implied by law. The trustee shall exercise this power in a written instrument specifying the powers to be disclaimed, released, or restricted and the nature of any such restriction. Any power disclaimed or released by the trustee shall be extinguished.

Section 9: PROVISIONS CONCERNING TRUSTEE

9.1 **Successor Trustees.** If for any reason CONRAD PREBYS ceases to act as trustee, CITY NATIONAL BANK, a National Banking Association, shall serve as trustee.

9.2 **Power to Appoint Special Trustee.** If the trustee of any trust created hereunder is not legally qualified to serve as trustee of any particular property now or hereafter subject to the trust, then the trustor shall have the power to appoint an additional trustee who is so qualified to take title to and administer said property under the terms and conditions of this trust, said trustee to serve in addition to, but independent of, the primary trustee designated herein. This trustee may be referred to as a "special trustee." Following the trustor's death or during any incapacity of the trustor, the then acting trustee shall have the power to appoint any such additional special trustee that may be necessary.

9.3 **Power to Appoint Trustee to Fill Vacancy.** If a vacancy in the office of the trustee occurs for any reason at any time for any trust created hereunder that is not filled as provided above, the then most senior (in years of practice) active partner of BEAMER, LAUTH, STEINLEY & BOND, LLP (or any successor firm thereto) (hereafter referred to as the "senior partner of BEAMER, LAUTH, STEINLEY & BOND, LLP") is granted the power to designate a successor corporate or individual trustee or co-trustees, or a succession of successor trustees (whether corporate or individual and whether designated to act as co-trustees or sole trustee) to fill the vacancy in the office of the trustee.

9.4 **Trust Protector**

9.4.1 The Trust Protector shall have the following powers:

9.4.1.1 To remove any trustee or co-trustee, with or without cause, as determined in the Trust Protector's sole discretion;

9.4.1.2 To appoint a successor corporate or individual trustee or co-trustees, or a succession of successor trustees (whether corporate or individual and whether designated to act as co-trustees or sole trustee) to fill any vacancy in the office of the trustee or co-trustee, including but not limited to appointing the Trust Protector himself or herself as trustee, co-trustee, successor trustee or successor co-trustee; and

9.4.1.3 To appoint a successor Trust Protector or a succession of successor Trust Protectors (whether corporate or individual and whether designated to act as Trust Co-Protectors or sole Trust Protector) to fill any vacancy in the office of the Trust Protector.

9.4.2 LAURIE ANNE VICTORIA shall serve as the first Trust Protector.

9.4.3 The trustor is not imposing any fiduciary duty or any other responsibility on the Trust Protector, as Trust Protector, to monitor the actions of the trustee. Except for any matter involving the Trust Protector's own individual willful misconduct or gross negligence proved by clear and convincing evidence, no Trust Protector shall incur any liability by reason of any error of judgment, mistake of law, or action of any kind either taken or omitted to be taken. The Trust Protector shall not be liable for failure to remove or replace any trustee under any circumstances, even if such trustee may be guilty of a gross violation of fiduciary duty.

9.5 **Successor in Default of Appointment.** If a vacancy in the office of the trustee occurs and no successor trustee is designated pursuant to any other provision of this instrument, then a majority in interest of all of the then living adult individual beneficiaries then entitled or authorized in the trustee's discretion to receive the income from any and all trusts created hereunder shall have the power to appoint a successor professional trustee or professional co-trustees or a succession of successor professional trustees (whether corporate or individual and whether designated to act as co-trustees or sole trustee) to fill the vacancy in the office of the trustee for any trust created hereunder, provided, however, that no beneficiary may be appointed as trustee of a trust held for his or her benefit.

9.6 **Power to Remove and Replace Professional Trustee.** A majority in interest of all of the then living adult individual beneficiaries then entitled or authorized in the trustee's discretion to receive the income from any and all trusts created hereunder shall have the power, at any time and from time to time, to remove any professional trustee of any trust created hereunder and to appoint a replacement professional trustee, other than the beneficiary or any of the beneficiaries so acting. This election shall be made by a written instrument executed by the individual or individuals making the election and delivered to each such professional trustee. Notwithstanding the foregoing, this power to remove and replace professional trustee shall not apply to any trustee named in this trust instrument or appointed by the senior partner of BEAMER, LAUTH, STEINLEY & BOND, LLP.

9.7 **Procedure for Removal.** Any removal of a trustee pursuant to a power granted above shall be by an instrument in writing delivered to the trustee to be so removed and delivered to all of the then living adult individual beneficiaries then entitled or authorized in the trustee's discretion to receive the income from any and all trusts created hereunder. Appointment of the replacement trustee shall be as provided below for appointment of successor trustees.

9.8 **Procedure for Appointment of Successor Trustee.** Appointment of a successor trustee, whether an individual, a corporation, or a combination thereof, pursuant to an exercise of any power granted by this section shall be made by a written instrument executed by the individual

or individuals authorized to exercise said power, delivered to each person or entity designated as a successor trustee or co-trustee, and accepted in writing by the trustee so appointed.

9.9 **Characteristics of Successor Trustee.** Any corporate trustee designated pursuant to an exercise of power granted by this section shall be a trust company or bank authorized to transact trust business. The power to designate a successor trustee granted to the senior partner of BEAMER, LAUTH, STEINLEY & BOND, LLP may not be exercised to designate any attorney or employee of that firm (or any successor firm thereto) as trustee or co-trustee hereof.

9.10 **Right to Resign.** Any trustee shall have the right to resign this trusteeship at any time by written notice directed to the trustor or, if the trustor is then deceased, to all of the then living beneficiaries then entitled or authorized in the trustee's discretion to receive the income from any and all trusts created hereunder.

9.11 **Notification.** Until a successor trustee, co-trustee, special trustee or special co-trustee shall receive actual notice of any death, appointment or other event causing such trustee to be designated to serve as trustee at that time, the trustee shall incur no liability to persons whose interests may have been affected by the trustee's failure to serve. Upon receiving such notice, the trustee then designated to serve shall either commence serving as trustee or promptly decline to accept the trust.

9.12 **Waiver of Liability for Acts of Predecessor Trustee.** No successor trustee shall incur any liability by reason of, nor have any duty or responsibility to inquire into or take any action with respect to, any acts performed or omitted by a predecessor trustee while acting as the trustee from time to time prior to the appointment of the successor trustee. Except as provided herein, the liability of a successor trustee for breach of trust committed by a predecessor trustee shall be governed by California law as it may exist from time to time.

9.13 **Waiver of Bond.** No bond shall be required of any individual named as trustee or successor trustee in this instrument. Any individual designated as a successor trustee pursuant to the powers granted in the foregoing provisions of this section shall be required to post a bond in the amount determined by the individual or individuals exercising the power to designate a successor trustee unless such individual or individuals waive such bond.

9.14 **Compensation of Trustee.** Any trustee of any trust created herein, other than the trustor, shall be entitled to reasonable compensation for the trustee's services and to reimbursement for reasonable expenses incurred in the performance of the trustee's duties, subject always to the standard imposed by the Trust Law contained in the California Probate Code as it may exist from time to time, including but not limited to the California Uniform Prudent Investor Act.

9.15 **Decisions by Unanimous Consent and Delegation of Authority for Banking Matters.** Except as to matters vested exclusively in one or the other trustee, when there are co-trustees the action of all the trustees in office shall be required in order to act in any matter affecting the trust, provided, however, that, except as to matters vested exclusively in one or the other trustee, the trustees may agree between or among themselves and may authorize or delegate

any one or more of the trustees, either individually or in concert, to conduct banking activities and to write checks and make deposits, withdrawals, and endorsements upon giving written notice of such designation to the bank, trust company, savings and loan association, or other financial institution; and such bank, trust company, savings and loan association, or financial institution shall be protected in relying upon such designation. Any such authorization or delegation shall be made in writing signed by all of the then acting co-trustees.

9.16 **Definition of "Trustee"**. Except as otherwise specifically provided herein, the singular "trustee" shall include all trustees when co-trustees are appointed and so acting and shall be deemed to include any successor trustee.

9.17 **Definition of "Professional Trustee"**. For purposes of this trust instrument, the term "professional trustee" shall mean a trust company or bank authorized to transact trust business or an individual who has as his or her primary profession serving as a trustee, personal representative, guardian and/or conservator for persons who are unrelated to such individual.

9.18 **No Foreign Trustee**. Notwithstanding any provision herein to the contrary, no person who is not a "United States Person" (as defined in Section 7701(a)(30)(A) through (C) of the Code) may serve as trustee of any trust established by this instrument.

9.19 **Powers and Discretions of Successor Trustee**. Except as otherwise specifically provided herein, all powers and discretions vested in the trustee shall be vested in and exercisable by any successor trustee.

Section 10: PROVISIONS CONCERNING TAXES

10.1 **Definition of "Death Taxes"**. The terms "death tax" or "death taxes" mean and include all domestic or foreign inheritance, estate, succession, excise or other transfer taxes or duties which are due by reason of the trustor's death, together with any penalties or interest on such taxes.

10.2 **Payment of Taxes**. The Conrad Prebys Trust contains provisions concerning the payment of estate, inheritance and other death taxes. The trustor directs that such provisions be followed. There shall be no payment of any death tax from the pecuniary gifts passing pursuant to this instrument.

10.3 **Resolve Tax Liability**. If there is uncertainty with respect to the amount of any tax, or whether the same is owing, the trustee shall have the power to settle, compromise, and pay such taxes, and judgments exercised in good faith shall be conclusive on all concerned.

Section 11: PROVISIONS CONCERNING GENERATION-SKIPPING TRANSFER TAXES

11.1 **Definition of "Trust"**. References in this instrument to a "trust" or to "trusts" mean separate trusts established under this instrument, as well as a separate share or separate shares of a trust, if appropriate in the context of the trustor's apparent objectives, entitled to be treated as

separate trusts for generation-skipping transfer tax purposes under the Code and the applicable Treasury Regulations.

11.2 **Allocation of Generation-Skipping Transfer Tax Exemption.** Following the death of the trustor, his remaining generation-skipping transfer tax exemption (hereafter the "exemption"), as provided by the Code and the applicable Treasury Regulations, shall be allocated to or among assets as to which the trustor is the transferor for generation-skipping transfer tax purposes. The allocation of the exemption shall be made by the person or persons authorized to make the allocation. To the extent consistent with the Code and the applicable regulations, the trustor directs that the allocation of his exemption be made by the executor or administrator appointed to administer the trustor's estate or, if no such executor or administrator is appointed, by the then acting trustee under this instrument. Any decision concerning the allocation of the trustor's exemption shall not be subject to question by any beneficiary and shall be based on information known to the person authorized to make the allocation, with no requirement that allocations benefit the various transferees or beneficiaries of the property equally, proportionately, or in any other particular manner.

11.3 **Division of Trust to Achieve Inclusion Ratio of Zero or One.** When any generation-skipping transfer tax exemption is to be allocated to any trust established under this instrument (hereafter the "original trust"), unless the allocation of the exemption results in the original trust having an inclusion ratio of zero, the trustee shall first divide the original trust into two separate trusts or establish two separate trusts, as the case may be, as follows:

(a) The first trust (also referred to in this instrument as an "exempt trust") shall consist of the smallest fractional share of the original trust equivalent to the generation-skipping transfer tax exemption otherwise allocable to the original trust. Assets may be allocated to such exempt trust in cash or in kind, including undivided interests, by pro rata or non-pro rata division, or in any combination of these ways. Each asset allocated in kind shall be valued at its date of distribution value. The second trust (also referred to in this instrument as a "non-exempt trust") shall consist of the remaining assets of the original trust.

(b) The trustee shall then allocate the exemption to the exempt trust, which shall have an inclusion ratio of zero, thereby leaving the non-exempt trust with an inclusion ratio of one.

11.4 **Terms of Trusts.** When a trust is divided into exempt and non-exempt trusts under this section, or when the trustee establishes additional trusts, whether exempt or non-exempt, pursuant to the direction to preserve generation-skipping transfer tax character provided below, each trust shall have the same provisions as the original trust from which it is established; references in this instrument to the original trust shall collectively refer to the separate trusts derived from it; and the trustee is authorized to prefer making distributions from non-exempt trusts to beneficiaries who are "non-skip persons" (as defined in the Code and the applicable Treasury Regulations) and from exempt trusts to those who are "skip persons" (as defined in the Code and the applicable Treasury Regulations).

11.5 **Definitions of "Exempt" and "Non-Exempt".** The term "exempt" refers to property or a trust that has a generation-skipping transfer tax inclusion ratio of zero, or is exempt

from the generation-skipping transfer tax under the effective date legislation included in Section 1433(b)(2) of the Tax Reform Act of 1986. The term "non-exempt" refers to property or a trust that has a generation-skipping transfer tax inclusion ratio of one. The generation-skipping transfer tax character of any separate trust under this instrument may be designated by adding "Exempt" or "Non-Exempt" to the name of the trust.

11.6 **Direction to Preserve Generation-Skipping Transfer Tax Character.** If, upon termination, partial termination or any other division or distribution, by reason of a failure to exercise a power of appointment or otherwise, any property of a trust created under this instrument is to be added to property in another trust (hereafter the "recipient trust"), or when separate trusts are to be combined into a single trust (hereafter the "resulting trust"), the trustee shall not add or combine non-exempt trusts or non-exempt property with exempt trusts or exempt property, but shall instead preserve the exempt or non-exempt character of the property and of each trust. If necessary, the trustee shall establish additional trusts, whether exempt or non-exempt, with the same terms as the recipient trust or shall establish separate exempt and non-exempt trusts with the same terms as the resulting trust.

11.7 **Authority to Grant or Withdraw General Power of Appointment.** If the trustee of any non-exempt trust under this instrument determines that the combined income tax and generation-skipping and other transfer tax burdens (federal and state) on the trust and its beneficiaries would be reduced, the trustee shall have the power to amend the terms of the trust to grant to any issue of the trustor who is a beneficiary of that trust a general power of appointment as defined for federal estate tax purposes. Such an amendment may create only a testamentary power of appointment, may limit the amount subject to such general power, may require that it be exercised jointly with another in a manner consistent with the power being treated as a general power of appointment for federal transfer tax purposes, or may otherwise impose conditions and limitations on its exercise. Such an amendment may require the payment of any death tax attributable to the inclusion of the trust in the gross estate of the holder of the general power of appointment from the property to which the tax is attributable, without apportionment, deduction, or reimbursement therefor, unless the holder of the general power of appointment provides otherwise by the exercise of the general power of appointment regarding the payment of such death taxes. The trustee shall also have the power to withdraw any such general power or to modify it, including modification in a manner that will reduce or increase the amount of property subject to the general power, to alter the conditions or terms of its exercise, to reduce it from a general to a nongeneral power, or to otherwise modify it, all in the trustee's discretion. The trustee may also exercise the amendment power to subdivide a trust into separate trusts or shares in order to separate properties or portions subject to a general power from other properties or portions. The trustee's power to create, eliminate or modify general powers of appointment may be exercised repeatedly and from time to time, but no trustee may exercise or participate in the exercise of a power to so amend a trust in any way that would increase his or her benefits under that trust, or exercise a power of amendment in a manner that has the effect of granting himself or herself a general power of appointment as defined for federal estate tax purposes. No trustee shall be liable for any good faith exercise or non-exercise of a power to amend a trust in the manner prescribed herein.

11.8 **Investment Strategies and Objectives.** In determining investment strategies and objectives for the different trusts established pursuant to this instrument, the trustee may take into account whether each particular trust is exempt or non-exempt from generation-skipping transfer tax.

Section 12: POWER TO AMEND OR REVOKE

12.1 **Restriction and Definitions.** The power to revoke or amend this trust shall be exercisable only in the manner provided in this instrument. For purposes of this section, "revoke in whole" means to remove all assets from the trust and discontinue the existence of the trust; "revoke in part" means to remove one or more assets from the trust but continue the existence of the trust; "amend" means to alter the provisions of the trust.

12.2 **Revocation in Whole or Part.** While the trustor is living, the trust may be revoked in whole or in part by the trustor. The power of revocation shall be exercised by written instrument, other than a will, delivered to the trustee during the trustor's lifetime. In the event of revocation, the revoked portion of the trust estate shall revert to the trustor.

12.3 **Amendment of Trust Provisions**

12.3.1 **While the Trustor is Living.** While the trustor is living, this trust may be amended by a written instrument signed by the trustor. An amendment shall be effective when signed by the trustor.

12.3.2 **Acceptance of Amendment by Trustee.** The trustee shall not be obligated to act as trustee under any amendment unless the trustee accepts the amendment. A trustee may accept an amendment by signing the amendment or a separate written acceptance thereof, or by knowingly exercising powers or performing duties under the trust as amended. If there is an immediate risk of damage to trust property, the trustee may act to preserve the trust property without accepting the amendment if, within a reasonable time after acting, the trustee delivers a written rejection of the amendment to the trustor.

12.4 **Limitation on Right of Revocation and Amendment.** No other trust created hereunder may be amended or revoked by any person except pursuant to a power of revocation, amendment, appointment or withdrawal granted by this instrument.

12.5 **Exercise of Power by Attorney In Fact.** The powers of revocation and amendment provided for herein may be exercised by a duly appointed and acting attorney in fact for the trustor, if and to the extent such attorney in fact has been expressly authorized to exercise such powers in the power of attorney document.

Section 13: CONSTRUCTION OF TRUST

13.1 **Significance of Headings.** Titles and headings are used for ease of reference only and shall not govern, limit, modify or in any manner affect the scope, meaning or intent of this instrument.

13.2 **Applicable Law.** Except as otherwise expressly provided herein, the meaning of the distributive provisions of this instrument shall be governed by the laws of the State of California in effect on the date of its execution, and the laws of the State of California as they shall exist from time to time shall govern this document in all other respects. Notwithstanding the foregoing, to the extent permissible under applicable law, the validity of the provisions of this instrument may be governed by the law of another jurisdiction if invalidity can be avoided by applying the law in effect at another time or in another jurisdiction that has sufficient contact for this purpose with the trust or trusts involved.

13.3 **Severability.** If any provision of this instrument is invalid, the remaining provisions shall nevertheless be given effect.

13.4 **Definition of "By Right of Representation".** For all purposes of this trust, a gift, distribution or allocation "by right of representation" shall mean that the trustee shall divide the property into as many shares of equal value as there are (1) children of the designated ancestor who are then living and (2) children of the designated ancestor who are then deceased leaving issue then living, and the trustee shall distribute or allocate one (1) such share to each such child who is then living and one (1) such share to the then living issue of each such child who is then deceased, such share to be divided and distributed or allocated among such issue in the same manner.

13.5 **Definitions of "Child," "Children," "Issue" and Similar Terms.** Except as otherwise provided herein, the class terms "child," "children," and "issue" shall have the meanings established by, and shall include and exclude persons in accordance with, the rules for determining relationship and inheritance rights for purposes of intestate succession. The same principles shall also apply to the determination of other relationships between persons, regardless of the degree of such relationships or how such relationships may be described, for example, for determining who is a person's "grandchild," "great-grandchild," "niece," "nephew," "parent," "ancestor," and so forth. Notwithstanding the foregoing, ERIC PREBYS shall be excluded from any and all such class terms and other relationships defined in this paragraph in which he might otherwise be included.

13.6 **Lapsed Gifts.** Any disposition herein that is expressly or implicitly conditioned on a beneficiary surviving the trustor or surviving any other person shall lapse as it applies to such beneficiary if he or she does not survive the trustor or such other person. Any disposition herein that is expressly or implicitly conditioned on an institutional beneficiary being in existence or qualifying under Section 2055(a) of the Code at the applicable time shall lapse as it applies to such institutional beneficiary if it is not in existence or not so qualified at the applicable time. Any lapsed disposition shall be held, administered and distributed according to the remaining terms of the trust as if the lapsed disposition had been omitted from this instrument as to such then deceased beneficiary or such institutional beneficiary not then in existence or then disqualified.

13.7 **Survivorship Provision.** If any beneficiary of this trust is not living on the thirtieth (30th) day following the date of death of another person, including but not limited to the death of the trustor, that beneficiary shall be conclusively presumed to have predeceased such other person for all purposes under this instrument; provided, however, that this paragraph shall not apply in any

circumstance in which its application would cause an otherwise valid provision of this trust to be void under any applicable rule against perpetuities.

13.8 No Contest Clauses

13.8.1 In the event that any beneficiary under this trust as amended or any other revocable trust established by the trustor as amended or the trustor's last will brings a direct contest of any such trust or of the trustor's last will, then the right of each such person to take any interest given to him or her by any such trust shall be determined as it would have been determined had such person predeceased the execution of this instrument without any issue. For this purpose, a "direct contest" is one that alleges invalidity on the grounds of forgery, lack of due execution, lack of competence, menace, duress, fraud, undue influence, revocation, disqualification of a beneficiary under Probate Code section 6122 because the beneficiary witnessed the will or under Probate Code section 21350 because the beneficiary is a prohibited transferee, or as otherwise provided by applicable law.

13.8.2 In the event that any beneficiary under any such trust established by the trustor or the trustor's last will files or prosecutes a creditor's claim against any such trust or the trustor's estate, then the right of each such person to take any interest given to him or her by any such trust shall be determined as it would have been determined had such person predeceased the execution of this instrument without any issue.

13.8.3 In the event that any beneficiary under any such trust established by the trustor or the trustor's last will files a pleading challenging the transfer of property on the grounds that it was not the transferor's property at the time of the transfer, then the right of each such person to take any interest given to him or her by any such trust shall be determined as it would have been determined had such person predeceased the execution of this instrument without any issue.

13.8.4 Further, if any issue of a beneficiary under any such trust established by the trustor or the trustor's last will does any of the foregoing in violation of any provision of this paragraph, then any share or interest which would otherwise pass to each such beneficiary who is such issue's ancestor shall likewise be revoked and shall be disposed of as provided herein as if the beneficiary who is such issue's ancestor(s) also predeceased the trustor without any issue.

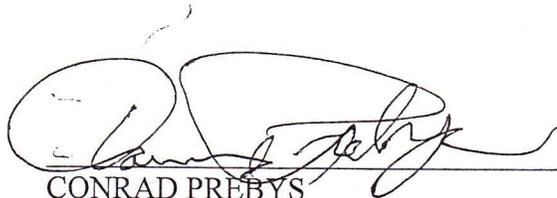
13.8.5 Expenses to resist any contest or other attack of any nature upon any provision of any such trust established by the trustor or the trustor's will shall be paid from the trustor's estate or any such trust as expenses of administration.

13.8.6 Should any provision of these no-contest clauses be held to be invalid, illegal, void or unenforceable, then such provision shall be deleted from this paragraph and it shall be read as though such invalid, illegal, void or unenforceable provision was never included, and the remainder of this paragraph, excluding such invalid, illegal, void or unenforceable provision, shall nevertheless continue in full force and effect. If such provision is deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

13.9 **Definition Of "Code" and References to Statutes, Codes and Regulations.** References to the "Code" mean the Internal Revenue Code of 1986, as amended from time to time. References to any statute, code or regulation shall be interpreted to include references to corresponding provisions of any successor statute, code or regulation.

13.10 **Internal References.** A "section" means all paragraphs and subparagraphs preceded by the same numeral that appears after "SECTION." For example, "SECTION 6" means all paragraphs and subparagraphs beginning with the numeral "6," such as, 6.1, 6.1.1, 6.1.1.1, 6.2, and so on. A "paragraph" means the lines preceded by a two-digit number, such as 7.3, and includes all lines that begin with the same two-digit number, such as, 7.3.1, 7.3.2, and so on. A "subparagraph" means the lines preceded by more than a two-digit number, such as 8.3.1 or 8.2.2.1, and includes all lines that begin with the same digits.

The trustor and trustee have executed this Restated Declaration of Trust on the day and year first above written.


CONRAD PREBYS
Trustor and Trustee

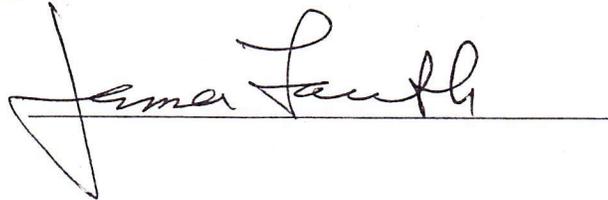
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO } ss.

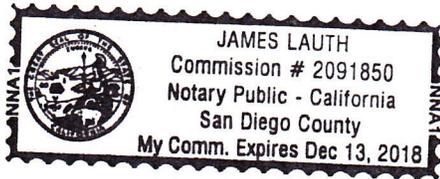
On February 25, 2016, before me, JAMES LAUTH, a Notary Public, personally appeared CONRAD PREBYS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(SEAL)



Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. Individual. Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. Sole proprietor or single-member LLC. Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation. Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. Other entities. Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*

For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.