



## ALABAMA FAMILY TRUST AGREEMENT ~ ADDENDUM ~

- 1. Contribution to AFT Trust Fund.** The Donor hereby contributes to the Corporation, as Trustee of the AFT Trust, the property described in Section 3 of the written Agreement. Upon receipt of the contribution, the Trustee shall open an Account for the benefit of the Life Beneficiary designated in Section 2 of the written Agreement. For income tax purposes, no Account shall list more than one Donor, although contributions may be made to any particular Account by an unlimited number of contributors.
- 2. Separate Account for Life Beneficiary.** The Trustee shall hold the contributed property and the earnings thereon as part of the AFT Trust, on the terms and conditions described in this Agreement and as provided in Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975. The Trustee shall maintain a separate Account for such property and the earnings thereon for the benefit of the Life Beneficiary. The Life Beneficiary shall not have the power to assign, convey, alienate, or otherwise encumber any interest acquired in the income or principal of any Account hereunder, nor shall such income or the principal or any interest of the Life Beneficiary hereunder be payable toward any debt incurred by the Life Beneficiary, nor shall the principal or income of any Account be subject to seizure by any creditor of the Life Beneficiary under any writ or proceeding in law or in equity, until such income or principal shall have been actually paid over and delivered to the Life Beneficiary.
- 3. Annual Agreement on Use of Funds.** The Co-Trustee, if any, with the consent of the Trustee, shall annually agree on the amount of income or principal or income and principal to be used to provide benefits and the nature and type of benefits to be provided for the Life Beneficiary. It is the purpose of the AFT Trust to supplement, not replace, any government benefits for the Life Beneficiary's basic support to which such Life Beneficiary may be entitled and to increase the quality of such Life Beneficiary's life by providing him or her with those amenities which cannot otherwise be provided by public assistance or

entitlements. **The Trustee may expend income and principal for the Life Beneficiary in accordance with Medical and Social Services approved by the Social Security Administration in the Program Operations Manual System (POMS) SI 00815.050, as it now exists, or as it may be amended from time to time.** Permissible expenditures include, for example, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, and expenditures to purchase personal property, as not to cause loss of individual eligibility, and services which will make life more comfortable and enjoyable for the Life Beneficiary but which will not defeat his or her eligibility for public assistance or government entitlements. The Trustee, in its discretion, where medically necessary, may make payments from time to time for a person to accompany, or assist, the Life Beneficiary and for the transportation of the Life Beneficiary. **THE SOCIAL SECURITY ADMINISTRATION RESERVES THE RIGHT UNDER FEDERAL REGULATIONS TO REVIEW ALL EXPENDITURES. ALL EXPENDITURES OTHER THAN AS APPROVED UNDER SI 00815.050 WILL BE PROMPTLY REPORTED TO THE SOCIAL SECURITY ADMINISTRATION.** The Trustee may make payments and distributions in any one or more of the following ways as the Trustee may deem advisable, in such amounts and for such uses as, in the reasonable opinion of the Trustee, will not defeat the Life Beneficiary's eligibility for public assistance, namely:

- (a) To the legal guardian of the Life Beneficiary;
- (b) To any adult relative of the Life Beneficiary to be held and expended by such relative for the support, education and welfare of the Life Beneficiary;
- (c) To any adult relative of the Life Beneficiary as custodian for such Life Beneficiary pursuant to the Alabama Transfers to Minors Law, or any other statute of similar import; or
- (d) By the Trustee itself expending such income or principal for the support, education, welfare and comfort of the Life Beneficiary, and to that end the Trustee may make payments to any person, firm, corporation or governmental agency.

Any undistributed income shall be added to principal from time to time. Expenditures shall not be made for the primary support or maintenance of the Life Beneficiary, including his or

her basic food, shelter and clothing, if; as a result, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled. In the event that the Trustee and the designated Co-Trustee, shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the Trustee or the Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c) (7) of the Code of Alabama, 1975.

4. **Donor as Beneficiary May Not Revoke.** If the Donor or his or her spouse is the Life Beneficiary, then the Donor may not revoke any gift made hereunder, and any amounts remaining in the Life Beneficiary's Account upon the death of the Life Beneficiary shall be retained by the AFT Trust and transferred to the AFT Charitable Trust pursuant to Section 38-9B-5(c) (5) of the Code of Alabama, 1975. It is the intention of the Donor that this "self-sufficiency" type trust shall qualify as a trust under the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") that is a permissible vehicle for individuals to transfer assets into trust and remain eligible for government entitlements. Upon the death of the Life Beneficiary, any amount transferred to the AFT Charitable Trust that is greater than the amount deemed to be a reimbursement to the State of Alabama under OBRA '93 shall be considered a charitable contribution of the Life Beneficiary's estate.
  
5. **Co-Trustee (Other Than Donor) May Transfer.** Any designated Co-Trustee, other than the original Donor, shall have the right, for good and sufficient reason stated in written notice to the Trustee to revoke and direct withdrawal of all, but not less than all, of the Life Beneficiary's Account. In such event, if the Life Beneficiary has not received any benefits provided by the use of the AFT Trust income or principal, or the Life Beneficiary has received benefits provided by the use of AFT Trust income or principal for a period of not more than five (5) years from the date a contribution has first been made to the AFT Trust for the Life Beneficiary, then an amount equal to 95% of the current fair market value of the principal balance of the Life Beneficiary's Account as determined on the date of distribution shall be distributed to the Successor Trust; and the balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust. If, at the time of transfer by the Co-Trustee, the life Beneficiary has received any benefits provided by the use of AFT Trust income or principal for a period of more than five (5) years from the date a contribution had first been made to a Life Beneficiary's Account, then

an amount equal to 90% of the current fair market value of the balance of the Life Beneficiary's Account as determined on the date of distribution shall be distributed to the Successor Trust, and the balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust. In the event that the Trustee and the Co-Trustee shall be unable to agree upon whether the Co-Trustee has stated a good and sufficient reason to make such withdrawal, then either the Trustee or the Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c) (8) of the Code of Alabama, 1975.

**6. Termination by Trustee.**

- (a) In the event that a court, pursuant to a lawfully convened hearing with notice to the Trustee, or a governmental agency shall make a determination that the AFT Trust's principal or income shall be liable for the Life Beneficiary's primary support or maintenance otherwise provided at public or private, or public and private, expense, or that any public benefits or assistance then being received by the Life Beneficiary or to which the Life Beneficiary may otherwise be entitled are denied or terminated, then in such event the Trustee shall terminate the AFT Trust as to such Life Beneficiary and the then balance in the Life Beneficiary's Account shall be distributed in accordance with the provisions of Section 12 of the written Agreement, if the Donor is then living, or in accordance with provisions of Section 5 hereof, if the Donor is incapacitated or not then living.
- (b) In the event that extenuating circumstances shall arise which, in the reasonable opinion of the Trustee make the continuation of the AFT Trust for the Life Beneficiary impractical or uneconomical, then in such event the Trustee may terminate the AFT Trust as to such Life Beneficiary and the then balance in the Life Beneficiary's Account shall be distributed in accordance with the provisions of Section 12 of the written Agreement, if the Donor is then living, or in accordance with the provisions of Section 5 hereof, if the Donor is incapacitated or not then living. In the event that the Trustee and the then acting Co-Trustee shall be unable to agree upon whether the continuation of the AFT Trust for the benefit of the Life Beneficiary is impractical or uneconomical, then either the Trustee or the Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c) (8) of the Code of Alabama, 1975.

- 7. Death of Life Beneficiary.** If the Life Beneficiary dies before receiving any benefits provided by the use of AFT Trust income or principal,

then an amount equal to 100% of the current fair market value of the Life Beneficiary's Account shall be transferred to the account of a Successor Life Beneficiary, if any. If (1) there is no Successor Life Beneficiary, (2) the Donor and the Life Beneficiary are one and the same or share a spousal relationship, and (3) the Donor/Beneficiary is a Medicaid recipient, then a medical assistance assessment will be taken at the end of the active life of the trust to accurately determine monies disbursed during the Beneficiary's life, and an affidavit will be filed on behalf of Alabama Medicaid with the AFT Director for estate recovery to ensue. Any monies remaining after State reimbursement, or "applicable portion", shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement. If the Donor/Beneficiary is not a Medicaid recipient, then said amount shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement.

If at the date of death of the Life Beneficiary, the Life Beneficiary shall have been receiving benefits provided by the use of AFT Trust income or principal or both, then in such an event, all amounts remaining in the account of such Life Beneficiary shall be transferred to the account of a Successor Life Beneficiary, if any. Ten percent of the trust account will be distributed to the AFT Charitable Trust. If (1) there is no Successor Life Beneficiary, (2) the Donor and the Life Beneficiary are one and the same or share a spousal relationship, and (3) the Donor/Beneficiary is a Medicaid recipient, then a medical assistance assessment will be taken at the end of the active life of the trust to accurately determine monies disbursed during the Beneficiary's life, and an affidavit will be filed on behalf of Alabama Medicaid with the AFT Director for estate recovery to ensue. Any monies remaining after State reimbursement, or "applicable portion", shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement. If the Donor/Beneficiary is not a Medicaid recipient, then an amount equal to 90% of the current fair market value of the Life Beneficiary's Account, as determined on the date of distribution shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement, and the remaining balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust.

8. **Successor Trust.** Upon the happening of an event described in Section 6, or upon receipt of a notice of transfer from a designated Co-Trustee, other than the original Donor, and a determination that the reason for such transfer is good and sufficient, the Trustee shall distribute and pay over to the designated Successor Trustee(s), IN TRUST, the

“applicable portion” of the current fair market value of the principal balance of the Life Beneficiary's Account, as determined on the date of transfer, not to exceed the contribution for the Life Beneficiary, as determined in Section 5 of this addendum. The date of transfer shall be defined as the date that the Co-Trustee revokes a Life Beneficiary's Account. The designated Successor Trustee(s) of the Successor Trust shall hold, administer and distribute the principal and income of the Successor Trust, in the discretion of such Trustee(s), for the maintenance, support, health, education and general well-being of the Life Beneficiary, recognizing that it is the purpose of the Successor Trust to supplement, not replace, any government benefits for the Life Beneficiary's basic support to which such Life Beneficiary may be entitled and to increase the quality of such Life Beneficiary's life by providing him or her with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. **The Trustee may expend income and principal for the Life Beneficiary in accordance with Medical and Social Services approved by the Social Security Administration in the Program Operations Manual System (POMS) SI 00815.050, as it now exists or as it may be amended from time to time.** Permissible expenditures include, for, example, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the Life Beneficiary but which will not defeat, his or her eligibility for public assistance or governmental entitlements. The Trustee of the Successor Trust, in his or her discretion, where medically necessary, may make payments from time to time for a person to accompany, or assist, the Life Beneficiary and for the transportation of the Life Beneficiary. **THE SOCIAL SECURITY ADMINISTRATION RESERVES THE RIGHT UNDER FEDERAL REGULATIONS TO REVIEW ALL EXPENDITURES. ALL EXPENDITURES OTHER THAN AS APPROVED UNDER SI 00815.050 WILL BE PROMPTLY REPORTED TO THE SOCIAL SECURITY ADMINISTRATION.** The Trustee of the Successor Trust may make payments and distributions in any one or more of the following ways as the Trustee may deem advisable, in such amounts and for such uses as, in the reasonable opinion of the Trustee, will not defeat the Life Beneficiary's eligibility for public assistance, namely:

- (a) To the legal guardian of the Life Beneficiary;

- (b) To any adult relative of the Life Beneficiary to be held and expended by such relative for the support, education and welfare of the Life Beneficiary;
- (c) To any adult relative of the Life Beneficiary as custodian for such Life Beneficiary pursuant to the Alabama Transfers to Minors Law, or any other statute of similar import; or
- (d) By the Trustee itself expending such income or principal for the support, education, welfare and comfort of the Life Beneficiary, and to that end the Trustee may make payments to any person, firm, corporation or governmental agency.

Any undistributed income shall be added to principal from time to time. Expenditures shall not be made for the primary support or maintenance of the Life Beneficiary, including his or her basic food, shelter and clothing, if; as a result, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled. In the event that the Trustee and the designated Successor Co-Trustee, shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the Trustee or the Successor Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c)(7) of the Code of Alabama, 1975, provided, however, in no event shall any decision of the arbitrator be permitted if, as a result of the same, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled.

#### **9. Compensation of Trustees.**

- (a) The Trustee may charge a reasonable fee to pay the costs and expenses of administration of the Trust; provided, however, in no event shall the fee charged by the Trustee exceed the amount of income earned by the AFT Trust. The fees charged by the Trustee shall be deducted periodically from the individual Life Beneficiary Accounts.
- (b) In addition to the Trustees' fee, the Trustees' investment agent may receive reasonable compensation from the mutual funds selected by the Donor or the Donor's designated representatives as investment options. Such compensation may be paid to the investment agent by

the mutual funds in return for providing services to the funds, such as investment-advisory, custodial or other shareholder services.

- (c) The designated Co-Trustee(s) of the AFT Trust shall be entitled to reasonable compensation for his or her services, if provided for in this Agreement. No Trustee or Co-Trustee shall be required to audit or examine the books of a prior Trustee or Co-Trustee, and no Trustee or Co-Trustee shall be required to post bond as a condition of serving as a Trustee or Co-Trustee.

10. **Responsibility For Investments and Management of Trust Funds.** The responsibility and authority for investment and management of the funds held hereunder shall be vested in the Trustee and its successors. The Trustee shall have full power and authority to manage and control the trust funds except insofar as authority is specifically retained by the Donor or granted to the designated Co-Trustee (whether or not the Donor) to participate in decisions regarding the provision of benefits for a Life Beneficiary. The income earned shall be credited to the Accounts of the respective Life Beneficiaries as provided in Section 38-9B-5(c) (2) of the Code of Alabama, 1975. The administrative expenses of the Trustee shall be paid to the Trustee not less frequently than quarterly. Other than their investment option decisions, no Donor or designated Co-Trustee whatsoever shall have any authority or responsibility, however, for investment of the AFT Trust funds; except, as appropriate, with respect to periodic elections of investment options, no Donor or designated Co-Trustee shall have authority over or responsibility for investment of trust funds unless the Board of Trustees of the Alabama Family Trust determines, in its sole discretion, that it is appropriate or desirable for the Donor or designated Co-Trustee to participate in investment decisions.
11. **Powers of Trustee.** The Trustee shall have all powers granted to trustees acting under Alabama law and shall have any powers specifically granted to the Trustee under Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975 as the same may be now in effect or hereafter be amended. The Trustee reserves the right to amend this agreement, from time to time, upon reasonable notice to the Donor or the then acting Co-Trustee. The Trustee shall have authority to appoint such investment counselors, managers and advisors as it may select from time to time and to pay reasonable fees for such services.

12. **Acceptance of Provisions.** Execution of this Alabama Family Trust Agreement by the Donor and a duly authorized agent of the Trustee shall constitute acceptance of the provisions hereof and of Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975.
13. **Succession.** These provisions shall be binding upon, inure to the benefit of and be enforceable by the Donor, Trustee, and if applicable, the Co-Trustee and Successor Trustee, and their respective successors in interest, heirs and personal representatives.
14. **Trustee Liability.** No Trustee, Co-Trustee, or Successor Trustee serving pursuant to the provisions of this chapter shall at any time be liable for any mistake of law or fact, or of both law and fact, or errors of judgment, or for any loss sustained by the AFT Trust, or by any Life Beneficiary, or by any other person, except through actual fraud or willful misconduct on the part of such Trustee, Co-Trustee or Successor Co-Trustee.
15. **Trust Amendments and Modifications.** It is the intent and purpose of this Trust to always conform with applicable Alabama statutes and those of the Federal government. If in the future, laws, rules, regulations, or policies pertaining to public assistance are passed by the Alabama Legislature or any Federal or State of Alabama agency which would require changes in the Trust Agreement in order to conform with requirements of a Life Beneficiary being able to continue receiving public governmental benefits and/or governmental entitlements, then such changes shall be deemed to be adopted and will become the applicable provisions to this Trust effective as of date of this trust.

**It is the intent and purpose of this trust that the implementation thereof shall always conform with the requirements of a beneficiary being able to continue receiving governmental benefits and/or entitlements, and if, as the result of any changes in Medical and Social Services to be approved by the Social Security Administration in its Program Operations Manual System (POMS) (SI00815.050), as they now exist or as it may be amended, from time to time, then such changes as may be necessary to conform thereto shall be deemed to be adopted and will become applicable provisions to this Trust.**

16. **The Donor hereby acknowledges receipt of:**
  - a) A copy of this Agreement.

b) A copy of the 1994 Alabama Family Trust Law, Section 38-9B-1 through 9B- 7 of the Code of Alabama, 1975.

c) A copy of any rules and regulations, if any, in addition to this Alabama Family Trust Agreement document. If any rules and regulations are not provided initially to the Donor they will be provided as soon as they are adopted.

d) A schedule showing the Trustee's fees which are currently being charged by the AFT Trust. Also, the Donor understands that, separate and apart from the Trustee's fee, the AFT Trust's Investment Agent may receive reasonable compensation from any of the mutual funds selected by the Donor as investment options. Such compensation may be paid to the investment agent by the mutual funds in return for providing services to the funds, such as investment-advisory or other shareholder services. It is understood and agreed that the Trustee fees, determined by the fees charged to the Trustee by the Investment Agent of the Trustee, are subject to change. Upon such change, the Donor will be notified and provided with the new fee schedule showing current Trustee fees.

e) The prospectuses of all mutual funds which are made available to the Donor as investment options. The Donor also acknowledges that the AFT Trust's Investment Agent has delivered to Donor, under separate cover, a listing of any compensation which may be received from the mutual funds for investment-advisory or shareholder services, and the basis upon which such compensation is to be calculated.

#### **17. FEE STRUCTURE FOR FAMILY TRUST ACCOUNTS:**

Annual administrative fee of **1.60%** calculated as follows:

1. **.4%** of market value of the trust as of March 31
2. **.4%** of market value of the trust as of June 30
3. **.4%** of market value of the trust as of September 30
4. **.4%** of market value of the trust as of December 31

#### **18. COST STRUCTURE FOR FAMILY TRUST ACCOUNTS:**

- a. Annual Trustee Costs: Each October the Alabama Family Trust charges a Trustee cost to each trust that has been in force for at least six months. The cost structure is as follows:

Market Value:	
\$ 0 - \$409	\$ 0.00 charge
\$410 - \$749	\$175.00 charge
\$750 and above	\$350.00 charge

- b. Trust Closure Cost: \$200 (at death of beneficiary)
- c. Tax Preparation Costs: \$100 to \$350 to prepare Federal and State income tax returns, with charges based on complexity.

Alabama Family Trust will charge a \$100.00 Tax Preparation Cost to any standard Grantor Type Trust State and Federal Tax filing for any trust with a minimum trust balance of \$100.00. Alabama Family Trust will charge \$300 for any Complex Trust State and Federal Tax preparation and filing. This cost will be charged in the month of December so the Complex Tax filings will benefit by a tax preparation deduction for that calendar year.

**19. COMPENSATION FOR CO-TRUSTEES:**

An individual Co-Trustee of an AFT Trust Account shall be entitled to receive such reasonable compensation for services as the Donor to an Account may direct. Such direction must be by an appropriate written document delivered to the AFT Trust during Donor's lifetime. Absent specific direction from the Donor to the contrary, an individual Co-Trustee shall serve without compensation.

This Agreement ~Addendum~ is executed by the Donor(s) and witnessed, intending to be bound by the terms hereof, and the Alabama Family Trust Corporation, as the Trustee of the Alabama Family Trust, acting through an authorized agent, has signed this Agreement ~Addendum~, hereby accepting the terms herein, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**DONOR(S):**

1. Name: \_\_\_\_\_ 2. Name: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

**WITNESSES:**

1. Name: \_\_\_\_\_ 2. Name: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

ALABAMA FAMILY TRUST CORPORATION

**TRUSTEE:**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(REVISED December, 2011)